NATIONAL OPEN UNIVERSITY OF NIGERIA

SCHOOL OF ARTS AND SOCIAL SCIENCES

COURSE CODE: PCR 815

COURSE TITLE: PEACE BUILDING AND HUMANITARIANISM

TABLE OF CONTENTS

PAGE

MODULE 5   160

MODULE 1

UNIT 1 UNDERSTANDING CONFLICTS

CONTENTS

1.0 INTRODUCTION

Conflict, according to the Chinese, is an "opportunity to change". This means that conflict is neither negative nor positive. What determine the way conflicts go are our own attitudes, how we were brought up (our backgrounds) and the information we have. These factors often dictate the way we manage any conflict. For instance, a person who perceives conflict as war, disagreement, fight, chaos, aggression, destruction, crises, cheating, stress, misuncierstanding, suppression, etc, sees conflict as something that should be avoided. He/she sees conflict negatively and therefore will manage it destructively (as in revenge, fight back, defence, counter attacks, etc.) and the resultant effect will be negative.

On the other hand, a person who perceives conflict as a necessary dimension of peace, progress, change, development, understanding, resolution, friendship, interaction, love, etc, sees conflict positively. A person with this positive view of conflict manages conflict constructively. In all, therefore, the way we approach conflict is normally dependent on our perception of it. Our perception of conflict derives from the information our parents and the mass media provide us with.

In this unit, we shall examine the meaning of conflict and the various types of conflict that exist in our societies. In addition, we will also examine the progression of conflicts and how conflicts should ideally be handled. For this course generally, our emphasis is on looking at conflict positively, placing emphasis on humanitarianism and Post conflict Reconstruction.

2.0 OBJECTIVES

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

- Define conflict and understand the nature of conflict as a concept;

- Identify the various types of conflict;

- Describe the progression of conflict; and

- Be conversant with ways of addressing conflicts.

3.0 MAIN CONTENTS

3.1 Definition of Conflict

Conflict is a situation in which two or more human beings desire goals which they perceive as being obtainable by one or the other but not both. Each party is mobilizing energy to obtain a goal a desired object or situation and each party perceives the other as a barrier or threat to that goal.

This definition suggests that conflict is inherent in human society. As much as other scholars in their conceptualization accepts this definition, Simmel sees conflict not simply as a pathological phenomenon to be prevented or adjust, but rather as an essential ingredient in the balance and vitality of group life, which emphasizes that conflict is positive and will always be a part of human nature. Tollony Zartman, it is obvious that conflict is an inevitable aspect of human interaction. Therefore whether or not conflict plays a functional or dysfunctional role in human relation depends. on the

manner such a conflict is managed and resolved. Nothing in the above definition suggests that conflict should necessarily be violent.

3.2 Types of Conflicts

There are basically two types of conflicts, the functional conflict and the dysfunctional conflict.

> Functional or constructive conflict is when the conflict improves the quality of decisions, stimulates creativity and innovation through which problems can be aired and tensions released. This form of conflict fosters an environment of self-evaluation and change.

2. While the dysfunctional or destructive conflict is when it leads to retarded communication; it leads to reduction in group cohesiveness and a subordination of goals to primacy of in-fighting among member. This type of conflict could bring a system to a halt and threaten its survival. Other types of conflict include: land conflicts, chieftaincy and family tussles, boundary disputes, economic, political and religious conflicts. There are several issues that could lead to conflict: misunderstanding arising out of communication failure, personality clashes; values and goals as well as differences of political actors; lack of cooperation; abuse/misuse of power and authority by office holders, competition for limited resources, non compliance with rules procedures and policies

3.3 Causes of conflicts

(i)   Executive-Legislature: Conflicts here are conflicts generated by differences in ideology, values and goals of the parties represented in the respective arms of government. Others are instigated by third parties out of selfish interests.

(ii)   Personality Conflict: This arises in most cases from the desire of one party to impose its will on the other.

(iii)   Intra-party squabbles: Although this type is not so common beca[1]use of party discipline, it occurs between individuals and groups within the same political party sometimes this spills over into government.

(iv)   Inter-party Squabbles: In this multi-party system, the will of the people may not necessarily mean that their candidates are elected. This is because of the operation of the majoritarian principles.

(v)   Inter-Community Conflict: This type of conflict is caused by religious differences or boundary disputes. If not properly handled, it leads to a conflict or even a serious crisis and occasionally the collapse of law and order.

3.4 Conflict Progression Stages:

Conflict is not always stationary but dynamic, and, therefore, grows or reduces and changes in form and shape. Conflicts escalate when people concerned or involved are not open and ready to settle it. When this happens, conflicts progress in the following stages:

Stage One: Emergence of a Problem: What is the problem? Example: The selection of either Umar or John as the district head. Here the members of the district, hear the news and are interested in it.

Stage Two: Sides Form/Taking Sides: Members of the district begin to move towards one side or the other. Some are for John while others are for Umar. Here more people form opinions and feel the need to get together with others with the same views. The conflict expands and each side gets more supporters.

Stage Three: Positions Harden: People talk more with others who hold similar views and less with people with different opinions. Here positions on who should be the district head, is formed. Nothing good can be said of the opponent's supporters.

Stage Four: Communication Breakdown: At this stage, information is exchanged haphazardly between the parties. Communication takes on an increasingly adversarial tone and eventually information no longer flows between the parties. Here the parties feel there is nothing new to talk about and, therefore, no need to talk to the other party about the issue.

Stage Five: Committing Resource to the Course of the Issue: At this level, moderates will be give less attention while militants will become more rigid and individuals now have a sense of personal power in being part of the group and, therefore, are committing their resources to support the issue. Here each group will use money to ensure that their candidates are selected.

a

Stage Six: Conflict Goes Outside the District: Each group will now begin to look outside the district for support and power. Each group will appeal to the local government, State or national political and economic figures for help. Here, the frontiers of the conflict will expand and become more complicated.

Stage Seven: Perception of the Conflict Becomes Distorted: At this stage the cause(s) of conflict becomes distorted. So are the positions and interest of the parties. People with neutral views are seen as part of the enemy. This makes the conflict complex.

Stage Eight: Sense of Crisis Emerges: The district is now divided into factions

Stage Nine: Outcomes Vary: Here the outcome of stage eight may vary ranging from either (i) litigation between the parties, (ii) intervention by the government or (iii) violence.

It should be noted that such conflict would not have reached this stage if the supporters of Umar and John had met and discussed their differences amicably.

3.5 Addressing Conflict

In addressing a conflict, the right to life is fundamental to all economic, social, civil and political rights. In a place where violent conflict continues, upholding the right to life and ensuring security for all people, these rest upon the resolution of such conflict.

The concern for security is a major preoccupation of those with   whom we work with and the regional government alike. Conflicts must be avoided; this will be a meaningful action. The international assistance enables the government of the region to reduce poverty and deliver practical and equitable improvements to the people's lives. Avoiding conflict is the key to both sustainable development and reduction of tension.

However, poorly targeted aid can increase conflict by exacerbating inequalities between men and woman, across generations, between families or clans or between people of different ethnic groups or geographical regions.

3.6 Conflict Resolution in Peace Building

To resolve conflict is to turn the opposed position, the claims and its rejection into a single outcome. The objective of conflict resolution is not to terminate the conflict but to remove the fundamental causes of the crisis. In other words it is to remove three factors that actually caused the conflict, to the satisfaction of the parties in conflict.

Conflict resolution is not just a technical task of making the best changes or just a question of having the right answer and then convincing the parties in conflict, it is a cultural and political task of generating support from the parties in conflict to reach an agreement and be satisfied with the outcome. In Africa there were two methods of Conflict Resolution, The Traditional method and violent method.

3.7 Traditional Methods of conflict Resolution:

In traditional African setting, every society, nation and state however self absorbed, has a way of resolving conflict, which to a large extent, depends on the existence within the community, relationships and values, to which they can refer.

(a)   Peaceful Resolution of (Citizen Diplomacy): This is done through elites in the community. They negotiate settlement in terms of fines, compensation, restitution, restoration or by any other means as the case maybe, to bring about reconciliation between the parties. The negotiators met either on a neutral ground (a third party place), or at the boundary of both communities. After all the mediation (peace) process, goat or cow was killed in some areas and eaten jointly as evidence to end of hostilities and seal of agreement. Often God and the local deities of both parties were invited as witness and guarantors, against unilateral violation.

(b)   The Violent Method: Here our understanding of conflict has deepened to include other less obvious forms of violence that can equally damage human relationships, and perhaps become even more difficult to address. In the past it was killing, beating, torture, maiming and all kinds of physical man - handling methods that angry parties used to fight each other. They destroyed homes and displaced people. The whole nation or community is usually thrown into confusion and panic. Lives are lost, and valuable properties destroyed.

4.0 CONCLUSION

In conclusion, conflicts occur in all societies, because every society is a collection of competing interest and forces. In most cases conflict does not necessarily lead to violence, which is a negative expression of disagreement. Most conflicts are managed and resolved peacefully and in most cases, such conflicts lead to positive changes in the societies, systems and institutions.

However, it is the violent destructive conflicts that draw attention and for this reason most people adopt a negative attitude to conflict. The ability of individuals to manage conflict is affected by our attitude.

in democracy, conflicts or disagreements should be regarded as positive indicators of areas that require adjustment, rather than as nuisances that should be suppressed.

5.0 SUMMARY

In this unit, we have discussed the meaning of conflict, the two views of conflict, types of conflicts and the progression of conflict. We also looked at how conflict can be addressed and conflict resolved. Further, we also touched on how ideally, conflicts should be approached.

6.0 TUTORMARKED ASSIGNMENT

What is conflict? Discuss the various types of conflict?

Describe the possible progression of a conflict. How should conflicts be addressed?

7.0 REFERENCES AND FURTHER READINGS

Hugh Miall eta!., (2000) Contemporary Conflict Resolution, London, SAGE Publishers.

Maj. Gen. Chris A Garuba (1998) Capacly_L_31   ₉ill& for Crisis Management in Africa, Publishing National War College.

UNIT 2 CONFLICT RISK ANALYSIS/MAPPING

CONTENTS

1.0 INTRODUCTION

In the course of the 20th century, mankind experienced some of the most devastating wars of all times. Where did these wars take place? Have some regions experienced more wars than others? Who were the main protagonists in these conflicts? This conflict picture gives you the opportunity to answer these questions. It discusses wars with at least 1,000 military battle deaths.

Many of the wars in the 21' century are being fought in the Middle East, Africa and Asia. These are war endemic areas. It is also very important to observe that today we have more internal wars than inter-state war.

The Nobel Peace Prize celebrated its centennial in 2001. Many statesmen have received this award for their efforts in mediating and negotiating peace in different parts of the world. In this unit, we shall take a look at what may be regarded as a conflict map of the globe, identify the general trends in wars. the changing nature of wars in the 2Ist century and the role that could be attributed to de-colonization and the cold war in the exacerbation of wars.

2.0 OBJECTIVES

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

* Discuss the general trend in wars

* Be conversant with the Nobel Peace prize

* Discuss the changing nature of conflicts in the 20 century

* Discuss the impact of de-colonization and the end of the cold war on conflicts around the world.

3.0 MAIN CONTENTS

3.1 Conflict Analysis

Is a practical process of examining and understanding the reality of the conflict? Conflict analysis is not a one time exercise; it must be an ongoing process as the situation is developing so that you can adapt your actions to changing factors, dynamics and. circumstances. The concept of conflict analysis may seem quite remote to those who are engaged in practical work on conflict. It is sometimes seen as requiring objectivity and neutrality rather than personnel experience and strong emotion. There are several reasons why conflicts are analyzed.

3.1.1 Reasons For Analyzing a Conflict

(a) To understand the background and history of the situation as well as current events.

(b) To identify all the relevant groups involved, not just the main or obvious ones.

(c) To understand the perspectives of all these groups and to know more about how they relate to each other.

(d) To identify factors and trends that under-pin conflicts.

(e) To learn from failures as well as successes.

3.2 Tools or Technique for conflict Analysis Include

(a)   Stages of conflict

(b)   Timeliness

(c)   Conflict Mapping

(d)   The ABC (Attitude, Behaviour, Context) triangle.

(e)   The Onion (or the doughnut)

(f)   The conflict tree

(g)   Force-field analysis

(h)   Pillars

(i)   The pyramid.

The order in which you use the tools can be flexible according to the situation you are analyzing. Often they are best used in combination with one to highlighting certain factors or issues or points in time, which are then analysed with other tools.

3.3   Stages of Conflict

A graphic that shows the increasing and decreasing intensity of conflict is plotted along a particular timescale.

(a)   Time Line: In principle is a very simple tool. It is a graphic that shows events plotted against time. It lists dates (years, months or days depending on the scale) and depicts events in chronological order.

(b)   ABC Triangle: Stands for Attitude, Behaviour and_Context. This analysis is based on the premise that conflicts have three major components, its analysis of factors relating to Attitude, Behaviour and context for each of the major parties.

(c)   The Onion: It is a way of analyzing what different parties to a conflict are saying. It comprises positions that we take publicly, under laying our interests, what we want to achieve from a particular situation and the core are the most important needs we require, to be

satisfied. It is useful to carry out this onion analysis for each of the parties involved. It is based on the analogy of an onion and its layers.

(d)   The Conflict Tree: Is a graphic tool, using the image of a tree to sort key conflict issues. It is best used within groups i.e. collectively rather than as an individual exercise. The conflict tree offers a method for a team organization group or community to identify the issues that each of them sees as important and then sort these into three categories core problem(s), causes and effects.

(e)   Force-field Analysis: It is a tool for analyzing both positive and negative forces in a conflict; it can be used to identify the different forces influencing a conflict. The tool officers have a way of identifying positive and negative forces that are either supporting or hindering what you are trying to achieve and tries to assess their strengths and weakness. It can also help to see more clearly what is maintaining the status quo.

(0   Pillars: This is a graphic which illustrates the elements or forces that are folding up an unstable situation. It is based on the [premise that some situation are not really stable but are helped up by a range of factors or forces.

(g)   The Pyramid: Is a graphic tool showing levels of stake holders in a conflict. This tool is needed when you start to analyze conflicts that have more than one level; with this method you identify the key parties or actors at each level.

3.4 Conflict Map

Alfred Nobel made the prediction that the use of high explosives like dynamite in weaponry might eventually lead to the extinction of war: The day that two army corps can annihilate one another in one second, the civilized nations will shrink from war and discharge their troops. Nobel may have foreseen the mechanism of deterrence, but he was wrong in one important way. Although the invention of nuclear weapons, which Nobel clearly could not foresee, actually made it possible for armies to destroy each other "in one second", it did not lead to the discharge of troops or the abolition of war.

Nobel made another prediction, that if peace was not at hand within thirty years, the world would revert to barbarism. Unfortunately, he was quite right about this. Less than twenty years after his death, World War 1 started

in 1914, inaugurating the age of total war. The civilized nations that Nobel had referred to employed their economic, industrial and military strength in a four-year war that became a veritable bloodbath, fought out mainly on the European continent. During the 20th century, mankind experienced some of the most destructive wars of all times. The conflict map presented here. locates most of the wars between 1899 and 2001. Hopefully it may also serve to highlight some general trends in the evolution of war over time.

Alfred Nobel wanted his prizes to be international. Nationality should not be a criterion for selecting a laureate, as Nobel explicitly stated in his will: *It is my express wish that in awarding the prizes no consideration be given to the nationality of the candidates, but that the most worthy shall receive the prize, whether he be Scandinavian or not.* <u>The Norwegian Nobel Committee</u> took Nobel's wish seriously, but many years were to pass before the Prize became truly global. The laureates during the first 35 years were all Western Europeans, North Americans or International organisations. Until the mid-1970s this trend prevailed with a few notable exceptions.

3.5 Wars in the 20th Century — General Trends

War did not decline during the course of the 20th century, but there were some remarkable changes regarding the types of war that were fought. From 1900 to 1910, wars of all categories were represented rather evenly, whereas from 1990 to 2000 most were civil wars. Today there are few interstate wars with clearly defined parties, but civil wars have become increasingly internationalized. Few internal wars today take place without the intervention of foreign states. One illustrative example is the ongoing conflict in the Democratic Republic of Congo, where as many as five neighbouring states were involved at a point in time. The shift from interstate to civil war is perhaps the most significant change that has occurred in the last century. Of course civil wars have always existed, but only recently have they become the dominant type of war.

The period between 1914 and 1945 was profoundly marked by two world wars. World War 1 (1914-1918) was the first total war, mobilizing whole societies in order to supply the armies with soldiers and weapons. The late 1920s and early 1930s were fairly peaceful in Europe, but important conflicts took place in Asia, particularly in China. Most significant were the civil war between the Kuomintang and the communists, the Japanese occupation of Manchuria from 1931, and from 1937 the Sino-Japanese War. World War 11 (1939-1945) started as a European war, but as a result of Japanese and American involvement, a major part of the fighting also took place in South-East Asia and the Pacific Ocean.

The process of decolonization had important consequences on the overall number of wars as well as the types of war that were fought. Since 1975, there have been very few colonial wars or wars of independence. During the first half of the century, most colonial wars were about maintaining control over territory previously conquered by the European colonial powers. After World War II the number of wars of independence increased sharply, and decolonization was almost completed by the mid-70s when Portugal finally granted independence to Angola and Mozambique. Unfortunately, independence did not always lead to peace. In Angola and Mozambique the result was civil war. East Timor was invaded by Indonesia shortly after independence was declared in 1975, leading to a second protracted period of colonial rule but this time under Jakarta. Vietnam is another example. France fought a war for almost ten years before the French forces were defeated and withdrew in 1954. The colonial war was followed by a civil war between communists and anti-communists. This internal conflict became an international war during the 1960s as US involvement steadily increased. There was no peace in Vietnam until 1975.

Franco-Vietnamese troops landing at Dien Bien Phu during the decisive battle of the French war in Indochina. The victory of communist Viet Minh forces led to French approval of the Geneva Accords in 1954, dividing Vietnam into a communist north and a non-communist south.

Another important change that took place during the 20th century is related to conflict locations. Before 1945, Europe was the most war-prone continent. Most significant in this respect were the two world wars. Many wars outside the continent also had European involvement. After 1945 this situation changed drastically, when most wars were fought in the less developed countries of Africa and Asia. There are two main reasons for this development. First, decolonization and the wars of independence contributed to the increase of war in Africa and Asia. The second reason for this geographical shift can be related to the Cold War from 1945 to 1989. The emergence of the US and the Soviet Union as superpowers and nuclear protagonists deterred the two sides from engaging in direct, armed confrontation in Europe. On the surface there was therefore peace in Europe, but the tension between East and West was considerable. The nuclear threat did not stop the superpowers from intervening elsewhere in the world by conventional means. The Cold War was therefore cold only in Europe.

The US participated in the Korean War (1950-1953) and prevented communist-led North Korea from taking control over the entire Korean

peninsula. China was directly involved in the war, and made a large contribution of troops to the communist side. American participation in the Vietnam War (1965-1975) was less successful. Deployment of considerable US forces could not prevent victory for North Vietnam. Again, the communists received substantial military support from the Soviet Union and China. The USSR assisted anti-western regimes in the Middle East and supported communist movements around the world. In 1979, Soviet forces intervened in Afghanistan to secure continued communist rule in the country. The occupation lasted for ten years. The US provided considerable support for the non-communist Mujaheedin forces. The Cold War reinforced the ideological dimension of several local conflicts that became an arena for indirect confrontation between the Soviet Union and the US. Superpower intervention may have contributed to a prolongation of these wars, therefore making them more severe. But there are also cases where the superpowers acted as a restraining force on the adversaries, thus preventing further escalation. This was the case during several crises in the Middle East.

The end of the Cold War had little effect when it came to ending wars. In fact it marked the return of war to the European continent, with the disintegration of Yugoslavia followed by wars in Croatia and in Bosnia-Herzegovina from 1992-1995. Some of the new states in Eastern Europe, created as a result of the dissolution of the Soviet Union, have experienced continuous unrest since their independence. Georgia and Armenia are examples of this. The secessionist republic of Chechnya is involved in a war against the Russian army. Old conflicts that one thought would have been easier to solve after the Cold War are still going on, for example in the Middle East. In Africa, the 1990s brought new wars to Algeria, Liberia, Sierra Leone and Rwanda. In another example, the once peaceful Cote d'Ivoire and Togo became victims to war and conflict respectively.

4.0 CONCLUSION

In the 20th century, the world experienced even more wars than hitherto was the case. The world experienced the First and Second World wars in addition to numerous others in Asia and Africa. In fact, the theatre of wars shifted from Europe after the World Wars which had the character of inter-state wars to Asia and Africa where increasingly internal wars became more common. This has been attributed to the de-colonization struggles in these continents and the end of the cold war. The cold war left these continents without buffers earlier provided by the super powers in a 'Balance of Power' game. Also, the departure of the colonialists left a vacuum, which in some African countries could only be filled through struggles for access

to power by the different fractions of elite at the time of political independence.

5.0 SUMMARY

In this unit, we have extensively discussed the nature of wars in the 20th and 21st centuries, and the general trend of these wars. We also discussed the contributions of Alfred Nobel and the Peace Prize on efforts at resolving wars in the 20th and 21st centuries, through mediation and negotiation. We examined the various war theatres and the impact of influence of de-colonization and the end of the cold war on the generation of wars.

6.0 TUTOR MARKED ASSIGNMENTS

1. Discuss the nature of wars in the 20th Century. What do you know about Alfred Nobel and the Peace Prize?

2. Discuss the general trend in wars around the world since the 20th century.

3. There are more internal wars than inter-state wars in the 21st century. Discuss.

7.0 REFERENCES AND FURTHER READINGS

Friedrich Ebert Stiftung (2000) Introduction to Conflict Reporting in Nigeria Lagos, Frankad Publishers.

Ronald J. Fisher (1977), Interactive Conflict Resolution New York, Syracuse Press.

UNIT 3 BASIC STANDARDS OF INTERNATIONAL LAW AND HUMANITARIAN PRINCIPLES

CONTENTS

1.0   Introduction
2.0   Objectives
3.0 Main Contents
            3.1 The Meaning of International Law
            3.2 Types of International Law
            3.3 The basic standard of international law and humanitarian principles
4.0   Conclusion
5.0 Summary
6.0 Tutor Marked Assignment
7.0 References and Further Readings

1.0 INTRODUCTION

In this unit, we shall first look at the meaning of international law. We will seek to understand the various dimensions of international law, the types of international law, distinguishing public international law from private international law. We shall also examine the basic standards of international law and humanitarianism as they relate to the treatment of refugees, prisoners of war, the under-aged, women and vulnerable groups like minorities.

2.0 OBJECTIVES

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

•   Understand and define international law
•   Discus the types of international law
•   Distinguish between Public and Private international law
•   Understand the basic standards of international law and humanitarian principles

3.0 MAIN CONTENTS

3.1 The Meaning of International Law

International law has been defined by different writers in various ways. Oppenheim, a Standard authority spoke of it in 1905 as "the name for the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other". He added that, "it is a law for the intercourse of states with one another not a law for individuals" and that it is a law between, not above, the single states". Also Ellery C. Stowell in his writing in 1931 defined 'International Law" as embodying certain rules relating to human relations throughout the world, which are generally observed by mankind and enforced primacy through the agency of the government of the independent community into which humanity is divided.

In 1948 Philip C. Jessep wrote that International Law is "generally defined as law applicable to relations between states" but he declared that "there has Welled up through the years a growing opposition to this traditional concept". He was so confident that individuals are becoming more and more subject to international law that he outlined a "modern law of nations".

International law is common to all states, it is spoken of as the 'moral code of state by which people have lived side by side and done business with each other; for it is a body of rules upon which they have agreed so that they survive in peace.

3.2 Types of International Law

They are different types of international law:

(1)   These are the Public and Private international law. Here the international law we have defined is at times spoken of as "public international law". This is to distinguish it from what is known as "private international law", a branch of the law which deals entirely with relations of persons living under different legal systems.

(2)   There is also Admiralty Law, which is the law of maritime conlmerce. It somehow resembles private international law in that in
large part it is concerned with differences between separate national jurisdictions.

(3)   The other is the Administrative Law, which consists of the body of rules growing out of the regulations adopted by international administrative agencies, for example, the Universal Post Union.

There are three sources of international law, treaties, custom and general principles of law. Thus the statute of International Court of Justice (Article 38) stipulates that the Court shall apply:

(a)   International conventions, whether general or particular, establishing rules expressly recognized by the courtesy state.

(b)   International custom, as evidence of a general practice accepted as law.

(c)   The general principles of law recognized by civilized nations.

(d)   Judicial decisions and the teachings of the most highly qualified publicist of the various nations, as subsidiary means for the determination of rules of law.

3.3 The basic standard of international law and humanitarian principles

There are ten basic standards of international law:

(1)   Everyone is entitled to equal protection of the law, without discrimination on any grounds, and especially against violence or threat, especially to potentially vulnerable groups such as children, elderly, women, refugees, displaced persons and members of minority groups.

(2)   Treat all victims of crime with compassion and respect, and in particular protect their safety and privacy.

(3)   Do not use force except when strictly necessary and to the minimum extent required under the circumstances.

(4)   Avoid using force when policing unlawful but non-violent assemblies. When dispersing violent assemblies, use force only to the minimum extent necessary.

(5)   Lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others.

(6)   Arrest no person unless there are legal wounds to do so and the arrest is carried out in accordance with lawful arrest procedures.

(7)   Ensure all detainees have access, promptly after arrest to their families and legal representative and to any necessary medical assistance.

(8)   All detainees must be treated humanly. Do not inflict, instigate or tolerate any act of torture or ill-treatment, in any circumstances, and refuse to obey any order to do so.

(9)   Do not carry out, order or cover up extrajudicial executions or "disappearances" and refuse to obey any order to do so.

(10)   Report all breaches of these basic standards to you senior officer and to the office of the public prosecutor.
        Do everything within your power to ensure steps are taken to investigate these breaches.

Having seen the basic standards, we shall now look at the Humanitarian Principles of which these are three in number:

(1)   First we have the humanitarian imperative which prevent and alleviate the suffering of the human being. It protects life and health (improve human condition) and ensures respect for the human being. It also implies the right to receive humanitarian assistance and the right to offer it as fundamental to humanitarian principles. It also implies an overall protection approach i.e. the respect of international humanitarian law and human rights.

(2)   Neutrality: Here you are not to take sides in the hostilities or in controversies based on political, racial, religious or ideological identity (non-partisanship/independence). Transparency and openness are key issues to keep neutrality.

(3)   Impartiality: Aid should be delivered to all those who are suffering, the guiding principle being only their need and the corresponding fiats. Human rights are the basis and the framework for an assessment of needs. The aid community should respond with equal and appropriate assistance, advocacy and action. There should be no discrimination.

Everyone is entitled to equal protection of the law, without discrimination on any grounds and especially against violence or threat. Be especially vigilant to protect persons and members of minority, potentially vulnerable groups such as children, the elderly, women, refugees and displaced persons.

In principle, all members of the international community must promote and protect human dignity and maintain and uphold the human rights of all persons, among which are the following:

- Everyone has the right to liberty and security of the person
- No one should be subjected to arbitrary arrest, detention or exile
- All persons deprived of their liberty have the right not to suffer torture or cruel, inhuman or degrading treatment
- Everyone is entitled without any discrimination to equal protection of the law
- Everyone has the right to a fair trial
- Everyone has the right to freedom of movement
- Everyone has the right to peaceful assembly
- Everyone has the right to freedom of expression

No person or state may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may they invoke superior orders or exceptional circumstances such as a state of war or threat of war, or political instability or other public emergency as a justification for such acts. Special attention should be given to the protection of human rights of members of potentially vulnerable groups, such as children, the elderly, women, refugees, displaced persons and members of minority groups.

Generally, from the perspective of Standard International Law, the rape of women is considered an act of torture that is not tolerated. Any other forms of sexual abuse may constitute torture or cruel, inhuman or degrading treatment and offenders will usually be brought to justice.

The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including holding a detainee in conditions which deprive him or her, even temporarily, of the use of any of his or her

natural senses, such as sight or hearing, of his or her awareness of place or passing of time. Compliance with the other basic standards for law enforcement is also essential safeguards against torture and ill-treat.

A detainee may not be compelled to confess, to otherwise incriminate him or herself or to testify against any other person. While being interrogated, no detainee may be subject to violent threats or methods, which impair his or her capacity of decision or judgment. Female guards should be present during the interrogation of female detainees and should be solely responsible for carrying out any body searches for female detainees.

Children should be detained only as a last resort and for the shortest possible time. They should be given immediate access to relatives, legal counsel and medical assistance and relatives or guardians should be informed immediately of their whereabouts. Juvenile detainees should be kept separate from adults and detained in separate institutions. They should be protected from torture and ill-treatment, including rape and sexual abuse, whether by officials or other detainees.

Refugees and asylum seekers detained for non-criminal reasons should never be detained together with common law. prisoners. Conditions and treatment should be humane and appropriate to their status as refugees.

4.0 CONCLUSION

The point for us to note is that international humanitarian law has progressed rapidly especially after the Second World War to a stage in which the treatment of all persons and not just the prisoners of war is protected by international humanitarian law. Any nation or any individuals who fails to meet the standards set by this body of laws is liable to international condemnation and possibly trial before the international human rights courts. In summary, the points below should be noted:

(1)   Everyone is entitled to equal protection, by the law, without discrimination

on any grounds, and especially against violence or threat. Be especially vigilant to protect potentially vulnerable groups such as children, the elderly, women, refugees, displaced persons and members of minority groups.

(2)   Treat all victims of crime with compassion and respect, and in particular protect their safety and privacy.

5.0 SUMMARY

In this unit, we have examined the meaning of international law and the types of international law. We also distinguished between public and private international law and perused the issues surrounding the basic standards of international law and humanitarian principles.

6.0 TUTOR MARKED ASSIGNMENTS

What is International law? Discuss the various types of International Law.

What do you consider to be the sources of international law,?

7.0 REFERENCES AND FURTHER READINGS

Fenwick Charles G. (1965), *International Law, 4th* Ed. New York, Appleton-Century-Crofts.

Corbett, P.E. (1955), *The Study of International Law.* Garden City, NY: Doubleday and Company.

Amnesty International, *Basic Human Rights Standards for law enforcement Officials,* Amnesty International.

UNIT 4 EARLY WARNING AND PREVENTIVE
              MEASURES

CONTENTS

1.0 INTRODUCTION

In this unit, we shall examine the Early Warning and Preventive Measures for addressing conflicts. This includes the Early Warning Early Response Mechanism and the various components of this. Further, we will examine Early Warning as a process in terms of the elements and revisit Multilateral Preventive Actions by the UN with emphasis on the efforts of the Design and Development Team on Early Warning Early Response.

2.0 OBJECTIVES

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

*   Identify the five essential elements of Early warning and Preventive Measures;

*   Highlight the elements of the Early Warning process;

*   Discuss Multilateral Preventive Actions by the UN;

*   Identify the problems inherent in the implementation of the Early

        Warning, Early Response Mechanism; and

- Explain the multiple issues, individual Or complex formations, which can potentially lead to conflict

3.0 MAIN CONTENTS

3.1 Early Warning

The forum for Early Warning and Responds (FEWER) defines early warning as "the systematic collection and analysis of information coming from the areas of crises for the purpose of anticipating the escalation of violence, development of strategic responses to these crises; and the presentation of options to the critical actors for the purpose of decision making". In other words therefore Early Warning refers to the set of activities relating to the gathering and analysis of information that provides insight into a developing conflict situation.

Effective Early Warning Combines:

- I   Historical
- 2.   Social
- 3.   Political
- 4.   And humanitarian information

These can result in the forecast if a particular conflict and the requirements (Including the instruments and actors) for effective response to be applied before it reaches crisis proportions.

3.2 Sources of information for Early Warning:

- 1.   The Media
- 2.   Academic and Research Institutions
- 3.   Government sources and UN agencies.

What even the source of Data it is very important that. It is very current and the quality as accurate as possible.

3.3 Early Warning and Preventive Measures

This is the basis for any operational intelligence system designed to support military operations. Though with the advent of a post-cold war security system that features mainly multinational forces, national early warning systems have proved inadequate.

Michael Lund has written extensively on early warning, response and prevention of violent conflict and has argued cogently for more emphasis on and investment in efforts to understand the impacts of preventive/response measures. He outlines the five essential elements to be found in a complete conflict prevention planning and decision cycle, the following is a direct quote:

Conflict diagnosis: What are the distinctive factors that are increasing the possibility of violent conflict in the particular situation, and what capacities already exist there that might manage these factors without violence?

Response identification: What are the various appropriate methods and actions that can reduce these particular sources of conflict and/or improve the functioning of the existing conflict management capacities?

Prior appraisal (prospective evaluation): Which of these responses is likely to actually be effective and implementable?

Implementation: What tasks and actors are required to implement them?

Monitoring and evaluation (retrospective evaluation): What have been the effects of the actions that have been taken?

Element (a) begins with a thorough understanding of existing local capacities as well as deep historical understanding of the roots of the conflict. This means that local civic organizations and their capacities for non-violent conflict resolution need to be central to the process of conflict analysis. Elements (c) and (e) prior appraisal and monitoring and evaluation (PCIAs) build on this and are intended to provide the effectiveness and implementability of preventive responses, either prior to, during, or following a preventive intervention. If preventive action is going to be taken more often in the future, it is imperative that reliable advice be provided to decision-makers as to what is likely to happen if they adopt a certain course of action in given situations. So far, very few existing analyses of specific conflict situations try to, or are able to, back up what they recommend to policy-makers with a sound or at least plausible analysis of whether the recommended actions are likely to work and why. Such advice will never become an exact science and that policy prescription always must rely heavily on informed judgment. Nevertheless, policy advocacy that is based on evaluating past actions and their results in given contexts would be an improvement.

3.4 Focusing on the Operational Factor

National government have long had early warning system in place, especially in the military sphere. As earlier noted, Early Warning is the basis for any operational intelligence system designed to support military operations. But with the advent of a post-cold war security system that features mainly multinational forces, national early warning system has proved inadequate. The question of intelligence for UN and other multilateral military and peace operations is a subject beyond the scope of this course. However, it can be said that early warning of arms flows is seen as a military intelligence matter and has yet to be developed adequately in the context of multilateral peacekeeping and post-conflict peace operations.

3.5 Early Warning as a Process

There are five elements of the early warning process.

1.   Information tools are the basic building blocks, they include rights and human watch organizations, humanitarian NG0s, International NG0s, the UN, international economic organization, the media, state and academics among others and include the mode of collection, the categories for naming and classifying, the standards for evaluation of reliability, the elements of confidentiality that can reconcile the issue of security for the gatherers and finally the mode for transmitting the information.

2.   The second element entails sharing the gathered information. This may involve considerations of security since, typically, NGOs and international agencies are reluctant to share information lest it get back to the states and threaten their workers in those states. There are also the bureaucratic conflict and trying wars that affect all institutions to be navigated.

3.   The third element of early warning as a process entails the analysis and interpretation of the information gathered, this is well influenced by institutional cultures and preconceptions that in turn affect how the information will be shared.

4.   The fourth element is the sending phase of the early warning process. This is when it must be decided whether the information warrants sending a signal of increased danger as well as the degree of that danger.

5.   The final step entails the ability to receive the signal, attend to it when it is received, determine the appropriate response and then respond.

3.6 How these processes can be adapted to, detecting arms flow and accumulation are as follows:

(1)   Humanitarian practitioners have learned at firsthand how sensitive Governments are to the revelation of human rights abuse associated with armed conflict.

(2)   With government cooperation, tracking arms buildings is made difficult due to the small size and low price of the weapons, as well as the lack of transparency associated with their transfer and accumulation.

(3)   The nature of the behaviour being uncovered and reported may present problems to the type of gatherer normally associated with current early warning efforts.

The way forward is increased by transparency; this is by itself is no guarantee that action will be taken as was seen in the case of Rwanda where Michael Lund in his account of 1993 — 1994 concluded that the 500 UN troops dispatched to observe were "insufficient to be able to detect the effort being taken by the Hum authorities not only to avoid the implementation of the Arusha Accords but also to recruit and arm militias ready to retake the country at the first opportunity.

3.7 Multilateral Preventive Actions

As the Secretary General's report to the General Assembly entitled: "Renewing the United Nations: A Programme for Reform" (A/51/950 of 14 July 1997) indicates, there is an urgent need for a better understanding of the root causes of prevailing multifaceted crises. As such, it is recognized that greater emphasis should be placed on timely and adequate preventive action. As the Secretary-General stated in his report, "the United Nations of the twenty-first century must become increasingly a focus of preventive measures". The United Nations is already maintaining a global watch to detect potential threats to international peace and security with the objective of supporting the efforts of the Security Council and the Secretary General to deter conflict. Toward this end, it is important to strengthen the

professional capabilities of UN staff to support and implement this objective in the areas of early warning and preventive measures.

With the support of funds provided by the British and Italian Governments, a Design and Development Team comprised of representatives of the Department of Political Affairs, the Conflict Analysis and Development Unit of the London School of Economics and the United Nations Staff College was formed (Sep. 1998) to develop a series of pilot courses dealing with Early Warning and Preventive Measures. Following an extensive interview process (Sep. - Oct. 1998) conducted with agencies, departments and programmes that deal with complex emergencies, both in New York and Geneva, design meetings (Oct. & Dec. 1998) were held to prepare the workshop sessions and related materials.

The primary aim of the first and second pilot workshop was to begin the process of building institutional capacity by significantly improving professional and analytical skills and awareness of participants in the area of early warning and preventive action and, as a corollary, by promoting greater mutual exchange and coordination within and between departments and offices dealing with policy and practical aspects of early warning and preventive measures. Since it was a pilot workshop, it also served as an opportunity to test both content and methodological approaches.

