UNIT 23 SOCIAL SECURITY AND INTEGRATED DEVELOPMENT

Structure

23.1 INTRODUCTION

In the previous unit we have critically looked at the current state of human trafficking and development in India. In this unit we will try to understand the problem of human trafficking that arises due to lack of development from human rights perspective with respect to the existing international and national legal instruments that protect the rights of humans. We have also learnt that the forced form of sex trafficking is a crass violation of human rights as it takes away the victims' fundamental right to live with dignity and decent livelihood options. We now have to be aware that the creation of such livelihood opportunities for the poor, the marginalised, and vulnerable is primarily the responsibility of the State. In the conditions of lack of livelihood opportunities, the State needs to ensure at the least some form of social security measures like extending monetary benefits, loans, and so on to the them. The absence of both livelihood and social security measures to the poor and marginalised create vulnerable situations where the chances of them falling prey to the alluring designs of trafficking criminals are manifold. Failure of the State in this regard would therefore be construed as a violation of human rights by the State itself. It thus becomes mandatory for the State to generate livelihood opportunities and provide social security to the vulnerable if the development of a country has to be truly inclusive and integrated.

23.2 OBJECTIVES

After studying this unit, you should able to:

l   discuss the Basic tenets of Human Rights and the Protective protocols;

l   describe Social security as a Universal Human Right and as a way to achieve Inclusive and Integrated Development; and

l   analyse the status of Social Security in India.

23.3 HUMAN RIGHTS AND THE PROTECTIVE PROTOCOLS

As a product of nature, it is the right of every human being to enjoy dignified, equal, free, and non-discriminated life on earth. In other words, the human beings enjoy certain fundamental rights that are inherent, inalienable, and universal in nature. The role of State and rule of law is therefore to ensure that these rights are recognised, practiced, regulated, and protected for the overall well being of the humanity. However, the history of humankind would tell us that these rights were denied to some sections of humanity in almost all the societies in the world. This is evident from the literature on the philosophical and theoretical debate on what constitutes human rights, which has in fact been a controversial, complex and never ending one.[1] Although it is essential to study the debate to better our understanding of how the concept of human rights originated and came into existence, for the purpose of this chapter we will briefly touch upon the major milestones in the recognition and protection of human rights embedded in the international and national protocols.

23.3.1   International Protocols

The major stepping stone in the direction of human rights protection was the foundation of International Labour Organisation in 1919 immediately after the end of First World War in 1918 as an autonomous agency of the League of Nations by the Treaty of Versailles with a vision to establish long lasting universal peace by way of ensuring dignity to the lives of working people of the world. The ILO, guided by the principle of social justice, is dedicated to improving and protecting the working conditions and living standards of labour by promoting standards for national legislation. It supervises the practice of ratified conventions by the member nations and engages itself in the tripartite dialogue process involving member governments, employers, workers organizations, and an ILO representative. The other important functions include technical assistance to member countries to adopt and implement ILO standards which cover rights at work, child labour, disabled workers, discrimination, equality of treatment and advancing opportunities for men and women, freedom of association, human rights, maternity protection, pensions, the elimination of forced labour, occupational safety, social security, protection of international migrants, and so on. As a first specialised agency of United Nations with 183 members at present, ILO is constantly working to safeguard the rights of workers of the world.

The next important development was the establishment of United Nations Organisation in 1945 immediately after the end of Second World War as a platform for dialogue for the promotion of peace and international security, social and economic progress, human rights, and so on. The subsequent developments that took place under the auspices of United Nations substantially changed the way human beings were treating themselves across nations. One such important development was the adoption Universal Declaration of Human Rights by the General Assembly on 10th December 1948 and the further developments thereon. The UDHR through its 30 articles clearly articulated the rights that every human being must enjoy including the right to social security.

The Declaration in its preamble stated, *"to the end that every individual and every organ or society, keeping this declaration constantly in mind, shall strive by*

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[1] It will be useful for the learners to read and understand the debate on *The Philosophical Foundations of Human Rights* by Jerome J Shestack in Symonides (2002).

teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction." The declarations enshrined in all the 30 articles were later transformed into legally binding obligations by the adoption of two *International Covenants* viz. the *International Covenant on Civil and Political Rights* with its two Optional Protocols and the *International Covenant on Economic, Social and Cultural Rights* in 1966 by the UN General Assembly and came into force in 1976 with many countries ratifying them. These two major developments viz. the declaration and the adoption of the legally binding international covenants together constitute what is known as the *International Bill of Human Rights.*

Now let us look at some of the provisions relating to economic and social rights[2] and specifically social security rights available in the International Bill of Human Rights. The Universal Declaration of Human Rights in its Article 25 speaks about social security to everyone as a member of society. In particular Article 25 (1) states, *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control".*

The International Covenant on Economic, Social and Cultural Rights necessitates its member countries to take steps in fullest potential to progressively realise the economic, social and cultural rights recognized in the Covenant. The Article 9 of Part III of the Covenant delineates the right to social security including social insurance. Some of the comments on the right to social security act (Article 9 of the Covenant) by the United Nations Committee on Economic, Social, Cultural rights in 2008 are worth recalling here. According to the Committee (1) The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance. The right to social security is of central importance in guaranteeing human dignity for all persons when they are faced with circumstances that deprive them of their capacity to fully realize their Covenant rights; (2) The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents; (3) Social security, through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion; and (4) In accordance with Article 2 (1), States parties to the Covenant must take effective measures, and periodically revise them when necessary, within their maximum available resources, to fully realize the right of all persons without any discrimination to social security, including social insurance. The wording of Article 9 of the Covenant indicates that the measures that are to be used to provide social security benefits cannot be defined narrowly and, in any event, must guarantee all peoples a minimum enjoyment of this human right. These measures can include both contributory and non-contributory schemes.