The specific objectives of this workshop were to enhance the skills of participants and their capacity:

       To identify conflict causes and stages of conflict;

- To structure systematically early warning analysis;
- To identify and integrate a range of preventive measures;
- To use existing mechanisms for early warning analysis;
- To improve quality and effectiveness of policy recommendations;

The care participants to the workshop included about twenty-two representatives from various UN Agencies such as DPA, OCHA, DDA, UNDP, UNHCHR, UNHCR, UNICEF, WIFE', and FAO. Students are urged to find out the full meanings of these UN Agencies.

The focus of the workshop could be divided into four main knowledge and skill development areas. The first of these is in the area of analytical processes. related to early warning. Participants began by developing a joint

analysis of the country situation and then assessed root causes and evolving developments that could lead to crisis aid perhaps violent conflict. A list of illustrative early warning indicators by category was generated. An analytical step in this process was the development of risk scenarios, which, through the combined impact of several factors, could lead to a range of possible outcomes.

The second knowledge area is reflected in the emphasis on and support of cooperation and coordination among participants from different sections of the UN family that characterized all the working sessions.

The third area of focus was on joint planning and decision-making. Building on the outputs generated in the analytical sessions, the participants identified and discussed a range of possible preventive measures that might be employed to address the changing circumstances outlined in a risk scenario. A unique feature of this workshop was that it brought together UN staff from their respective headquarters and the field, dealing with humanitarian, political and practical issues. The sharing of different approaches to conflict prevention and the discussions that led to the identification of potential options for preventive measures was a highlight of the workshop. The mechanisms and overall process of decision-making in the UN were also explored.

A fourth area of focus was the drafting of recorrunendations for preventive actions that could, if implemented, positively address the events in evolving scenarios. Each of the three groups outlined one of several possible scenarios and presented a policy brief containing the results of their analysis and a set of recommendations identifying actions that might be taken by the UN system. Each team had the opportunity to play the role of the ECPS providing feedback on the policy options outlined by another team.

As a pilot, the workshop also focused on obtaining feedback from participants on content and methodologies. In addition to written feedback on daily sessions and a written evaluation of the overall workshop, the Design and Development Team met each day with representatives of the three country groups and conducted sessions at the conclusion of the workshop to obtain suggestions for improvements in subsequent workshops. The daily feedback meetings were invaluable to the learning process. Based on the response of participants to the content being covered and methodologies being used, adjustments were made to the programme content and schedule to ensure that workshop sessions addressed more effectively participants' needs and interests.

4.0 CONCLUSIONS

The final review of the workshop led to a number of conclusions and recommendations. Some of these relate to the overall process of early warning and preventive action. First among these was that a UN system focus on early warning and preventive measures is increasingly important. Secondly, that the process of sharing information, perspectives and analysis across departments, agencies and programmes leads not only to a more comprehensive and qualitative understanding of what are most often very complex circumstances, but, perhaps more importantly, to the identification of a broader range of actions that can be employed to prevent conflict or reduce its impact. Thirdly, while there will always be a need to deal with emergencies, and therefore to have an appropriate rapid response capability, the UN system, in cooperation with other paitners including regional organizations and governments, could prevent a greater number of vulnerable situations from reaching emergency proportions.

It was also suggested that additional perspectives be brought into the analytical process. Representatives of regional organizations and NGOs would bring added value to the identification and analysis of early warning factors and to the development of proposed actions to address them.

It is however, important to note that the Early Warning Early Response Mechanism often suffers of problem of coordination, and inability of countries to take immediate action when potential conflicts are identified. Sometimes, this may be as a result of national considerations or incapacity. Even the UN has fallen foul of this, when it failed to act even when all the signs were there of an impending conflict in Rwanda.

5.0 SUMMARY

In this unit, we have examined Early Warning and Preventive Measures and the essential elements of the Early Warning process. We also discussed the Multilateral Preventive Actions being taken by the United Nations to implement the Early Warning Early Response Mechanism.

6.0 TUTOR MARKED ASSIGNMENTS

1.   What are the essential elements of the Early warning Process?

2.   Discuss Early Warning as a process?

3   Discuss the Multilateral Preventive efforts by the United Nations on
        Early Warning Early Response.

7.0 REFERENCES AND FURTHER READNINGS

"Humanitarian Intervention and Early Warning", The Journal of Conflict
        Resolution", Journal of Peace Science Society (International),
        Vol.49, No.1, February 2005.

Akindele, R.A and Bassey Ate (2001) Beyond Conflict Resolution, Lagos,
        Nigerian Institute of International Affairs.

MODULE 2

Unit 1   Skills And Methods Of Conflict Resolution-Mediation
Unit 2   Women In Peace Building And Reconstruction
Unit 3   Protection Of Civilians And Vulnerable Groups
Unit 4   Conflict Management

UNIT 1 SKILLS AND METHODS OF CONFLICT RESOLUTION-MEDIATION

CONTENTS

1.0   Introduction
2.0   Objective
3.0 Main Content
        3.1   Method of Conflict Resolution/Mediation
        3.2   Conflict at the Individual Level
        3.3   Current thinking in conflict resolution styles
        3.4   Conflict Resolution Techniques or Skill
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignment
7.0 References and Further Readings

1.0 INTRODUCTION

In this unit, we shall examine the issue of conflict Resolution and conflict Mediation at the different levels of society. We will also examine the current thinking on conflict Resolution styles and the role of Mediation and Negotiation in conflict Resolution. Conflict is a feature of human existence, and as far as human beings interact with each other, conflicts are bound to arise. However, the important thing is to be able to have ways of resolving conflicts depending on the nature of the conflict.

2.0 OBJECTIVES

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

• Discuss conflict at the individual level;

• Explain the current thinking on conflict resolution styles;

- Identify the different levels of conflict; and

- Describe the role of Mediation and Negotiation in conflict Resolution.

3.0 MAIN CONTENT

3.1 Method of Conflict Resolution/Mediation

Conflict represents a condition of disharmony in international process. Conflict is the direct result of a clash of interests by the parties involved in an international process. Conflict arises usually as a result of the pursuit of incompatible ends or the use of incompatible mean's to pursue desired goals by the parties involved in an international process.

Scholar has generally agreed that conflict is almost invertible in the interactions between human beings, either individually or in groups. All human societies, communities, organization and interpersonal relationship experience conflict at one time or the other in the process of their regular interactions.

Although conflict might be inevitable in human relations there are different views as to the usefulness of conflicts, while some believe it is destructive, promological, an abnormal phenomenon and therefore something to be avoided others believe that conflicts is not necessarily bad, as normal or dysfunctional and that in fact conflict can be productive. John Burton for instance regards conflict as an essential creative element in human relations "and that is the means to change the means by which our social values of early are, security, justice and opportunities for personal development can be achieved. Hence he claimed that if conflict is suppressed, society would become static.

However whether or not conflict will play a functional or dysfunctional role in human relations would depend on the manner such conflict is managed and resolved.

3.2 Conflict at the Individual Level

Beginning from the individual level, many skills needed to help another person, are the same or similar to the skills needed to help yourself. The skills of a professional are the skills of a helpful friend. Furthermore, the process of helping others is one of the most therapeutic and enjoyable

things anyone can do. Thus, learning to be a good helper is a way of helping yourself, sometimes called "helper therapy."

The Society of Friends (Quakers) has many great ideas. Two are pacifism (don't settle conflicts with violence) and consensus (don't settle issues without *getting agreement from every person involved).* We live in a society, however, that believes voting is the best way of settling disputes. This method is about trying to achieve a resolution that meets each person's needs as much as possible. This is called a win-win system, in contrast to our court system where one side wins and the other side loses.

3.3 Current thinking in conflict resolution styles.

1.   Avoiding or denying the conflict. Such a person hopes the problem will go away. Usually it doesn't. So, this is a bad approach. But many people take it.

2.   Many prefer to give in rather than fight. Why? Sometimes they are being a martyr, sometimes scared, sometimes seeking appreciation, etc. In any case, this is another bad approach, because it is unfair, it generates no creative solutions, and usually such an accommodator remains very unhappy.

     Some people get mad and blame the other person, "You ignored my authority" or "You• are totally unfair" or "You've hurt me and I want to get even," etc. Such a conflict becomes an ugly battle in which they must "get their way" and win at any cost (like in a divorce settlement). This is also a terrible approach because it stops all constructive thinking, is unfair (deceitful, threatening, chauvinistic), and produces lasting hostility. Kottler (1994) helps such people learn to avoid blaming.

4   Other people appear to seek a compromise, i.e. find some middle ground and "work out an agreement." That would be wonderful, if it were entirely true, but sometimes a part of this approach is subtle but deftly trying to win more ground than your opponent. The objective becomes trying to prove you are clever or slick. Thus, political or social pressure, misrepresentation, threats-with-a-smile, and so on may slip in, rather than simply seeking an optimal solution for both sides.

5   A few people can control their anger, competitive, and 1-give-up
        feelings and genuinely seek an innovative, fair, optimal solution for
        both parties. Take this creative, integrative approach if you can.

There are important lessons for us to learn from the experience at resolving
conflicts at the individual level. It is not easy to be rational during a
conflict. Moreover, it may seem very unlikely that an aggressive person
would give up a chance to take advantage of an avoider or an
accommodating person. Yet, in the long-run, the aggressive person would
probably be better off if he/she worked out a fair arrangement.

Conflicts are inevitable. There are normal and an integral part of human
lives. They can occur on several grounds, interpational, community and
crganization, inter-personal (states and ethaic groups etc) depending on our
style of addressing the conflict, the outcome can be destructive or
constructive and often proceeds a request for intervention or training,
nevertheless, it still has its own dynamics and features.

Mediators are people — officials or. UN officials who get involved in
Conflict resolution. Strategies and skills can be divided into three types:

(1)   Skills and processes for intervention in an actual conflict situation
        (crisis or an ongoing conflict).

(2)   Skills to conduct conflict resolution training (the audience can be a
        group of diplomats, community organizers, educators etc.

(3)   While the third is consultation with parties to a conflict through
        negotiations: Viz —

        a.   Helping the parties define the agenda.
        b.   Helping identify and reframe the issues.
        c.   Encouraging the parties to a common position.
        d.   Finding areas of common ground.
        e.   Encouraging fair and effective negotiations and sometimes
              drafting an agreement (that parties have articulated) for
              parties to sign.

The third party consultation is also a skill of resolving conflict, it is focused
on the manner in which small groups resolve conflicts, problem-solving
discussion between unofficial representative of parties communities, state
or groups engaged in protracted social conflict.

Some steps to preventing conflict — Through mediation:

(1)   Start with the right frame of mind.

(2)   Have a discussion to understand sides, problems, conflicts, needs, and preferred outcomes. Be empathic.

(3)   Gather all the additional information you need and think of several options or plans for resolving the conflict and satisfying shared interest.

(4)   Both sides present plans for resolving conflict; try to integrate the best of both plans or make a fair offer or express a request. Negotiate the difference.

Mediation involves:

(1)   Providing a suitable step for negotiation.

(2)   Encouraging the proper parties to get involved.

(3)   Helping to set ground rules (though the parties are usually involved in this process).

3.4 Conflict Resolution Techniques or Skill

Most attempts at conflict resolution usually begin with the direct negotiation or interaction between the parties involved in the conflict, third party involvement becomes necessary when there is a deadlock in the negotiation between the parties or when the level of escalation has reached a stage of near collapse or complete collapse of effective communication between parties to the conflict. Third party intervention would however become necessary from the outset where the parties are traditionally non-communicable adversaries.

Direct Negotiation Techniques

These could be broken into coercive and "non coercive" or "mutually beneficial" bargaining techniques.

(a) **Coercive Bargaining Techniques**

The opponent makes use of coercive bargaining techniques to demonstrate resoluteness and create problems in the way of saving the negotiations and avoiding a disaster to the opponent. Some of the applied formulas are:

1. Burning one's bridges.

2. Quaking irrevocable commitment like that of Uganda's Idi Amin during the conflict with Britain over Dennis Hill

3. Publishing ones commitment, like the ultimatum given by

Nigeria's Minister of External Affairs to Camezoon during the border incident of 1981.

4. Giving the impression of irrationality

5. Crossing threshold, i.e. moving from one level of bargaining to another, such as breaking up peaceful negotiations to announce a partial mobilization. The problem with coercive bargaining to techniques is that they are only useful when they are applied by one party.

(b) **Mutually Beneficial Techniques**

These are bargaining techniques which if adopted by both parties would bring about mutually acceptable outcomes. These include:

1. Gaining an understanding of the opponents fear and concern

2. Preparedness to compromise.

3. Avoidance of gaining too much since the opponent cannot afford to lose too much.

4. Building golden bridges behind the opponent to facilitate retreat. An example of this is what happened in the Cuban missile crisis between the United States and the Soviet Union in 1962.

(c) Third Party Mediation Techniques

These will be under three broad categories, the legal or judicial, the - power politics and the conciliatory techniques. Three variants of each of the three broad categories will be discussed here as shown in the table below:

Judicial Technique _____	... Arbitration . ... Conference Resolution; ... Resort to ICJ (International
Power Politics Technique	... Arms balancing ... Use of threats; and ... Coercive physical action
Conciliatory Technique	... Appeasement ... Needs satisfaction; and ... Problem solving

(d)   Judicial Method

Here it relates to an attempt at resolving conflict through some legal framework, in which a third party is given or assumes the responsibility of reaching an effective decision concerning the settlement or resolution of the conflict. This decision is usually in accord with pre-existing societal or international norms. The problem with the judicial method is that it usually ends up ith a win-lose outcome. As such it does not always lead to the efiective resolution of a particular conflict.

(e)   Power Politics Method

This relates to the attempt to resolve conflict in which the main concern I :OW the outcome would affect the existing balance of power beween the parties and their affiliated groups instead of responding to the genuine needs and aspirations of the parties involved in the particular conflict. Other variants of the power politics method include the one of threats, blackmail and coercive physical force to keep the panics in conflict restrained, neutralized

or to impose an unpalatable settlement on both or either one of the parties. The problem with this method hinges on the likelihood of ignoring the salient issues of the particular conflict in favour of the pursuit of strategic advantages.

(f)   **Conciliatory Method**

This relates to an informal process in which a third party tries to bring the parties involved in conflict to an agreement through the improvement of communication between them, by helping to interpr'et the salient issues involved in the conflict and the exploration of possible option that would help to bring about a peaceful resolution of conflict the essence of this method is to facilitate contoct between the parties in conflict in ordos to provide them with the opportunity to bring forward their fears and concerns and send all attempt by a third party to create an atmosphere of trust and cooperation that is conducive of fruitful negotiation among the variants of this method are appeasement, need satisfaction and problem techniques: all of which are closely related and could be conveniently subsumed in the problem-solving technique

4.0 CONCLUSION

Since conflicts frequently exists in the society. It is imperative for us to have a checklist of ways of addressing it. Though occurring at different levels of human interaction, efforts must be made to keep conflict from exacerbating out of the usual quarrels to the use of violence. Some of the ways through which conflict could be resolved include third party Intervention like through Mediation and Negotiation. Nigeria effectively mediated in the three decade old Sudanese conflict by providing her resources, facilities and expertise towards the resolution of the conflict in cooperation with the African Union.

5.0 SUMMARY

In this unit, we have discussed the issue of conflict, and especially its appearance at the different levels in society. We noted the current thinking on conflict Resolution styles and the role of Mediation and Negotiation in conflict Resolution.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the different levels of conflicts and the possible ways of resolving them?

Discuss Negotiation and Mediation as ways of resolving conflicts between parties to a conflict.

7.0 REFERENCES AND FURTHER READINGS

Ronald J. Fisher (1977), Interactive Conflict Resolution, New York, Syracuse, Syracuse University Press.

UNIT 2 WOMEN IN PEACE BUILDING AND RECONSTRUCTION

CONTENTS

1.0 INTRODUCTION

In this unit, we shall discuss a very important component of peace building and reconstruction- the role of women during conflict and after the conflict ends. However, the experience has been that, whereas women and children suffer most during wars, they are usually relegated to the background during peace negotiations and post-conflict reconstruction. This should not be so, as without the input of women in this process arising from their experiences during wars it is impossible to have an effective post conflict reconstruction.

Here, we shall therefore examine women in peacebuilding and reconstruction, focusing on women, peace and constitution making; women in rehabilitation and reconstruction; women, truth, accountability and reconstruction; including the institution of international tribunals to try war crimes against women and the vulnerable.

2.0 OBJECTIVES

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

- Discuss women in peacebuilding and reconstruction;

- Discuss women, Peace and constitution making;

- Explain the role of women in rehabilitation and reconstruction

- Explain how women often become victims and need restitution;

- Highlight the importance of truth and accountability in post conflict rehabilitation; and

- Describe the role of International Tribunals in Post conflict reconstruction.

3.0 MAIN CONTENT

3.1 Background-Issues Concerning Women during and After Wars

In the first week of May 2002, Colombo city, Sri Lanka was host to a multi-national gathering of influential and highly acclaimed women who joined others to participate in the international conference on 'Women, Peace Building and Constitution Making'. This showed the importance of examining the role of women in peace-building and reconstruction.

Organized by the International Centre for Ethnic Studies in Colombo, this conference was attended by women activists from areas experiencing conflict such as Rwanda, Sierra Leone, Somalia, Bosnia-Herzegovina, Afghanistan, the Middle East, East Timor, Colombia, Guatemala and Northern Ireland. Also leading academics and specialists from around the world who have researched the theme of women and peace were in attendance. This event created a platform for the sharing of experiences and strategies amongst women, who are either experts in the subject, and/or have played an active role in the peace building and constitution making process of their respective countries.

The issues that usually concern women during and after wars include: to identify and articulate the effect of war on women and the gender specific needs of women during times of war; to contribute to an understanding of women's roles in peace building and constitution making; to develop strategies for supporting, developing and enhancing women's peace

building and constitution making capiacities at multiple levels; and to improve the cross-cultural exchange on the subject.

Even as men are too often the architects of war, women suffer its consequences. Women and children account for the most number of civilian casualties in war. Women and children make up to 80% of the refugees or internally displaced persons. Women fall prey to sexual violence, torture, rape, forced prostitution, sexual slavery, and forced . conscription to warfronts. Women lose fathers, husbands, sons, property, and employment in war. From the Balkans to Burundi, Sierra Leone to Sri Lanka, women are the worst victims of war.

3.2 Women and Peace

In working towards building peace in their respective communities, women around the world are forming strong coalitions that reach across the religious, ethnic and political divide. But though contemporary women peace builders and constitution makers can offer valuable insights and may contribute to a gendered knowledge about their approaches to peace building and constitution making, little has been made to glean more information about their initiatives or to develop a comparative analysis of their strategies.

It is important that we explore the different feminist conceptualization of peace and their relevance in contemporary times, and take a look at feminism and peace activism, and women's peace networks.

3.3 Post-Conflict: Women, Peace Agreements, and Constitution Making

The bitter experiences of women in times of war often make them strong adherents of peace building and constitution making for conflict resolution. However, women's roles in and contributions to conflict resolution are underutilized or wholly ignored in mainstream peace building and constitution making processes. Nevertheless, women all over the world are devising creative and effective strategies to ending wars and building peace.

Throughout history, Constitutions have been designed by men and women have been invisible, both in the process of constitutional reform and in the content of the Constitutions. A survey of the Constitutions of the world will reveal that most, if not all Constitutions, view women as gendered subjects, i.e. as wives, mothers etc. It is now an accepted fact that the law and legal processes are now being viewed as based on male norms and experiences,

and that women's engagement with the law is vastly different than that of men.

We should therefore note the positive changes witnessed in the past decade, where women are now pushing at the envelope of Constitutional law and striving to influence constitutional reform processes. Significant progress and achievements have been made in Somalia and East Timor, amongst others. Also, in Northern Ireland, women have successfully come together in forming their own political party and have effectively raised the profile of women in politics.

3.4 Post Conflict: Rehabilitation and Reconstruction

Women often face severe obstacles and critical neglect to their needs in the rehabilitation and reconstruction process, as they struggle against discrimination at every level in trying to feed and house their families. Moreover, international donor reconstruction programmes and the distribution of humanitarian aid often fail to take into account the new economic and social roles women must fulfil in the aftermath of war. Their essential needs are thereby inadequately factored in.

We therefore, need to be able to explore the practical needs and strategic interests that are fundamental to women in post-conflict reconstruction. Special attention will also be paid to the new economic roles women carve out for themselves, most often as heads of households. Conversely, we should note the new challenges faced by women in their new employment, land and property rights, the needs of ex-combatant women, etc. Striking examples in this area is reflected in the post-conflict experiences of personal accounts of female combatants during conflicts. Liberia and Sierra Leone are cases in point.

3.5 Women, Truth, Accountability and Reconstruction

Although rape and other gender-based forms of violence continue to be among the highest committed war crimes during times of armed conflict, they still remain the least condemned. This struggle against such impunity, must begin with the strengthening of the legal system and its responsibility in bringing perpetrators to justice. Furthermore, addressing the victims' needs and providing proper medical treatment. psychological care and financial compensation is crucial and must be guaranteed. Fundamentally, these crimes must be recognized for what they are — crimes against humanity.

We need therefore to be conversant with the various roles of women in the institutions and strategies for post-conflict truth and reconciliation. In addressing the specific needs of women in the aftermath of violent conflict, especially their need for accountability and justice, attention is called to the issue of comfort women and for example, the Japanese government's legal responsibility for crimes committed over fifty years ago, to the more recent tragedies such as Rwanda's genocide that is now answering to an established war crimes tribunal.

There is a recent report on "Worhen, War, and Peace," an independent experts' assessment by two remarkable women, Elisabeth Reim and Ellen John Sirleaf. This report provided a wealth of information on the impact of conflict on women and gave the suffering a human face. Equally important, it not only provided "ground truth" from Sudan and Liberia to Afghanistan and East Timor on the impact of violence, displacement, trafficking, and other social ills, but also practical suggestions for avoiding the stigma of victimization. Indeed, what comes through most clearly from this report is the need to view women as much more than victims, and to empower them to make their full contributions at the peace table and in post-conflict reconstruction.

This is not just a question of equity or fairness. We know that bringing women to the peace table improves the quality of agreements reached and increases the chance of success in implementing, just as involving women in post-conflict governance, reduces the likelihood of returning to war. Reconstruction works best when it involves women as planners, implementers, and beneficiaries. The single most productive investment in revitalizing agriculture, restoring health systems, reducing infant mortality, and improving other social indicators after conflict is in women's and girls' education. Further, insisting on full accountability for actions against women during conflict is essential for the re-establishment of rule of law. We know these lessons well, but too frequently, in the process of responding to the latest crises, issues related to conflict prevention in general, much of the role of women in this process, gets lost in the shuffle.

And yet it is precisely in the midst of crises that these issues should take centre stage.

From 1995 to 1998, Angola was the site of the world's largest UN peacekeeping operation. The UN Special Representative of the Secretary General was sensitive to gender issues, and there was an active UN human rights program that forced atten

Still, when conflict re-emerged in Angola in 1998 and millions of displaced persons sere in need of emergency relief programs, the priority was the urgency of getting food to displaced people. This outweighed the focus on women's participation in the peace process. It was later realized during a meeting of the Joint Peace Commission that brought together the Angolan Government, UNITA, the United Nations, and the troika nations of Russia, Portugal, and the United States, that there was not a single woman at the peace table.

It was therefore recognized that a key component for post-conflict negotiation and reconstruction was missing by not bringing women to the table to plan for the emergency assistance. Using women's NGOs to distribute relief; assigning gender advisors to prevent domestic violence as ex-combatants returned to their homes; and ensuring women a sea: at the table in the peace talks themselves were realized to be important. These lessons were particularly useful during the political, economic and security reconstruction of Afghanistan. Well-meaning experts both Afghans and international bodies, told us that the benefits of involving women in this process were outweighed by the risk of alienating anti-Taliban forces and traditional Afghan leaders whose help was needed in the fight against terrorism.

Under President Bush of the United States, women's issues were given a place at the top of the agenda in the efforts in Afghanistan, as with the full participation of women at the political conference in Bonn, Washington, Tokyo, and the Loya Jirga, the reconstruction in Afghanistan was realized.

One area where we need to do better, is insisting on full accountability for actions against women during conflict. Whilst the spirit of reconciliation and forgiveness after peace comes, is welcome but too often, amnesty means that men forgive men for atrocities committed against women. In Angola, for example, the Government and the UNITA rebels provided 13 separate amnesties for each other. Whenever a mass grave was discovered, it was in large part the international community — including the U.N. Human Rights Commission and the embassies of foreign govern

—

that would go to the site to protect the evidence in antikipation of th when the Angolan authorities could be persuaded intd investigating the matter.

There is no one-size-fits-all approach to transitional justice: whether it is the Truth and Reconciliation Commission in South Africa, the *gacaca* community court system in Rwanda, a human rights commission in Afghanistan under the Bonn agreement, or international tribunals where

46

local courts are inadequate, ensuring accountability is essential to convince men with guns that there is impunity in acting against women.

But words alone cannot earn women a seat at the peace table, force financial institutions to provide capital to women entrepreneurs, or ensure adequate protection for women in refugee and displaced situations.

3.6 Translating Words into Action

(1)   For example, the Offices of International Women's Issues, Women in Development and Transition Initiatives, and the Bureau of Democracy, Human Rights and International Labor are assisting women's organizations and ministries of women's affairs, promoting women's rights, and involving women in peace-building and post-conflict political structures.

(2)   The Bureau of Population, Refugees, and Migration and the Office of Foreign Disaster Assistance are addressing women's and girls' education, psychosocial trauma, special feeding programs, mother-child health care, and protection services for refugees and internally displaced.

(3)   In the United States, the Office of Trafficking in Persons is a catalyst within the Government and beyond for new efforts to address this pernicious problem. Within the State Department itself, attention is being paid to issues related to women in conflict in training programs for junior, mid-level and senior officers at our Foreign Service Institute.

(4)   At USAID, women's issues have taken center stage. USAID recently unveiled the African Education Initiative, which will help train 160,000 new teachers, mostly women, and provide scholarships for 250,000 girls. The Clean Energy Initiative will help address the problem of indoor air pollution from cooking with wood and dung that causes 2 million premature deaths a year globally, especially among women. The Global Food for Education initiative will provide school-feeding program for 7 million school children, with particular emphasis on girls. Other programs announced at the World Summit for Sustainable Development in Johannesburg in 2001 for clean water, sanitation, hygiene, small-scale agriculture, and housing also have a direct and immediate impact on women.

(5)   And clearly, the United States' announcement of a $15 billion program over the next five years to fight HIV/AIDS in the most highly affected countries of Africa and the Caribbean will have a dramatic impact on the status of women, especially through programs designed to attach mother-to-child transmission of this deadly virus.

For every picture of a woman speaking to the Loya Jirga in Afghanistan or girls returning to school in that country, there are dozens of countries around the world where women are systematically excluded from peace processes and post-conflict governance, and where girls' access to education, health, and other social services is minimal.

Within many countries, programmes to address these issues are too often adopted on an ad hoc basis. They may be poorly coordinated; they often overlap; and each new effort tends to start from scratch. We can do better in expanding and coordinating these efforts to ensure maximum effectiveness.

Further, there is the need elevate the issue of women in conflict within the foreign policy establishment of the various countries. This issue still suffers from "second-class citizenship." Despite the heavy emphasis placed on these issues you still hear advancement of women's interests described as the "soft side" of foreign policy, especially by those who have never worked on them.

There is nothing "soft" about going after traffickers who turn women and girls into commodities. There is nothing "soft" about preventing armed thugs from abusing women in refugee camps, holding warlords and other human rights violators accountable for their actions against women, forcing demobilized soldiers to refrain from domestic violence, or insisting that women have a seat at the table in peace negotiations and post-conflict governments.

These are among the hardest responsibilities in the foreign policy agenda of various countries and we need to do more to empower those courageous individuals who are dedicated to addressing them.

4.0 CONCLUSION

In the 21st century many including scholars and statesmen have realized that women have not been treated fairly especially during periods of negotiations for Post Conflict Rehabilitation and Reconstruction. Often, men forgive themselves for what they had done to the "enemies' women,

but never deem it necessary to compensate the women for the rape, violations and the hardship, which they had to endure for the family while the men were fighting. Through the instrumentalities of the International Human Rights Tribunals, at least, the voices of women can now be heard of what they went through (for those who can tell the story), and how they will like to be compensated (not that compensation will heal the wounds). However, it is increasingly being accepted that telling the truth and hearing the truth of what happened can help heal the wounds more quickly. The point however, remains that women should be an important component of efforts at rehabilitation and reconstruction after conflicts or wars.

5.0 SUMMARY

• In this unit, we have extensively discussed wonien in peace building and reconstruction. In doing this, we examined women and peace; women, peace and constitution making; women in rehabilitation and reconstruction; women, truth, accountability and reconstruction; and the role of International Human Rights Tribunals..

6.0 TUTOR MARKED ASSIGNMENT

1.   What roles do women play during the periods of Post conflict Rehabilitation and Reconstruction?
2.   Peacebuilding is incomplete without the participation of women. Discuss.

7.0 REFERENCES AND FURTHER READINGS

Okwudiba Nnoli (1998), *Ethnic Conflicts in Africa,* lbadan, Ibadan University Press.

Amani (2005), *Journal of African Peace,* Volume 1, No.!.

UNIT 3 PROTECTION OF CIVILIANS AND VULNERABLE GROUPS

CONTENTS

1.0 INTRODUCTION

The reality of millions of civilians caught up in conflict is high and civilians are now the main casualties of wars in the world. They are often specifically targeted by warring parties rather than merely being caught up in the fighting. The toll of dead and wounded, particularly among innocent civilians has risen to a level that can be described without any exaggeration as appalling by the Secretary-General of the UN, Kofi Annan. A good example is the plight of civilians used as collaterals in the wave of terrorism around the world and the war being prosecuted against terrorism.

In this unit, we shall examine in particular, International Humanitarian Law on the protection of civilians and vulnerable groups. The plight of children and older persons will be examined in relation to the international instruments for their protection.

2.0 OBJECTIVES

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

- Discuss International Humanitarian Law on the protection of Children and vulnerable groups;

- Determine the international instruments for the protection of children;

- Describe existing instruments for the protection of older persons; and

- Explain the role of the Geneva Conventions and Protocols.

3.0 MAIN CONTENT

3.1 The International Humanitarian Law.

IHL lays down the minimum protection and standards applicable to situations where people are most vulnerable in armed conflict. It aims .to prevent situations that might exacerbate vulnerabilities, such as displacement and destruction of civilian lives and property.

The IHL also demands of belligerents that they respect the distinction between combatants and non combatants, attack only military targets and use only the degree of violence proportionate to their military requirement while still taking due care to protect civilians and civilian infrastructures. The steps to protecting civilians are:

- The IHL which as earlier mentioned lays down the minimum protection and standards applicable to situation where people are most vulnerable in armed conflict and the Geneva conventions and their additional protocols.

- This requires combatants to distinguish between those actively engaged in hostilities on one hand and civilians on the others (including the sick, wounded and prisoners of war) on the other. The Geneva protocol demands that civilians distinguish between civilian objects and military objectives.

3.2 Protection of Children in Conflict

Both in international and non-international armed conflicts today there is tendency towards disregard for the most fundamental humanitarian rules which many times result in discriminating and horrifying attack on the civilian population, especially children.

As one of the most vulnerable in armed conflicts, children are therefore more than ever in great need of protection.

Under IHL children are entitled to the general protection for civilians in armed conflicts, but owing to their particular vulnerability they are also entitled to special protection.

International legal instruments are important tools to protect children in armed conflicts and there are several provisions in international conventions that grant children special protection adapted to their needs. Some of the most important instruments are from the Geneva Convention of 1949 to the optional protocol to the Convention on the Right of the Child of 200

3.3 Geneva Conventions and Protocols

There are several principles as the protection of a child in armed conflict; already the four Geneva Convention of 1949 and their Additional protocols of 1977 contain many children — specific provision.

Two general principles are laid down in Article 77 in Protocol 1 and in Article 4 Protocol 4. They state that (1) children shall be the object of special respect and be protected against any form of indecent assault; (2) children shall be provided with care and aid they require; (3) children must be evacuated from besieged or encircled areas; (4) that children have a right to receive care and aid by the dispatch of medicines; (5) that they have a right to the maintenance of their cultural environment to education and the preservation of family unity; (6) it is prohibited to impose the death penalty on children under 18 years of age; (7) if detained or internal, they must be held in quarters separate from the quarters of adults; and (8) it is prohibited to recruit children under 15 years into the armed forces, etc.

3.4 Older Persons in Armed Conflict

Older persons are weak persons who can hardly help themselves, in armed conflict they need the help of others in order to survive. In armed conflict they are exposed to great danger like other civilians but in addition, they have vulnerabilities and needs associated with ageing that places them at greater risk. However, their special situation has been insufficiently recognized and addressed by humanitarian intervention targeted to vulnerable groups generally. Moreso, lack of understanding, even prejudice towards older women and old men often results in devaluation of their unique capacities and contributions and of the role they can and do play in the care of dependants, the mitigation of emergencies and the recovery of war-torn societies.

3.5 Steps taken to redress issues are

a.   In 2001 the UN High Commission for Refugees adopted a policy on older-persons;

b.   In 2002 the Second World Assembly on Ageing adopted specific policy commitments concerning older persons in emerging situation although much still needs to be done both in terms of making older persons visible and in ensuring that their specific needs for protection and assistance are met. The Security Council can play an important role in mainstreaming concern for older persons.

These people are entitled to equal protection under international human rights and humanitarian law as members of the general population.

4.0 CONCLUSION

The Security Council adopted an *aide mernoire* on March 2002 (S/PRST/2002/6) as a means to facilitate its consideration of issues pertaining to protection of civilians and decided to review and update the document as appropriate. The *aide memoire* contains a section on vulnerable populations in general but does not contain specific reference to older persons.

In view of the fact that the international community has increasingly recognized the plight of old persons as an important emerging issue, it is recommended that the Security Council include this set of issues as an additional objective in a revision of its aide memoir.

The greater danger that occurs to the vulnerable groups in armed conflict has led the United Nations, the International Committee for Red Cross, regional organizations and many other international agencies increasingly to dedicate greater attention to protecting civilians in ongoing armed conflicts. The UN Secretary-General has called for the establishment of a culture of protection.

5.0 SUMMARY

We have examined the issue of the protection of civilians and vulnerable groups during conflicts. In doing this, we examined International Humanitarian Law on this matter and the instruments in existence for the protection of children and the aged during conflicts.

6.0 TUTOR MARKED ASSIGNMENTS

1.   Discuss International Humanitarian Law with respect to the protection of children and the aged.

2.   What are the general provisions of the Geneva Conventions and Protocols as they relate to the protection of children and older persons in armed conflicts?

7.0 REFERENCES AND FURTHER READINGS

Freidrich Ebert Stiftung (2002), *Introduction to Conflict Reporting in Nigeria,* Lagos, Frankad Publishers.

Fenwick Charles G. (1965), *International Law,* 4th ed., New York, Appleton Century-Croft.

UNIT 4   CONFICT MANAGEMENT

CONTENTS

1.0 INTRODUCTION

Conflict is a natural disagreement resulting from individuals or groups that differ in attitude, beliefs, values or needs. It can also originate from past rivalries and personality differences. Other causes of conflict include trying to negotiate before the timing is right or believe that needed information is available. Conflict management describes the way we respond to and deal with conflicts. Because many conflicts cannot *be* really resolved, we use the term conflict management rather than conflict resolution. Good conflict management enables parties to co-exist amicably and deal with their disputes without necessarily resolving the underlying conflict. There are some components of conflict in conflict management. These includes needs, perceptions, power, values and feelings as well as emotions.

2.0 OBJECTIVES

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

•   Define conflict management;

•   Analyze the various stages of a conflict

•   Forecast future patterns of escalation with the aim of preventing the reoccurrence of the conflict; and

•   Determine management strategies to a conflict.

3.0 MAIN CONTENT

Conflict is a natural disagreement resulting from individuals to groups that differ in attitude beliefs, values or needs, It can also originate from past rivalries and personality differences. Other causes of conflict include trying to negotiate before the timing is right or severely needed information, not available. Conflict Management describes the way we respond to and deal with conflicts. Because many conflicts cannot really be resolved, we use the term conflict management rather than conflict resolution. Good conflict management enables parties to co-exist amicably and deal with their disputes without necessarily resolving the underlying conflict.

There are some components of conflicts in conflict management. These include needs, perceptions, power, values, and feelings as well as emotions.

3.1 Stages of Conflict

Conflicts change overtime, passing through different stages of activities, intensity, tension and violence. It is helpful to recognize the stages and use them together with other tools to analyze the dynamics and events that relate to each stage of the conflict.

The basic analysis comprises of five different stages which generally occur in the order given here (although there may be variations in specific situations) and may occur in similar cycles. In understanding the conflict management system it is necessary we look at conflict and its various stages.

(a)   Pre-conflict: this is a period when there is an incompatibility of goals between two or more groups or even parties which could lead to open conflict. This conflict is hidden from general view, although one of the parties is likely to be aware of the potential for confrontation.

(b)   Confrontation: At this stage the conflict has becomes more open and only one side feels there is a problem. Its supporters may begin to engage in demonstrations or other confrontational behaviors. Occasional fighting or other low level of violence may break out between the parties.

(c)   Crisis: Here, is the peak of the conflict, when tension and violence is most intense. In a large-scale conflict this is the period of war,

when people on all sides are killdd. Normal communication between the two sides has probably failed.

(d)   Outcome: In one way or another, crisis will lead to an outcome. One side might defeat the other(s) or perhaps call a cease fire (if it is a war) or the other party may surrender or give in to the demand of the other. The parties may agree to negotiations either with or without the mediator.

(e)   Post Conflict: Finally, the situation is resolved in a way that leads the ending of any violent confrontation, to a decrease in tension and to more normal relationships between the parties, having looked at the various stages we will examine how to manage the conflict.

3.2 Steps for Managing Conflict

Conflict Management: An Assessment Conflict between men and groups resulting from changing interests and values; compound the problem of controlling and governing men and the societies. Yet conflict itself is a natural concomitant of human interaction and uncontrolled conflict can led to devastating consequence intra-natural or internationally.

This is why every society makes it a point of duty to apply strategies, techniques or mechanisms for the management of conflict, in order to secure or ensure its survival, peace, continuity, security and development. At the world level, it took the sad experiences of the Second World War to establish the United Nations (UN) in 1945 with the primary responsibility of maintaining international peace and security. Through collective security mechanism, this mechanism having been stalled by the Cold War, was however replaced with peace-keeping operations while African States emerging from colonial bondage formed the Organization of African Unity (OAU) in 1963 with the hope that the organization will pursue their independence to colonial territories, promote their unity, peaceful settlement of disputes and development

3.2.1 There are five steps to managing conflict. These are:

- Analyze the conflict
- Determine management strategy
- Pre-negotiation
- Negotiation
- Post-negotiation

Step 1.   **Analyze the conflict:** The first step in managing a conflict is to analyze the nature and type of conflict. To do this, it is helpful to ask questions.

Step 2.   **Determine Management Strategy:** Once you have a general understanding to the conflict, the groups involved will need to analyze and select the most appropriate strategy available;

- Collaboration
- Compromise
- Competition
- Accommodation
- Avoidance

(a)   Collaboration — these results from a high concern for your group's own Interest, matched with a high concern for the interests of other partners. The outcome is "win/win." This strategy is generally used when concerns for others are important. It is also generally the best strategy when society's interest is at stake. This approach helps build commitment and reduce bad feelings. The drawbacks are that it takes time and energy.

(b)   Compromise — This strategy results from a high concern from your group's own interests along with a moderate concern for the interests of other partners. The outcome is "win some/lose some."This strategy is generally used to achieve temporary solutions, to avoid destructive power struggles or when time pressures exist. One drawback is that partners can lose sight of important values and long-term objectives. This approach can also distract the partners from the merits of an issue and create a cynical climate.

(c)   Competition — This strategy results from a high concern for your group's own interest with less concern for others. The outcome is on use this strategy and excludes most attempts to bargaining.

(d)   Accommodation — This results from a low concern for your group's own interest combined with a high concern for the interests of other partners. The outcome is "lose/win". This strategy is generally used when the issue is more important to others than to you. It is a "goodwill gesture." It is also

appropriated when you recognize that you are wrong. The drawbacks are that, your own ideas and concerns don't get attention. You may also lose credibility and future influence.

(e) **Avoidance** — This results from a low concern for your group's own interests coupled with a low concern for the interests of others. The outcome is "lose/lose." This strategy is generally used when the issue is trivial or other issues are more pressing. It is also used when confrontation has a high potential for damage or more information is needed. The drawbacks are that important decisions may be made by default.

Step 3: Pre-negotiation

To set the motion for effective negotiation, the groundwork must be laid out; therefore, the following should occur prior to negotiation.

(a) **Initiation** — One partner raises the possibility of negotiation and begins the process. If no one is willing to approach the other to encourage them to reach an agreement, a trusted outsider could be brought in.

(b) **Assessment** — Conditions m------------ egotiation to be successful. Key players must be identified and invited. Each side must be willing to collaborate with the others. Reasonable deadliness and sufficient resources to support the effort must exist. Spokespersons for each group must be identified and involved. Parties need to determine which issues are negotiable and which are not.

(c) **Ground Rules and Agenda** — The groups must agree on ground rules for communication, negotiation and decision making. They should agree on the objectives of the negotiation process. An agenda of issues to be covered needs to be developed.

(e) **Organization** — Meeting logistics must be established, including agreed upon limes and places. People must be contacted and encouraged to attend. Minutes must be taken so that information can be distributed before and after meetings.

(e)   **Joint Fact-finding —** The groups must agree on what information is relevant to the conflict and this should include what is known and not known about social and technical issues. Agreement is also needed on methods for generating answers to questions.

Step 4:   Negotiation

a.   **Interests —** When negotiating, be sure to openly discuss interests, rather than stated positions. Interests include the reasons, needs, concerns and motivations underlying positions. Satisfaction of interests should be the common goal.

b.   **Options —** To resolve conflicts, concentrate on inventing options for satisfying interests. Do not judge ideas or favour any of the options suggested. Encourage creativity, not commitment.

c.   **Evaluation —** Only after the partners have finished listing options, should the options be discussed. Determine together which ideas are best for satisfying various interests.

d.   **Written Agreement —** Document areas of agreement and disagreement, to ensure common understanding. This helps ensure that agreements can be remembered and communicated clearly.

e.   **Commitment —** Every partner must be confident that the others will carry out their parts of the agreement. Discuss and agree upon methods to ensure partners understand and honor their commitments.

Step 5   Post Negotiation

Once negotiation is complete, the group will need to implement the decisions made.

Some key steps include:

a   **Ratification —** The partners must get support for the agreement from organizations that have a role to play in the agreement. These organizations should be partners and should

have been involved in the previous steps. Each organization will need to follow its own procedures to review and adopt the agreement.

Implementation -You and your partners' jobs are not done when you've reached agreement communication and collaboration should continue as the agreement is carried out. The partnership will need to have a plan to implement and process document success, resolve problems, renegotiate terms and celebrate success.

c.   Negotiation Skills Negotiation is an important skill for coming to an agreement when conflicts develop at home, at work and when dealing with issues like those related to watershed management. When negotiating...

d.   Separate People from the Problem When negotiating; remember you're dealing with people who have their own unique needs, emotions and perceptions. Some conflicts are based on differences in thinking and perceptions. These conflicts may exist mainly in people's minds. It helps for each party to put themselves into the other's shoes so they can understand each other's point of view. Identify and openly discuss differences or perceptions, being careful not to apportion blame. In addition, recognize and understand the other side's emotions as well as your own.

e.   Interest Vs Position People often confuse interest with positions.

An interest may be reducing litter in roadside ditches. There are many possible ways of addressing this interest. One might be the position of mandatory recycling. Another position might be a deposit on bottles and cans. Still another could be organizing a clean-up day.

4.0 CONCLUSION

It is generally believed that no man is free from conflict but rather live with it in his daily activities and interaction with people in his immediate environment. As earlier discussed, some conflict can be resolved easily or amicably with little effort geared towards them while sonic cannot be resolved totally or eradicated but can only be managed such that parties in conflict can co-C peacefully despite iheir differences without further

confrontation. We also discussed stages of conflict transformation and steps required in managing conflicts through a collective effort of the aggieved parties that will enable them live together and tolerate one another under a peaceful atmosphere irrespective of their perceived differences.

5.0 SUMMARY

The potential for conflict exists whenever and wherever people have contact. It basically involves one or more of the following

1)   t h r e a t s
2)   incompatible interests or goals; or
3)   incomplete understanding or hidden personal feelings.

In creative management of conflict all parties need to:

•   Recognize and acknowledge that it exists.

•   Facilitate open, accurate communication and active listening.

•   Maintain an objective not emotional stance-stay on the issues, not people.

•   Negotiation is a cooperative enterprise, common interests must be

         sought in which everybody wins something.

•   Make the necessary adjustments, reinforce, confirm, and make the agreement work.

Remember the words of Robert Townsend: "A good manager does not try to eliminate conflict; he tries to keep it from wasting the energies of his people." All conflict cannot be resolved. Sometimes individuals do not think it is in their best interest—the price is too high. Resolution means negotiation toward a settlement.

6.0 Tutor Marked Assignment Question (TMAs)

1.   With your understanding of conflict and its dimensions how can conflict be managed?

2.   What are the different levels or stages that can be taken in managing conflict?

3   What is conflict management and what are the various steps taken in
         conflict management?

7.0 REFERENCES AND FURTHER READINGS

Breaking the Impasse: Consensual approaches to Resolving Public Disputes
        Lawrence Susskind and Jeffrey Cruikshank, 1887, New York, NY
        Basic Books

Creating the High Performance Team
        Steve Buchholz and Thomas Roth, 1987, New York, NY Wiley

The Eight Essential Steps to Conflict Resolution: Preserving Relationship
         at Word, at Home and in the community.
        Dudley Weeks, 1992, New York, NY: St. Martins Press

Getting to Yes: Negotiatin_g Agreement Without Giving In,

         Robert Fisher, William Ury, and Bruce Patton, 1991, New York,
        NY Penguin Books.

Managing Public disputes: a Practical Guide to Handling conflict and
         Reaching Agreements
        Susan L. Carpenter and W.J.D. Kennedy, 1988, San Francisco, CA:
        Jossey-Bass Publish

MODULE 3

UNIT 1 HUMANITARIAN INTERVENTION

CONTENTS

1.0   Introduction
2.0   Objective
3.0   Main Content
       3.1 Humanitarian Intervention
4.0   Conclusion
5.0 Summary
6.0 Tutor Marked Assignment
7.0   References and Further Readings

1.0 INTRODUCTION

Famines, genocides, tyrannies, and civil wars punctuate the world's post—Cold war narrative, a grim round of disasters with the familiar picture of starving children, chaotic refugee camps, harried aid workers, pleas for assistance, and ending not different from the beginning. These "complex humanitarian emergencies" are no less intense and disturbing from the September 11th aftermath, in which a new form has been added via preemptive war.

2.0 OBJECTIVES

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

•   Explain the concept of humanitarian intervention

- Differentiate between humanitarian intervention and military intervention

- Discuss its principles.

3.0 MAIN CONTENT

3.1 Humanitarian Intervention

The major industrial powers of the world respond to these emergencies, as if the human tumult were completely unexpected and the task itself an act of sheer altruism. Nonprofit aid groups mobilize their memberships with vivid portrayals of deprivation; United Nations Officials organize yet another under funded mission and television networks run through a hasty media life cycle from discovery and horror to peacekeeping soldiers cuddling rescued babies. Their refrain now includes Somalia, Eritrea, Rwanda, Sudan, Congo, Bosnia, Afghanistan, Cambodia, Bangladesh, and Iraq, a ledger of suffering colossal in scale and inexplicability.

Of course, such suffering is not inexplicable, and a growing intellectual enterprise is grappling with this enormous, and enormously complex, phenomenon. Often written by former aid workers, this literature chips away at the self-seducing pretexts of the humanitarian industry, the fabricated sense of urgency, the manipulation of images, the neglect of underlying causes. While far from offering an exhaustive account (the scale and costs of humanitarianism, after all, run to the hundreds of billions of dollars in dozens of countries), these authors shift perceptions of the whats and whys of these emergencies. At the same time, an intersecting academic and policy discourse on the legal and moral grounds of military intervention for humanitarian reasons is also taking shape, spurred in part by America's post-9/11 pursuits, a discourse that is far less satisfying precisely because it has the scent of a classroom (or courtroom) and not the

killing fields.

Nowadays, the notion of humanitarian intervention almost always means the use of armed force, and the principal examples are the controversial U.S. actions in Kosovo, Afghanistan, and Iraq, and the absence of action in other desperaie places, notably in Rwanda in 1994. Humanitarianism has roots in war, the Red Cross was founded to aid its victims, and the public's favorable attitude toward the concept accounts tbr its ready use by political leaders. (It is so popular that "save the world- images are now a standard of advertising, especially in the apparel industry.) The Bush administration

listed the liberation of the Iraqi people from Saddam's yoke as one reason for going to war last spring, and what once appeared to be an afterthought became the main rationale when all others collapsed. This episode, whose outcome will remain doubtful for many months (perhaps years), gave fresh prominence to the normative disputes at the center of the new discourse on humanitarian intervention: once a large-scale human disaster is verified, who has the right to intervene, under what conditions, and with what means?

Humanitarian Intervention, edited by J. L. Holzgrefe and Robert 0. Keohane, explores this set of quandaries with the precision one expects of leading scholars of international law and politics searching for the ethical bases and conditions of intervention. The book includes nine essays by, amang others, Tom J. Farer, Fernando R. Teson, Thomas M. Franck, and Michael Ignatieff, as well as an introduction by Keohane. The chapters explore and also seek to mitigate the tensions between norms of international law, which generally protects state sovereignty from outside intrusions, according to the rule engraved by the Treaty of Westphalia in 1648, and a set of broader, vaguer obligations to humans who are in distress. The emphasis on human security over the sanctity of states as the reference point for international action has gained favor in the post—Cold War period, but even before the fall of the Berlin Wall, emerging global norms supported action to protect human rights and to save lives. The embryonic value that animates much of the discussion nowadays is "sovereignty as responsibility," first articulated by Francis M. Deng in 1993 and quickly adopted by the UN Secretary General, which holds that sovereignty not only protects a state from unwarranted outside interference but also obligates the state to respect the basic rights and interests of its members. But the when, why, and how of intervention, especially military intervention, remain troublesome, because it is the states that have armies and therefore tend to be careful about trampling the system that protects their prerogatives as well as those of the bad boys in Serbia, Liberia, Somalia, Iraq, and so on.

Why states intervene at all, how and why "saving strangers" is now viewed favorably, is explored in Martha Finnemore's valuable book, The Purpose of Intervention. Finnemore traces the emerging concern with human security, namely, the growing acceptance of new norms about who is human and our obligations to such people. "New beliefs about social purpose reconstitute the meaning and rules of military intervention, and ultimately change intervention behavior," she writes. "By creating new social realities, new norms about interventions, new desirata of publics and decision makers, new beliefs create new policy choices, even policy

imperatives for interveners." Her argument challenges "realists" who regard state interests, not squishy sentiments, as the engine of world politics. Norms are at the center of the intervention enterprise, emerging norms like sovereignty as responsibility, that's the good news, but consequences and underlying motivations do not always conform with the newly minted social beliefs that drive publics to demand intervention.

The consequences of action are a thicket of uncertainty, and some are far less clear than the experience in Kosovo. Interventions in Somalia, Afghanistan (1980-92), and West Africa arguably have left matters worse than before, and many others remain dubious. The theorizing "takes place in a state of vincible ignorance," Holzgrefe acknowledges; "the empirical claims upon which different ethical theories rest are little more than guesswork", a warniag that might have been heeded by Pentagon planners in Iraq. Theorists generally assume that "bettcr coordination" or "good governance" will take care of post-intervention chores, a managerial, and, one is tempted to say, imperialist, mindset that is often a prelude to failure. Intervention (whether military or not) has powerful social and political impacts, and while one might sincerely calculate that the good from intervening will outweigh the bad, little attention in the academic theory or in the practice of states is given to unintended outcomes, a central theme of the practitioners writing on these topics.

More significant, the contributors to Humanitarian Intervention essentially leave out any discussion of causes, the reasons why humanitarian emergencies arise in the first place. If obligations exist to ameliorate calamities underway, are there obligations to prevent calamities? Are not the origins of a crisis useful in sorting out remedies? In his contribution, Michael Ignatieff does speak of failed states as a principal challenge in preventing human-rights violations, and mentions quickly "structural adjustment programs that force governments to cut payrolls, slash services, and privatize state enterprises have been unpopular and sometimes counterproductive." Giving such short shrift to a central cause of weakening states is very much in keeping with the official discourse about humanitarian crises, that they have everything to do with the dictator, the warlords, or the ethnic rivalries, and nothing to do with us in the Western democracies. Fortunately, Wheeler does take this up forcefully at the end: "The West's conception of humanitarian intervention is so ideologically biased that the 'silent genocide' of death through poverty and malnutrition is rendered natural and inevitable." But because humanitarian intervention is constructed as a military act, and rarely are militaries called on (or should be) to prevent or ameliorate famine and other deprivations, this topic is marginal in the theorists' view.

This lacuna of accountability, to which we will return, is consistent with the general picture of humanitarian crises as being somewhere else—in some godforsaken corner of the globe among, as Condoleezza Rice famously put it, the road kill of the earth, and also as being emergencies, sudden ruptures in the normal order of things. As my colleague Craig Calhoun said in a speech last year, "we tend to think of disasters as in principle avoidable, even while we contribute to them and while the death toll grows. Yet, we insist in thinking of them as exceptions to the rule, unusual and unpredictable events. In fact, emergencies have become normal." As "normal" events they have causes that rise from the global social and political order. They are not merely predictable, but probably avoidable. The identification of "humanitarian intervention" with military action is, paradoxically, a tacit claim of plwerlessness to do anything short of war io prevent the streams of refugees, the genocides, and the famines. It is as if to say, we will tolerate brutal regimes and human deprivation unless and until conditions are so severe that only the military can rescue the victims. This is another form of avoiding responsibility and shifting blame.

In fact. much of the wealthy world does act to prevent or ameliorate human suffering, through economic development aid and, when things go badly, through intervention with food, medicine, and shelter. Sudan, Somalia, Haiti, and Mozambique, this list is long, though no two cases are precisely alike. These situations of deprivation, disease, and conflict are, as one scholar puts it, the "dark side of globalization. Increasingly, analysts see a troubling connection between two roles played by the powerful and wealthy countries of the world. The implements of development, aid. loans, trade accords. etc., are applied as a set of reforms to ensure that the beleaguered countries fit into a global system emphasizing stability, markets, and democratic practice. At the same time, globalization can undermine the ability of states to respond to crises while creating conditions conducive to war economies. In this account, humanitarianism itself is seen then as the superficial if pervasive policing (i.e., intervention) of the complex and often deteriorating situations that liberal economic and political governance ti.e.. globalization) has been so intimately involved in creating. Processes of globalization and processes of intervention are thus intertwined.

Nowadays, intervention, or, in the currently acceptable parlance. humanitarian action. draws an abundance of players (a ariety (il nongovernmental organizations. private militaries, health professionals. faith-based groups. and so on), many of which are contracted by states or multilateral agencies. That they tend to he from the West. often work for U.S. or Hoopean agencies. and offer their services by fostering ιιϲ\ɴ kiiid

of social and economic organization raises questions about these proxies, Meir values, goals, and conduct. The matter of coherence in responding to emergencies is an often-cited problem in this regard, but the discussions about coherence among practitioners and think tanks focus on optimizing coordination of policies among agencies and multiplying the tasks of humanitarian response, for example, adding democratization to famine relief. That is a very difficult set of tasks to undertake, singly or in combination, and the results are often disappointing, but the pursuit of multiple agendas is demanded by Western governments to stretch their dollars and euros further than perhaps they should go. This sometimes-ideological agenda also subverts the bedrock principle of neutrality among the relief groups: it can make them appear to be tools of the powerful and can even make them more vulnerable to attack. So humanitarian practice grudgingly has rroved from the Red Cross ideal of helping civilian victims during wartime to a vast enterprise of relief and development (political and economical) in places the international community's most powerful members deem important.

There is nothing new about large-scale refugee flows or famine or ethnic wars, nor are attacks on relief workers or other atrocities uniquely post-1989 ("respect for the laws of war was not uppermost in the minds of combatants during the Cold War conflicts in Vietnam or Central America"). Mortality in wars and refugee numbers were declining through the 1990s. We witness these dislocations more dramatically than before, not least because the humanitarian enterprise expanded so quickly in that decade and was more centrally placed in conflicts. This central place, often negotiated with warring parties to gain access to victims, also makes the aid agencies target for lucre: along with pillaging locals, stealing resources, and other crimes, also scarcely new, the warriors can now grab the humanitarian assistance itself. Food and other supplies are valuable commodities, and looting of aid caravans is now such standard practice that many relief workers transact how much the warlords will seize. It is this phenomenon with, the introduction of a new force of non-military humanitarian intervention, often unaccountable, badly planned, politically disruptive, which is new and disturbing in the sincere attempt to help the world's

neediest people.

Terry not only details the troubling consequences of the "new humanitarianism," but also accuses political leaders of willful ignorance. "The causes of most crises are political: some consequences may be humanitarian." she writes. "But labeling them 'complex emergencies' and 'humanitarian crises' disconnects the consequences from the causes and permits the international response to be assigned, and confined, to the

humanitarian domain." This is the nub of it: in what ways are the crises of famine, displacement, or even conflict, always depicted as challenges to the international order—in fact a consequence of that same order? Duffield's entire book is an impressive attempt to answer that sort of question. "The new humanitarianism represents a government-led shift from humanitarian assistance as a right to a new system framed by a consequentialist ethics," he asserts. "That is, humanitarian action is now only legitimate as long as it is felt to do no harm and generally support the conflict resolution and transformational aims of liberal peace." Those transformational aims include, perhaps most importantly, a global trade regime that favors the wealthy and punishes poor nations, and conditions for membership in the global system that demand much smaller government services.

The latter, "structural adjustment" is the 'felicitous term, used by its chief enforcer, the International Monetary Fund, has reduced the size of Third World countries' expenditures on education, health, infrastructure, etc. These policies have weakened states in their capacity to deal both with chronic problems, from food shortages to tepid economic growth, and with more acute crises, such as the collapse of the price of its main export commodity or the rise of a warlord. In varying degrees, Liberia, Sierra Leone, and Congo altogether, places where millions of people have been killed in the last 20 years—are consequences of a global economic system that has, in effect, favored a form of warlordism (often exercised from the capital) over governance in which strong states, via government bureaucracies, can deliver services and are accountable. The mechanism by which global economic forces lead to warlordism appears to be fairly direct in some cases: the IMF (or an individual donor government) demands that state enterprises be sold, reducing patronage and income; a foreign investor both cuts services and is lured into paying protection to an emerging warlord, who trades on the state's decline and deals in drugs and guns, which then become new sources of social dislocation and the only viable economic activity. It is easy enough (and partially true) to say that the real problem lies with corrupt political leaders. But weak states tend to be more corrupt, and opportunities and incentives for corruption are multiplied by the system of privatization in particular.

That Africa and other troubled regions are poorer today, with less control over their own destiny than when they were liberated from colonialism, has much to do with the global economic order and not very much to do with the "new humanitarianism." Still, as Duffield argues, there is a troubling connection. "Complex emergencies arise on the borders of liberal peace where it encounters political systems whose norms differ violently from its own." Taming these borderlands is an international security decision, and

sometimes requires military intervention; at the very least, such decisions (in Washington, London, Brussels, the IMF, etc.) see economic and political development, market reform, relief, and security as bundled together to achieve the goals of the "liberal peace" marketization, in short, supported by "good governance." Consider the problem of cattle rustling in the Horn of Africa. Tens of thousands of pastoralists are in a chronic war with bandits and each other in this semi Arid region where land and water resources have tenuously supported their nomadic way of life for centuries. Beginning with British colonialism, the pastoralists have faced a gradual closure of the common resources long available to them, most recently as a result of large-scale privatization of land and water. Traditional authority systems are undermined, and conflict has become intense due to social dislocations, land tenure transformation, and the ample supply of small weapons made available during the Cold War aid from various armies in the region. These "borderlands," still rich in natural resources desired by the West (including wildlife tourism), are thus "disciplined" by marketization and proxy security forces, while humanitarian agencies are called in to deal with localized famine that the donors and their NGO agents dutifully attribute to bad weather and outmoded forms of husbandry. Meanwhile, displaced pastoralists fill the cities with new shantytowns and raise an alarming level of street crime. "Good governance" in this case is the fulfillment of privatization, delivery of aid to the beleaguered herders, and clamping down on the crime in the cities, but it is governance that cannot address proximate causes of the problems.

This dilemma, very much on display in the U.S. wars in Kosovo, Afghanistan, and Iraq, is an obsessive concern for this group of writers, who faced such choices as practitioners. In the manifold ways that NGOs are both the manipulated and the manipulators, this realignment with what is now American hegemonic power is deeply troubling. Are the aid groups merely handmaidens of a destructive globalization? Duffield in particular forwards a number of questionable ideas, such as how oppositional the marginal places are to global capitalism (other research disputes his depiction); it may be that they simply lag, or present relatively little value (hence, "road kill") He also takes at face value anodyne statements of donor agencies as core ideological constructions, which is lazy. His, is a photograph with heightened contrasts and not many grainy grays. As a theoretical construct itself Duffield's book underscores the need for deeper empirical understanding of the connections between globalization and conflict, for example, and the new humanitarians' alleged role as unwitting go-between. Still, there is much to admire when Duffield works on firmer ground, such as his lengthy treatment of how food aid to Sudan was misused by the Islamic regime. He pointing to how famine relief, possibly

the most honored mission of the humanitarians, can be a grisly tool of repression, indeed a form of war loot, when it is manipulated. misdirected, or denied to the needy.

Development aid itself, not just relief is regarded as a crippling blow to self-government. De Waal claims that the NG0s, who are the conveyers of humanitarianism, engage in "intense competition, political naiveté and the promotion of salvation fantasies," although de Waal does stand up for the well-motivated individual aid worker and the more established groups that are less likely to manipulate media images to raise money. There are legitimate questions about humanitarianism's expeditionary forces: the international NGOs tend to dash from one crisis to the next, which privileges technical skill and experience over local knowledge. Hidden agendas, poor planning, and patronizing the locals are also well-worn criticisms. Perhaps less appreciated is the near absence of advocacy NGOs to monitor the donor governments and UN agencies, not one in Italy, for example, monitors the activities of the World Food Programme. In some important ways, civ il society has been captured and thereby silenced in the stoldure of humanitarianism, another side of the complicity argument.

utts may have gained influence at the margin in ministries of aea.etopment co-operation," he writes, "but they have lost the capacity to set themselves against the entire system.⁻

When viewing the failed states, civil wars. famines, and now the WV pandemic, placing the NGOs at the center of the problem is a bit like blaming an ambulance driver for a patient suffering from a heart attack. The humanitarian international is, as all these writers argue with great acuity. a symptom of the systemic problem, which is to say, how the wealthy nations have organized the global order.

The famines in Africa today reveal the dissonance of reigning attitudes. In Malawi, for example. 30 percent of the population was starving When a • June 2003 report. issued by a major British think tank, cited the ravagine effects of HIV/AIDS. which hits \\ omen hardest and sharply reduces agricultural production. Poverty, of Louise. is a root ot the Liminc. too, and the report dutifully cites market-based solutions. A July 2003 report from the Food and Agriculture Organization (FAO). another $R_o m_a$-based t:N agency. notes that Food consumption in African households hit I⁻1\ AIDS has dropped by 40 percent. "I,ighter ploughs and tools that can he wed older children. \\Julien. and the elderly⁻ are needed. says FAO's director-general.

The notion that a country like MalaWi, in which one in three were starving and where young men and women have been dying in staggering numbers, can solve its problems by magically producing market-driven exports, a "solution" that hasn't worked for Africa in pre-HIV days, speaks to the power of the market idea, not to the dying and their families. (Malawi has since been declared free from hunger, thanks to a bumper crop of corn made possible by free distribution of seeds.)

The Bush administration has recognized the public concern on these issues and has stepped forward with two initiatives; one on AIDS in Africa, the other the Millennium Challenge Account, a kind of reform of U.S. foreign aid. The latter is widely viewed in Washington as an attack on the Agency for International Development, America's principal foreign-aid mechanism, yet another episode, in the topsy-turvy world of George W. Bush, in which a key instrument of U.S. policy during the Cold War and a leading purveyor of globalization is being punished for being too liberal. In any case, the Millennium Challenge Account, which will expend $10-15 billion over live years in the poorest countries, has certain conditions, good governance, accountability, investments in education and health care, and, in the fine print, "free market policies." Now, as we have seen, free-market policies and good governance (structural adjustment) tend to include demands for smaller government size and reductions in things like education and health care. Free markets in practice mean that U.S. companies can sweep in and buy up local resources, but that the United States need not open its own markets to African-produced cotton and other

commodities.

The Millennium Challenge Account will thus perpetuate the same policies that have proven to be ineffective in eliminating poverty, at a minimum, and contribute to the weakening of local authorities, government and social institutions, that then creates the kind of instability that yields food shortages, disease, and warlordism. Oh yes, and other aid budgets for Africa are being cut, so there will be a net reduction during the Bush years.

4.0 CONCLUSION

Authors like Terry. Duffield, and de Waal could not have created more vivid examples of how humanitarian concern itself, is warped by the liberal economic order and contemptible cultural impulses. The same dissembling was in view with the Iraqi war, which has managed to combine war and humanitarian crisis in one swift invasion. Those of us who suspected that weapons of mass destruction or al Qaeda, were not the issue in Bush's drive

Middle East is "a region in which—unlike Europe, Russia, China, Japan, or Latin America, there are virtually no regimes with a credible base to offer effective transmission points for American cultural or economic hegemony."

5.0 SUMMARY

The global order of liberal, democratic capitalism could not forever tolerate Nasserite socialism or Charles Taylor war lord activities. But the conditions that allow such monsters to thrive; whether upon the structure of global petroleum dependency or unregulated commodity exploitation or not, are not suppressed by their ouster. When the peace-keeping troops and relief workers depart, when the extraction companies return, when the miracle of the free market is nowhere to Le found, the cycles of deprivation and violence reappear.

6.0 TUTOR MARKED ASSIGNMENT (TMA)

What is humanitarian intervention? Discuss its principles citing examples around the world, especially, Africa.

7.0 REFERENCES AND FURTHER READINGS

John Tirman (2003) The New Humanitarianism; How Military Intervention Became the Norm, Oxford Press.

http://www.globalpolicy.org/emPire/humanint/2004/01newh1m1nita
       rianism.htm

UNIT 2   HUMANITARIAN INTERVENTION IN PEACE BUILDING: DEFINITIONS AND CRITERIA

CONTENTS

1.0 INTRODUCTION

Humanitarian intervention, particularly after NATO action in Kosovo, has become a new justification for military action. Political leaders, scholars, and commentators are now regularly enunciating this concept. Humanitarian justifications for military action are nothing new but there is a perception that the post-cold war environment is more conducive to successful interventions. Also, most states have now agreed to obligations on the protection of human rights that involve duties to observe them. Defining humanitarian intervention is problematic and implementation is contentious. There is an emerging debate as to how, applying certain criteria for humanitarian intervention might help to increase the chances of success and secure support for such interventions.

The end of the Cold War has witnessed an increasing trend towards willingness of states to intervene militarily in the internal affairs of other states, ostensibly in response to civil war conditions, gross human rights violations or ethnic cleansing. For months during 1999, international news headlines were aflame with dramatic details on NATO cruise missiles raining down in Kosovo. The intervention in East Timor, with the reluctant acquiescence of the government, was perceived as the resolve of the international community to uphold the internationally -mandated

expression of self-determination. Instances of the use of force in violation of the \vet 1 -foun ded principles of national sovereignty and noninterference in a State's domestic affairs, laid down under Article 2(4) of the United Nations (UN) Charter. have raised many questions on the legitimacy and viability of the so-called humanitarian interventions.

The UN's ability to authorise interventions and whether and when sovereignty and its corollary of non-intervention ought to be overruled in a humanitarian crisis has also come in for a spirited debate. The reasons for the dilemma are not far to seek, primarily because non-intervention, the cardinal principle of international order and behavioural standard of nations, is sought to be upheld by the UN. Yet in terms of the current situation and evolving patterns of intervention, there seem to be two separate but related measures: a narrowly focused norm on the fundamental unacceptability of genocide. war crimes and crimes against humanity, and a broader norm stressing the importance of the non-use of force to settle disputes internally.

2.0 OBJECTIVES

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

Define humanitarian intervention and its role in peace building;

- State the criteria for humanitarian intervention;
- Analyze the Iraq war and state if its invention was on humanitarian grounds;
- State if its invention was in compliance with the humanitarian Law;
- State if the UN approved the invention; and

- Describe the standards for humanitarian intervention.

3.0 MAIN CONTENT

3.1 Humanitarian Intervention

The first question that comes to mind about "humanitarian intervention" is whether the category exists. Are states moral agents? Or were Machiavelli, Adam Smith, and a host of others correct in concluding that they commonly act in the interests of domestic power - in Smith's day. the "merchants and manufacturers" who were "by far the principal architects" of policy and

whose interests were "most peculiarly attended to," whatever the effects on others; in ours, corporate and financial power centres, increasingly trans national in scale? A second obvious question has to do with those who are to be in charge: what do their institutions and record leads us to expect?

There is ample documentary material supporting the belief that states are moral agents, in fact uniformly so. Without having read the texts, I presume that when the invasion of Afghanistan began to go sour, President Gorbachev Pravda portrayed it as having begun with "blundering efforts to do good". Although most people now recognize it to have been a "disastrous mistake" because Russia "could not impose a solution except at a price too costly to itself'; it was an "error" based on misunderstanding and naiveté, but is yet another example of "our excess of righteousness and disinterested benevolence." The quoted phrases are those used to describe Kennedy's invasion of South Vietnam, which later expanded to all of Indo China, at the dissident extreme, well after US business leaders were convinced that the enterprise should be liquidated (Anthony Lewis, John King Fairbank) There is no need to sample the harsher parts of the spectrum.

Furthermore, these examples generalize, though it is true that only in cultures with a deep totalitarian strain do we find such notions as "anti-Soviet" or "anti-American," applied to the miscreants who see something other than righteousness and benevolence in the actions of their noble leaders; imagine the reaction to a book on "anti-Italianism" in Milan or Rome, or any society with a functioning democratic culture.

The pattern is familiar since biblical days. But the conventional pronouncements plainly do not suffice to refute scepticism about the morality of states. It is necessary to review the record, which reveals, unequivocally, that the category of "humanitarian intervention" is vanishingly small.

One might take the heroic stand that in the special case of the United States, facts are irrelevant. Thus, the Eaton Professor of the Science of Government at Harvard instructs us that the United States must maintain its "international primacy" for the benefit of the world, because its "national identity is defined by a set of universal political and economic values," namely "liberty, democracy, equality, private property, and markets" (Samuel Huntington). Since this is a matter of definition, so the Science of Government teaches, it would be an error of logic to bring up the factual record. What may have happened in history is merely "the abuse of reality," an elder statesman of the "realist" school explained 30 years ago; "reality

itself" is the unachieved "national purpose" revealed by the evidence of history as our minds reflect it," and that shows that the "transcendent purpose" of the United States is "the establishment of equality in freedom in America," and indeed throughout the world, since "the arena within which the United States must defend and promote its purpose has become world-wide" (Hans Morgenthau).

Assuming these doctrines, it would be an elementary error, in evaluating Washington's promotion of human rights, to consider the close correlation between US aid and torture, running right through the Carter years, including military aid and independence of need, an inquiry that would be pointless to undertake as Shultz, Abrams, et al. took the reins. And our love of democracy is also immune to empirical evaluation. We may put aside the conclusions of years of scholarship, recently updated for the 198Cs by Reagan. State Department official, Thomas Carother's democratization in Latin America was uncorrelated (in fact, negatively correlated) with US influence, and the United States continued "to adopt pro democracy policies as a means of relieving pressure for more radical change, but inevitably sought only limited, top-down forms of democratic change that did not risk upsetting the traditional structures of power with which the United States has long been allied." We need not waste words on the nature of these "traditional structures." In practice, "democracy" has been defined in terms of outcome, not conditions and process. But that cannot affect what is true by definition of our "national identity."

Those who are still not satisfied, can be offered the doctrine of "change of course," soberly invoked whenever the stance of noble intent becomes impossible to sustain. True, bad things have been done in the past for understandable reasons, but now all will be different. So also, our terrorist wars against the church and other deviants in Central America in the 1980s, leaving the region littered with hundreds of thousands of tortured and mutilated victims and ruining its countries perhaps beyond recovery, was really a war with the Russians. Now we will "change course" and lead the way to a bright future Similar argument had been used to dismiss as irrelevant the enthusiastic support for "that admirable Italian gentleman" Mussolini (FDR, 1933) and for the moderate Hitler, both barring the Bolshevik threat; the resurrection of fascist collaborators and destruction of the anti-fascist resistance worldwide after the World War; the overthrow of democracies and support for neo-Nazi monsters throughout the world in subsequent years; and on, and on. Similarly, the second superpower invoked the threat of the Evil Empire as it carried out its atrocities at home and in the region.

To evaluate these useful doctrines, we must again investigate cases, impossible here. What such inquiry reveals is that for both superpowers, the threat of the other served primarily as a device of population control, providing pretexts for actions taken on quite different grounds. Furthermore, we discover that policies were hardly different before and after the Cold War. True, Woodrow Wilson needed different pretexts. He was protecting the country from the Huns, not the Russians, when he invaded Haiti and the Dominican Republic, where his warriors - as viciously racist like the Administration in Washington - murdered and destroyed, reinstituted slavery, dismantled the constitutional system because the backward Haitians could not see the merits of turning their country into a US plantation, and established the National Guards that ran the countries by violence and terror after the Marines &tally left.

The story has been the same since the origins of the Republic. The first great massacre, of the Pequots, was imposed upon us by "base Canadian fiends," the President of Yale University explained. Thomas Jefferson attributed the failure of "the benevolent plan we were pursuing here for the happiness of the aboriginal inhabitants of our vicinities" to the English enemy, who forced upon us "the confirmed brutalization, if not the extermination of this race in our America. . . ." And on through the conquest of the national territory, the Philippines, the marauding in our "backyard," and the rest of the disgraceful history, continuing through the Cold War without essential change - though as a global power, the United States, by then placed Third World intervention in a much broader context of domination and control.

As the Cold War ended, new pretexts had to be devised. George Bush celebrated the fall of the Berlin Wall by invading Panama, installing the regime of a tiny minority of bankers and narco traffickers who, as predicted, have turned Panama into the second most active centre for cocaine money laundering in the Western Hemisphere, the State Department concedes, the United States still holding first place. The Red Menace having disappeared, he was protecting us from Hispanic narco traffickers led by the arch-demon Noriega, transmuted from valued friend to reincarnation of Attila the Hun, in standard fashion, when he begffi th disobey orders. And we were soon to learn that in the Middl€¹Ea'Sf;18fig before the major target of our intervention forces, the "threats to our interests . . could not be laid at the Krentlin" d65r'qlitiS1t Nhtthal Security Strategy Report, March 1990);"after gelea&S of dedptiok'ifie SoviepetcannolfebeldedgedUpbjSifytrkiidfgbaednsiandsrapolyatiiuFQettl1jfbrdeS;'4-tSIlhgoWYig

technological sophistication" of the Third World that requires us to strengthen the "defence industrial base" (AKA high tech industry) and maintain the world's only massive intervention forces - a shift of rhetoric that at least has the merit of edging closer to the reality: that independent nationalism has been the prime target throughout.