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[2] For a detailed discussion on the Economic and Social Rights, refer Part B, Section 5 in Steiner and Alston (1996).

23.3.2   National Protocols

India is committed to address the social security and human rights issues at the national level in accordance with the provisions in the international instruments. This is clearly evident by its ratification of a number of rights related Conventions of International Labour Organisations such as Unemployment Convention 1921, Forced Labour Convention 1930, Equality of Treatment (Social Security) Convention 1962, and Abolition of Forced Labour 1957. Further, India was one of the first 48 countries that ratified Universal Declaration of Human Rights by voting in favour of it when it was introduced in the UN General Assembly in 1948. India also made accession to International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights on 10th April 1979. Most of all the Indian Constitution serves as the bedrock of the protection of rights of all its citizens. Some of the provisions of International Conventions that India ratified have also been harmonised with the provisions of Indian Constitution. Recently, an autonomous National Human Rights Commission was established by virtue of the Protection of Human Rights Act 1993 with powers to review the domestic laws and to ensure the effective implementation of provisions under the national and international instruments such as Bonded Labour System (Abolition) Act 1976/Child Labour (Prohibition and Regulation) Act 1986 and the International Covenants on Human Rights respectively.

Self Assessment Question

1) Fill in the blanks

   a) _____ protects the vulnerable and marginalised from getting trafficked.

   b) Roughly _____ percent of India's population lives on an average of Rs.20 per day per head.

23.4 SOCIAL SECURITY AND INTEGRATED DEVELOPMENT: A UNIVERSAL HUMAN RIGHTS

We may recall from our understanding that if the development has to be integrated it needs to be inclusive, that is, all sections of the society must be part of the development process and enjoy the fruits of the overall socio, economic, and political development of a country equitably. Such a fulfilment is a characteristic of an integrated society where the human rights of every individual is well protected by the State as clearly necessitated by the international protocols that we discussed above. However, it becomes quite obvious from our general observation and from the evidences presented in Unit 22 that the world is uneven with developed and underdeveloped regions existing together and there are always some sections of population who are vulnerable, marginalised and deprived of socio-economic-political opportunities and tend to have a very strong sense of alienation. Ironically, the State which is supposed to take care of their deprivation by way of extending protective mechanism such as providing social security, in order to make the society truly integrated, has not done so in many societies.

It has been more than 30 years since the international covenants came into force with many countries ratifying them and yet it appears that much of the rights especially the economic and social rights have not been recognised in many countries. It is disturbing to note the observation of the Committee on Economic, Social and Cultural Rights in

2008 that a large chunk of world population roughly 80 percent of them did not have access to adequate formal social security. If we see this from human rights perspective enshrined in the international legal instruments, we will understand that such a deprivation is a violation of universal human rights which should be a major cause of concern for all of us engaged in studying the problem of human trafficking as the deprived sections are always vulnerable to human trafficking.

Self Assessment Question

2) True or False

    a) Lack of Development and absence of Social Security to the poor is violation of human rights. (True/False).

    b) India's Development process has been truly inclusive ever since its Independence. (True/False).

23.5 THE STATUS OF SOCIAL SECURITY IN INDIA

Let us now try to understand India's position on the social security front. It appears that in spite of all the legal mechanisms available both at international and national levels, very little efforts have been made so far on the question of providing social security to its vast majority of vulnerable population, roughly 77 percent of them, who lives on an average per capita consumption of below Rs.20 per day. Sengupta *et al* (2008) found that 836 million people forming three fourth of India's population were poor and vulnerable including those 6.4 percent of people falling under the category of extremely poor. The shocking revelation of the study is that the poor and vulnerable form part of the Schedule Caste and Schedule Tribes who constitute the lower rungs of the society with Muslims and Other Backward Classes population coming next to them.