The end of the Cold War has broader effects on intervention policy than changes of pretext. As US forces bombarded slums in Panama, Elliott Abrams noted that for the first time, the United States could intervene without concern for a Soviet reaction anywhere. Many have observed that the disappearance of the Soviet deterrent "makes military power more useful as a United States foreign policy instrument . . . against those who contemplate challenging important American interests" (Dimitri Simes, Senior Associate at the Cameg:e Endowment for International Peace, Dcc. 1988). Such considerations aside, a rational person will recognize that policy flows from institutions, institutions remain stable, and thus intervention is likely to be undertaken, when deemed necessary, for much the same reasons as before.

It is in this light that a reasonable person will evaluate policy pronouncements. Suppose that Brezhnev had announced that the USSR would no longer be content with containing the Evil Empire; rather, it would move to a policy of "enlargement" of the community of free and democratic societies. If they did not merely collapse in ridicule, rational people would ask just how the USSR had been defending freedom and democracy before. And they would react exactly the same way when Clinton's National Security Adviser explains that we can now go beyond containment to "enlargement - enlargement of the world's free community of market democracies," adding that we are "of course" unlike others in that "we do not seek to expand the reach of our institutions by force, subversion or repression." A reasonable person will ask just how we have been protecting democracy and markets, and will quickly discover our antagonism to democracy (unless "top-down" rule by the traditional gentle hands can be assured) and to markets (for us, that is; they are fine, indeed obligatory, for the weak, who are not entitled to the massive state intervention and protection that has always been a leading feature of policy, as in every successfully developed society). As for our distaste for "force, subversion or repression" - again, no words need be wasted.

It is a useful exercise to compare the actual reaction to Anthony Lake's announcement of the new Clinton foreign policy with the reaction that minimal rationality would dictate. We can learn a good deal about our political and intellectual culture by carrying it out.

It is not that the reaction lacked honesty. Thus *The New York Tintes's* chief diplomatic correspondent, Thomas Friedman, outlined "the Administration's foreign policy vision" quite accurately: its "essence" is "that in a world in which the United States no longer has to worry daily about a Soviet nuclear threat, where and how it intervenes abroad is increasingly a matter of choice"; the insight of Simes and others, when we understand the "nuclear threat" appropriately. The "essence" of policy was clarified further the following day in a report on the conclusions of the White House panel on intervention, announcing the end of the era of altruism. No more "nice guy," as in the days when we turned much of the world into graveyards and deserts. Henceforth intervention will be where and how US power chooses, the guiding consideration being: "What is in it for us?" - the words highlighted in the Times feport. To be sure, the "vision" is cloaked in appropriate rhetoric about "democracy" and all good things, the standard accompaniment whatever is being implemented, and by whom, hence meaningless - carrying no information, in the technical sense.

The declared intent, the record of planning, and the actual policies implemented, with their persistent leading themes, will not be overlooked by someone seriously considering "humanitarian intervention," which, in this world, means intervention authorized or directed by the United States.

Consider, for example, the torture of Cubans, intensified with Cold War pretexts removed. It has two major elements: first, to ensure that the island is returned to its status as a US economic dependency and haven for rich tourists, drug traffickers, and the like, perhaps under a facade of democracy (with the outcome controlled); and second, to punish Cubans for the crime of disobedience. Elsewhere, servants must be taught the heavy cost of standing up to the enforcer.

Since these are natural policy imperatives, we find them quite generally. It was not enough to slaughter millions of people in Indochina and destroy three countries; two decades later, its people must still be ground to dust by economic warfare to teach the proper lessons, while in our peculiarly American way, we whimper piteously about the tragic fate we have suffered at the hands of our Vietnamese tormentors, setting "guidelines" that they mqst follow for entry into our "civilized world" - and relaxing our grip only when the business community comes to fear that substantial profits are being sacrificed.

Or consider Nicaragua, now reduced by US violence and economic warfare to virtually the level of Haiti, with thousands of childred starving to death

on the streets of Managua and far worse conditions in the countryside. Its people must suffer much more; the United States is nowhere near satisfied. In October 1993, the US-run international economic institutions (IMF, World Bank) presented new demands to the government of Nicaragua. It must reduce its debt to zero; eliminate credits from the national bank; privatize everything to ensure that poor people really feel the pain - losing water, for example, if they cannot pay. Nicaragua must cut public expenditures by $60 million, virtually eliminating much of what remains of health and welfare services, while infant mortality rises along with disease, malnutrition, and starvation, offering new opportunities to condemn the "economic mismanagement" of the despised enemy.

The $60 million figure was perhaps selected for its symbolic value. Last year the already privatized banks shipped $60 million abioad, following sound economic principles: playing the New York stock market is a far more efficient use of resources than giving credits to poor bean farmers. The bean harvest was lost, a catastrophe for the population, though the sophisticated, understand that such considerations are irrelevant to economic rationality. Nicaragua has now been ordered to fully privatize banks, to ensure that what capital there is, will be efficiently used with consequences that are evident.

On Nicaragua's Atlantic Coast, 100,000 people are now starving to death, with aid only from Europe and Canada. Most are Miskito Indians. Nothing was more inspiring than the laments about the Miskitos after a few dozen were killed and many forcibly moved by the sandinistas in the course of the US terrorist war, a "campaign of virtual genocide" (Reagan), the most "massive" human rights violation in Central America (Jeane Kirkpatrick), far outweighing the slaughter, torture, and mutilation of tens of thousands of people by the neo-Nazi gangsters, they were directing and arming, and lauding as stellar democrats, at the very same time. What has happened to the laments, now that 100,000 are starving to death? The answer is simplicity itself Human rights have purely instrumental value in the political culture; they provide a useful tool for propaganda, nothing more. Ten years ago the Miskitos were "worthy victims," their suffering attributable to official enemies; now they have joined the vast category of "unworthy victims" whose far worse suffering can be added to our considerable account. The pattern is remarkably uniform in time and place, along with the impressive inability to perceive it.

Not surprising, terrorism has the same status. When the State Department confirmed that its Honduran-based terrorist forces were authorized to attack agricultural cooperatives, Michael Kinsley, again at the liberal dovish

extreme, cautioned against thoughtless condemnation of this official policy. Such international terrorist operations cause "vast civilian suffering," he agreed, but they may nevertheless be "sensible," even "perfectly legitimate," if they "undermine morale and confidence in the government" that Washington seeks to overthrow. Terror is to be evaluated by "cost-benefit analysis," which we are authorized to conduct to determine whether "the amount of blood and misery that will be poured in" yields "democracy," in the special sense of US political culture. Our wholesale terrorism need satisfy only the pragmatic criterion; retail terrorism by others, who lack our innate perfection, is the "plague of the modem age" to be punished with arbitrary harshness by the same judge and executioner, amidst a chorus of praise for his unparalleled virtue.

As in the case of Vietnam and Cuba, so we now stand in judgment over Nicaragua for its crimes against us. In September, the Senate voted 94p; 4 to ban any aid if Nicaragua fails to return or give adequate compensation (as determined by Washington) for properties of US citizens seized when Somoza fell - assets of US participants in the crushing of the beasts of burden by the tyrant who had long been a US favourite, and whose murderous National Guard was supported by the Carter Administration right through its massacre of tens of thousands of people in July 1979 - and beyond. Shortly before, the Senate had cut off aid until Nicaragua proves that it is not engaged in international terrorism, the stern judges being those who were condemned by the World Court for the "unlawful use of force" against Nicaragua, and ordered to pay compensation, which would have amounted to billions of dollars; naturally Washington, with the applause of intellectual opinion, dismissed the Court with contempt as a "hostile forum" (New York Times). US threats finally compelled Nicaragua to withdraw the claims for reparations after a US-Nicaragua agreement "aimed at enhancing economic, commercial and technical development to the maximum extent possible," Nicaragua's agent informed the Court. The withdrawal of just claims having been achieved by force, Washington has now abrogated the agreement, suspending its trickle of aid with demands of increasing depravity and gall. The press maintains its familiar deafening silence.

Torture of Vietnamese, Cubans, Nicaraguans, Iraqi children, and others, is a policy priority for the reasons already mentioned, which are understood in the Third World, though excluded from our well-insulated political culture. The prevailing mood was captured by a leading Brazilian theologian, Cardinal Paulo Evaristo Arns of Sao Paulo: throughout the South "there is hatred and fear: When will they decide to invade us," and of what pretext?,

The Nicaraguan case raises another issue that will not be overlooked by serious people considering the prospects for "humanitarian intervention." The leader of such intervention will be a state that is remarkable not only for its violence, impudence, and moral cowardice, but also for its lawlessness, not only in recent years. Washington's dismissal of the World Court decision had its counterpart when Woodrow Wilson effectively disbanded the Central American Court of Justice after it had the audacity to uphold Costa Rican and Salvadoran claims that the United States was violating their sovereignty by imposing on Nicaragua, safely occupied by Wilson's troops, a treaty granting the United States perpetual rights over any canal. The United States has sought to undermine the UN ever since it fell "out of control" in the 1960s. Washington is far in the lead in vetoing Security Council resolutions in these years, followed by Britain, with France a distant third and the USSR fourth. The record in the General Assembly is similar on a wide range of issues concerning human rights, observance of international law, aggression, disarmament, and so on, though the facts are rarely reported, being useless for power interests. The United States record at the 1989p; 90 winter session of the UN, right after the Berlin Wall fell, is particularly informative in this respect; I have reviewed it elsewhere, and there is no space to do so here. Such facts, available in abundance, have yet to disrupt the chorus of self-praise.

The standard rendition of the unreported facts is that "the Soviet veto and the hostility of many Third World nations made the United Nations an object of scorn to many American politicians and citizens," though with these disruptive elements gone and the UN safely under US rule, "it has proved to be an effective instrument of world leadership, and, potentially, an agency that can effect both peace and the rule of law in troubled regions" (David Broder, Washington Post). The same message has resounded through the doctrinal system with scarcely a discordant note - yet another achievement that any dictator would admire.

Nothing changes as we move to the new Administration. Clinton won great praise for his courage in launching missiles at a defenceless enemy without loss of American lives (only expendable Iraqi civilians). In a typical reaction, the Washington Post praised him for "confronting foreign aggression," relieving the fear that he might not be willing to resort to violence as freely as his predecessors; the bombing refuted the dangerous belief that "American foreign policy in the post-Cold War era was destined to be forever hogtied by the constraints of multilateralism" - that is, by international law and the UN charter. At the Security Council, Clinton's Ambassador defended the resort to force with an appeal to Article Si of the UN Charter. which authorizes the use of force in self-defense against armed

attack until the Security Council takes action, such self-defense being authorized when its necessity is "instant, overwhelming, and leaving no choice of means and no moment for deliberation," according to standard interpretations. To invoke Article 51 in bombing Baghdad two months after an alleged attempt to assassinate a former president scarcely rises to the level of absurdity, a matter of little concern to commentators.

The prospective leader of "humanitarian intervention" is also notorious for its ability to maintain a self-image of benevolence whatever it does, a trait that impressed de Tocqueville 150 years ago. Observing one of the great atrocities, he was struck that Americans could deprive Indians of their rights and exterminate them "with singular felicity, tranquilly, legally, philanthropically, without shedding blood, and without violating a single great principle of morality in the eyes of the world." It was impossible to destroy people with "more respect for the laws of humanity," he wrote. So it has always been, to this day.

Several qualifications must be added. The United States is not significantly different from others in its history of violence and lawlessness. Rather, it is more powerful, therefore more dangerous, a danger magnified by the capacity of the elite culture to deny and evade the obvious.

A second qualification is that intervention undertaken on the normal grounds of power interests might, by accident, be helpful to the targeted population. Such examples exist. The most obvious recent one is Vietnam's invasion of Cambodia in December 1978 after years of murderous Khmer Rouge attacks on Vietnamese border areas; under comparable conditions, the United States would probably have nuked Phnom Penh. The Vietnamese invasion removed Pol Pot, terminating major atrocities, though that was not the motivating factor. And we recall the response in the West to the prime example of "humanitarian intervention" in recent years. The United States and its allies at once reconstituted the defeated Khmer Rouge at the Thai border so that they could resume their depredations. There was furious denunciation of the "Prussians of Asia" who had dared to remove Pol Pot (New York Times). The doctrinal system shifted gears: instead of invoking the issue of MIAs, we would henceforth punish Vietnam for the crime of ridding Cambodia of the Khmer Rouge. When it became impossible to deny that Vietnamese troops had withdrawn, the system shifted smoothly back to the old pretext - which remains unsullied by any notice of the lack of interest about MIAs from earlier wars, the atrocious US treatment of POWs in Vietnam, Korea, and the Pacific War, or the obscenity of the entire enterprise of holding Vietnamese to account for what they have done to us.

Furthermore, unlike states, people are moral agents. Occasionally, the population has compelled the state to undertake humanitarian efforts. I need not discuss the Somalian intervention, transparently cynical from its first days. But consider a real example: the protection zone that the Bush Administration reluctantly extended to the Kurds in northern Iraq, after tacitly supporting Saddam Hussein as he crushed the Shiite and Kurdish uprisings. Here public opinion played a decisive role, overcoming the Administration's commitment to the rule of a unified Iraq by an "iron fist," whether wielded by Saddam or some clone, as Washington explained by way of the Times chief diplomatic correspondent.

The sincerity of the concern for the Kurds is demonstrated by what happcned as public attention waned. They are subject to Iraqi embargo in addition to the sanctions against Iraq. The West refuses to provide the piddling sums required to satisfy their basic needs and keep them from Saddam's hideous embrace. The UN Department of Humanitarian Affairs prepared a 1/2 billion dollar relief and rehabilitation program for Kurds, Shiites, and poverty-stricken Sunnis in central Iraq. The Clinton Administration - "haunted by the pictures of Kurdish women and children cut down by poison gas," the President assured the UN - offered $15 million, "money left over from contributions to a previous UN program in northern Iraq," the director of Middle East Watch reports.

Finally, the conclusions that a rational observer will draw about US-led "humanitarian intervention" do not answer the question whether such intervention should nevertheless be undertaken. That is a separate matter, to be faced without illusions about our unique nobility. We can, in short, ask whether the pursuit of self-interest might happen to benefit others in particular cases, or whether unremitting public pressure might overcome the demands of the "principal architects" of policy and the interests they serve.

There is also a more fundamental question: Can our political and intellectual culture, our society and institutions, undergo the radical transformations that would be required for an American citizen to use such phrases as "American humanitarian intervention" or "enlargement of the world's free community of market democracies" without shame? The fate of much of the world depends on the answer we give to that question

A humanitarian intervention is an armed intervention in another state, without the agreement of that state, to address (the threat of) a humanitarian disaster, in particular caused by grave and large-scale violations of

fundamental human rights. This definition was adopted by a NATO seminar in Scheveningen on the topic in November 1999. The key aspects of this definition are related to sovereignty and human rights. Firstly, for an action to be intervention, sovereignty of the state being intervened in must be breached. Under this definition, INTERFET action in East Timor, while motivated by humanitarian concerns, was not an intervention as the action was undertaken with the consent of the Indonesian government (questions of the power of that government to enforce the decision aside). Secondly, for an intervention to be humanitarian, the desire to address violations of human rights should be the driving force in the intervention decision.

Under the UN Charter the Security Council determines the existence of threats to peace. Article 2(4) of the UN Charter prohibits the use of force by states (except in self-defence), and Article 24(1) gives the Security Council the primary responsibility for the maintenance of international peace and security. These provisions were enacted following World War II in an attempt to establish a collective security mechanism that would regulate aggression between states and prevent anarchy. While the Security Council has primary responsibility to authorise the use of force, some states feel that certain members of the Council might prevent humanitarian interventions from taking place. The question for international law is whether primary responsibility equals exclusive authority. The legal and moral authority of the Security Council cannot be overturned lightly, but adherence to this authority might prevent a necessary intervention from taking place. Opinions differ among states over the primacy of the Security Council: many want to uphold its role while others point to its inherent flaws and the way it is dominated by the veto-holding Permanent Five (the US, Russia, Britain, France and China).

The sovereignty of states is a fundamental principle in international relations and is enshrined in the UN Charter by Article 2(7). Sovereignty gives states the legal right to manage their internal affairs free from outside interference and prevents powerful states intervening in weaker states. Without sovereignty as a fundamental principle, only international norms, balances-of-power, or domestic constraints would limit intervention in other states. Preservation of sovereignty has been held up as an important component of a rules-based framework for international relations.

However, the UN Charter was designed to prevent aggression between states and sits uneasily with concern over what takes place within state borders. The principle of sovereignty might inhibit the realization of universal human rights. The Charter's meaning is being interpreted away from an exclusive focus on sovereignty towards an emphasis on balancing

sovereignty with human rights, such as articulated by Article 55. States have accepted other obligations under international law to protect human rights and violators may hide behind the protection of sovereignty. It is controversial, however, as to whether the Charter itself should now be interpreted differently as a consequence.

3.2 Criteria for Humanitarian Intervention

The following are criteria for human intervention:

- The threat or occurrence of grave and large-scale violations of human rights.

- Clear and objective evidence of such a threat or occurrence.
- The government of the state is unwilling or unable to take remedial action.

- There is clear urgency.
- The use of force should be the last resort.
- The purpose is clearly explained to the public and International community.

- The purpose is limited to stopping the human rights abuses.
- The action is supported those for whom it is intended.
- There is support of regional states.
- There should be a high probability of success.
- There should be a mapped out transition to post-conflict peace building.

- The use of force should be proportionate to achieving these goals.
- International law on the conduct of war should be followed during the action.

An important debate is whether a group of states could undertake an intervention without UN authorisation. If UN authority were not required for humanitarian intervention then this would be an alteration to the present restrictions on the use of force and a major dilution of UN power. However,

if these criteria were simply adopted by the UN then this might be seen as a refinement of Chapter VII and reinforce the notion that a humanitarian disaster is a threat to international peace and security.

Some states are wary over relinquishing the protection that the UN affords them. They envisage the retention of a UN structure that preserves the primacy of the state in providing security for the population of a state. Others suggest that if a state is not providing security for all its population, then protection of human rights should be the prime consideration.

3.3 Armed Humanitarian Intervention: An Emerging Issue and Controversy In Need Of a Consensus

International politics was dominated by the Cold War for over four decades until the collapse of tile Soviet Union in 1989. With the end of the Cold War and increasing globalisation, the focus on state security with regard to conventional threats has greatly diminished, particularly among the Western nations. The United Nations (UN), which encapsulates the affairs of international politics, found herself a new role and identity by shifting focus to human security, i.e., a global concern for individual human rights and well being. In order to achieve human security, intervention in states to prevent or stop human death and suffering is sometimes necessary. As an indication of this changing focus, the number of UN-sanctioned humanitarian interventions after the cold war increased many times when compared to the period from 1945 to 19901.

However, humanitarian intervention is a very controversial issue in international politics. The fundamental issue is that it violates the sovereignty of the state which embodies the principle of non-intervention in the manner a state chooses to conduct its domestic affairs (Article 2(7)2 of the UN charter). This principle of nonintervention is almost sacrosanct, with the exception of the inherent right of self-defence and UN-sanctioned intervention (article 513 of the UN charter). It is this principle that many have believed and adopted to maintain international peace and order. The established world order paradigm is now being challenged!

The controversy goes beyond conceptual (moral and legal) disagreement. There are many operational issues with humanitarian intervention that also pose a challenge to international politics. Some of these issues include the criteria for humanitarian intervention to be activated, the authority for deciding intervention, who to intervene, the form and extent of intervention, and when the intervention should terminate. This article will examine both the conceptual and operational issues of humanitarian intervention, drawing mostly on post-Cold War events in Iraq Somalia ,

Bosnia , Rwanda and Kosovo to illustrate the issues. Finally, this article will discuss the developments that have been made to advance the humanitarian intervention cause and reduce the controversies, and conclude with an appraisal of the future for humanitarian intervention

3.4 What Is International Politics And Humanitarian Intervention?

State actors" in the international community are anchored on a set of assumptions and principles that are widely accepted by all the states, allowing the states to peacefully co-exist and function with each other, thus bringing about global stability and order. The concept of the state and its sovereignty can be traced back to the Peace of Westphalia which ended the Thirty Years War in 1648. The state is "a form of political organization that claims the exclusive right to govern a specific piece of territory". Sovereignty has two dimensions, the internal/domestic dimension which lay claims to final legal authority within the state, and the external/interstate dimension which rejects the legitimacy of any authority higher than the state. The principles of equal rights of states and non-intervention of each other's domestic affairs naturally follow from the definition of sovereignty. Because there is no legal higher authority or enforceable laws on the state, the international system is therefore anarchical and self-help becomes the sine qua strategy for the survival of the state. As such, there is an important assumption that states will look after the welfare of their citizens.

There are many definitions of humanitarian intervention. Below is a sample to give a sense of the essence of humanitarian intervention.

3.5 Samples To Give A Sense Of The Essence Of Humanitarian Intervention.

Humanitarian Intervention is an armed intervention in another state, without the agreement of that state, to address (the threat of) a humanitarian disaster, in particular caused by grave and large-scale violations of fundamental human rights.

1   North Atlantic Treaty Organization (NATO) seminar in Scheveningen (November 1999)9 Coercive action by states involving the use of armed force in another state without the consent of its government, with or without the authorization from the United Nations Security Council, for the purpose of

preventing or putting to a halt gross and massive violations of human rights or international humanitarian law.

2.   Danish Institute of International Affairs (1999)10. . . coercive, and in particular military action, against another state for the purpose of protecting people at risk in that other state.

3.   International Commission on Intervention and State Sovereignty (2001).

Culling from the above definitions, the essence of humanitarian intervention is a coercive intervention that breaches the sovereignty of the state and the goal is to prever,t or restore fundamental human rights, and/or prevent or stop human sufferings.

3.6   The Strategy and Politics of Intervention

In the post-Cold War paradigm of comprehensive and inclusive security, the threat agenda is now perceived to increasingly encompass human rights, social injustices, economic deprivation et al to impart to the international security order a more humanistic orientation. It is argued that "understanding social injustice and human rights violations as security threats means little if the state still remains the primary referent object for security". Many have averred that Kosovo was the result of accumulated tensions, with a window of opportunity provided by the support of the Islamic community world wide. This was perhaps the first case of regional employment of force to resolve inter-ethnic tensions. Thus while Albanian-Kosovars were sought to be the primary referent for emancipation by the interveners, the strategic dictates were to provide a raison d'être for NATO, keep it bound together for the envisaged out of area operations and take the first steps towards its eastward expansion.

4.0 CONCLUSION

Finally, critics suggest that establishing formal criteria for humanitarian intervention would generate expectations that if those criteria can be met, intervention will take place. Positive intervention, from anyone, despite the possibility that the above criteria could be met, has not been forthcoming in numerous cases of human rights abuses. Also, a low level of conflict might produce only a handful of abuses at one point in time, but might culminate into something quite disastrous. Defining when abuses are 'grave' or when there is a 'disaster' is highly subjective and the nature of the decision,

whether it is made by the UN Security Council or a coalition of concerned states, would inevitably be highly politicized.

In the debate over humanitarian intervention, a certain truism remains. Decision making in states is driven by a variety of factors, with humanitarian concern being only one. Decisions by states, whether in the Security Council or with allies, cover a variety of considerations including political, military and economic interests. Criteria for intervention might usefully be formulated to guide *conduct* in an intervention (proportional use of force, high probability of success, clear and articulated goals, post-conflict plans, following laws of war, etc.), but are unlikely to form the only basis of a *decision* to intervene. This does not mean that the exercise of formalising criteria is necessarily useless. Some see it as desirable to establish criteria as a guide and as an ideal. Others suggest, ho,vever, that given the nature of international relations, it should not be expected that rules for humanitarian intervention would regulate conduct absolutely.

5.0 SUMMARY

The notion of humanitarian intervention envisages a regime that overcomes limitations of existing international law and establishes a framework for preventing large-scale abuses of human rights, the ideal of justice backed by power. Once this regime is in place, international law might be amended. As one analyst has written: "If power is used to do justice, law will follow." But, if power is used to do injustice, what follows then?

6.0 TUTOR MARKED ASSIGNMENT

1   Define humanitarian intervention and discuss the various criterias

        for humanitarian intervention.

7.0 REFERENCES AND FURTHER READINGS

William Schabas (1999), The genocide convention at Fifty (Online). Available: http://www.usip.org/pubs/specialreports/sr990107.html [2003, June 71.

Michael Walzer (1992), Just and unjust war: A moral argument with Historical illustrations, 2nd edn. (New York: Basic Books,).

Robert Hayden (1999), *Humanitarian Hypocrisy* (Online). Available: hap:// www.juristlaw.pitt.edu/hayden.lum [2003. June 14].

Robert Go (2003), "Revamp for UN Security Council?", *The Straits Times,*
    May.

http://www.vuw.ac.nz/css/docs/briefing_papers/Humani.html.

http://www.ciaonet.org/olysa/sa octOOkakOl.html

UNIT 3 PROTECTION AND PROMOTION OF RIGHTS
            AND DIGNITY OF PEOPLE WITH DISABILITIES

CONTENTS

1.0   Introduction
2.0   Objective
 3.0   Main Contents
         3.1   Definition of Disability
         3.2 Current Situation and Problems Faced by PWD
         3.3 General Conception towards PWD
         3.4   Disability Awareness
         3.5 Training and Employment
         3.6   Education
         3.7   National Census
         3.8   National Policy/Strategy and the Present Situation Regarding
                   PWD
4.0   Conclusion
5.0 Summary
6.0 Tutor Marked Assignment
7.0   References and Further Readings

1.0 INTRODUCTION

Armed conflict and civil strife are widespread, affecting over 40 countries world-wide in the past decade. The majority of these conflicts are in poorer countries, and the principal victims are from poor families and vulnerable groups like women, children, persons with disabilities and the elderly. These groups cannot flee easily, are at greater risk of death and injury, and are less able to access needed rehabilitation services if needed.

In 1990, UNICEF estimated that 22 million people had died in 150 armed conflicts since the end of World War 11. For every child killed by war, three more are seriously disabled, resulting in 14 million children who have been physically disabled or psychologically traumatized by war during the 1980's alone (1).

Land mines present a particularly complex problem for those concerned with disability and rehabilitation. In addition to restrictions imposed by landmines on transportation, agriculture, and water supplies, deaths and injuries from landmines have become commonplace in post-conflict societies. In Angola from 1980-1988, 10(X of the population were either killed or mutilated by landmines. Half of an estimated 50,000 Angolan

amputees were women and children. In Nicaragua from 1983-1986, 10% of all hospital admissions were due to war injuries. In Mozambique, there are an estimated 8000 amputees from landmines, while in Cambodia there is the highest concentration of amputees (1 in 240 persons) in the world (2).

Injuries caused by landmines have effects at several levels: as impairments, disabilities, and handicaps. Landmine-caused impairments affect entire body systems and are often the most obvious and measurable characteristics. These impairments include amputation, spinal cord injury, blindness and burns. Landmine-caused disabilities, on the other hand, are the loss of abilities that are normal for a person of a particular age and development. These disabilities include problems in self-care, ability to walk to school, or to perform work duties. Landmine-caused handicaps are really the deficiencies of a society being accommodat:ng to people with disabilities. These handicaps include problems in earning a living, physical accessibility, social stigma and isolation.

In areas of armed conflict, unstable political allegiances, politicization of service agencies, and lack of leadership can create distrust and an atmosphere of tension which reduces opportunities for strategic planning and networking in rehabilitation. Finally, a lack of appropriate rapid assessment and evaluation methods may either prevent adequate information gathering, or produce information which exposes multiple 'divergent' problems which only appear insoluble.

2.0 OBJECTIVES

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

• Define disability;

• Classify and describe the various disability problems;

• Discuss the current situation and problems faced by PWD;

• Analyze the general conception towards PWD;

• Discuss the problems faced   PWD in a conflict situation; and

• Discuss the role played by government to protect the disabled during and after the conflict.

3.0 MAIN CONTENTS

3.1 Definition of Disability

With reference to article 2 of the Draft Legislation on "The Rights of People with Disabilities" (PWD) which is being developed by a Legislation Working Group, "a disabled person" means a person who loses any physical organ or capacity or suffers from any significant mental impairment, such as loss of limbs, quadriplegic, visual or hearing impairment or mental disabilities, etc which significantly affects their capacity to participate in social activities and they are required to have a certified document of disability issued by the Ministry of Health. The category and level of disability will be determined by the Government Sub-decree.

There was some identification of grade and categories of disability specifically for disabled soldiers stated by the Government. However, there has been no official definition regarding the classification of types of disability for PWD in general in Cambodia until a "Socio-Economic and Behavioural Pilot Survey on the Situation of the Disabled Persons in Cambodia" was conducted during March-June 2000 [2], an unofficial agreement was made in the classification of disabilities into eight types of difficulties as follows:

1.   Seeing difficulties or visual impairment

2.   Hearing difficulties or hearing impairment

3.   Speaking difficulties or deaf/speaking impairment

4.   Moving difficulties or physical impairment

5.   Feeling difficulties

6.   Strange behaviour or mental impairment

7.   Learning difficulties or intellectual impairment

8.   Fits

There is no available and or official definition of the above types of disabilities in Cambodia. However, effort has been made in this regard in conjunction with the World Health Organization-who amended the definition of the disability.

_____

3.2 Current Situation and Problems faced by PWD

The recent history of Cambodia has left a legacy of high numbers of PWD of all ages and conditions. The devastated health and social services as well as educational facilities have neither the financial means nor the human resources to cope with the overwhelming needs of Cambodians with disabilities. The rehabilitation services are still limited to support PWD, especially services to address the needs of children and women with disabilities. The Government's long-term goals are to develop, implement and manage a national strategy for the prevention of disability and for the rehabilitation of the disabled, based on an integrated participatory and decentralized approach to services delivery. The immediate goal is to ensure the maximum number of PWD receive appropriate services and support so as to enable them to live with dignity and to be integrated within the community to the best extent possible.

There is no universal PWD registration system set up in Cambodia.

3.2 General Conception towards PVVD

More than 85% of Cambodian people follow Buddhism. People believe in "Karma: Commit good receive good, commit bad receive bad". In Buddhist theory or teaching, disability is the outcome of a bad thing, which a person made in his/ her previous life's course. People have also been taught to have mercy for the weak. On the other hand, there is also a belief in good and bad luck and this relates to an action of a person when he/she does good action against others good luck would be brought to that person. Therefore, most Cambodian people prefer to give donations or charity to the poorer people and disabled beggars. However, such compassion and support of people has decreased due to suffering and the breakdown of community spirit by the prolonged civil war and devastation in the country. Though the above concept might be regarded as a good system to support PWD, however additional approaches would enable PWD to stand for themselves in society equally and considerable attention is being given to the empowerment of PWD to be included at all levels of decision making.

33   Disability Awareness

A major factor restricting the full participation and equality of opportunities of PWD is the prevalence of perceptions and practices, which prevent them from functioning as full members of the society. Often the abilities of PWD are not recognized. They face social and economic marginalization, discrimination, and have very limited access to resources. Therefore, they

find their opportunities for full and eclat participation limited. Also, Public awareness and mass education camp ins on the inclusion of PWD in the country's mainstream development , ogram, by mobilizing the private sector and the community for en ation of discrimination are almost non-existent.

3.4 Training and Employment

Skills training, income generation and job placement is an important factor in the rehabilitation of PWD. In Carrbodia PWD typically come from the poor and poorest segments. For these PWD it is of high priority to be able to gain an income for themselves and their families. Programs in training and employment can be divided int the following categories.

> Provision of vocational training (which can include literacy, numeracy and small business management)
> Refe— al services to training providers and employers
> Production of crafts for the local market and export through production workshops or independent producer groups

Follow up after the graduates have left the centres has gained an increasing importance in most programs. Follow up takes the shape of regular visits to the graduate's work place, the provision of start up equipment and — in some cases — the provision of loans or grants. PWD meet some specific constraints in their aim to gain an income.

- Self-employment usually requires access to credit facilities. Poor PWD find it particularly difficult to access credit.

- PWD often face discrimination, when it comes to employment. The belief in their abilities is very low.

In addition, skill training for PWD meets the same constraints as the mainstream service providers.

- The labour market is very limited. Employees are often hired because the owner trusts them and not because they are particularly qualified.

- Employees are paid very low salaries, often not meeting the minimum expectations and needs of job seekers.

  Most PWD live in rural areas, where economic activities are limited.

- Micro-enterprise promotion requires people willing to be entrepreneurs. This can not be assumed for everybody.

3.5 Education

Education is a human right and a basic need. Education in Cambodia however, has suffered greatly from past political, social and economic turmoil. The Khmer Rouge Regime (1975-79) oversaw the almost complete destruction of the education system. Cambodia has made significant progress in the last decade in recovering from the years of war and turmoil. The eighties and early nineties are best characterized as a lengthy phase of emergency relief focusing on the opening of schools and the emergency training and deployment of teachers. The early nineties featured a growing emphasis on Government led policy reiorm. It is only in the mid to late nineties that it can be said that the transition from emergency relief to reconstruction and development has been made

Education for all persons in Cambodia is imperative. The limited capacity and resources of the general education system, particularly in rural areas has resulted in the majority of learners being excluded from education opportunities altogether. This naturally results in illiteracy and low skills amongst children and adults with disabilities, ultimately contributing to reduce employment opportunities.

For PWD formal and non-formal education is among the services essential for child survival and development and a vital means of empowerment and self-help. To date education programs for PWD have been implemented solely by NGOs and focus on children with disabilities. A limited number of special schools and classes exist, as do a few community-based initiatives. Collectively these services only provide provision for a fraction of children with disabilities in Cambodia, and are concentrated mainly in urban areas. These programs cater almost exclusively for children with physical disabilities and sensory impairments. A non-quantifiable number of children with disabilities (mainly children with physical disabilities) are intrinsically included into the mainstream education system however the present school environment does not facilitate integration. At present, the national policy and pilot inclusive programs for promoting educational opportunities for children with disabilities have been coordinated by the DAC in close collaboration with Ministry of Education, Youth and Sports (MOEYS).

3.6 National Census

In Cambodia, the last national general population census was taken in 1998. This census aimed at providing a picture of the social and economic conditions of population at all levels. Unfortunately, minimal data on PWD had been collected. There has not been any separate national census on disability, neither registration system of PWD set up in this country.

1.   National/International Laws and Regulations Related to PWD

Name	Legislated Date	Description	
Constitution of the Kingdom of Cambodia	1993 amended in 1999	The Constitution stipulates contents about rights and responsibility of Cambodian citizens (in Chapter3) and Education, Culture and Social Welfare (in Chapter 6).	
		Article 31	− Recognize and respect fundamental human rights, liberty; Equality of all and prohibition of unjust and discrimination.
		Article 34 & 35 & 36	− Rights to actively participate in political, economic, social, and cultural activities. − Equal rights to employment and equal benefit from the same job.
		Article 74	- Stipulated the duty of State in providing aid and support to PWD and dead soldiers' families.
Labor Law	January 10, 1997	* Although no special treatment is offered to PWD but it is important law to manage contractual agreement between employees and employers in which PWD are included.	
Government Sub-decree	April 4, 1995	Establishment of an Inter-ministerial Committee on Primary Health Care to	

No 37/ANK/BK Government Sub-decree No 059/ANK/BK	October 6, 1997	Support the Development and Implementation of a National Policy on Primary Health care. It is a basis for prevention of disability. Retirement Pensions and Disability Regime for Civil Servants.

However, draft legislation on "the Rights of PWD" is being developed. The draft law aims to promote integration of PWD into mainstream development programs/activities which includes health, accessibility, education, vocational training, Laws and Regulations employment, etc. to ensure the protection and promotion of the rights of all PWD and prohibition of abuse and neglect of these PWD and discrimination against them.

Note: The legal documents shown in the above table are listed based on hierarchy of legal status and followed by the date of issuance.

2. International Legal Binding and Non Binding Documents

a) International Legal Binding Documents

Name	Date of Ratification	Description
Universal Declaration of Human Rights	December 10, 1948	Promote fundamental human rights to all. Each article applies to every individual regardless of disabilities, gender, race, color, religion or any other status of life. Any form of discrimination violates the principle of Equality.
International Covenant on Civil and Political Rights	April 20, 1992	Use language similar to Universal Declaration of Human Rights to protect the right to privacy and to actual title to "UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" that are major causes of disability.

International Covenant on Cultural and Economical Rights	April 20, 1992	Article grants the Right of self-determination. And Article 6 guarantees the Right of Work, which includes the right of everyone to the opportunity to gain living by work with free choices and accepts. Article 12- the right to attain the highest standard of physical and mental health...
United Nations Convention on the Rights of the Child	1989 1982	Provide comprehensive rights of the child to education and health and prohibition to labor force...
World Program of Action Concerning Disabled Persons UN Resolution 37/52		Aimed at the promotion of effective measures for the prevention of disability, rehabilitation and the realization of equal opportunities for PWD. And declared the UN Decade of Disabled Persons (1983-1992)
UN ESCAP Asian and Pacific Decade of Disabled Persons, 1993-2002	October 20, 1994	The target of the decade is outlined in the document "Implementation of the Agenda for Action for the Asian and Pacific Decade of Disabled Persons".
Mine Ban Treaty Ottawa, December 1997	July 28, 1999	Prohibit the use, stockpiling, production and transfer of anti personnel mines and their destruction. It stipulates concrete action for eradicating landmines and for ensuring assistance to victims.

b) International Legal Non Binding Documents

Name	Date of issue & Signature	Description
United Nations Declaration on the Riahts of PWD	December 9, 1975	Provide instruments to protect fundamental rights of PWD.

UNESCO World Declaration on Education for All	Involved in 1990 but real activities start in 2000	The main aim is to enforce the implementation of the Principle of Inclusive Education.
UN Standard Rules on Equalization of Opportunity for PWD	December 1993	A set of objectives implying a strong political and moral commitment by the State to take action for the equalization of opportunities for PWD.

* Cambodia is one of the leading Asian countries that is a signatory and recognizes most of International and Regional instruments (meaning Declaration, UN Resolution, Treaty, Covenant, and Law) that can be used to protect the rights of PWD.

Source: The Compendium of Cambodian Laws Volume HI, CLRDC, 2000

Landmine Monitor, Cambodia 2000

MEAN and the Banning of Anti-personnel Landmines, Landmine Monitor 2000

Note: The list of the documents in the tables: 3.2.1 and 3.2.2 is made based on level of involvement with PWD anti followed by the date of issuance.

3.7 National Policy/Strategy and the Present Situation Regarding PWD

1   Health Care for PWD

The following has been extracted from the National Policy on the Health Care for Elderly and Disabled People, Ministry of Health, February 1999. Goal: To foster and strengthen health care of PWD with the integration of national prevention into the existing mainstream health care and to enhance and work cooperative with the other ministries especially the MOSALVY, Bilateral and International Organizations, and other NGO's Objective: To prepare the Cambodian people for a healthy PWD and to improve the health status of PWD.

Name/Title	Legislated year	Description / Purpose
1. Improvement of the welfare of PWD	Since Feb. 1999	Provision of special care to PWD with the establishment of preventive service into the national hospital, referral hospital, and health center. Provision of health care free to PWDs who are not able to find their income for living.
2. Human Resource Training	Since Feb. 1999	i. Introduce the health care of PWD into curriculum of basic training for nurses and undergraduate medical training for the University of Health Science. Continue professional training of health staff on health care for PWD at all levels. Long term training on rehabilitation in order to improve the quality of care
3. To improve healthy PWD through health education	Since Feb. 1999	Integrate health education for PWD into the health education system of the other national programs within the national and referral hospitals and health centers.

2   Key Strategies to successfully implement the above policies are as follows:

Prevent and control of diseases which cause disability in order to decrease the prevalence of hypertension, diabetes mellitus, heart disease, stroke. chronic lung disease in the Cambodian population and to promote oral health, eye care and mental health of PWD through primary prevention.

•   To improve the basic knowledge on health care for PWD to the health staff at all levels.

To promote this health system through mass media with some help from I0s, NG0s, and from the Village Development Committee.

To orientate communities, the families of PWD on the fundamental knowledge in health care and to strengthen warm relationships among family members by providing facilities to support and encourage families and communities in order to improve the quality of life, their longer-life and well-being.

• Strengthen the basic health care for PWD in the communities by the village health volunteer.

These are the first steps of the National policy for health care of PWD through the health care delivery system. The focus of this policy is to preserve much care and well-being for PWD that will be enhanced by a range of support program from the Ministry of Health (primary and hospital care) and MOSALVY (community based rehabilitation), other institutions such as Ministry of Finance, Ministry of Interior, Ministry of Rural Development, Ministry of Women Affairs and Veteran, and other NG0s/I0s partners.

The provision of care to PWD must be identified on the quality of care through primary prevention. This is the first priority of this policy and then the secondary prevention must focus on the communicable and non-communicable diseases in the young old people, which cause disability. Rehabilitation, using community-based approaches to meet the health care needs of PWD, will be promoted.

4.0 CONCLUSION

There are two issues in particular that CBR has yet to address in areas of armed conflict. First, CBR programmes often rely on women as workers, as volunteers, and as responsible family members. Eighty percent of all caregivers for persons with disabilities are women, and this figure is probably even higher during war (13). Expecting women to assume community based programme responsibilities may be an extra impossible burden. Women in conflict zones have little time available for CBR training. Furthermore, since they earn lower incomes, female-headed households may have little money available for rehabilitation equipment or transport to rehabilitation services. Strategies to support women's involvement in CB R must be found which do not make their lives worse.

Secondly, the problem of large numbers of disabled ex-combatants, who are generally young men, must be addressed by CBR since they represent an on-going reminder of conflict to their communities and thus a source of friction. Demobilisation and re-integration support programmes (including assistive devices, referrals, home activities of daily living (ADL) training, social and peer support, vocational training, income generation, leadership development) are vital to de-fuse tensions and demonstrate society's ongoing respect for injured veterans.

CBR programmes that address the multitude of serious impairments, disabilities, and handicaps in areas of armed conflict present substantial challenges to rehabilitation professionals. Practical and political obstacles are ever-present and must be addressed with foresight yet a certain amount of luck is also required.

The benefits to a CBR approach in conflict areas include not only addressing the needs of persons with disabilities as a critically vulnerable group, but also include important contributions in: facilitating groups working together; in demonstrating a multi-sectoral approach to problems which require interaction and negotiations; and in preparing the way for health and social sector reforms when the conflict subsides

5.0 SUMMARY

In this unit we have discussed people with disabilities and the problems facing them. We have also discussed how the government regards them and who to help them during conflict reconstruction. We looked at the principles regarding them, and when they were implemented and why. We also looked at the role of the poor in the society during post-conflict reconstruction and how the society regards them; disability is a powerful emotive lever that can be used to mobilize cooperation between factions. We suggest that civil society, in contrast to state-level intervention, has a valuable role in reducing the risks of conflict through community initiatives.

6.0 TUTOR MARKED ASSIGNMENTS

Define disability.

2   What are the various classifications of disability?

3   What problems are faced by PWD?

4   What is the general conception towards 1³WD?

5   In what way has the government helped in easing the suffering of the
        PWD?

6   Are there Laws regarding to PWD? Discuss.

7.0 REFERENCES AND FURTHER READINGS

UNICEF. The State of the World's Children 1990. New York: Oxford
        University Press, p.3, 1991.

Roberts S, Williams J. (1995) The Enduring Legacy of Landmines.
Washington
        D.C.: Vietnam Veterans of America Foundation.

Rehabilitation International/UNICEF. Effects of Armed conflict on Women
        and Children: Relief and Rehabilitation in War Situations. One in
        Ten, 10 (2-3), 1991.

Helander E, Mendis P, Nelson G, Goerdt A. (1989) Training in the
        Community for People with Disabilities. Geneva: World Health
        Organisation.

World Health Organisation Expert Committee on Disability Prevention and
        Rehabilitation. Disability prevention and rehabilitation. WHO
        Technical Report Series, 668, Geneva: World Health Organisation,
        pp.7-37, 1981.

Helander, E. (1992), Prejudice and Dignity: An Introduction to
        Community Based Rehabilitation. New York: United Nations
        Development Programme, Division for Global and Interregional
        Programmes.

Werner D. (1987) Disabled Village Children. Palo Alto, California: The
        Hesperian Foundation, p.14.

Rehabilitation International/UNICEF (1989-90). Community-Based
        Rehabilitation: A Ten Year Review. One in Ten, 8 (1-4)/9 (1-2).

UNIT 4 WHAT IT MEANS TO BUILD LASTING PEACE

CONTENTS

1.0 INTRODUCTION

In this unit, we shall examine the concept of Peace building as a practical approach aimed at bringing sanity back to beleaguered societies. In doing this, we shall seek to determine what really Peacebuilding is and distinguish it from Peacemaking and Peacekeeping. In examining the root causes of conflicts, we shall address the structural, relational and personal dimensions to building peace.

2.0 OBJECTIVES

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

- Distinguish between Peacemaking. Peacekeeping and Peacebuildintf;

- Define what Peace-building is;
- Discuss the structural dimension to peace-building;
- Discuss the relational dimension to peace-building; and
- Discuss the personal dimension to peace-building.

3.0 MAIN CONTENT

3.1 DISTINCTION BETWEEN PEACEMAKING AND PEACEKEEPING IN PEACEBUILDING

To understand the notion of peacebuilding, many contrast it with the more traditional strategies of Peacemaking and Peacekeeping. Peacemaking is the diplomatic effort to end the violence between the conflicting parties, move them towards non violent dialogue, and eventually reach a peace agreement. Peacekeeping, on the other hand, is a third-party intervention (often, but not always done by military forces) to assist parties in transitioning from violent conflict to peace by separating the fighting parties and keeping them apart. These peacekeeping operations not only provide security, but also facilitate other non-military initiatives.

It should be noted at the outset that there are two distinct ways to understand Peace-building. According to the United Nations (UN) document An *Agenda for Peace,* Peace-building consists of a wide range of activities associated with capacity building, reconciliation, and societal transformation. Peace-building is a long-term process that occurs after violent conflict has slowed down or come to a halt. Thus, it is the phases of the Peace process that takes place after Peacemaking and Peacekeeping.

Many non-governmental organizations (NG0s), on the other hand, understand Peace-building as an umbrella concept that encompasses not only long-term transformative efforts, but also Peacemaking and Peacekeeping. In this view, Peace-building includes early warning and response efforts, violence prevention, advocacy work, civilian and military peacekeeping, military intervention, humanitarian assistance, ceasefire agreements, and the establishment of peace zones.

In this narrower sense, peace-building is a process that facilitates the establishment of durable peace and tries to prevent the recurrence of violence by addressing root causes and effects of conflict through reconciliation, institution building, and political as well as economic transformation. This consists of a set of physical, social and structural initiatives that are often an integral part of post-conflict reconstruction and rehabilitation.

It is generally agreed that the central task of peace-building is to create positive peace, a "stable social equilibrium in which the surfacing of new disputes does not escalate into violence and war". Sustainable peace is characterized by the absence of physical and structural violence, the elimination of discrimination, and self-sustainability. Moving towards this sort of environment goes beyond problem solving or conflict management.

Peacebuilding initiatives try to fix the core problems that underlie the conflict and change the patterns of interaction of the involved parties. They aim to move a given population from a condition of extreme vulnerability and dependency to one of self-sufficiency and well being.

Some draw a distinction between post-conflict Peacebuilding and long-term Peacebuilding. Post-conflict Peacebuilding is connected to Peacekeeping, and often involves demobilization and reintegration programs, as well as immediate reconstruction needs. Meeting immediate needs and, handling crises is no doubt crucial. But while peacemaking and Peacekeeping processes are an important part of peace transitions, they are not enough in and of themselves to meet longer-term needs and build a lasting peace.

Long-term Peacebuilding techniques are designed to fill this gap; and to address the underlying substantive issues that brought about conflict. Various transformation techniques aim to move parties away from confrontation and violence, and towards political and economic participation, peaceful relationships, and social harmony.

This longer-term perspective is crucial to future violence prevention and the promotion of a more peaceful future. Thinking about the future involves articulating desirable structural, systemic, and relationship goals. These might include sustainable economic development, self-sufficiency, equitable social structures that meet human needs, and building positive relationships.

Peacebuilding measures also aim to prevent con Met from re-emerging. Through the creation of mechanisms that enhance cooperation and dialogue among different identity groups, these measures can help parties manage their conflict of interests through peaceful means. This might include building institutions that provide procedures and mechanisms for effectively handling and resolving conflict. For example, societies scan build fair courts, capacities for labour negotiation, systems of civil society reconciliation, and a stable electoral process. Such designing of new dispute resolution systems is an important part of creating a lasting peace.

In short, parties must replace the spiral of violence and destruction with a spiral of peace and development, and create an environment conducive to self-sustaining and durable peace. The creation of such an environment has three central dimensions: addressing the underlying causes of conflict, repairing damaged relationships and dealing with psychological trauma at the individual level. Each of these dimensions relies on different strategies and techniques.

Peacebuilding

Peace is often defined in the negative as freedom from war. Peace, development and democracy form an interactive triangle. They are mutually reinforcing. Without democracy, fair distribution of economic progress is unlikely, without sustainable development the disparities become marked and can be a cause for unrest and without peace, developmental gains are quickly destroyed.

The United Nations recognizes four major stages of conflict resolution and supporting peace:

Conflict prevention

Preventing and resolving conflict before it results in violence is far less costly, both in human and financial terms, than responding to it once it has occurred. Action to address the underlying causes of conflict include strengthening governance, improving access to human rights, economic and social development, and developing a culture of peace and destruction of weapons.

Peacemaking

If fighting breaks out, diplomatic measures to negotiate a ceasefire to which all parties agree and accept that no gains are to be won by continuing is the first step of peace making. Implementing peace agreement and rebuilding communication needs to happen on official and informal levels to build a foundation for future reconciliation.

Peace Keeping

Peace agreements are fragile. The presence of groups of neutral soldiers, military observers, civilian police, electoral observers and human rights monitors can encourage hostile groups not to return to the use of arms. Peace keepers' tasks can include establishing and policing buffer zones, demobilisation and disarmament of military forces, establishing communication between parties, and protecting the delivery of humanitarian assistance.

Peace Building

Rebuilding society after conflict is more than the rebuilding of the infrastructure. Peace building is a complex and lengthy process requiring the establishment of a climate of tolerance and respect for the truth. It encompasses a wide range of political, developmental, humanitarian and human rights programs and mechanisms. They include the reintegration of soldiers and refugees, demining and removal of other war debris, emergency relief, the repair of roads and infrastructure and economic and social rehabilitation.

INTERNALLY DISPLACED PERSONS (IDPs)

An internally displaced person (IDP) is someone who has been forced to leave their home for reasons such as natural or man-made disasters, including religious or political persecution or war, but has not crossed an international border. The term is a subset of the more general displaced person. There is no legal definition of IDP, as there is for refugee, but the rule of thumb is that if the person in question would be eligible for refugee status if he or she crossed an international border then the IDP label is applicable. IDPs are not technically refugees because they have not crossed an international border, but are sometimes casually referred to as refugees. The United Nations via the Office of the United Nations High Commissioner for Human Rights recently agreed on non-binding Guiding Principles on Internal Displacement based on the refugee instruments, which defines internally displaced persons as: "Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."

Nevertheless, there is no dedicated UN agency to deal with IDPs. This has led the United Nations High Commissioner for Refugees to act as *ad hoc* lead on IDP matters. As a result, it has been criticized for treating IDPs as less important adjuncts to their core mission to assist refugees.

There are currently nearly 25 million IDPs worldwide, roughly twice the total number of refugees. Internally displaced persons do not have a specific international legal instrument that applies to them as do refugees, because any attempt by an outside body to tell a nation how it should treat its own citizens has been seen as a violation of the principle of national sovereignty and self-determination. This principle has come under pressure

in recent years by those who feel a moral imperative to stop gross abuse of citizens by their governments. Recent examples include the United States as a primary justification for military intervention during the Kosovo War and a secondary justification for the 2003 invasion of Iraq.

.The following communique was adopted by the United Nations Millennium Declaration (General Assembly resolution 55/2), and reads thus:

Deeply disturbed by the alarmingly high numbers throughout the world of persons who have been forced or obliged to flee or leave their homes or places of habitual residence and who have not crossed an internationally recognized State border, for reasons including armed conflict, violations of human rights and natural or human-made disasters,

Conscious of the human rights and humanitarian dimensions of the problem of internally displaced persons, who often do not receive adequate protection and assistance, and aware of the serious challenge this is creating for the international community and of the responsibility of States and the international community to strengthen methods and means to address better the specific protection and assistance needs of internally displaced persons. *Emphasizing* the primary responsibility of national authorities to provide , protection and assistance to internally displaced persons within their jurisdiction, as well as to address the root causes of their displacement in appropriate cooperation with the international community,

Noting the resolve of the international community to find durable solutions for all internally displaced persons and to strengthen international cooperation in order to help them return voluntarily to their homes in safety and with dignity or, based on their free choice, to resettle in another part of their country, and to be smoothly reintegrated into their societies,

Recalling the relevant norms of international human rights law, international humanitarian law and international refugee law, and recognizing that the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

Bearing in mind the relevant provisions of, inter alia, the United Nations Millennium Declaration (General Assembly resolution 55/2), the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference• on Human Rights (A/CONF.I57/23) and the Durban Declaration and Programme of action adopted in September 2001 by the

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12).

Noting that the Rome Statute of the International Criminal Court (A/CONF.183/9) defines the deportation or forcible transfer of population as a crime against humanity and the unlawful deportation or transfer of the civilian population as well as ordering the displacement of the civilian population as war crimes.

Some of the activities and issues to consider in peace building include:

Humanitarian relief and development

These activities involve delivering aid (food, water, health care and reconstruction of infrastructure) to communities that have suffered conflict. This needs to be carefully managed to avoid deepening divisions between groups or prolonging the conflict.

Disarmament and reintegration of combatants

Transforming ex-combatants into peaceful and productive members of society is a critical but challenging task. Renioving weapons, returning ex-combatants to their homes and supporting return to civilian life are all vitally necessary.

Refugees and displaced people

People returning home after the conflict may find their property has been destroyed, littered with unexploded ordinance and landmines or occupied by others. Mechanisms are needed for fairly resettling people and helping them return to a safe and productive life.

Economic development

Assisting communities to become self-supporting after so much has been destroyed can be done through small loans, training, and food for work programs. Rebuilding infrastructure supports these developments through making access to markets and contact with other communities easier.

Women

Armed conflict affects women and men differently. Women bear the brunt of sexual assault as a tool of war, experience changes in their role as

breadwinner and head of family on their own, and suffer the loss of partners and sons. Their specific needs may be overlooked, as they are not as obvious as the resettlement needs of ex-combatants.

Children

Children's lives may have been disrupted severely during the conflict. They may have been forced to flee their homes, gone without food, education and health care and even witnessed extreme violence or been recruited or conscripted to be active combatants. Rebuilding their lives entails assisting with social rehabilitation, trauma counselling and peace education.

Reconciliation

All wars are brutal and particularly so where there has been the mass killing of civilians. Developing trust and cooperation within communities of people who have been enemies is a long and difficult process. It involves balancing the competing demands for justice and accountability for perpetrators of violence with the need to reconcile differences and move forward. Timing is crucial as too few compromises may threaten peace in the short run but too many compromises may undermine lasting peace. Reconciliation activities have included public confession, granting amnesty, community involvement to discuss appropriate punishment or acts of reconciliation, community building activities and peace education.

Exercise

What is a Post Conflict Situation? Distinguish between peacemaking, peacekeeping and peacebuilding?

3.2 The Structural Dimension: Addressing Root Causes

The structural dimension of Peacebuilding focuses on the social conditions that foster violent conflict. Many note that stable peace must be built on social, economic, and political foundations that serve the needs of the populace. In many cases, crises arise out of systemic roots. These root causes are typically complex, but include skewed land distribution, environmental degradation, and unequal political representation. If these social problems are not addressed, there can be no lasting peace.

Thus, in order to establish durable peace, parties must analyze the structural causes of the conflict and initiates social structural change. The promotion

of substantive and procedural justice through structural means typically involves institution builaing and the strengthening of civil society.

Avenues of political and economic transformation include social structural change to remedy political or economic injustice, reconstruction programs designed to help communities ravaged by conflict revitalize their economies, and the institution of effective and legitimate restorative justice systems. Peacebuilding initiatives aim to promote non violent mechanisms that eliminate violence, foster structures that meet basic human needs, and maximize public participation.

To provide fundamental services to its citizens, a state needs strong executive, legislative, and judicial institutions. Many point to democratization as a key way to create these sorts of peace-enhancing structures. Democratization seeks to establish legitimate and stable political institutions and civil liberties that allow for meaningful competition for political power and broad participation in the selection of leaders and policies. It is important for governments to adhere to principles o f transparency and predictability, and for laws to be adopted through an open and public process. For the purpose of post-conflict peacebuilding, the democratization piocess should be part of a comprehensive project to rebuild society's institutions.

Political structural changes focus on political development, state building, and the establishment of effective government institutions. This often involves election reform, judicial reform, power sharing initiatives, and constitutional reform. It also includes building political parties, creating institutions that provide procedures and mechanisms for effectively handling and resolving conflict, and establishing mechanisms to monitor and protect human rights. Such institution building and infrastructure development typically requires the dismantling, strengthening, or reformation of old institutions in order to make them more effective.

It is crucial to establish and maintain rule of law, and to implement rules and procedures that constrain the powers of all parties and hold them accountable for their actions. This can help to ease tension, create stability, and lesson the likelihood of further conflict. For example, an independent judiciary can serve as a forum for the peaceful resolution of disputes and post-war grievances.

In addition, societies need a system of criminal justice that deters and punishes banditry and acts of violence. Fair police mechanisms must be established and government officials and members of the police force must

be trained to observe basic rights in the execution of their duties. In addition, legislation protecting minorities and laws securing gender equality should be advanced. Courts and police forces must be free of corruption and discrimination.

But structural change can also be economic. Many note that economic development is integral to preventing future conflict and avoiding a relapse into violence. Economic factors that put societies at risk• include lack of employment opportunities, food scarcity, and lack of access to natural resources or land. A variety of social structural changes aim to eliminate the structural violence that arises out of a society's economic system. These economic and social reforms include economic development programs, health care assistance, land reform, social safety nets, and programs to promote agricultural productivity.

Economic Peacebuilding targets both the micro and macro-level and aims to create economic opportunities and ensure that the basic needs o f the population are met. On the microeconomic level, societies should establish micro-credit institutions to increase economic activity and investment at the local level, promote inter-communal trade and an equitable distribution of land, and expand school enrolment and job training. On the macroeconomic level, the post-conflict government should be assisted in the efforts to secure the economic foundations and infrastructure necessary for a transition to peace.

Self Assessment Exercise

Discuss the economic dimension to Peacebuilding.

3.3 **The Relational Dimension**

A second integral part of building peace is reducing the effects of war-related hostility through the repair and transformation of damaged relationships. The relational dimension of Peacebuilding centres on reconciliation, forgiveness, trust building, and future imagining. It seeks to minimize poorly functioning communication and maximize mutual understanding.

Many believe that reconciliation is one of most effective and durable ways to transform relationships and prevent destructive conflicts. The essence of reconciliation is the voluntary initiative of the conflicting parties to acknowledge their responsibility and guilt. Parties reflect upon their own role and behaviour in the conflict, and acknowledge and accept

responsibility for the part they have played. As parties share their experiences, they learn new perspectives and change the perception of their "enemies." There is recognition of the difficulties faced by the opposing side and of their legitimate grievances, and a sense of empathy begins to develop. Each side expresses sincere regret and remorse, and is prepared to apologize for what has transpired. The parties make a commitment to let go of anger, and to refrain from repeating the injury. Finally, there is a sincere effort to redress past grievances and compensate for the damage done. This process often relies on interactive negotiation and allows the parties to enter into a new mutually enriching relationship.

One of the essential requirements for the transformation, of conflicts is effective communication -and negotiation at both the elite and grassroots levels. Through both high and-community-level dialogues, parties can increase their awareness of their own role in the conflict and develop a more accurate perception of their own identity and the other group's identity. As each group shares its unique history, traditions, and culture, the parties may come to understand each other better. International exchange programs and problem-solving workshops are two techniques that can help to change perceptions, build trust, open communication, and increase empathy. For example, over the course of the Israeli-Palestinian conflict, the main antagonists have sometimes been able to build trust through meeting outside their areas, not for formal negotiations, but simply to better understand each other.

If these sorts of bridge-building communication systems are in place, relations between the parties can improve and any peace agreements they reach will more likely be self-sustaining. (The Israeli-Palestinian situation illustrates that there are no guarantees, however.) Various mass communication and education measures, such as peace radio and TV, peace-education projects, and conflict-resolution training can help parties to reach such agreements. And dialogue between people of various ethnicities or opposing groups can lead to deepened understanding and help to change the demonic image of the enemy group. It can also help parties to overcome grief, fear, and mistrust and enhance their sense of security.

A crucial component of such dialogue is future imaging, whereby parties form a vision of the commonly shared future they are trying to build. Conflicting parties often have more in common in terms of their visions o f the future than they do in terms of their shared and violent past. The thought is that if they know where they are trying to go, it will be easier to get there.

Another way for the parties to build a future together is to pursue joint projects that are unrelated to the conflict's core issues and center on shared interests. This can benefit the parties' relationship. Leaders who project a clear and hopeful vision o f the future and the ways and means to get there can play a crucial role here.

But in addition to looking towards the future, parties must deal with their painful past. Reconciliation not only envisions a common, connected future, but also recognizes the need to redress past wrongdoing. If the parties are to renew their relationship and build an interdependent future, what has happened must be exposed and then are forgiven.

Indeed, a crucial part of peacebuilding is addressing past wrongdoing while at the same time promoting healing and rule of law. Part of repairing damaged relationships is responding to past human rights, violations and genocide through the establishment of truth commissions, fact-finding missions, and war crimes tribunals. These processes attempt to deal with the complex legal and emotional issues associated with human rights abuses and ensure that justice is served. It is commonly thought that past injustice must be recognized, and the perpetrators punished if parties wish to achieve reconciliation.

However, many note that the retributive justice advanced by Western legal systems often ignores the needs of victims and exacerbates wounds. Many note that, to advance healing between the conflicting parties, Justice must be more reparative in focus. Central to restorative justice is its future-orientation and its emphasis on the relationship between victims and offenders. It seeks to engage both victims and offenders in dialogue and make things right by identifying their needs and obligations. Having community-based restorative justice processes in place can help to build a sustainable peace.

Exercise

Discuss the Relational dimension to Peacebuilding.

3.4 The Personal Dimension

The personal dimension of Peacebuilding centres on desired changes at the individual level. If individuals are not able to undergo a process of healing, there will be broader social political and economic repercussions. The destructive effects o f social conflict must be minimized, and its potential for personal growth must be maximized. Reconstruction and Peacebuilding

efforts must prioritize treating mental health problems and integrate these efforts into peace plans and rehabilitation efforts.

In traumatic situations, a person is rendered powerless and faces the threat o f death and injury. Traumatic events might include a serious threat o r harm to one's family or friends, sudden destruction of one's home or community, and a threat to one's own physical being. Such events overwhelm an individual's coping resources, making it difficult for the individual to function effectively in society. Typical emotional effects include depression and post-traumatic stress disorder. After prolonged and extensive trauma, a person is often left with intense feelings that negatively influence his/her psychological well-being. After an experience of violence, an individual is likely to feel vulnerable, helpless, and out of control in a world that is

unpredictable.

Building Peace requires attention to these psychological and emotional layers of the conflict. The social fabric that has been destroyed by war must be repaired, and trauma must be dealt with on the national, community, and individual levels. At the national level, parties can accomplish widespread personal healing through truth and reconciliation commission that seek to uncover the truth and deal with perpetrators. At the community level, parties can pay tribute to the suffering of the past through various rituals or ceremonies, or build memorials to commemorate the pain and suffering that has been endured. Strong family units that can rebuild community structures and moral environments are also crucial.

At the individual level, one-on-one counselling has obvious limitations when large numbers of people have been traumatized and there are insufficient resources to address their needs. Peacebuilding initiatives must therefore provide support for mental health infrastructure and ensure that mental health professionals receive adequate training. Mental health programs should be adapted to suit the local context, and draw from traditional and communal practice and customs wherever possible. Participating in counselling and dialogue can help individuals to develop coping mechanism and to rebuild their trust in others.

If it is taken that psychology drives individuals' attitudes and behaviours, then new emphasis must be placed on understanding the social psychology of conflict and its consequences. If ignored. certain victims of past violence are at risk of becoming perpetrators of future violence. Victim empowerment and support can help to break this cycle.

Self Assessment Exercise

What do you understand by the personal dimension to Peacebuilding?

4.0 CONCLUSION

Peacebuilding is a very complex process that requires the input of many agents or actors. It is therefore important that there is proper coordination amongst the various actors. These include the international organizations, governments, NG0s, statesmen and various individuals. Also, in order to determine the root causes of a conflict and be able to intervene effectively in a post-conflict environment, it is important that attention be paid to structural, relational and personal dimensions to the conflict. This is the only way to achieve results in bringing the society back to sanity.

5.0 SUMMARY

In this unit, we have discussed what it means to build lasting peace. We have also defined post-conflict peacebuilding and distinguished it from Peacemaking and Peacekeeping. We also examined the structural, relational and personal dimensions to Peacebuilding.

6.0 TUTORMARKED ASSIGNMENTS

What do you understand by Peacebuilding as a concept?

"Determining the root causes or the structural dimensions to a conflict is crucial to Peacebuilding". Discuss.

7.0 REFERENCE AND FURTHER READINGS

J.P Lederach (1997), *Building Peace: Sustainable Reconciliation in Divided Societies, Washington* DC, United States Institute of Peace.

Johnson L. Gunner, *Conflicting Concepts of Peace in Contemporary Peace Studies,* Sage Professional Paper in International Studies, Vol.4, No. 02-046, Beverly Hills, Ca.: Sage Publications.

Office of the United Nations High Commissioner for Human Rights Geneva, Switzerland (2004).

UNIT 5 PEACEBUILDING AGENTS

CONTENTS

1.0 INTRODUCTION

In this unit, we shall examine the role of Peacebuilding agents in the effort at bringing peace to a post war environment. Invariably, this will entail our examination of the role of the civil society, the governments, community specialists, religious networks and of course, outside parties like the international organizations.

2.0 OBJECTIVES

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

•   Identify the various Peacebuilding Agents;

•   Determine the role of the civil society in Peacebuilding;

•   Explain the role of community specialists in Peacebuilding; and

•   Describe the role of outside parties in Peacebuilding.

3.0 MAIN CONTENT

3.1 Peace Building

Peacebuilding measures should integrate civil society in all efforts and include all levels of society in the post-conflict strategy. All society members, from those in elite leadership positions, to religious leaders, to those at the grassroots level have a role to play in building a lasting Peace.

Many apply John Paul Lederach's model of hierarchical intervention levels to make sense o f the various levels at which peacebuilding efforts occur. Because peacebuilding measures involve all levels of society and target all aspects of the state structure, they require a wide variety of agents for their implementation. These agents advance Peacebuilding efforts by addressing functional and emotional dimensions in specified target areas, including civil society and legal institutions. While external agents can facilitate and support peacebuilding, ultimately it must be driven by internal forces. It cannot be imposed from the outside.

Various internal actors play an integral role in peacebuildin.: and reconstitution efforts. The government of the affected country is not only the object of peacebuilding, but also the subject. While peacebuilding aims to transform various government structures, the government typically oversees and engages in the reconstitution process. A variety of the community specialists, including lawyers, economists, scholars, educators, and teachers, contribute theft expertise to help carry out Peacebuilding projects. Finally, a society's religious networks can play an important role in establishing social and moral norms.

Nevertheless, outside parties typically play a crucial role in advancing such Peacebuilding efforts. Few Peacebuilding plans work unless regional neighbours and other significant international actors support peace through economic development aid and humanitarian relief. At the request of the affected country, international organizations can intervene at the government level to transform established structures. They not only provide monetary support to post-conflict governments, hut also assist in the restoration of financial and political institutions. Because their efforts carry the legitimacy of the international community, they can be quite effective.

Various institutions provide the necessary funding for peacebuilding projects. While international institutions are the largest donors, private foundations contribute a great deal through project-based financing. In addition, regional organizations often help to both fund and implement peacebuilding strategies. Finally, nongovernmental organizations (NG0s) often carry out small-scale projects to strengthen countries at the grassroots level. Not only traditional NGOs but also the business and academic community and various grassroots organizations work to further these peacebuilding efforts. All of the groups help to address "The limits imposed on governmental action by limited resources, lack of consensus, or insufficient political will."

Some suggest that governments, NG0s, and intergovernmental agencies need to create categories of funding related to conflict transformation and peacebuilding. Funds are often difficult to secure when they are intended to finance preventive action. And middle-range initiatives, infrastructure building, and grassroots projects do not typically attract significant funding, even though these sorts of projects may have the greatest potential to sustain long-term conflict transformation. Those providing resources for Initiatives must look to fill these gaps. In addition, external actors must think through the broader ramifications of their programs. They must ensure that funds are used to advance genuine Peacebuilding initiatives rather than be swallowed up by corrupt leaders or channelled into armed conflict.

But as already noted, higher-order peace, connected to improving local capacities, is not possible simply through third-party intervention. And while top-down approaches are important, peace must also be built from the bottom up. Many top-down agreements collapse because the ground below has not been prepared. Top-down approaches must therefore be buttressed, and relationships built.

Thus, an important task in sustaining peace is to build a peace constituency within the conflict setting. Middle-range actors form the core of a peace constituency. They are more flexible than top-level leaders, and less vulnerable in terms of daily survival than those at the grassroots level. Middle-range actors who strive to build bridges to their counterparts across the lines of conflict are the ones best positioned to sustain conflict transformation. This is because they have an understanding of the nuances of the conflict setting as well as access to the elite leadership.

Many believe that the greatest resource for sustaining peace in the long term is always rooted in the local people and their culture. Parties should strive to understand the cultural dimension of conflict, and identify the mechanisms for handling conflict that exist within that cultural setting. Building on cultural resources and utilizing local mechanisms for handlin;2 disputes can be quite effective in resolving conflicts and transforming relationships. Initiatives that incorporate citizen-based Peacebuilding include community peace projects in schools and villages, local peace commissioners and problem-solving workshops, and a variety of other grassroots initiatives.

Effective Peacebuilding also requires public-private partnerships in addressing conflict and greater coordination among the various actors. International governmental organizations, national governments, bilateral

donors, and international and local NGOs need to coordinate to ensure that every dollar invested in peacebuilding is spent wisely. To accomplish this, advanced planning and international coordination is needed.

There are various ways to attempt to coordinate peacebuilding efforts. One way is to develop a peace inventory to keep track of which agents are doing various peacebuilding activities. A second is to develop clearer channels of communication and more points of contact between the elite and middle ranges. In addition, a coordination committee should be instituted so that agreements reached at the top level are actually capable of being implemented. A third way to better coordinate peacebuilding efforts is to create peace-donor conferences that bring together representatives from humanitarian organizations, NG0s, and the concerned governments. It is often noted that "Peacebuilding world greatly benefit from cross-fertilization of ideas and expertise and the bringing together of people working in relief development, conflict resolution, arms control, diplomacy, and Peacekeeping. Lastly, there should be efforts to link internal and external actors. Any external initiatives must also enhance the capacity of internal resources to build peace-enhancing structures that support reconciliation efforts throughout a society. In other words, the international role must be designed to fit each case.

3.2 Conflict Prevention, peace-building, Humanitarian Relief and Development

Preventing and resolving conflict before it results in violence is far less costly, both in human and financial terms, than responding to it once it has occurred. Action to address the underlying causes of conflict include strengthening governance, improving access to human rights, economic and social development, and developing a culture of peace and destruction of weapons.

If fighting breaks out, diplomatic measures to negotiate a ceasefire to which all parties agree and accept that no gains are to be won by continuing is the first step of peace making. Implementing peace agreement and rebuilding communication need sot happen on official and informal levels to build a foundation for future reconciliation.

Peace agreements are fragile. The presence of groups of neutral soldiers, military observers, civilian police, electoral observers and human rights monitors can encourage hostile groups not to return to, the use of arms. Peace keepers' tasks can include establishing and policing buffer zones, demobilization and disarmament of military forces, establishing

communication between parties, and protecting the delivery of humanitarian assistance.

Rebuilding society after conflict is more than the rebuilding of the infrastructure. Peace building is a complex and lengthy process requiring the establishment of a climate of tolerance and respect for the Huth. It encompasses a wide range of political, developmental, humanitarian and human rights programs and mechanisms. They include the reintegration of soldiers and refugees as well as clearing and removal of other war debris, emergency relief, the repair of roads and infrastructure and economic and social rehabilitation; delivering aid (food, water, health care and reconstruction of infrastructure) to communities that have suffered conflict. This needs to be carefully managed to avoid deepening divisions between groups or prolonging the conflict.

Transforming ex-combatants into peaceful and productive members of society is a critical but challenging task. Removing weapons, returning ex-combatants to their homes and supporting return to civilian life are all vitally necessary.

People returning home after the conflict may find their property has been destroyed, littered with unexploded ordinance and landmines or occupied by others. Mechanisms are needed for fairly resettling people and helping them return to a safe and productive life.

Self Assessment Exercise

Discuss the role of the civil society and international organizations in post-conflict Peacebuilding.

4.0 CONCLUSION

There is very little doubt that there are certain agents that are crucial to the process of rebuilding conflict societies. These agents come in various forms, all trying to contribute to the rehabilitation and the reconstruction. However, whilst some are engaged in addressing immediate problems of the people and for life to return to normalcy, others are interested in the rebuilding of institutions in order to ensure long lasting peace. Therefore, as noted earlier, it is important that thee activities be coordinated in such a way that the society gets the best out of the efforts.

5.0 SUMMARY

We have discussed the important issue of Peacebuilding agents in post conflict rehabilitation and reconstruction. We noted the roles played by governments, the civil society including community specialists, religious networks, the NGOs and international organizations.

6.0 TUTOR-MARKED ASSIGNMENT

Who are Peacebuilding Agents? Discuss the possible role of community specialists in building peace constituencies.

7.0 REFERENCES AND FURTHER READINGS

Ronald J. Fisher (1977), *Interactive Conflict Resolution,* New York, Syracuse University Press.

"Humanitarian intervention and Early warning" (2005) *The Journal of Conflict Resolution* Journal of Peace Science Society (International), Vol.49, No.l.

MODULE 4

UNIT 1 DECOMMISSIONING OF WEAPONS AND
           DEMOBILISATION

CONTENTS

1.0   Introduction
2.0   Objectives
3.0 Main Content
        3.1   Weapons and Demobilization
        3.2   Reconciliation and Peace-building processes
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments (TMAs)
7.0 References and Further Readings

1.0 INTRODUCTION

In this unit, we shall examine the issue of disarmament and the proliferation of small arms and light weapons in conflict areas and the implications of this Peacebuilding. There is little doubt that the issue of arms proliferation in Africa is one of the major reasons for the many deaths recorded and the resurgence of conflicts in the continent. In West Africa, this issue has been uppermost in the minds of all those seeking solutions to the myriad of conflicts in the region.