Now let us take a look at the available social security measures in India. The National Commission for Enterprises in Unorganised Sector set up by the Government of India in 2004 estimated that roughly 92 percent of India's total workforce is engaged in informal/unorganised sector and most of them remained poor with an average per capita consumption of less than Rs.20 a day. The commission also analysed the social security measures available to them in its *Report on Social Security in India* in great detail and found that the schemes and mechanisms currently available for providing social security to the unorganised workers are insufficient. The commission observed in the report in this regard, *"Although a number of schemes and systems are in operation, the main problem in providing social security to the informal workers is one of limited coverage of both regions (States) as well as segments of workers within regions. Taken in isolation, these existing models cover a large numbers of workers but as a proportion of the country's vast army of informal workers, they cover only a small share (around 5 to 6 per cent as per the estimates shown in Unit 22). Broadly speaking, four models of social security are currently functioning in the country. These are:* [3]

a) **The Welfare Fund Model** (partly or fully contributory for workers in the unorganised sector, which is based on a tripartite arrangement under the direct supervision of the state);

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[3] For a detailed discussion on the other security measures available under each broad category both at state and central level, refer the commission's *Report on Social Security for Unorganised Workers*.

b)   **The Social Assistance Model** (cash payment to defined beneficiaries {means-tested} through budgetary provision);

c)   **Social Security Scheme Model** (schemes designed and implemented by governments or their agencies for defined categories of workers in the unorganised sector); and

d)   *The Mutual Help Model (mainly operating through the contribution of workers or the poorer sections for some social security through mutual assistance but promoted and mediated by NGOs)…"*

In the context of this, the commission made a number of significant and viable recommendations for the welfare of the unorganised workers in the country. Further it came out with a proposal called *National Minimum Social Security* and to provide legislative backing to the proposed scheme and to make it truly a right based one it also came out with a draft bill called *Unorganised Workers' Social Security Bill, 2006*. The Government of India is yet to consider the Bill. The *National Minimum Social Security Scheme* suggested security cover for (a) sickness and maternity, (b) disability and death, and (c) old age security in the form of a National Pension for those belonging to below poverty line and a Contributory Provident Fund for those belonging to Above Poverty Line. In addition to these, proposals like creation of a National Fund for social security and an empowered National and State level bodies for implementation of the scheme based on an Act of Parliament along the lines of the National Rural Employment Guarantee Act, 2005 (presently known as Mahatma Gandhi National Rural Employment Guarantee Act) were also made. It was felt and stressed by the commission that it was high time to initiate protective social security system that was inclusive of all the workers in the informal economy.

What we have analysed so far in the context of available evidences on the question of social security in this section very clearly reveals that as of now the development in India has not been able to address the social security of vulnerable and marginalised people rather it has made them more vulnerable thereby creating chances for the problem of, among others, human trafficking in the country.

Self Assessment Question

3)   Provide Answer in a short paragraph.

a)   What does Article 25 (1) of the Universal Declaration of Human Rights speak about?

23.6   SUMMARY

Let us recapitulate what we have learnt in this unit:

l   We have looked at the problem of human trafficking that arises due to lack of development from human rights perspectives.

l   It is the responsibility of the State to protect the poor and marginalized from becoming vulnerable to human trafficking by making the development process inclusive and integrated

l   Extending social security protection to the vulnerable population by the State makes the society truly inclusive and integrated.

ı Such social security provisions are considered to be the basic right of every human being in almost all the international and national legal protocols and denial of such provisions to its vulnerable population by the State is basically a violation of human rights by the State itself.

ı India despite having legal commitments in its Constitution and approving many International Instruments has done very little in terms providing social security to its vast majority of poor population thereby making them vulnerable to fall prey to the practice of human trafficking.

23.7 TERMINAL QUESTIONS

1) Briefly explain the social security measures enshrined in the Indian and International legal instruments.

2) What in your understanding constitutes violation of Human Rights? Elicit your views in the backdrop of social security and development in India.

3) Do you think the currently available social security measures in India are sufficient enough to address the question of vulnerability? Discuss in light of your understanding of trafficking in vulnerable people and lack of development.

23.8 ANSWERS AND HINTS

Self Assessment Questions

1) i) Social Security; ii) Seventy Seven

2) i) True;   ii) False

3) i) It categorically states, "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control*". .

Terminal Questions

1) Refer to Section 23.3

2) Refer to Section 23.4

3) Refer to Section 23.5

23.9 REFERENCES AND SUGGESTED READINGS

1) Arjun Sengupa, K. P. Kannan, and G. Raveendran (2008), "India's Common People: Who are they, How Many are they and How Do they live?", *Economic and Political Weekly, March 15, 2008.*

2) Arjun Sengupta (2010), "Human Rights and Extreme Poverty", *Economic and Political Weekly*, 24th April 2010.

3) Committee on Economic, Social and Cultural Rights (2007), General Agreement No.19, The Right to Social Security (Article 9), Economic and Social Council, United Nations.
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4) Finnis, John (1980), *Natural Law and Natural Rights,* Clarendon Press, Oxford.

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6) Sachar Rajinder (2004), *Human Rights: Perspectives and Challenges,* Gyan Publishing House, New Delhi.

7) Steiner, Henry J. and Alston Philip (1996), *International Human Rights in Context: Law, Politics, Morals,* Clarendon Press, Oxford.

8) Symonides, Janusz (ed) (2002), *Human Rights: Concepts and Standards,* UNESCO, Rawat Publication, New Delhi.

Websites

1) http://www.udhr.org/history/

2) http://www.un.org/en/documents/udhr/

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5) http://www.un.org/en/documents/charter/intro.shtml

6) http://labour.nic.in/ilas/convention.htm

7) http://nhrc.nic.in/

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