2.0 OBJECTIVES

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

• Define the meaning of decommissioning and demobilization;

- Explain the need for demobilization, disarmament and rehabilitation;

- Discuss the UN efforts at disarmament; and

- Relate UN efforts to control small arms and light weapons in West Africa.

3.0 MAIN CONTENTS

3.1 Weapons and Demobilization

Any focus on disarmament in Africa over past last twenty years cannot be separated from the history and impact of the Cold War on United Nations (UN) peacekeeping as well as the debate on non-proliferation of nuclear weapons between the two superpowers of the Cold War. However, the end of Cold War and the subsequent proliferation of intra-state conflicts brought about new disarmament challenges.

Complex emergencies and most past Cold War conflict have been characterized as resulting from a series of inter-locking causes, including collapse of political institutions, the phenomena of failed states, civil and , ethnic strife, famine, and displacement of people, disputed sovereignty, the breakdown of national governments and the decline o f national economies.

Decommissioning, demobilization and disarmament should become a continuous element in ensuring the sustainability of peace through the long-term removal of weapons in society beyond the Peacekeeping phase.

The proliferation of small arms and light weapons and their central role in conflict has made disarmament an essential component of Peacebuilding. The developing traditional thinking about conflict and conflict resolution is all the more relevant as the fixed structures of sovereignty and governance breakdown. All over the world, societies are facing stresses from population growth, structural change in the world economy, migration into cities, environmental degradation and rapid social change. Societies with institutions, rules or norms for managing conflict and well-established traditions of governance are generally better able to accotrunodate peacefully to change; these with weaker governance, fragile social bonds and little consensus on values on traditions are more likely to buckle.

In December 1976, the General Assembly of the United Nations decided that a Special Session on Disarmament (UNSSOD) shrld be held in May

conventional arms races, which is producing economic and social burdens on rich and poor alike with out increasing the security of any. Arms control and disarmament negotiations have failed to keep pace with advancing military technology and rising levels of armaments.

The Special Session on Disarmaments provides the opportunity for nations throughout the world to consider new approaches for stopping and reversing these arms races.

Within the United Nations, four attempts have been made to deal with the arms trade. All were unsuccessful. In 1965, Malta proposed that the Eighteen Nation Committee on Disarmament consider the question of arms transfers with the view o f submitting to the General Assembly proposals for giving greater attention to the problem, Denmark, in 1967, suggested that the Secretary General make an inquiry concerning the views of member states on arms trade legislation. In 1970, Sweden and the United Kingdom raised Committee on Disarmament. The fourth, and most recent, attempt occurred in 1976 at the thirty-first UN General Assembly when the foreign ministers of six countries (Japan, Belgium, Ireland, the Netherlands, the Philippines, and Singapore) devoted a major part o f their addresses to the question of the conventional arms race. These six delegations joined by eight relatively small countries (Ghana, Liberia, Colombia, Denmark, Bolivia, El Salvador, Norway and New Zealand), co-sponsored a draft resolution requesting the Secretary General to undertake a factual study o f the problem and to solicit the views o f member states. The primary responsibility for responding to contemporary conflict lies within the affected states. Some acts are attributed to some external factors such as the International Community. Secondly, increasing interdependence means that contemporary conflicts affect the interests of regional neighbours and beyond. Third, there is the problem of human suffering. In retrospect, failure of even these modest UN efforts to address the arms trade phenomenon relates primarily to perceptions of a majority of the developing countries, many of which regard the proposals as embarrassing and divisive of the then non-aligned group more over, they were seen as discriminatory in that they appeared to focus more on the responsibilities of the recipients than the suppliers.

This notwithstanding, the increasing incidences of wars and the toll in human lives have now made it imperative for African countries to seek ways of controlling the movement of cheap arms and ammunitions irrespective of who the suppliers are. A good example is the Moratorium on Small Arms and Light Weapons signed in Abuja on 31st October, 1998. Its purpose was to halt the importation, exportation and manufacture of small

arms in West Africa for an initial period of three years. The quantity of small weapons in circulation within the sub-region was estimated at about 15 million, which works out at one weapon for every 25 inhabitants, with about 80 per cent of the victims of small arms being civilians — mostly women and children. More so, the proliferation of cheap arms has grave implications for the control of violent crimes in the region.

Self Assessment Exercise

What do you understand by disarmament and demobilization? Discuss the efforts of the United Nations on disarmament.

3.2 Reconciliation and Peace building Processes

Assisting communities to become self-supporting after so much has been destroyed can be done through small loans, training, and food for work programs.Rebuilding infrastructure supports these developments through making assess to markets and contact with other communities easier.

Armed conflict affects women and men differently. Women bear the brunt of sexual assault as a tool of war, experience changes in their role as breadwinner and head of family on their own, and suffer the loss of partners and sons. Their specific needs may be overlooked, as they are not as obvious as the resettlement needs of ex-combatants.

All wars are brutal and particularly so where there has been the mass killing of civilians. Developing trust and cooperation within communities of people who have been enemies is a long and difficult process. It involves balancing the competing demands for justice and accountability for perpetrators of violence with the need to reconcile differences and move forward. Timing is crucial as too few compromises may threaten peace in the short run but too many compromises may undermine lasting peace. Reconciliation activities have included public confession, granting amnesty, community involvement to discuss appropriate punishment or acts of reconciliation, community building activities and peace education.

4.0 CONCLUSION

It is important for governments and regional organizations to work out ways of monitoring and controlling the flow of small arms and light weapons more so after the expiration of hostilities. Experience shows that it is the tendency of ignoring the menace of free flowing awls within regions that has given vent to the resurgence of some of the conflicts. Whilst the

efforts being made by the United Nation and the various regional organizations like the ECOWAS should be commended, greater efforts needs to be channelled towards addressing this issue in a sustainable manner through education of the grassroots on the evils loose arms, and the need to contribute to the maintenance of regional peace and security.

5.0 SUMMARY

In this unit, we have discussed the important issue of disarmament at both the global and regional levels. We also discussed the issue of demobilization and the West African Moratorium on Small Arms and Light Weapons; the aim being to achieve long lasting peace through disarmament and the control of these arms.

6.0 TUTOR-MARKED ASSIGNMENT

"Disarmament is an essential component of peacebuilding". Discuss.

7.0 REFERENCES AND FURTHER READINGS

Boutros-Ghali, Boutros (1995), *An Agenda for Peace.* New York, United Nations.

Luc Reychler (2001), "From Conflict to Sustainable Peacebuilding: Concepts and Analytical Tools", Luc Raychler and Thania Paffenholz, eds., *Peacebuilding: A Field Guide,* Boulder, Colorado: Lynne Rienner Publishers, Inc.

John Paul Lederach (1997), *Building Peace: Sustainable Reconciliation in Divided_Societies,* Washington, D.C., United States Institute of Peace.

Osita Agbu (2005), *West Africa's Trouble Spots and the Imperative for Peace Building,* Dakar, CODESRIA, (forthcoming).

UNIT 2 COMMUNITY PEACE BUILDING PRACTICES AND
POLICY FRAMEWORK DEVELOPMENT.

CONTENTS

1.0   Introduction
2.0   Objectives
3.0   Main Content
        3.1   Peace-building from the International Policy perspectivd
        3.2   Impact on livelihoods capacity to respond to strategic needs
                of the community
        3.3   Impact on Social Integration /Relationships/ /Mobilization of
                Peace Constituents
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments (TMAs)
7.0 References and Further Readings

1.0 INTRODUCTION

This unit intends to succinctly articulate the need for documentation of
local Peacebuilding practices and analysis of existent international, regional
and national policy frameworks relevant to Peacebuilding, as prerequisites
for policy recommendations, which would provide more sustainable and
effective support to community-based Peacebuilding.

These initiatives are usually initiated and supported by various actors,
including local NG0s, community groups as well as international donor
agencies, relief and development NGOs and Peace organizations, which
had very different degrees of experience, different and often implicit
understandings of peacebuilding and different restrictions in terms of their
mandates.

Due to an acute sense of urgency regarding timely implementation of
community initiatives, continuous pressures for securing trend-based funds,
lack of experience with methods of evaluation apart from informal ones and
externally induced by Western-donors, as well as strong identification with
community members and their needs, most local projects had little
capacity to document, reflect upon and evaluate their work, especially in
ways which would be useful to them and their counterparts in the region.
Most evaluation practice was related to donors' demands for external
evaluations, which were frequently conducted by international
consultants, written in

English and closely linked with business-like project management and donor criteria of success and other reporting requirements.

We shall therefore, examine the related issues of evaluating the policy framework for community—based peacebuilding, international peacebuilding, livelihoods capacity and community Peacebuilding and social integration and Peacebuilding.

2.0 OBJECTIVES

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

• Define Peacebuilding from a community-based perspective;

• Discuss evaluation of Peacebuilding from community practices;

• Discuss the social and relational dimensions of community Peacebuilding; and

• Explain the need for enhancing livelihoods capacity and building peace constituents.

3.0 MAIN CONTENTS

3.1 Peacebuilding from the International Policy Perspective

Peacebuilding is a concept used both in policymaking and community-building arenas, referring to a wide array of efforts at all societal levels that aim to transform social relationships, structures and culture in a direction conducive to reduction of root causes of social conflicts, such as political and economic inequality, enhancement of the capacity of individuals, groups and institutions to manage emerging conflicts non violently and constructively.

A decade ago former UN Secretary General Boutros Boutros •Ghali introduced peacebuilding into the security framework and language of the UN, as part of his effort to reform the Organization so that it can better respond to the complexities of the post-cold war, globalizing world. In his "Agenda for Peace" (1992), Peacebuilding is considered a complementary measure to preventive diplomacy, peacemaking and peacekeeping. While Peacemaking and Peacekeeping primarily include efforts to open possibilities of peace negotiations, disarmament and physical separation of

warring parties, peacebuilding is defined as an "action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict" and as "the construction of a new environment", involving "sustained, cooperative work to deal with underlying economic, social, cultural and humanitarian problems (that) can place an achieved peace on a durable foundation".

Peacebuilding is considered both a preventive measure for inhibiting a breakout or recurrence of violent conflict and a long-term restorative measure of strengthening social relationships resistant to violence caused by social injustices and weak democratic structures. Thus, Peacebuilding represents an innovation in the UN security framework, as it takes into account a need for a long-term strategy that links conflict management and developmeht, with the goal of systemic social change primarily carried out by local social actors, supported by external parties. In practice, however, the UN Peacemaking and Peacekeeping missions tend to be more frequent and more clearly defined (while Peacebuilding missions tend to be more complex).

However, Bozicevic and Stubbs proposes a reconceptualization of Peacebuilding as "social politics," in order to "occupy, and expand the space between what might be termed classic social development and classic conflict resolution" both of which tend to become orthodoxies. It can be deduced that for Bozicevic and Stubbs, Peacebuilding as social politics is a long-term process which engages actors from different organizational and institutional backgrounds (including local government agencies and social service providers, civil initiatives and nongovernmental organizations with different ideologies, politicians, as well a international organizations active in the local contexts) in a set of joint efforts aimed at devising *locally relevant social and economic development* of their *communities* and relating the practices that promote social integration of the micro-level to their impact at the macro-level of social structuring and politics. By putting into focus very concrete activities which at the same time generate social integration, create local space for communication of difference, explicitly address social and economic needs of the community members, and reconfigure political relations between the grassroots and the middle range leadership, Bozicevic and Stubbs reiterate Lederach's insistence on integrated approach to peacebuilding, and Fetherston's insistence on peacebuilding as essentially political activity which transforms local-global hegemonies. However, Bozicevic and Stubbs are most resolute in advocating integration of 'communicative action' or 'relational' approach with concrete responses to and demands for addressing burning

developmental needs in (post) conflict settings on part of diversely positioned, but primarily grassroots actors.

Considering the multidimensionality of Peacebuilding shaped by diverse cultural contexts and systems of power and often unpredictable dynamics of post-conflict societies in multi fold transitions, it is not surprising that the search for appropriate and operational criteria and indicators of success of Peacebuilding practices poses a great challenge to practitioners and theorists worldwide. As Lederach notes, even though Peacebuilding practices have many points of contact with social development, which itself is difficult to translate into stable quantitative and qualitative indicators, evaluating grassroots peacebuilding is even harder, since it primarily requires discovering evidence of the qualitative change in relationships between horizontally and vertically positioned actors and the impact of these relationships on broader social structures and every-day well being of the people.

As Stubbs suggests, peacebuilding - finding the right balance between meeting broader needs after conflict, such as rebuilding physical and social infrastructure on one hand, and promoting new sets of relationships that are subversive to the social order which gave birth to violence on the other -as well as its evaluation is "far more of an art than a science", requiring a great deal of flexibility and intuition. For that reason, in order to grasp the uniqueness of each local approach to peacebuilding and then develop some broad 'rules of thumb' about which kinds of criteria are most valuable in particular situations, there is a need for a deductive approach based on action research on different projects in different conflict situations.

As Lederach points out, criteria for evaluating success of Peacebuilding activities need to focus on assessing the quality of change or sustainability of the transformative processes, which take place at different systemic levels and in different time frames of action.

Self Assessment Exercise

What is Peacebuilding? Define Peacebuilding from a community-based perspective.

Attempt a critique of the policy framework for evaluating peacebuilding activities.

3.2 Impact on Livelihoods Capacity in Respond to Strategic Needs of the Community

This criterion inquires into ways in which the peacebuilding intervention has contributed to the (1) alleviation of negative effects of conflict on individual lives and (2) creation of new opportunities for community members to meet those pressing needs which they have identified as instrumental to their well being. These needs primarily include subsistence, physical and psychological security but need to be defined by community members through a *participatory* inquiry.

Lederach frames these needs as strategic issues that the community members face and which, if un-addressed, block constructive process of desired change. Hence, he proposes a way of addressing a crucial obstacle to grassroots peacebuilding — immediacy of everyday survival in post-conflict settings, which may make reconciliation seem irrelevant. Both Stubbs' and Lederach's definitions of the criterion put emphasis on the *class and social composition of users/beneficiaries* and ask questions about the involvement of and relevance of intervention to the most *vulnerable and marginal groups* in the community.

Perceptions of community members and other levels of society are treated as critical and principal sources of knowledge about the adequacy of impact of Peacebuilding intervention on local people's livelihoods.

3.3 Impact on Social Integration /Relationships/ /Mobilization of Peace Constituents

This is a central criterion for evaluating transformative potential of peacebuilding, since horizontal and vertical reconfiguration of relationships is the main way of creating or enlarging social space for reconciliation between conflicting social groups.

Social integration at the level of processes of horizontal and vertical relationship building as well as at the level of mechanisms (institutions, networks) that foster vertical/horizontal integration, which themselves represent emerging social structures that can sustain reconciliation.

There are two critical aspects of social integration — integration of survivors of war-related forced migrations (refugees, displaced, returnees) in the local community; and identification and support for the emergence of 'alternative community leaders' and 'new civil society' who act as peace constituents that subtly 'undercut the dominant political culture of polarization and

division". This is the centre piece of the counter-hegemonic impact of grassroots Peacebuilding practice, as it can give rise to the re-composition of local political structures. This is useful for grasping the essence of this • crucial evaluation criterion for transformative Peacebuilding:

"The project has a policy of consulting with the political leadership at every step. But before they do, they build local support for their proposed programme. The authorities are thus faced with propositions, for which there is already clear desire among their own constituents. This exercise of accountability gives project a democracy-building aspect.

In examining the effects of social integration on a local community, it is important to include effects of Peacebuilding practice on its own organizers, who are themselves at some level, "partial-insiders", embedded in the local culture, whose individual and collective identities are shaped by the local culture, experience of conflict as well as their Peacebuilding practice. These actors have their own personal and professional social networks in the communities where they act or in the broader system they seek to transform. Therefore, the evaluation of impact of peacebuilding practice on reconfigurations of their relationships and identities of its actors is an initial step in exploring its impact on social integration among other peace constituents, community and the broader social system of which it is a part.

4.0 CONCLUSION

It is increasingly becoming evident that just as it is necessary to engage in Peacebuilding from a larger perspective, it is also important to pay attention to peacebuilding at the community level. This is essential because grassroots based consensual approaches to selecting and intervening in the provision of infrastructure and services in post conflict situations have proven to be more effective.

Policies should therefore aim at encouraging participatory methods in the identification of the immediate and longer term needs of the people. The social as well as relational dimensions of the post conflict environment should be taken into consideration in designing and formulating strategies of intervention. Often donor driven Peacebuilding interventions do not pay close attention to these issues. Community-based Peacebuilding should ideally be the first level of intervention in post conflict environments.

5.0 SUMMARY

We have re-examined the Peacebuilding concept, this time around from a community-based perspective. We also examined the issue of community peacebuilding practices and possible policy development frameworks. This is necessary to improve the support base of community-based peacebuilding practices. In addition, the role of social integration to the mobilization of peace constituents was also discussed.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss social integration as a vehicle for the re-composition of local political structures and mobilizing peace constituents in post conflict environments.

7.0 REFERENCES AND FURTHER READINGS

Stubbs, Paul (1997), "The Evaluation of Social Development and Psycho-social Projects: From Rhetoric to Participation?" *Background paper for International Conference on Social Reconstruction and Social Development: An Agenda for Change?* Organized by Leeds Metropolitan University, International Social Policy Research Unit and School of Social Work, University of Zagreb, Croatia, Zagreb, Croatia.

Lederach, John Paul (1999), "Just peace-the Challenge of the 21st Century", Pul Van Tongeren (ed.), *People Building peace: 35 Inspiring Stories from Around the Worlds* European Center for Conflict Prevention: Utrecht: 27-36.

Hugh Miall, Oliver Ramsbothern and Tom Woodhouse (2000), *Contemporary Conflict Resolution,* London.

Fenwick Charles G. (1965), *International Law (4th ed.),* New York, Appleton-Century Crofts.

R.A Akindele and Bassey Ate (2001), *Beyond Conflict Resolution,* Lagos, Nigerian Institute of International Affairs.

Okwudiba Nnoli (1998), *Ethnic Conflict in Africa,* Madan, lbadan University Press.

Ronad J. Fisher (1977), *Interactive Conflict Resolution,* New York, Syracuse University Press.

Boutros-Ghali Boutros (1995), *An Agenda for Peace,* New York, United Nations.

John Paul Lederach (1997), *Building Peace: Sustainable Reconciliation in Divided Societies,* Washington D.C, United States Institute of Peace.

UNIT 3 **LOSS AND DENIAL OF REFUGEE STATUS,
            BENEFITS AND THE PEACE BUILDING**

CONTENTS

1.0 INTRODUCTION

In this unit, we shall examine the concept of refugee when it matters in
areas of loss and denial and status of refugee. In doing this, emphasis will
be made on the various circumstances in which refugee status may be lost
or denied and also its benefits to the process of Peacebuilding.

2.0 OBJECTIVES

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

•   Identify voluntary acts of the refugee status;

•   Describe the change of circumstances, and the protection accorded

        by other states or international agencies to refugees; and

•   Discuss how cases of criminals or other undeserving cases are

        handled.

3.0 MAIN CONTENTS

3.1 The Loss and Denial of Refugee Status and the Process of Peace Building

In recent times, international instruments not only define refugees, but also provide for the circumstances in which refugee status shall terminate or in which the benefits of status shall be denied or withdrawn. The International Refugee Organization (IRO) Constitution excluded refugees who are ordinary criminals.., extraditable by treaty, and Article 14 of the Universal Declaration of Human rights prohibits invocation of the right of asylum in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

3.2 The Circumstances in which Refugee Status may be Lost or Denied

These are categorized into four groups namely;

i)   by reason of voluntary acts of the individual;
ii)   by reason of change of circumstances;
iii)   by reason of protection accorded by other states or international agencies; and
iv)   in the case of criminals or other undeserving cases.

3.3 Voluntary Acts of the Individual

This is where the individual, by his or her own actions, indicates that a well-founded fear of persecution, no longer exists or that international protection is no longer required. The circumstances include voluntary reavailment of the protection of the country of origin, voluntary reacquisition of nationality, acquisition of a new nationality and the protection which derives from there, and voluntary reestablishment in the country of origin.

The purposes of reavailment of protection, the refugee must not only act voluntarily, but must also intend to and actually obtain protection. Protection comprises all such actions by the refugee as indicated in the establishment of normal relationship with the authorities of the country of origin — for example, registration at Consulates or application for and renewal of passports or certificates of nationality. Sometimes, however, a

refugee may be unwillingly obliged to seek a measure of protection from those authorities, as where a passport or travel document is essential to obtain the issue of a residence permit in the country of asylum. Being involuntary, the protection obtained, should not bring refugee status to an end.

In other cases of application for and obtaining a national passport or the renewal of a passport, it may be presumed, in the absence of evidence to the contrary, that reavailment of protection is intended. The presumption may be strengthened for travel, or for return to the country of origin, or in order to obtain some advantage in the country of asylum. Possession of a national passport and a visit to the country would seem conclusive as to cessation of refugee status. The physical presence in the territory of the home country does not per se constitute reav ailment of protection. It is the conscious subjection under the government of that country, the normalization of the relationship between state and individual, which matters.

Finally, refugee status may be lost by voluntary re-establishment in the country of origin. Something more than a visit or mere presence is required; the individual must have settlement on a permanent basks in view, with no evident intention of leaving. Should the individual leave again and claim refugee status, the case will need to be considered in the light of events subsequent to re-establishment.

3.4 Change of Circumstances

The change of circumstances anticipated is clearly intended to comprehend fundamental changes in the country which remove the basis of any fear of persecution. The replacement of a tyrannical by a democratic regime is an obvious example, but the process of change may be more subtle and reflected over a number of years by legal reforms and gradual improvements in human rights. Amnesties are important and may also indicate that the grounds for refugee status have disappeared. For example, following the overthrow of the government of President Masie Ngnuema in Equatorial Guinea in 1979, the new government enacted a general amnesty for all who had fled abroad for political reasons during the previous eleven years. The efficacy of such amnesties, of course, if critical but on that occasion the text of the law was required to be transmitted to interested governments, the United Nations Secretary-General, the A.0 Secretary-General, and the Untied Nations High Commissioner for Refugee (UNHCR). Involvement by UNHCR in repatriation operations may well confirm the fundamental nature of any change of circumstances.

3.5 Protection or Assistance by Other States or United Nations Agencies and Peace building

a)   The Country of First Asylum Principle

States have so far not accepted an obligation to grant asylum to refugees, and have likewise failed to agree upon principles which would establish the appropriate state to consider applications in any given case. Article 31 of the 1951 Convention requires refugees guilty of illegal entry not to be penalized, but is limited to those coming directly from a territory where their life or freedom was threatened.

This practice is sometimes backed by legal provisions. For example, in the Federal Republic of Germany, the law declares that those entitled to asylum shall include refugees under the 1951 Convention so far as they have not already been recognized as refugees in another state... or otherwise found protection from persecution. An applicant for refuge status may be barred from submitting or pursuing a claim if it is not made withina determined period after departure from the country of origin, or after the occurrence of events there which give rise to the fear of persecution, or after entry to the political asylum country. In many cases, the criteria for recognition of refugee status also serve as the criteria for the grant of asylum in the sense of residence and protection. It may thus be reasonable for states to limit their response in this field of refugees in need. Consequently, a refugee formally recognized by one state, or who holds an identity certificate or travel document issued under the 1951 Convention, generally has no claim to transfer residence to another state, other than in accordance with normal immigration policies. This principle may apply to a refugee who, though not formally recognized, has found protection in any state, protection in this context should mean, as a minimum, the right of residence and re-entry, the right to work, and some form of guarantee against return to a country of persecution.

b)   Refugees Receiving United Nations Protection and Assistance

Palestinians are the only group in effect excluded by the words of the stature and the Convention. The competence of the High commissioner in the political issues surrounding the Palestinian question was once thought incompatible with the proclaimed non-political character of UNHCR's work. Solutions to the Palestinian

problem by way of repatriation or indemnification were under consideration at the time, but have not eventuated; Palestinians continue to be the responsibility of, and to receive assistance from, the United Nations Relief and Works Agency (UNRWA), established as a subsidiary organ by the General Assembly in 1949. UNRWA's competence extends to those who left Palestine as a result of the 1948 conflict, and it operates in Jordan Syria, Lebanon, and the Gaza strip. If UNRWA assistance is terminated without the situation of those affected having been 'resolved, then the Convention provides that they shall ipso facto be entitled to its benefits. In addition, if Palestinians leave UNRWA's area of

operation, they may well qualify independently as refugees within the statute and the Convention.

ɔ)   Other Refugees not considered to requiring International Protection

Finally, the Statute and the Convention excluded from any entitlement to protection those Who, in their country of residence, are considered by the competent authorities as having the rights and obligations which are attached to the possession of the nationality of that country.

(d) The Constitution of the International Refugee Organization (IRO)

This constitution excluded Germans by name, but the general scope of the latter provision is capable of extending to many other groups. The British Nationality Act 1984, for example, declared the citizens of independent Commonwealth Countries to be British subjects or Commonwealth citizens, the expressions having the same meaning. The assimilation of Commonwealth citizens to United Kingdom nationals strictly so-called was most fully realized in the years up to 1962, when all British right of entry into the United subjects (Commonwealth citizens) had the unrestricted right of entry into the United Kingdom, whatever their country of origin. They were free to settle, they enjoyed the right to work and the right to vote, and they were not subject to removal; they also enjoyed the right after 12 months of residence to register as citizens of the United Kingdom. However, the most important of these indices of nationality have now been specifically removed, namely, the right to enter freely and the right not to be expelled. The distinction betreen non-partial Commonwealth citizens and partial citizens of the United Kingdom

and colonies is stated cleatly in the Immigration Act 1971 which limits the right of abode to the latter.

e)   **Undeserving Cases**

A different drafting approach is used in the statute and the Convention to describe those not deserving the benefits of refugee status, but without great differences of substance.

(f)   Crimes against Peace, War Crimes, Against Humanity
Excluded first are those 'with respect to whom there are serious reasons for considering' that they have committed any of the above crimes, as defined in the relevant international instruments. 'Crimes against peace' are defined by the charter of the International Military Tribunal to include 'planning, preparation, initiation or waging of a war of aggression or a war in Violation Of International treaties, agreements, or assurances or participation in a common plan or conspiracy for any of the foregoing.'

'War crimes are defined as violations of the laws or customs of war, including 'murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity'.

Finally, 'crimes against humanity' are defined as: 'murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated'. The notion of crimes against humanity was inspired directly by the 1948 Genocide Convention, Article II which defines the 'crime under international law', and Article VII which prescribes that it shall not be a political crime for the purpose of the principle of non-extradition.

(g)   Serious Non-Political Crimes

While the International Refugee Organization (IRO) Constitution and the Statute refer to extradition crimes, the Convention uses the

146

deceptively simple phrase 'serious non-political crime' as the exclusion from the benefits of refugee status, and limits such crimes to those committed outside the country of refugee prior to admission as a refugee. The potential state of refugee thus has some discretion in determining whether the criminal character of the applicant for refugee status in fact outweighs his or her character as bona fide refugee, and so constitutes a threat to its internal order.

(h) Acts Contrary to the Purposes and Principle; of the United Nations

The purposes and principles of the United Nations are proclaimed in Articles 1 and 2 of the Charter, but they offer little clarification of the type of acts which would deprive a persun of the benefits of refugee status. The principal interests are the maintenance of international peace and security, respect for the equal rights and self-determination of peoples, international cooperation in economic, social, cultural, and humanitarian matters, and the promotion of human rights for all without distinction. The present exception from refugee status potentially accords a very wide discretion to states, although the nature of the relevant acts may become clearer in time, as the United Nation's indicates its interests more concretely.

The general principle of respect for human rights has been developed specifically through the Universal Declaration and the 1966 Covenants, so that an individual who has denied or restricted the human rights of others may thus be argued to fall within the exception.

4.0 CONCLUSION

This unit contends that the loss and denial of refugee status, benefits and the peace building is part of the peace-reconstruction. It is also part of the peace-building process; refugees may unwillingly oblige to seek a measure of protection. It is important to note that for the sake of peace-building under the 1951 convention, and as part of peace-building processes, refugees can be recognized in another state.

5.0 SUMMARY

In treaties and arrangements, concluded under the auspices of the League of Nations, a group of scholars defined refugee as sdme tile outside their country of origin and without the protection of the Government of that

state, without sufficient and necessary conditions of living. Under this unit, it identified four categories under which a refugee may loose or denied refugee status and its benefits in peace-building process, which included; (1) by reason of voluntary acts, of the individual; (2) by reason of change of circumstances; (3) by reason of protection accorded by other states or international agencies; and (4) in the case of criminals or other undeserving cases.

6.0 TUTOR MARKED ASSIGNMENT

Examine the various circumstances in which refugee status may be lost or denied in the peace building process.

7.0 REFERENCES AND FURTHER READINGS

Grahl-Madsen, (1966), *The Status of Refugees and the Peace-Building Process*

Weis, (1960), *The Concept of the Refugee*

Amnesty International (1979) Report, 46-7: 1980 Report 43-4 for UNHCR's Involvement in Repatriation to Equatorial Guinea, see UN document A/AC.96/575, p. 381 (August, 1980).

UNIT 4 PEACE-BUILDING IN COMMUNITIES AND
        PROTECTION OF RIGHTS OF THE CHILD

CONTENTS

1.0 INTRODUCTION

After a ten-year gestation period, the Convention on the rights of the Child was born on 20 November 1989. To date, it has been signed by over 100 countries, and it became fully effective in 1990. The Convention consists of 54 articles. Some 40 articles concern substantive rights, while the rest concern mainly procedural matters to facilitate monitoring of the substantive rights. These are the minimum rights which States parties undertake to guarantee for children without discrimination. For all purposes, the best interests of the child are recognized as a primary consideration. The threshold for the differentiation between childhood and adulthood is set at 18 years: by article 1 of the Convention, "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier".

The rights enunciated cover a range of civil, political, economic, social and cultural issues; this inter-disciplinary perspective is the most comprehensive of its kind in international lawmaking. It is precisely this broad context that requires multi-faceted responses, not only in law but also in policy, practice, action and concomitant budgetary allocation to help children and their families world-wide.

2.0 OBJECTIVES

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

- Discuss convention on the rights of the child;

- Identify the various provisions requiring specific measures to help children in difficulty in peace-building communities.

3.0 MAIN CONTENTS

3.1 The Convention of the Rights of the Child

Although there are many ways of categorizing the rights stipulated in the Convention, they can be divided as follows:

1. General rights. These include the right to life, prohibition against torture, freedom of expression, freedom of thought and religion, the right to information and the right to privacy.

2. Rights requiring protective measures. These include measures to protect children from economic and sexual exploitation, to prevent drug abuse, and to prevent other forms of abuse and neglect.

3. Rights concerning the civil status of children. These include the right to acquire nationality, the right to preserve one's identity, the right to remain with the parents (unless the best interests of the child dictate otherwise), and the right to be reunited with the family.

4. Rights concerning development and welfare, including the child's right to a reasonable standard of living, the right to health and basic services, the right to social security, the right to education and the right to leisure.

5. Rights concerning children in special circumstances or "in especially difficult circumstances". These apply, inter alia, to handicapped children, refugee children and orphaned children and include special regulations on adoption, the cultural concerns of minority and indigenous children and rehabilitative care for children suffering from deprivations as well as a prohibition on the recruitment of soldiers less than 15 years of age.

6.   Procedural considerations, particularly the establishment of an International Committee of 10 experts to monitor implementation of the Convention. This came into being in 1991. States parties will have to report periodically to the Committee, while non-governmental organizations may also be invited to air their views before the Committee. However, the latter will only have reconunendatory powers and will not be able to pass binding judgments upon states allegedly in breach of the Convention.

3.2 Reaching the Unreached

The norms indicated by the Convention are a far cry from the realities facing millions of children in the world today. At times, they are not granted the wherewithal to satisfy their needs; poverty is rampant and prevents them from enjoying their childhood. At times, they are accused, abused and exploited. At times, they are expected to behave and work as though they were adults, even though this may be detrimental to them in the long run. They are compelled to carry an inordinate load by virtue of economic, social and even military necessity, ultimately causing physical and psychological handicaps.

The Convention addresses the special needs of children who at first glance appear to be beyond the reach of protection and development, and whose very survival is in jeopardy. Its various provisions requiring specific measures to help children in difficulty are aimed at various disadvantaged groups, including the following:

Rural Children

It is generally known that 70 percent of the world's population lives in rural areas. These children often do not have sufficient access to services, resources and infrastructure to enable them to realize their fullest potential. They are increasingly having to yield to economic pressures, and either work in the fields or drift to urban areas in pursuit of work. The disintegration of their families, compounded by the degradation of the environment, is a major barrier to a "normal" childhood; the socio-economic deprivations prevent them from engaging in those activities generally expected of children, notably education and recreation.

The types of social subsidies available to children in rural areas tEnd to neglect the parallel needs of their families. For instance, the mere fact that one gives a grant to help children go to school does not in fact mean that

they will be able to go if the family expects them to till the fields during school hours. Unless there are some provisions to help the family, too, the children will not be able to enjoy their own rights.

Slum and Street Children

Migrants from rural areas often land up in slums near their newly found workplaces. If a family has moved from a rural area without informing the authorities of its change of residence, they may be unable to obtain the proper papers for the purposes of school enrolment or other official services. In such cases the children may effectively become "non-entities".

The congested environment may lead to family and neighbourhood conflicts. Gambling and drugs are rampant in some slums, while AIDS and inhalant abuse is only a doorstep away. The children themselves may be sent out to work as street vendors or take to the streets, to the detriment of their health and development. While parents are at work elsewhere, the children are often left to their own resources, potential victims of abuse.

Girl Children

Although a number of advances can be noted in the promotion of gender equality, there is still an imbalance with respect to the development and protection of girls. Female illiteracy is higher than male illiteracy. While *de jure* discrimination has been eliminated in many parts of the world, *de facto* discrimination on the basis of gender is 'still pervasive in most societies. The situation is aggravated by cultural stigmas and social taboos which relegate women to a passive and domesticated role governed by sexual stereotypes.

Child Labour

Although exploitation of child labour is prohibited in most countries, the practice often violates the law. In many developing countries the minimum working age is set at 12 or 13, lower than the threshold set by ILO Convention No. 138, which for most purposes sets the age at 15. The problem is connected to that of the sale of children by parents, sometimes unwittingly, sometimes not. Job placement agencies and their intermediaries are often a conduit for the flow of rural children to urban factories. Prevention of such exploitation is difficult due to poor law enforcement and the limited number of official inspectors, factors which militate in favour of intervention by community-based and non-governmental organizations. On another front, it seems that while some

strategies to help child workers do exist, e.g. programmes to take them out of the exploitation setting and return them to their families, there are still few strategies designed to mobilize the private sector against those who indulge in such exploitation.

Child Prostitution

Although child prostitution is generally illegal, it is globally rampant. The worst transgressions are linked to the sale of young girls by their parents on the one hand and the tricking of young girls into the trade by various agents on the other. The situation is particularly invisible in small-scale operations. The laws prohibiting such practices are not implemented effectively; this is sometimes due to collusion between the police and the criminal organizations that control the trade On another front, the penal approach of many laws in this area falls to deal with the root causes which lie in poverty: they do not provide sufficiently for preventive action, such as social subsidies and family development measures, or incentive to rehabilitate through a change of livelihood.

Handicapped Children

A number of handicapped children are marginalized because they have little or no access to basic services. Their school enrolment rate is lower than that of able-bodied children, while ordinary schools lack special facilities for physically handicapped children. In many countries, there is a regrettable tendency to send particularly mentally handicapped children to State institutions without fully exploring family and community networks which may preclude such institutionalization.

Refugee and Stateless Children

Millions of refugee children world wide are faced with many kinds of discrimination and inhumane action, such as *refoulement* across dangerous frontiers. Many countries regard them as illegal immigrants, and when they are born on the territory where their parents have taken refugee they are rarely eligible for local citizenship, thus giving rise to statelessness. Because they are often seen as illegal without rights in many nationals settings, their fate is at the mercy of those who regard them as a security threat rather than as children with special needs. Much depends upon international burden sharing if these children are to be helped.

Children in Prison

Although the United Nations has set many standards for the administration of justice, e.g. the Standard Minimum Rules for the Treatment of prisoners, including special protection of children, the practice is still unsatisfactory in many cases. Torture, beatings and the death penalty are applied to the detriment of children and their families. The notion of "juvenile delinquency" is itself open to debate: if the act of delinquency is due to the failure of the family and the community system, one may question the premise that young offenders have to pay for offences attributed to them. A move away from institutionalization and the adoption of more preventive and rehabilitative strategies have yet to gain ground.

Abuse and Neglected Children

The list of abuses and neglect is endless: medically abused children, abandoned children, AIDS-infected children, child soldiers, etc. Sometimes they are the victims of violence at home; sometimes it is systemic violence that may impair the child both physically and mentally. Although it is difficult to give exact statistics, the known incidence of abused children is sufficient to support the position that the Convention on the Rights of the Child should be complemented by a comprehensive range of actions, utilizing a number of key catalysts.

3.3 Challenge And Peace-Building

Reaching the hitherto unreached groups requires a committed process of implementing the convention for the benefit of children and their families. The challenge is daunting for various reasons. It should be admitted that the convention itself is a compromise between various interests at play at the international and national levels. Scrutiny of the drafting of the Convention reveals a gamut of State interests depending upon the *quid pro quo* of international diplomacy. This may imply that the standards are too low in some instances, e.g. with regard to child soldiers.

Rampant discrimination, ingrained prejudices and extensive exploitation in many parts of the world will not disappear overnight because of the Convention. The Convention is not an instant panacea. However, it does represent key orientations for multi-faceted action and a commitment on the part of States to take action in the political, economic, social and cultural fields. The words "political will" should not be underestimated.

For some countries, particularly in the developing world, a question arises whether the standards set by the Convention are too high. In the economic and social fields, the convention tries to overcome this obstacle by stating relative rights, i.e. do the best you can although you will be monitored. This is reinforced by article 4 which calls upon States parties to take measures "to the maximum extent of their available resources". International solidarity is also advanced by the call for measures "within the framework of international co-operation", linking the developing with the developed world. These qualifications should not be pretext for inaction in relation to children's rights.

A conflict may emerge between children's rights and other people's rights, in particular parental rights. A traditional argument still used in some communities is to press for children's duties rather than rights. In fact, the issue of other people's rights is not neglected by the Convention. For example, in several instances, the convention recognizes the right of parents to provide guidance in accordance with the child's evolving capacity. What is innovative is that the Convention advances the case for children as independent entities vested with basic rights, not necessarily dependent upon the adults/parents. Where the parents abuse their rights, children have a right to measure the level of protection and care, irrespective of the parents.

One should not neglect the cultural nuance that come into play. Religious influences may mean disparities in interpreting the provisions of the convention. For example, adoption is not recognized as acceptable to certain religions, although it appears as an option to help children in many systems. Freedom to choose one's religion, as stipulated in the Convention, is also impeded by lack of accord on the margin of discretion acknowledged by certain religions. These impediments may lead to reticence on the part of certain States to accede to the Convention and to accept its provisions in its totality. The danger of "cultural relativism" protrudes a challenge to the internationalization of children's rights.

A related issue is the argument of State rights, embodied in the notion of "public order" and "national security", both of which appear in the convention as possible restrictions of children's rights. What if children are seen as a threat to those concepts? Unfortunately, this argument appears in several countries where non-democratic elements are at work. From the Convention's viewpoint, children's rights seemed to be recognized as the rule rather than the exception. National security arguments should be cited rarely and should be subjected to close international monitoring.

There may be a conflict between children's rights and the notion of the "best interests of the child". For instance, the child's right to be with the original parents may diverge from an adoption order which is seen as being in his/her best interests. The conundrum is not always easily resolved. In any event, the child's opinion should be accorded great weight in any procedures affecting him/her, as stipulated in article 12 of the Convention. Interestingly, the same article provides room for intervention consistent with national law by third parties, such as non-governmental organizations, on behalf of the child. The balance between rights and interests may have to be established by other third parties, such as judicial review.

There remains the question whether, upon acceding to the Convention, reservations or conditions can be entered by States to limit their obligations under the treaty. By article 51, a reservation incompatible with the object and purpose of the Convention is not permitted. This raises the issue of which reservations are or are not compatible with the treaty. In international law, this is dependent upon the attitude of the existing States parties in relation to the acceding State. The practice that has emerged since the Convention was opened for signature in 1990 suggests that a broad range of reservations has been entered by many States and that these have not been objected to by the other States. This indicates a will to compromise and invite as many States as possible to accede to the Convention, even though the latter may enter many reservations. However, the more reservations are entered into the Convention, the more diluted its provisions become.

3.4 Action

A major task for the future will be to ensure implementation of the Convention in the multi-faceted perspective already noted. This will not only depend upon legislative changes to bring national laws into line with the Convention, but also policy, programmes and budgets to create changes at the local level. In this respect, an array of considerations pinpoints the

call for further action as follows:

Not only does one need action in favour of children but also in relation to others who have power and influence over children, including the following catalysts:

Parents; Community; Non-governmental agencies and personnel, including local authorities and law enforcement officials; Intergovernmental organizations; the mass media; the business sector. including employer/employee agencies/unions; Consumers. *e.g.* customers of the sex trade.

Both the demand and supply factors have to be tackled, yet there is currently a shortage of strategies to deal with some of the groups mentioned, particularly from the demand angle. Conversely, there are those who belong to the groups in question who may be identified as potential partners in preventing and eradicating abuses against children, e.g. honest policemen and the members of the private sector which deal with community development. Incentives need to be provided to build a broader alliance between all the catalysts for the purpose of protecting children.

Various agencies have offered slogans to propel action in implementing the Convention. These include "Survival, Protection and Development" (UNICEF) and "Prevention, Provision, Protection and Participation" (Save the Children Fluid); these main elements may be broadened in the following manner:

Preventing; including ways to alleviate poverty (e.g. satisfaction of basic needs such as shelter, nutrition and health) and prevention of the abduction and sale of children.

Protection; including advocacy and pressure against discrimination, against interference in the child's privacy and family, and measures against exploitation, abuse and neglect, e.g. sexual exploitation and child labour, complemented by law and policy reform where necessary; provision, including provision of basic services in education, rehabilitation and access to culture, recreation and leisure. Participation; enabling the children themselves to participate as much as possible in realizing their rights and in shaping their interest.

Development; encompassing comprehensive measures to foster the total realization of the child's potential consistent with his/her environment. Evaluation, entailing monitoring and appraisal of policies and practices concerning children, supplemented by quality of life indicators (of well-being and ill-being) and follow-up action.

Intervention; particularly empowerment of third parties such as non-governmental organizations which can help to represent the interests of the child.

Accountability; ensuring access to remedies and concomitant responsibility towards children's rights, ranging from use of the judicial system to extra-systemic means such as community watch and family mediation.

Rehabilitation; particularly to help families and children to adjust their ways so as to lead a better life, including socio-medical counselling and subsidies to promote family cohesion.

Dissemination; comprising not only dissemination of children's rights in the formal schooling system but also more effective use of the mass media and non-formal education so as to raise the level of children's rights and knowledge of places where help is rendered to needy cases.

National planning agencies vested with the task of preparing State policies concerning development should explore the above constituents in greater depth, and commit resources on a longer-term basis to ensure child development and protection. This is related to such sensitive issues as poverty alleviation, income distribution, resource reallocation, equity decentralization and rural development, all of which have great bearing on the destinies of disadvantaged families. Child programmes need to be complemented by family programmes so as to prevent social disintegration and displacement. Child and family development needs to be integrated into the operationalization of all ministries in a complementary fashion.

Where possible, there should be a national/local committee to monitor the situation of children's rights with the capacity to prepare reports on the status of children and to mobilize resources to overcome abuses against children. This should be the case even in countries that have not acceded to the Convention.

The role of non-governmental organizations is already recognized as highly contributive to children's rights and it should be maximized in future. In countries that have not yet acceded to the Convention, these organizations can help to monitor children's rights and promote greater respect thereof. For countries that are parties to the Convention, there are at least two level of intervention possible internationally, by means of providing information to the committee on the Rights of the child; and nationally, by means of pressure for responsible and responsive state policies and action, with proper date bases to help monitor the situation.

Innovative and pro-active programmes should be encouraged to reach the unreached, e.g. to take schools on to the streets to be with the street children and to gain access to child prostitutes and workers by means of community watch. with the provision of hotlines and mobile services to respond to appeals for help. Likewise, action should be taken to enhance the role of the private sector in respecting children's rights, e.g. by means of labels showing that the products have not been produced as a result of

child labour. And private sector guidelines and monitoring against abuses committed by other members of the private sector.

Evidently, although the issue at hand is children's rights, there is an intricate tapestry of interests, programmes and catalysts that need to be capitalized upon. It is through this burgeoning nexus that the unreachable will be within our grasp.

4.0 CONCLUSION

This unit talked about peace-building in communities and the protection of the rights of the child. There are many ways of categorizing the rights of the child which was earlier stated in the main content of the lecture.
it is also important to note that the special needs of the child who at first glance appear to be beyond the reach of protection and development, and whose very survival is in jeopardy.

5.0 SUMMARY

The rights of the child enunciated above cover a range of civil, political, economic, social and cultural issues. All the issues address the special needs of children who at first glance appear to be beyond the reach of protection and post conflict re-construction, and whose very survival is in jeopardy. To sum up the arguments the rights of the child is very important in peace building in communities over the world.

6.0 TUTOR MARKED ASSIGNMENT

Protection of Rights of the child has important implications in peace building. Discuss.

740 REFERENCES AND FURTHER READINGS
Muntarbhorn Virit (1998), United Nations Human Rights Commission on
        the Sale of Children.

General assembly Resolution 44/25

Resolution 1386 (xiv) of 20 November, 1959

Resolution 31/169 of 21 December 1976

MODULE 5

UNIT 1 THE ROLE AND EFFICACY OF
           INTERNATIONAL LAW AND PEACE BUILDING

CONTENTS

1.0 INTRODUCTION

International law is a set of rules regulating the relation's between and among states and recognized by them to be binding. It is a creation of states just as municipal law is a creation of society. While International law governs states, municipal law governs individuals within a state. While rules of International law are promulgated by consent of states, municipal law is an imposition by a legislature which can be a Kind/Queen, a parliament, a military junta: a dictator etc.

In both cases, once a rule has passed through the machinery established by a given group for the purpose of making law, a law is said to be

promulgated.   For International Law, its main sources are treaties; customary international law and general principles.   The common denominator among these is consent, by the parties. To the extent two or more States agree to a rule to that, extent, that particular rule creates binding obligation on those States. This simplistic proposition has its complexity. It is difficult for a small or weak State to denounce a fundamental rule of international law such as freedom of the seas on the ground that it had not consented to such a practice. It is easier to trace consent with treaties but not with basic rules of customary international law. To be sure the consent referred to is the consent of a state not its government which changes from time to time. It is a consent historically given International Law it must be pointed out originated from the practices of ancient States — some Animists, some Hindus, some Bhudists, some Christians, and some Muslims in their intercourse with each other or with one another. The role and function of law are both also historically determined. The consent of international law in its formative development is radically different from what it is today. To appreciate the modern function of law an incursion has to be made on the nature of modern international law.

2.0 OBJECTIVES

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

•   Discuss the role of International law in peacebuilding in any society; and

•   Examine the role of the legal system as administering and enforcing Justice.

3.0 MAIN CONTENTS

3.1 Modern International Law

International law has grown over the year corresponding to the expansion of world society and the increase of inter-dependence of state. War was a dominant feature of old international law and hence the law of Armed Conflict was one of the early developed branches of international law Hugo Grotius earned the appellation 'father of international law' for his tremendous contribution in his *Jus Bellum et Pacis.* Indeed, international lawyers up to the nineteenth century believed that international law oscillated between peace and war — *inter bellum nihil est medium.* War was

conceived as a legitimate means of setting disputes recognized by customary international law. War is a fact regulated but not established by international law. The geographical scope of war consists of land, sea, air, and now space. It is fought not between aggrieved individuals or communities but between States. Customary international law conceives of war as a contention between two or more states through their armed forces, for the purposes of overpowering each other and imposing such conditions of peace as the victor pleases. By contention, is understood to mean a violent struggle through the application of armed forces of States. It was not long before it was recognized that since declaration of war was not synonymous with contention, war could not be conceived as a combat. It thus became necessary to redefine war not as a contention but as a condition. This means that the law of war could become operational between belligerents in situation of declared or undeclared war.

War was recognized by international law as a legitimate mode for the settlement of disputes between and among states. States resorted to war for the protection of their nationals abroad, self-preservation even for recovery of debts. Unable to abolish war, international law not only recognized it, but proceeded to elaborate rules for warfare. The rules covered the legality of the war itself (durante ad bellum) those for actual combat — (durante in bello) and those after combat — (durante post bellum). At one time, it was thought that war initiated by a State contrary to international law placed the state and its combatants outside the protection of international law. The belligerent State is considered as an outlaw while the conduct of the combatants was assimilated as crimes, ear crimes and crime against humanity. When it was realized that the illegal belligerent may be a powerful State and would reciprocate the treatment meted out to its belligerent, international law decided to ignore the legality of war as such and to determine punish a war of aggression post-bellum.

Modern international law has revolutionized the out dated rules of warfare after bitter experiences of two world wars.

(a)   It has abolished the use of force except for self-defence. War is no longer a legitimate instrument for settling disputes. Only the United Nations is authorized to use force in international relations. States reserve the right however to use force only for self-defence subject even to the power of the Security Council of the United Nations.

(b)   The law governs not only war but armed conflict broadened to include any differences existing between two states and leading to the intervention of members of the armed forces even if one of the

parties denies the existence of the state of war. It makes no difference how long the conflicts last; whether an invasion was met with resistance or not.

(c)   International law now applies to civil wars i.e. conflicts not of an international character.

(d)   The right of belligerents to adopt means of injuring the enemy is now very limited International law has abolished the use of such weapons projectiles or materials calculated to cause unnecessary sufferings. The debate about the legality of nuclear weapons continues. In so far as the use of nuclear weapons is accompanied with blast, hear, and radiation, it becomes difficult to justify the legality of that weapon. Nuclear weapons can be assimilated to poisoned weapon which when introduced into or absorbed by a living organism would destroy life. Under this circumstance, the use of nuclear weapon is illegal.

(e)   Imbued by an overwhelming concern for humanity, the dictates of inner conscience, the quest for human rights; the standard of civilization, international law has modified the ambit of its rules as they affect the wounded and the sick; non-combatants shipwrecked and prisoners of war. As regards all, the law, demands that they should in all circumstances be treated humanely.

There are many other instances in which states have changed rules of international law to meet emergent exigencies of law. For long, international law was a monopoly of States. Today, States have created many institutions such as the United Nations (UN), EEG, ECOWAS, OAU, OAS, etc. that have also become subjects of international law. Individuals are also increasingly endowed by international law with rights and duties. This is more so in the area of Human Rights both in peace and war times. These changes can be said to be as a result of response of the law to changes outside itself Whichever way may one looks at the situation, international law is a dynamic system that has been made to cope with socio-political changes. Its internal rules give it the necessary flexibility. The dynamism of international law is not an end in itself. It is a means to attaining specific goals. What those goals are and the technique of attaining them is the next line of discourse.

Modern international law has shifted emphasis from war to peace and security — Vast technological development in the field of space, economy, technology nuclear weapons, medium range and inter-continental ballistic

missiles, air, sea and land pollution, satellite communications; radio and television piracy etc. All these have brought about qualitative changes in the structure of international law (discuss FOUR INSTANCES).

3.2 Role of International Law

One fundamental issue of jurisprudence is whether law is an instrument of social change or whether law itself is part of social change to pursue this discussion at length would be outside the scope of this paper. Suffice it to say that law is an instrument in the hands of the legislator used to attain a given goal. Law has been likened to technology and the analogy of engineering applied to social problems. The concept of change is thus comprehended as social engineering. When the engineer builds its bridge he does so according to specification failure of which the bridge will collapse. Here lies the shortcoming of perceiving law as engineering. When a rule of law has gone through the established processes for lawmaking, it becomes the law irrespective of its immorality or injustice. It is to be however that the laws once promulgated towards achieving a particular goal, not only attempts to achieve that goal, but also develops its own independence from the legislator and begins to achieve other goals objective to it and sometimes unforeseen by the legislator. Law-making process can then be said to have a duality built into it between the internal which is the proclaimed intention of the legislator and the external which is what the laws by their nature do. This dichotomy is not bipolarity but a union expressing the contradictions immanent in living societies and which makes law a veritable tool for resolving conflicts and sometimes provoking conflicts. Every human society is riddled with contradictions which, given certain conditions assume an antagonistic character which if not resolved by law may explode into a conflagration. Inadequate resolution of non-antagonistic contradiction may make that particular contradiction assume an antagonistic character. Which law seeks to resolve contradiction it does so with certainty, clarity, precision, power, authority and force. It leaves its subjects in no doubt as to its stand on a given issue. The existence of law is however one thing, its efficacy is another. There is indeed no society without contradictions or without law. It is impossible to imagine a group of persons differing according to religion, ethnicity, sex, class etc. that is not likely to run into conflicts with the other from time to time. In international relations, the contradictions assume the form of colonialism, neo-colonialism, imperialism, hegemonism, underdevelopment, racism, etc. The question then arises whether man must be ruled by law from cradle to grave and for eternity. Should the role of law not be abolished itself, at least a system of repression should be abolished. The cause of contradictions are not of legal not of legal origin and researches into the issue and

recommended panacea for their resolutions are legion and are themselves contradictory. The law chooses from the humans and performs its experiment.

All legal systems bear the stamp of the society that created them. Internal law is the work of States and functions in international society while municipal law functions in nation states. In terms of attainment of peace the law itself has a role peculiar to itself as law and without which it cannot perform other functions.

Normative Function

A norm is a proposition. A legal norm does not command. It prescribes or proscribes conduct. Religion says, "Thou shall not steal." The law says "If you do X you ought to be punished". It allows man to choose. Man reads the consequence to decide whether to violate the law or not. It is illegal for a state to abduct wanted person from the resident territory of the individual. A state may weight the political and economic consequences and quantum of compensation for such an act and may deliberately violate the rule according to which the sovereignty of a state is inviolable.

There are competing norms in every society as well as the internal society as well as the international society. There are thus moral, religious and legal norms. The main function of law which is a condition *sine qua non* for playing any other role is to assert and maintain supremacy of itself over other competing norms. International society is governed neither by moral precepts of this or that State nor by the religious dogma of a state or group of states but by definite rules of law which the international community can enforce. International law is neither international morality nor is it incarnation justice. It may embody the morality and even the religious principles of the dominant states in international relations but once promulgated it ceases to be morals or religion but law. Being the law, it struggles to repress morals and religion and maintain hegemonic control over the international community. With this achieved, the law is now able to perform other functions.

Maintenance of Peace

Law is the pivot upon which a society rests. An anarchy community is a lawless assemblage in which man is a beast to man resulting in a war of all against all *Wilton omnium contraomeus).* Without law there can be no peace. The legal system is authoritarian and becomes commanding when peace is disturbed. Being a coercive order it enjoys the monopoly of the use

of force, the monopoly of which enables it to maintain peace. It may not have created peace (assuming the existence of peace) but its primary function is to maintain it. It does so by the application of force which in international law is now the business of the United Nations whose avowed purpose is to main peace and security (Discuss).

Modem international law has questioned the tendency to equate peace with absence of open armed conflict. If law is to maintain peace in its simplistic conception security would be endangered. Peace and security became linked and were made the business of law. The traditional concept of security has also been challenged. It should no longer be seen merely as safety and absence of threat to lives and property. The role of international law should involve the regulation of those conditions that make peace possible. Thus, the preamble of the Charter of the Organisation of African Unity (OAU) took the view that colonialism and neo-colonialism are incompatible with peace. The list has today increased and such factors as imperialism, poverty, undemocratic system of the UN and the IMF, denial of human rights, cultural imperialism, the national question, oppression of minorities etc .has been added, increasing the role demanded of international law. The same goes for the concept of 'security'. This has also been expanded to include environmental threats to man survival. The role of international law in the maintenance of peace and security has become very challenging that given its internal dynamics it is hoped that it would be able to meet those challenges.

3.3 Promotion of International Justice

Every legal system claims to be just and in the same breath sees its role as administering and enforcing justice. The same system distinguishes very sharply between law and justice claiming that it is neither law nor justice that governs mankind. International law and justice are not synonynious. A rule of law or a legal system may be unjust and yet maintains peace. There can thus be peace coexisting with injustice. This must however be a precarious and counterfeit peace. A legal system is virile and commands integrity only when it is just. An unjust legal system like apartheid would need a police state to maintain its peace. Indeed the role of that legal system becomes that of maintaining injustice there. This absurdity is possible because of the illusive concept of justice. The oppressor invokes justice as well as the oppressed. The developing countries have for instance continually clamoured for a new international economic order arguing vociferously that the existing international economic order is unjust yet that order is founded on the laws of GATT, World Bank and IMF which imperialism belies is just.

The very source of international law is enunciated by the Statute of the World Court sees the function of the International Court of Justice to decide disputes in accordance with international law only. It provides incidentally however that the Court is free, only if the parties agree to decide a case *ex acquo et bono* i.e. in accordance with the principle of equity which is an aspect of justice.

The main reason why the law stays away from claiming identity with justice is simply because of the indeterminate character of justice. As to what exactly is justice jurists have struggled since Aristotle without a concrete answer. At various times it has been described as equality. Against this it has been argued that it must be unjust to treat states equally when they are differing populations, needs, different leveis of development and productivity, technological advancement, needs, etc. Aristotle indeed saw equal treatment of those that are unequal as unjust. The question which still remains is to determine the criteria for equality. Justice has also been defined as 'fairness'. This also faces the same problem of in exactitude.

Regulation of Conduct

The most familiar function of international law is the regulation of the conduct of states. It does so in basically two ways. It sets a standard of conduct which states should follow, breach of which is likely to be frowned upon. It acts as an instrument in the hands of states to changing and adapting rules to reflect their new interest. They do so using treaties.

In an international society characterized by conflict of interest, the question that must then be asked is whose interest international law really serves. No law serves a specific interest; the question that must then be asked is whose interest international law really serves. No laws serve the interest of all its subjects and international law is no exception. If it is accepted that the foundation of world society is power, power politics and power politics in disguise, the answer to the question would be in line with that of Thrasymacus who said that the law was made by the strong to serve their interest. Any deviant infringes the law. The standard of conduct erected and supported by international law seems to be that of the hegemonic powers. Open resistance is dubbed a breach of the rule. (Discuss Libya & Russia).

The same position is taken by Marxism which maintains that law expresses the will of the ruling class. The international ruling class may then be equated with the hegemonic or superpowers in international relations. How are these to be determined? A fine scholar has identified the superpowers to

be a class of states possessing international ballistic missiles (IBM) large territory; and large population. Common ideology and race are excluded from this. It can be accepted that laws reflect the interest of the strong in their formative stages Since in international politics as in municipal politics no condition is permanent, the changes brought about by internal dynamics may transform a middle power to a superpower or pull down a super power to a middle power. In such a case a change would trigger off changes in the system of international law.

3.4 Effective of International Law and Peace-building

Once upon a time, leading, English jurists John Austin propounded a theory which he termed 'Analytical Jurisprudence'. He argued that international law is no law at all and if anything, it should be likened to positive morality. He premised his analysis on the fact that international law lacked sanctions comparative to municipal law. The issue of Austin was not that international law is not effective but that its lack of sanctions denied it the appellation law. The normative character of international law is no longer in dispute. Austin assumed erroneously however that international law lacked sanctions. What he should have argued was that the sanction is different in kind from that of the municipal law reflecting the nature of international society. It will be absurd to expect international prisons with police men arresting states and putting them in prisons. International law, like municipal law is a coercive order in the sense that a breach of international law attracts sanctions in the form of reprisal, economic sanctions e.g. blockade, freezing of accounts, use of force etc. It is true that the sanction does not flow from a centralized system. It is indeed self help. This obviously made it inefficient and perhaps not ineffective. In spite of this, all are agreed that international law is more obeyed by States than citizens or municipal law. The reason for this remains speculative. It possible to say that the consequence for disobedience of internationallaw more far reaching than in the case of municipal law.

The effectiveness of any legal system must be judged by the extent to which it is able to maintain itself as the dominant normative system and achieve its major goal of maintenance of order. The major defect in international law with regard to the realization of the later goal is the absence of a centralized system of government. Indeed, it could be argued that it is a contradiction to have a law governing sovereign states when the essence of sovereignty itself is supreme power *(superema protestas)*. Sovereignty in international law does not mean supremacy above the law but merely independence nol from the law but from other states as demarcated by international law. It has been a long march from the days of

unorganized international relation of pre-world war II to an organized international society of today.

The organization of international society cannot be synonymous with introducing a world government comparative to municipal law. Indeed, it may even be said that if a world government is established • today international law may become more ineffective. Claimants of the ineffectiveness of international law have rested their cases on:

(a)   the fact that power and power politics dominate international relations.

(b)   that the United Nations is an undemocratic and weak organization subject to the will of the superpowers and unable to •contain revolutionary movements.

(c)   the International Court of Justice (ICJ) is a court without teeth
        These would be examined.

3.5 The United Nations and World Order

The organization was in 1915 called the United Nations. This denomination does not express a reality, but an aspiration. States are not in the Organisation, but the Organisation can be said to be a conglomerate of political independent entities coming together in New York from time to time to discuss their differences and find ways and means of resolving them. The term, 'United Nations' is therefore a misnomer when one looks at the existing reality. Whether the nations of the world would ever be united is a different matter. Given the evidence of the present state of affairs in the world system, it is idealistic to conceive a United Nations property so-called in the foreseeable future. A distinction must, however, be made between organized and unorganized international societies. The Organisation of the United Nations typifies an organized international society but outside it similar regional organization, such for instance, the Organisation of African Unity (OAU) International relations is largely unorganized.

The present world society presents a picture of anarchy a picture which to the uninitiated typifies totalitarian lawlessness in which if anything exists a system of brute force or what some analysts would call power politics or power politics in disguise. A scientific study of International Relations from a radical perspective i.e. getting to the roots of the problems would reveal however, that disorder in the world system is not a chance even but

can be explained by the definite laws abstracted from the concrete relations in the national States, and between different States. The United Nations itself is a direct product of contradictions imminent in the world system and which exploded into Second World War conflagration in 1939 and raged till 1945. The rules and regulations enshrined in its charter reveal the concern which, in some respect is naïve in so far as it believes that, it could on its own avoid a repeat of another World War and arrest any similar open conflict. The naivety of the Charter rests on its almost exclusive reliance on Sovereign States as the only entities competent to participate in the arrogated task of maintaining world order. Individuals, multinational companies and groups are made more moments in the march of man to peace and security or as some pessimists would say, to inevitable doom.

It is, however, piesumptions to assert that the present world system is characterized by disorder, because some would maintain the opposite satisfying themselves in making comparisons with the national system where they concede there is an increase in disorder. They, however, forget that the world system is nothing but the sum total of national systems and it is difficult to maintain without absurdity, that there is disorder in the national systems and order in the world given the inter-dependence of the late 20th century. A brief look at open international conflict in which the United Nations has involved itself since its foundation with varying degrees of success gives a glimpse of a tottering world.

To say, however, that the world is today characterized by disorder needs further explanation. As was indicated above, disorder is not used here to refer only to open armed struggle, conventional or guerrilla, but also the clearly defined prevailing circumstances which potentially could lead to open conflict. Disorder, therefore, include:-

(a)   Tendencies in the national or international system leading to armed
        conflict.

(b)   The armed struggle in whatever from, conventional or guerrilla.

(c)   A situation where the normal pattern of relations has been disrupted
        and nothing could any longer be taken for granted.

This tendency is evidenced in the character of the world system itself being dominated by the prevalence of inequalities and struggles against them, imperialism and anti-imperialist struggles, the unequal economic development both in national and international systems resulting in tension between the two at both levels, the hegemony of superpower. the

antagonistic struggle between the two world economic systems — capitalism and socialism, the contradictions among the imperialists states themselves; the armaments of thermonuclear weapons and the bullying by nuclear powers and resistance of the non nuclear powers and the so called balance of terror in the nuclear family. In this framework, the world is in disorder and the United Nations has appointed itself as the guardian of the world order and has created institutions to act as world police and world court to adjudicate on world disputes, all with the primary arm of maintaining peace and security. The assumption implicit in this is the competence to discharge this task and a profound understanding of the nature of the task and its reality and dynamic.

4.0 CONCLUSION

The role and efficacy of international law and peace-building, which ever way one looks at the situation, international law is a dynamic system that has been made to cope with socio-political changes.

However, modern international law has shifted emphasis from war to peace-building and security. The dynamism of international law is not an end in itself. It is important to note that, it is a means to attaining specific goals and as well as peace-building.

In times of crisis or emergency, international law regulate the conduct of states and enforcing the process of peace-building.

5.0 SUMMARY

The efficacy of International law is that it has grown over the year corresponding to the expansion of the world society and the increase of inter-dependence of states war is no longer a legitimate instrument for the settling disputes, only the United Nations is authorized to use force in International relations. There are many others instances, like, states can change rules of International law to meet emergent exigencies.

6.0 TUTOR MARKED ASSIGNMENT (TWIST)

Discuss how war was recognized as a legitimate mode for settlement of disputes among states in peace — building?

7.0 REFERENCES AND FURTHER READINGS

Uchegbu, a. (2004) Jurisprudence and International Law. Diamond
        Publisher

Brierly J.I. (1963) the law of Nations: An Introduction to International Law
        of Peace. 6th Edition. Oxford Press.

Wright O. (1932) "When does War Exist?" London

Woetzed R.K. (1962) The Nuremberg Trials in International Law with
        postlude in the Eichman case. London Stevens & Sons.

UNIT 2 PEACE-BUILDING AND DETERMINATION OF REFUGEE STATUS: ANALYSIS AND APPLICATION

CONTENTS

1.0 INTRODUCTION

The legal consequences which flow from the formal definition of refugee status are necessarily predicated upon determination by some or other authority that the individual or group in question satisfies the relevant legal criteria. In principle, a person become a refugee at the moment when he or she satisfies the definition, so that formal determination of status is declaratory, rather than constitutive; problems arise, however, where states
decline to determine refugee status, or where different determinations are reached by states and by UNHCR.

2.0 OBJECTIVES

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

- Explain through peace-building, how refugee status can be enhanced, and promoted; and

- Explain the determination of refugee status by the UNHCR and by the States.

3.0 MAIN CONTENTS

3.1 Respective Competence of UNHCR and of States Parties to the Convention and Protocol

The UNHCR Stature and the 1951 Convention contain very similar definitions of the term 'refugee'. It is for UNHCR to determine status under the Stature and any relevant General Assembly resolutions, and for states parties to the Convention and the Protocol to determine status under those instruments. Given the differences in definition, an individual may be recognized as both a mandate, and a Convention refugee; or as a mandate refugee but not as a Convention refugee. The latter can arise, for example, where the individual is in a non-contracting state or a state which adheres to be temporal or geographical limitations permitted under the Convention. Divergence between mandate. and Convention status can also result from differences of opinion between states and UNHCR, although a number of factors reduce that possibility. UNHCR, for example, has the statutory function of supervising the application of international conventions for the protection of refugees, and states parties to the Convention and Protocol formally undertake to facilitate this duty'. Moreover, many states accept direct or indirect participation by UNHCR in procedures of the determination of refugee status, so that the potential for harmonization of decisions is increased.

3.2 Peace-building and Determination of Refugee status by UNHCR

The basic elements of the refugee definition are common to states and UNHCR and are examined more fully in Section 3. UNHCR itself will be concerned to determine status (1) as a condition precedent to providing international protection (e.g. intervention with a government to prevent expulsion); or (2) as a prerequisite to providing assistance to a government which requests it in respect of certain groups within its territory. Except in individual cases, formal determination of refugee status may not be necessary. Intervention to secure temporary refuge, for example, can be based on prima-facie elements in the particular case — the fact of flight across an international frontier, evidence of valid reasons for flight from the country of origin, and the material needs of the group in question. Where assistance is expressly requested by a receiving country; that invitation alone would justify UNHCR's involvement in the absence of hard evidence that those to be helped were not refugees or displaced persons, or of any

coherent, persuasive opposition by the country of origin or other members of the international community.

Formal determination of mandate status, however, is often necessary in individual cases. Only comparatively few states have instituted procedures for assessing refugee claims, so that intervention by UNHCR on the basis of a positive determination of refugee status may be required to protect an individual. Some countries also make access to their refugee resettlement programmes conditional upon certification by the UNHCR office in the country of first admission that the individuals in question of all within the mandate of the High Commissioner.

3.3 Peace-building and Determination of Refugee Status by States

The 1951 Convention defines refugees and provides for certain standards of treatment to be accorded to refugees. It says nothing about procedures for determining refugee status, and leaves to states the choice of means as to implementation at the national level. Given the nature of the definition, the assessment of claims to refugee status thus involves a complex of subjective and objective factors, while the context of such assessment — interpretation of an international instrument with fundamentally humanitarian objectives — implies certain ground rules.

Clearly, the onus is on the applicant to establish his or her case, but practical considerations and the trauma which can face a person in flight, impose a corresponding duty upon whomever must ascertain and evaluate the relevant fact as and the credibility of the applicant. Given 'protection' of refugees as one of the Convention's objectives, a liberal interpretation of the criteria is called for. A decision on the well-founded ness or not of a fear of persecution is essentially an essay in hypothesis, an attempt to prophesy what might happen to the applicant in the future, if returned to his or her country of origin. Particular care needs to be exercised, therefore, in applying the correct standard of proof.

In civil and criminal cases, two 'standards of proof' for the fo _ lifer, and 'proof beyond a reasonable doubt' for the latter. In practice, there can be no absolute standard in either case, and it will vary with the subject-matter. In the United Kingdom, for example, in habeas corpus proceedings, the applicant must cast some doubt on the validity of his or her detention. But in matters of fact, it is enough that the applicant presents such evidence as raises the possibility of a favourable inference. It then falls to the respondent, the detaining authority, to refute that inference. It might be

argued that, in a refugee status case, the 'likelihood of persecution' must be established on a balance of probabilities. In civil cases, the typical issue is whether a close, legally relevant relation exists between past causes and past effects. The applicant for refugee status, however, is attracting a future speculative risk as the basis for a claim to protection. Analogous issues were considered by the House of Lords in 1971 in an extradition case, Fernandez v. Government of Singapore. Here, Lord Diplock noted that the phrase 'balance of probability' was 'inappropriate when applied not to ascertaining what has happened, but to prophesying what, if it happens at all, can only happen in the future'. He went on to note that the relevant provision of the Fugitive Offenders Act: ,

> ...calls upon the court to prophesy what will happen to the fugitive in the future if he is returned... the degree of confidence that the events specified will occur for which the court should have to justify refusal to return the fugitive.., should, as a matter of common sense and common humanity, depend upon the gravity of the consequenccis contemplated on the one hand of permitting and on the other hand of refusing, the return of the fugitive if the court's expectation should be wrong. The general policy of the Act, viz, that persons against whom a prima facie case is established that they have committed a crime.., should be returned to stand their trail ..., is departed from if the return of a person who will not be detained or restricted for any of the reasons specified in paragraph (c) is refused. But it is departed from only in one case. On the other hand, detention or restriction in his personal liberty, the consequence which the relevant words are intended to avert, is grave indeed to the individual fugitive concerned.

One significant difference between the principle of non-extradition and that of protection of refugees lies in the risk to society if return is refused when, in fact, persecution would not have occurred. On the one hand, a suspected or actual criminal is allowed to remain, while on the other hand, someone who is innocent and against whom no allegations are made is allowed to remain. The attitude to the asylum-seeker should be at least as benevolent as that accorded to the fugitive from justice. Lord Diplock took account of

the relative gravity of the consequences of the court's expectations proving wrong either one way or the other and concluded that the appellant need not show that it was more likely than not that he or she would be detained or restricted if returned. A lesser degree of likelihood sufficed such as 'a reasonable chance', 'substantial grounds or thinking', or 'a serious possibility'.

Considered in isolation, these terms lack prevision. In practice, however, they are appropriate, beyond the context of municipal law, for the unique task of assessing a claim to refugee status. The examiner must make a reasoned guess as to the future, while also taking account of the element of relativity between the degree of persecution feared (whether death, torture, imprisonment, discrimination, or prejudice, for example), and the degree of likelihood of its eventuating.

3.4 Analysis of the Definition

(i)   General Matters

A claimant to refugee status must be 'outside' his or her country of origin, and the fact of having fled, of having crossed an international frontier, is an intrinsic part of the quality of refugee, understood in its ordinary sense. Certain states may provide for those who would be considered as refugees once they took flight, but this in no way alters the basic international rule.

The Convention neither requires that the putative refugee shall have fled by reason of fear of persecution, nor that persecution should have actually occurred. The fear may derive from conditions arising during an ordinary absence abroad (for example, as a diplomat or holiday-maker), while the element of well founded ness looks more to the future, than to the past. This latter element is itself a combination of subjective and objective factors. Fear, and the degree to which it is felt by a particular individual, are incapable of precise quantification. It may be exaggerated or understated, but still be reasonable. If the applicant's statements in regard to that fear are consistent and credible, then little more can be required in the way 15f formal proof. The next question is whether that subjective fear is well-founded; whether there are sufficient facts to permit the finding that the applicant would face a serious possibility of persecution.

Problems of assessment cannot be pursued very far in the abstract. All the circumstances of the case have to be considered, including the relation between the nature of the persecution feared and the degree of likelihood of its happening. At each stage, hard evidence is likely to be absent, so that finally the asylum-seeker's own statements, their force, coherence, and credibility must be relied on, in the light of what is known generally, from a variety of sources, regarding conditions in the country of origin.

Article 1 A (2) of the Convention makes separate provision of refugees with a nationality and for those who are stateless. For the former, the relevant criterion is that they should be unable or unwilling to avail themselves of the protection of their state of nationality, while the lattcr should be unable or unwilling to return to their state of former residence. In cases of dual or multiple nationality, refugee status will only arise where the individual in question is unable or unwilling, on the basis of well-founded fear, to secure the protection of any of the states of nationality. In this context, whether the link of nationality is effective in the sense of general international law will be a relevant consideration.

Statelessness and refugee status are by no means identical phenomena. On occasion, those fleeing may be deprived of their nationality, but it is quite common also for the formal link to remain. Following the Russian revolution in 1971, large numbers of citizens were stripped of their status and even today Soviet Jews leaving the country *permanently are required to renounce their citizenship. Refugee status in such cases might appear determinable in the light of the situation prevailing in the Soviet Union as the 'country of former habitual residence'. However, • in addition of internal repressive measures applied to those seeking to leave that country, account must be taken of the denationalization, itself testimony of denial of protection. Whether it serve as the effective link for all purposes of international law, including the unwanted minority could not justifiably be predicated upon the municipal act of deprivation of citizenship.

(ii)   **Reasons for Persecution**

The Convention identifies five relevant grounds of persecution, all of which, in varying degrees, have been correspondingly developed in the field of non-discrimination. With regard to race for example, account should be taken of Article 1 of the 1965 Convention on the

Elimination of All Forms of Racial Discrimination which defines that practice to include distinctions based on 'race, colour, descent, or national or ethnic origin'. Given legal developments affecting this topic over the last thirty years, the broad meaning can be considered valid also for the purposes of the 1951 Convention. Persecution on account of race has frequently been figured as the background to refugee movements. For example, Ugandan citizens of Asian origin were persecuted and expelled in 1972; the same year, large numbers of Burundi citizens of the Hutu tribe were massacred, while many others fled into neighbouring countries; in the years after 1975 thousands of Vietnamese citizens of Chinese ethnic origin, felt compelled, along with many others, to seek protection in the countries of South-East Asia; and the development and application of the policies of apartheid by government of South Africa, has caused many of its citizens to flee institutionalized discrimination. The international community has expressed particular abhorrence at discrimination on racial grounds, as evidenced by repeated resolutions of the General Assembly, but it is less clear whether such practices themselves amount to persecution.

Religion has long been the basis upon which governments and peoples have singled out others for persecution. In 1985, thousands of Huguenots fled from France to England and Prussia after revocation of the Edict of Nantes opened the way to massacre and oppression. The late nineteenth century witnessed pogroms of Jews in Russia and Armenian Christians in Ottoman Turkey. The present century has likewise seen large-scale persecution of Jews under the hegemony of Nazi and Axis powers up to 1945, while more recent targets have included Jehovah's Witnesses in Africa, Moslems in Burma, Baha's in Iran and believers of all persecutions in totalitarian and self-proclaimed atheist states.

Article 18 of the 1966 Covenant on Civil and Political Rights, elaborating Article 18 of the Universal Declaration of Human rights, prescribes that everyone shall have the right to freedom of thought, conscience, and religion, which shall include the freedom to have or adopt a religion or belief of choice and the freedom to manifest such religion or belief. Moreover, no one is to be subject to coercion which would impair the freedom to eave or adopt a religion or belief of choice. In 1962, the General Assembly requested the Commission on Human rights to draw up a draft declaration and a draft convention on the elimination of all forms of intolerance based on religion or belief, and in 1967 it took note of the Preamble and Artrck 1 of a proposed convention, in which the Third Committee had suggested that the expression 'religion :Jr belief' should

include 'theistic, non-theistic and atheistic beliefs'. The content of the right to freedom of thought, conscience, and religion has also been examined in various forums, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, adopted in 1981, indicates the interests to be protected, the infringement of which may signal persecution.

The reference to persecution for reasons of nationality is some what odd, given the absurdity of a state persecuting its own nationals on account of their membership of the body politic. Furthermore, those who possess the nationality of another state will, in normal circumstances, be entitled to its protection and so fall outside the refugee definition. Conceivably, the nationals state that B resident in state A could find themselves persecuted on account of their nationality, driven out to a neighbouring country and yet still denied the protection of state B, particularly that state. However, nationality in Article 1B of the 1951 Convention is usually interpreted broadly, to include origins and the membership of particular ethnic, religious, cultural, and linguistic communities. It is not necessary that those persecuted should constitute a minority in their own country, for oligarchies traditionally tend to resort to oppression. Nationality, interpreted broadly, illustrates the points of distinction which can serve as the basis for the policy and practice of persecution. There may be some overlap between the various grounds and, likewise, factors derived from two or more of the criteria may contribute cumulatively to a well-founded fear of persecution.

Further potential overlap lies in the criterion, membership of a particular social group. The 1951 Convention is not alone in recognizing 'social' factors as a potential irrelevant distinction giving rise to arbitrary or repressive treatment. Article 2 of the 1948 Universal Declaration of Human rights includes 'national or social origin, property, birth or other status' as prohibited grounds of distinction and this form of words is repeated in Article 2 of the 1966 Covenants on Economic, Social, and Cultural Rights and Civil and Political Rights; it also appears in Article 26 of the latter Covenant, which calls for equality before and equal protection of the law.

Jurisprudence on the interpretation of the term 'social group' is sparse. A superficial linguistic analysis suggests people in a certain relation or having a certain degree of similarity, or a coming together of those of like class or kindred interests. A fully comprehensive definition is impracticable, if not impossible, but the essential element in any description would be the factor of shared interests, values, or background — a combination of matters of choice with other matters over which members of the group have no

control. In determining whether a particular group of people constitutes a 'social group' within the meaning of the Convention, attention should therefore be given to the presence of uniting factors such as ethnic, cultural, and linguistic origin; education; family background; economic activity; shared values, outlook and aspirations. Also relevant are the attitude to the putative social group of other groups in the same society an, in particular, the treatment accorded to it by state authorities. The importance, and therefore the identity, of a social group may well be in direct proportion to the notice taken of it by others, particularly the authorities of the state. The notion of social group thus possesses an element of open-endedness which states, in their discretion, could expand in favour of a variety of different classes susceptible to persecution. Whether they would be prepared to do so is another matter, but in arguing for expansion appropriate reference could be made to the unifying factors of the group in question and to the elements of distinction which makes it the object of persecution.

Finally, the Convention adduces fear of persecution for reasons of political opinion. Article 19 of the Universal Declaration of Human rights states that: 'Everyone has the right to freedom of opinion and expression; the right includes freedom to hold opinions and ideas through any media and regardless of frontiers.' The basic principle is restated in Article 19 of the Covenant on Civil and Political Rights, but the right of freedom of expression is qualified there by reference to 'special duties and responsibilities'. Certain types of opinion may therefore be judged unacceptable.

In the 1951 Convention, 'political opinion' should be understood in the broad sense, to incorporate, within substantive limitations now developing generally in the field of human rights, any opinion on any matter in which the machinery of state, government, and policy may be engaged. The typical 'political refugee' is one pursued by the government of a state on account of his or her opinions, which are an actual or perceived threat to that government or its institutions. Political opinions may or may not be expressed, and they may be rightly or wrongly attributed to the applicant for refugee status. If they have been expressed, and if the applicant (or others similarly placed) has suffered or been threatened with repressive measures, then a well-founded fear may be made out. Problems arise, however, in assessing the value of the 'political act', particularly if the act itself stands more or less alone, unaccompanied by evident or overt expressions of opinion.

Some states have been wary of recognizing refugee status in such cases, for fear of attracting asylum-seekers motivated by purely economic

considerations. Other states adopt more liberal policies, for example, Austria. Here, a ministerial directive expressly provides for recognition of refugee status where penal sanctions apply to over stayers, where the asylum-seeker has over-stayed, and where he or she declares an unwillingness to return to the country of origin for political reasons considered in the widest sense. A decision of the *Bundesverwaltungsgericht* of the Federal Republic of Germany in 1977 has also stressed that the reasons motivating the prosecuting state are of greater importance than any opinion actually held by the asylum-seeker.

Similar issues are raised by asylum-seekers who base their claim upon the fear of prosecution and punishment for conscientious objection to military service. Objectors may be motivated by reasons of conscience or convictions of a religious, ethical, moral, humanitarian, philosophical, or other nature. Again, it may be argued that they are punished not on account of their beliefs, but because of their failure to obey a law of universal application; moreover, it does not necessarily follow that such punishment amounts to persecution. In one case in 1976, the United Kingdom's Immigration Appeal Tribunal found that, on the basis of the law and practice then applying in Greece, punishing of conscientious objectors amounted to persecution. However, the Tribunal doubted that this was persecution for reasons of religion or political opinion. It observed:

> The immediate cause of the persecution is a refusal to obey the law of the land, and the fact that such refusal may be due to religious beliefs or political opinion is ... only the secondary cause. If the Jehovah's Witnesses in Greece were being persecuted for reasons of religion one would expect that their teachings and meetings would be proscribed. This is evidently not the case... We do not consider that the relevant law is discriminatory, because it appears to us that other religious beliefs with similar views.., and indeed persons with no religious beliefs at would all be treated in the same way.

Military service and objection thereto, seen from the point of view of the state, are issues which go to the heart of the body politic. Refusal to bear arms, however motivated, reflects an essentially political opinion regarding the permissible limits of state authority; it is a political act. The law of universal application' can thus be seen as singling out or discriminating

against those holding certain political views. While the state has a justifiable interest in the maintenance of its own defence, the measures taken to that end should at least be 'reasonably necessary in a democratic society'; specifically, there ought to exist a reasonable retationship of proportionality between the end and the means. The element •of proportionality is especially important in this context, where the right in question is not generally accepted by states as falling within the corpus of fundamental human rights.

To argue that breach of the law, rather than the belief in question, is the relevant causative factor does no more than beg the question — the law itself being frequently the instrument of repression. Whether prosecution and punishment amount to persecution in the sense of the Convention depends on the following factors: the object and purpose of the law, the precise motivation of the individual who breaches such law, the 'interest' which such individual asserts and the nature and extent of the punishment.

Similar considerations apply to the related question of non-extradition of political offenders. The IRO Constitution excluded 'ordinary criminals who are extraditable by treaty' as well as 'war serving' groups; the UNHCR Statute and the 1951 Convention contain equivalent provisions. The exception in favour of political offenders developed in the nineteenth century in the context of bilateral extraditioh arrangements, and is not the consequence of any rule of general international law. No duty obliges states to surrender fugitive criminals and extradition itself may be but a gloss upon the rule which permits the grant of territorial asylum In practice, characterization of an offence as 'political' is left to the authorities of the state from which extradition is requested, and the function of characterization itself is evidently one in which political considerations will be involved, including the self-interest of the requested state as reflected by its military and other alliances. Not surprisingly, divergent attitudes are revealed in municipal law. For example, the political offence exception does not appear in the extradition arrangements existing between Eastern European states, although their constitutions commonly recognize the institution of asylum. In contrast, certain Western European states have developed a comprehensive approach to purely political offences, complex political offences, and related political offences, all of which may justify non-extradition. Nevertheless, the weight to be accorded to the motives of the offender varies from jurisdiction to jurisdiction, as does the practice on substantive limitations to the political offence exception. Some states have long record assassination of the head of state, while others have explicitly excluded acts of barbarism or offences the suppression of which is required under international obligations. Moreover, appreciation of the political

character of offences is clearly likely to vary according to the particularly perspective of the requested state.

In debates preceding the enactment of extradition powers in the United Kingdom. John Stuart Mill suggested including within the political offence exception not only acts committed in an insurrection, but also acts committed with a view to, or as a first step towards, an insurrection. The 1870 Extradition Act itself provides for bib-extradition either in respect of offences 'of a political character', or where the request for surrender is made with a view to try or punish the fugitive in respect of such an offence. Successive decisions of the United Kingdom courts have limited this provision to offences committed in the context of parties in. opposition and conflict. The word 'political', it was suggested in one case, Indicate[s]... that the requesting State is after [the fugitive] for reasons other than the enforcement of the criminal law in its ordinary, common or international aspect'. To categorize as political all offences committed for a political object, with a political motive or for the furtherance of some political cause would be to ignore the fundamental requirement of political disturbance and opposition. In a later United Kingdom case, Lord Diplock said that an offence could not be considered political 'unless the only purpose sought to be achieved by the offender, were to change the government of the state in which it was committed, or to enable escape from the jurisdiction of a government of whose political policies the offender disapproved but despaired of altering.

Lord Diplock explained that the political offence exception had the dual purpose of avoiding the United Kingdom's involvement in the internal political conflicts of foreign states; and preventing, on humanitarian grounds, the surrender of an offender to a jurisdiction in which trial and punishment might be unfairly prejudiced by political considerations. As regards the latte, international legal principles relating to the protection of refugees are immediately involved. Not only must the offence in respect of which extradition is requested be examined, but also the broader context, with due consideration given to humanitarian issues and the fundamental rights of the individual. The good faith and motives of the requesting state may require investigation. Some courts are wary of this highly political arena, but others have been prepared to apply 'persecution criteria' more generously. State practice suggests, at the least, that these factors should be taken into account at some level, either judicial or executive.

The international community does not exist for the purpose of preserving established governments, and the political offence exception may be considered valuable for its dynamic quality. International law, however,

provides no guidance on the substance of the concept, other than its outermost limits; states retain the broadest discretion, almost a 'unilateral right of qualification'. Nevertheless, exclusive attention to the concept should not lead to total disregard of the broader humanitarian issues which underlie it. It is arguable (though few might care to do so), that the mere commission of a political offence is not sufficient to qualify a person for refugee status, which arises only where the anticipated punishment shades into persecution. Alternatively, it may be that certain offences are inherently political, that their commission reflects the failure of a state to protect a greater and more valued interest, so that any punishment would be equivalent to persecution.

3.5 Persecution and Lack of Protection

'Persecution' is not defined in the 1951 Convention or in any other international instrument. Articles 31 and 33 of the Convention refer to those whose 'life or freedom may be threatened', but otherwise a wide margin of appreciation is left to states in interpreting this fundamental term, and state practice reveals no coherent or consistent jurisprudence. Specific decisions by national authorities are some evidence of the content of the concept, as understood by states, but comprehensive analysis requires the general notion to be related to developments within the broad field of human rights.

Fear of persecution and lack of protection are themselves interrelated elements. The persecuted clearly do not enjoy the protection of their country of origin, while evidence of the lack of protection on either the internal or external level may create a presumption as to the likelihood of persecution and to the well-founded ness of any fear. The core meaning of persecution readily includes the threat of deprivation of life or physical freedom. In its broader sense, however, it remains very much a question of degree and proportion; less overt measures may suffice, such as the imposition of serious economic disadvantage, denial of access to employment, to the professions, or to education, or other restrictions on the freedoms traditionally guaranteed in a democratic society, such as speech, assembly, worship, or freedom of movement. Whether such restrictions amount to persecution within the 1951 Convention will again turn on an assessment of a complex of factors, including (a) the nature of the freedom threatened, (b) the nature of the restriction, and (c) the likelihood of the restriction eventuating in the individual case.

(i)   Protected Interests

The references to 'race, religion, nationality, membership of a particular social group, or political opinion illustrate briefly the characteristics of individuals and groups which are considered worthy of special protection. These same factors have figured in the development of the fundamental principle of non-discrimination in general international law, and have contributed to the formulation of other fundamental human rights. In a judgment in 1970, the International court of Justice referred to the outlawing of genocide, slavery, and racial discrimination as falling within the emergent notion of obligations *ergo omnes.* The resulting rights, in so far as they are embodied in international conventions, figure generally among those from which no derogation is permitted, even in exception circumstances. These basic rights include: the right to life, in so far as the individual is protected against 'arbitrary' deprivation; the right to be protected against torture, or cruel or inhuman treatment or punishment; the right not to be subjected to slavery or servitude; the right not to be subjected to retroactive criminal penalties; the right to recognition as a person before the law; and the right to freedom of though, conscience, and religion. Although not included within the same fundamental class, the following rights are also relevant in view of the frequent close connection between persecution and personal freedom; the right to liberty and security of the person, including freedom from arbitrary arrest and detention, and the right to freedom from arbitrary interference in private, home and family life.

Recognition of these rights is essential to the maintenance of the integrity and inherent human dignity of the individual. Persecution within the Convention thus comprehends measures, taken on the basis of one or more of the stated grounds, which threaten: deprivation of life or liberty; torture or cruel, inhuman, or degrading treatment; silbjection to slavery or servitude; non-recognition as a person (particularly where the consequences of such non-recognition impinge directly on an individual's life, liberty, livelihood, security, or integrity), and oppression, discrimination, or harassment of a person in his or her private, home, or family life.

(ii) The Way and Means of Persecution

There being no limits to the perverse side of human imagination, little purpose is served by attempting to slit all known measures of

 persecution. Assessments must be made from case to case by taking account, on the one hand, of the notion of individual integrity and human dignity and, on the other hand, of the manner and degree to which they stand to be injured. A straight-forward threat to life or liberty is widely accepted. United States law, for example, formerly employed the notion of 'physical persecution' as the basis for withholding deportation, until 'persecution on account of race, religion or political opinion was substituted in 1965. Further statutory amendments have been introduced by the 1980 Refugee Act, but the earlier jurisprudence may still be relevant generally and in understanding the concept of persecution in United States law. In 1961, for example, the Court of Appeals interpreted 'physical' persecution' to mean confinement, torture, or death inflicted on account of race, religion, or political viewpoint, and subsequently-expanded the notion to include economic restrictions so severe as to deprive a person of all means of earning a livelihood. Likelihood of punishment for defection or desertion, and liability to compulsory military service has been rejected, unless the individual was likely to face long imprisonment. On the other hand, in 1964, a court noted that it was 'a matter of common knowledge', of which it would take judicial notice, that the regime in Haiti might well represent a danger of physical persecution to members of an opposition family. In 1969, the Court of Appeals interpreted persecution to mean 'the infliction of suffering or harm upon those who differ in race, religion, or political opinion in a way regarded as offensive'. Moreover, persecution might exist where there was a probability of deliberate imposition of 'substantial economic disadvantage' for any of the stated reasons. Persecution, it may be argued, also includes punishment or repeated punishment for breach of the law, which is out of proportion to the offence.

Certain measures, such as the forcible expulsion of an ethnic minority or of an individual, will clearly show the severance of the normal relationship between citizen and state, between citizen and state, but the relation of cause and effect may be less clear in other cases. For example, expulsion may be encouraged indirectly, either by threats or by the implementation of apparently unconnected policies. Thus, in Vietnam after 1978, state policies aimed at the restructuring of society and the abolition of the bourgeoisie began to be implemented, giving rise among those affected to serious concern for their future life and security. Those in any way associated with the previous government of South Vietnam were already liable not only to 're-education', but thereafter also to surveillance, to denial of

access to employment and the ration system, or to relocation in a 'new economic zone'. The situation of ethnic Chinese was exacerbated by the deterioration in relations and subsequent armed conflict with the People's Republic of China. The net result was a massive exodus of asylum-seekers by boat and land to countries in the region.

Cause and effect are yet more indirect where the government of the country of origin cannot be immediately implicated. Refugees, for example, have fled mob violence or the activities of so-called 'death squads'. Governments may be unable to suppress such activities, they may be unwilling or reluctant to do so, or they may even be colluding with those responsible. In such cases, where protection is in fact unavailable, persecution within the Convention can result, for it does not follow that the concept is limited to the actions of governments or their agents. There is also no reason in principle why the fear of persecution should relate to the whole of the asylum-seeker's country of origin; for various reasons, it may be unreasonable to expect the asylum-seeker to move internally, rather than to cross an international frontier.

Persecution under the convention is thus a complex of reasons, interests, and measures. The measures affect or are directed against groups or individuals for reasons of race, religion, nationality, membership of a particular social group, or political opinion. These reasons in turn show that the groups or individuals are identified by reference to a classification which ought to be irrelevant to the enjoyment of fundamental, protected interests. Persecution results where the measures in question harm those interests and the integrity and inherent dignity of the human being to a degree considered unacceptable under prevailing international standards or under higher standards prevailing in the state faced with determining a claim to asylum or refugee status. An element of relativity exists, moreover, between the value to be attributed to the protected interest (for example, life and freedom of conscience) and the nature of the measure threatened (for example, death and some lesser interference).

Although persecution itself is undefined by any international instrument, an approach in terms of reasons, interests, and measures receives support by analogy in the International Convention on the suppression and punishment of the Crime of Apartheid. The term

'the crime of apartheid', declares Article II, shall apply to the following:

>Inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial groups of persons and systematically oppressing them:

(a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

(a) By murder of members of a racial group or groups;

>(i)   By the infliction upon the members of a racial group or groups of serious bodily or mental harm by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;

>(ii)   By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(c) Any legislative measures and other measures calculated to prevent a racial group or groups from participating in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(d) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among

members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(e)   Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(f)   Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.

This provision also invites consideration of the question whether each member of a group subject to a repressive policy of general application, can, by reason of such membership alone, be considered to have a well-founded fear of persecution; or does persecution necessarily imply a further act of specific discrimination, a singling out of the individual? Where large groups are seriously affected by a government's political, economic, and social policies or by the outbreak of uncontrolled communal violence, it would appear wrong in principle to limit the concept of persecution to measures immediately identifiable as direct' and individual. General measures, often aimed at 'restructuring' society, will frequently be directed at groups identifiable by reference to the Convention reasons for persecution, and carried through with the object, express or implied, of excluding them from or forcing them into the mainstream of the new society. Where individual or collective measures of enforcement are employed, such as coercion by denial of employment or education, restrictions on language and culture, denial of access to food supplies, expropriations of property without compensation, and forcible or involuntary relocation, then fear of persecution in the above sense may exist; mere membership of the affected group can be sufficient. Likewise, where punishment under a law of general application may result, any necessary condition of singling out would be met by the decision to prosecute in a given case. Whether a well-founded fear of persecution exists will depend upon an examination of the class of persons in fact affected, of the interests in respect of which they stand to be punished, of the likelihood of punishment, and the nature and extent of the penalties.

(iii) Lack of Protection

The criteria for refugee status posited by Article 1 of the 1951 Convention have the individual asylum-seeker very much in mind. In the case of large numbers of asylum-seekers, establishing a well-founded fear of persecution on a case-by-case basis can be

impossible and impracticable.   A prima-facie or group determination, based on evidence of lack of protection, may therefore be the answer. This solution is implied by the second lead of the refugee definition adopted in the 1969 OAU Convention, which extends to every person who, owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of origin or nationality; is compelled to seek refuge in another country. Establishing that civil war has broken out, that law and order have broken down, or that aggression is under way is relatively simple. The notion of lack of protection, however, is potentially wider and invites attention to the general issue of a state's duty to protect and promote human rights. Clearly, not every failure by the state to promote and protect, for example, the various riglus recognized by the 1966 Covenants, will justify flight across an international frontier and a claim to refugee status. Not all the rights are fundamental. Some are subject to progressive implementation only, while others may in turn be the subject of permissible derogations.

4.0 CONCLUSION

In this unit, peace-building and determination of refugee status, tries to explain how refugees should be part of peace-building.

Moreover many states may directly or indirectly participate in procedures for the determination of refugee status. It is important to note that a claimant to refugee must be a person outside his or her country of origin, and the fact of having fled, or having to cross an international frontier, is in fact an intrinsic part of the quality of a refugee.

Similar issues are raised by asylum seekers who base their claim upon fear of prosecution and punishment for conscientious objection to military service. However, it may be motivated by reasons of conscience or convictions of a religious, ethical, moral, humanitarian, philosophical or other nature.

Finally, alternatively, it may be that certain offences are inherently political, that their commission reflects the failure of a state to protect a greater and more valued interest, so that any punishment would be equivalent to persecution.

5.0 SUMMARY

This lecture highlights the peace-building and determination of refugee status: its analysis and application. It also numerated the determination of refugee status by the United Nations High commissioner for refugee (UNHCR) and also the determination of refugee status by states. It discussed various dimension of analysis of the definition and persecution and lack of protection in the peace-building process in societies.

6.0 TUTOR MARKED ASSESSMENT (TMA)

Examine the peace building and determination of refugee status.

Many states accept direct or indirect participation of the Humanitarian Organization in procedures for determination of refugee status. Discuss.

7.0 REFERENCES AND FURTHER READINGS

Grahl-Madsen (1966), The Status of Refugees in International Law, 173-216. Weis.

Vienna Convention on the law of Treaties

Fisher Williams (1927) Denationalization of 8 BYIL 45.

UNIT 3 CONFIDENCE BUILDING MECHANISM FOR CRISIS MANAGEMENT

CONTENTS

1.0   Introduction
2.0   Objectives
3.0 Main Content
      3.1   On the concept of confidence building.
      3.2   Confidence building: A historical perspective of
            contemporary development.
      3.3 The tole of confidence building measures
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assessment Exercise
7.0 References and Further Readings

1.0 INTRODUCTION

Conflict normally refers to "a condition in which one identifiable group of human beings (whether tribal, ethnic, linguistic, cultural, religious, socio-economic, political, or other) is engaged in conscious opposition to one or more other identifiable groups because there groups are pursuing what are or appear to be incompatible goals." Lewis Coser perceives it "as a struggle over values and claims to scarce resources in which the aims of opponents are to neutralize, injure or eliminate their rivals."

Coser's definition emphasizes the fact that conflict is usually destructive. Conflict can, of course, be creative. It can inspire innovation and the spirit of competitiveness. In the mainstream however, conflict is disruptive. It wreaks havoc and destruction. It provokes wars that result in depopulation, devastation and defoliation. More often than not, conflict impedes the process of human development and detracts from the process of social and economic growth.

Against this background, governments and states often deplore the occurrence of conflicts and put great store in its prevention. Yet it is necessary tb recognize that we can only mitigate the process of conflicts. Conflict is "an inevitable aspect of human interaction". It cannot be eradicated because it is associated with the human condition. Paul Rupia underscores this recognition when he observes that "as long as people and nations pursue different and conflicting interests, there will always be disagreements, disputes and conflicts. Indeed, in an international system

with scarce resources such as we have today and in which moreover, there is no world government possessing the power to curb the violence of its more aggressive members, the state system is pervaded by insecurity."

We should therefore, seek to alleviate the circumstances that result in conflict and to mitigate their effects wherever they occur. In particular, strenuous efforts must be made to put in place preventive mechanisms such as early warning systems that can reduce instances of conflict Beyond this, it is imperative to lessen conditions of tension associated with conflicts to enable mechanisms for conflict resolution to function efficiently and impede the probability of deterioration. In essence, it is important to place priority on crisis management in conflict situations and the bedrock of such efforts is Confidence Building Measures (CBMs).

Thus our task in this chapter is to strengthen such procedures by examining the history of CBMs, the relevance and application in contemporary forms and to relate this to experience.

2.0 OBJECTIVES

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

- Identify appropriate models of conflict management; and ,

- Highlight confidence building measures that can enervate the process of conflict resolution.

3.0 MAIN CONTENTS

3.1 On the Concept of Confidence Building

The concept of confidence building measures (CAM) has historic references. Some scholars have traced its practice as far back as the days of the Greek city-states. However, the concept of CBMs as a component of international peace and security, as Jan Martenson argues, is of recent origin. The concept of CBMs was developed in the international community and arms control literature of the 1970s and 1960s. Moreover, the concept as it was developed can be fruitfully applied to the challenge of civil wars, internal conflicts and interstate wars in Africa as we approach a new millennium.

In arms control parlance, CBMs refers to arrangements that attempt to reduce or eliminate misperceptions about specific military threats or concerns by communicating adequately verifiable evidence of acceptable reliability to the effect that those coneernei are groundless.

Three key elements can be discerned here. First is that CBMs are about building and sustaining confidence. The notion of 'confidence' is central in this arrangement. Hence, it is essential to come to terms with its precise meaning. Confidence has to do with firm trust in 'somebody, an agreement, or what is /was said. Confidence is a dynamic rather than a static element. It can be gained, maintained or lost. For confidence to be gained and sustained, it must be preserved and nourished; thus the idea of confidence building. Confidence is built when a party in conflict or disagreement is led to believe that an adversary is fulfilling its obligations, that it is trustworthy and its intentions are benign.

Second and critical to this process are a series of limited, incremental, transparent, verifiable actions that demonstrate compliance with promises made or undertakings given through a treaty, agreement unilateral pronouncements or third party mediation. Reciprocity is a necessary condition here. One goodwill measure should be appreciated by another, and where possible endorsed and encouraged by something similar. In this way, the foundation for peace can be successively raised. Mahiga captures this element when he describes confidence building as a "process of reciprocal behaviour among states in the military and security dimensions."

The third important element of confidence building is that it involves information and communication measures to eliminate misperception about actions and constraining measures that aim to prevent activities that may generate hostile misperceptions. Political analysis stresses this factor. Indeed Mikhail Gorbachev, the architect of perestroika and glasnost, whose momentous decisions led to the collapse of Soviet Communism and altered the international landscape, stated in an interview during a state visit to France in 1985 that CBMs constituted a safety device, preventing misinterpretation of the actions of the other side in conditions of increased military confrontation.

The ke,y indication here is that a confidence building process requires communication, directly or indirectly among contending parties. Moreover, for such communication to achieve the desired result, it must be directed at enhancing knowledge, making intentions clear, reducing mutual suspicion to eliminate misperceptions.   Needless. to add that such clarification must reveal beneficial construction.   This is because if

clarifications were to unveil malign intentions, the process of conflict would be aggravated.

It follows therefore, that the starting point of a confidence building process is the assumption of benign intentions or the projection that malign intentions cannot be sustained in a climate that places emphasis on incremental, verifiable actions and transparency.

3.2 Confidence Building: A Historical perspective of Contemporary Development

The modem conception and application of Confidence Building Measures date from the emergence of the United Nations in 1945. Prior to the days of the League of Nations and United Nations, states perceived war as a form of self help and *ius ad bellum* (right to wage war), was an attitude of every sovereign state.

The emergence of the United Nations changed this attitude when members assumed the primary responsibility of maintaining international peace and security through collective security action. Even though this strategy was later abandoned due to the cold war for peace keeping strategy, the idea had been planted that the UN would not take kindly to any use of force except for the common cause, and of course, such use of force would be coordinated from the UN Headquarters.

Before the adoption of peace-keeping as an alternative strategy to collective security measures however, the UN charter had already provided for certain Confidence Building Measures which promoted transparency in states behaviour, and helped to reduce mistrust among nations. For example, the UN Charter enjoins member states to settle their international disputes by peaceful means. It also prohibits them from the threat or use of force against the territorial integrity or political independence of any state. In short, Chapter VI of the charter entitled "Pacific Settlement of Disputes," contains 6 Articles providing for mechanisms of conflict management and confidence building such as negotiation, enquiry, mediation, conciliation, arbitration, and judicial settlement.

Learning from the UN charter provisions, regional and sub-regional organizations like the OAU and ECOWAS respectively, at emergence, also incorporated conflict management and confidence building measures in their charter or Treaty.

196

However, it was the Cuban missiles crisis of 1962 which brought the USA and defunct USSR to brinkmanship that paved the way for the early set of confidence building measures in conflict management and conflict avoidance in recent times. This is because, the then two super-powers had to establish the "hot line" between Moscow and Washington as a way of avoiding breakdown in communication, reducing tension between the two countries, avoid the risk of unintended nuclear war, as well as raise the level of their credibility and transparency.

From here, *detente* set in, creating the favourable milieu for Europe to fashion out comprehensive confidence building measures which culminated in the Helsinki Final Act of 1975. This Act made extensive provisions for reducing the risks of unintended war and surprise attack.

3.3 The Role of Confidence Building Measures

The general relevance and role of Confidence Building Measures in conflict management have been highlighted in the above discourse. However, the specific role needs to be emphasized here. First, Confidence Building Measures help to reduce mistrust, and improve conditions for peace, mitigate confrontation, and prevent armed conflict. It is true as observed by Hans-Dietrich Genscher that "Confidence Building Measures by themselves resolve conflicts of interest and ideological confrontation". But it is equally true as he went further to argue that CBMs can however go a long way "to mitigate confrontation and tensions and prevent armed conflict from occurring".

CBMs are also important for creating "barriers in the way of the use of force and secret preparations for war, no matter where it is waged on land, sea or in the air". Victor Yves Chebali goes further to assert that from the European point of view, the fundamental reason for CBMs is:

> ...to reduce the general risk of armed conflict ...and more particularly, risks relating to misunderstanding or miscalculation in connection with the conduct of routine military activities which can be perceived as threatening.

4.0 CONCLUSION

This unit confidence building mechanism for crisis management tries to see the world as been faced with serious problems bordering on 'lack of confidence among its component states right from the time these countries gained their independence.

The key indication here is that a confidence building process (CBP) requires communication, directly or indirectly among contending parties. Moreover, for such communication to achieve the desired result, it must be directed at enhancing knowledge, making intentions clear, reducing mutual suspicion to eliminate misperceptions.

5.0 SUMMARY

The concept of Confidence Building mechanism for crisis management highlights the concept of Confidence Building, the historical perspective of Contemporary Development, and the Role of Confidence building measures. The final objectives of Confidence buildigg measures is to strengthen international peace and security and to contribute to the development of confidence, better understanding, and more stable relationship between nations, thus creating and improving the conditions for fruitful international cooperation.

6.0 TUTOR MARKED ASSESSMENT

Explain the Confidence Building Mechanism for crisis management.

7.0 REFERENCES AND FURTHER READINGS

Dougherty J.E. and Pfaltzgraf Robert, Jnr. (1981), Contending Themes of International Relations: A Comprehensive survey, second edition, New York: Harper and Row, p. 181

Coser Leon's A. The Functions of Social Conflict, New York; The Free press

Zartman I.W. (1991) "Conflict Production: Prevention, Management and Resolution, in F. Deng and I. Zartman, ed. Conflict resolution in Africa, New York, UN Secretariat, p. 59

UNIT 4 ANTI-TERRORISM AND PEACE-BUILDING DURING AND AFTER CONFLICT

CONTENTS

1.0 INTRODUCTION

Since the tragic events of 11 September 2001, much has been said about potential links between the fight against terrorism and peace building. In the meantime, the fight against terrorism and peace-building have, by and large, continued to be implemented separately and by different sets of actors.

The events of 11 September might have led the world's leading states to reassess terrorism as a security threat, but could hardly fundamentally alter the nature of peace-building operations and tasks, from institution — and democracy-building to post-conflict recovery and reconstruction. It is not surprising that the way the threat of terrorism is addressed by actors involved in peace-building activities is often limited to its possible effect on the security environment for their operations. It is thus seen as a problem to be solved either by the security component of mission, or by an ad hoc international security-force, or by national securitystructures (if any). A certain reserve towards the fight against terrorism on the part of the peace-building community is not without foundation, and may be seen as a natural reaction to the declaration after 11 September 2001 of a global 'war on terrorism' which goes far beyond traditional anti-terrorist priorities and needs. In fact, many of the adverse effects of This global
campaign stem precisely from a lack of clarity about its nature and operational goals.

Against this background, it is not surprising that the impact of the war on terrorism on the many conflict and post-conflict areas around the world has so far been very mixed, at best. While some of the harsher measures undertaken as part of the war on terrorism, such as inflicting direct military losses on groups involved in terrorist activities, depriving them of safe havens and blocking their financial channels, have helped temporarily to improve the security environment in certain areas, there have also been serious adverse effects. These have includes (but are not limited to) the serious disruption of economic activity in post-conflict areas as a result, for instance, of the targeting of key business groups operating in those regions for their alleged terrorist ties. Above all, the impression given by some of the world's leading states that they are now prioritizing the need to fight terrorism over all other considerations has provided room for endless attempts by all sides to local conflicts to misuse the anti-terrorist agenda for their own purposes.

Similarly, chances to use the war on terrorism as a lever to pressure local actors in conflict and post-conflict areas to engage in more active cooperation among themselves and with the international community appeared to be greatest in the immediate aftermath of 11 September, but tended to fade afterwards. Early hopes that the global campaign against terrorism would provide an opportunity to launch new or more ambitious peace-building effort sin previously neglected areas have been accompanied by concerns that political and financial resources might be diverted away from these activities, as they cannot be as easily tied to the vital national security interests of the world's leading states as the fight against terrorism can. In sum, the mixed effects of the war on terrorism may well have persuaded the peace-building community of the need to play down anti-terrorism concerns in the interest of avoiding damage to longer-lasting and, ultimately, more fundamental peace-building efforts.

2.0 OBJECTIVES

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

- Discuss terrorist activities threaten peace and stability;

- Explain the relationship between anti-terrorism and lasting peace; and

- Describe the integration of anti-terrorist measures into a more general framework to achieve peace-building.

3.0 MAIN CONTENTS

Terms and Definitions

3.1 Terrorism

From the point of view of finding an adequate definition, here it can hardly be a more contested phenomenon than terrorism. The events of September 11 2001 have only added to the general confusion about the term and reinforced a tendency, particularly on the part of policy makers and the media, to use terrorism as an umbrella term for all sorts of violent activity — from criminal to punitive — as well as for various forms of political extremism and asymmetrical warfare. The most logical way to attempt to counter this, at least at the level of terminology, is to narrow the definition of terrorism and make it more focused. The phenomenon itself, however, is so complex and multifaceted that narrowing the definition carries the risk of leaving aside some of the important features, elements or variations of contemporary terrorism.

One way to get around, if not out of this dilemma is to suggest that there may in fact be more than one type of terrorism and-thit any definition of terrorism depends at least partly, on which type of terrorism it refers to. The September 11 events particularly underlined the need to distinguish between at least two types of terrorism that have too often been confused in the course of the global anti-terrorist campaign:

−   the more traditional type of conflict-related or conflict-generated

        terrorism ('terrorism of conflicts'); and

−   the more recent and still highly contested phenomenon, embodied
        above all in the September 11 events, of so-called super-terrorism or
        mega-terrorism (also referred to as 'global mass-casualty terrorism'
        and 'strategic' or 'high-impact' terrorism).

Conflict-related terrorism is linked to the concrete agenda of a particular armed conflict. Groups involved in terrorist activities usually choose to identify themselves openly with a certain political cause and to formulate their political goals. However, ambitious, these goals (whether independence, greater autonomy or merely the release of political prisoners) are always limited. The means and weapons used are mostly standard, fairly readily available, not very advanced and sometimes even quite primitive (such as the unstable bombs used by Palestinian suicide bombers). Since post-cold war conflicts are commonly internal, and at the

same time readily become internationalized, defining terrorist activities as conflict-related or conflict-generated ones already implies that they can both be driven by domestic factors and have important international aspects and implications. Also, while this type of terrorism is more traditional, that does not mean that it has remained unchanged since the time of the cold war.

In contrast to conflict-related terrorism, 'super-terrorism' of the September 11 type does not have to be tied to any particular local or regional armed conflict. It has a much broader agenda, theoretically unlimited goals, such as challenging the existing world order, and a reach that could be close to global, as in the case of al-Qaeda. Super-terrorism is focused exclusively on targets in the developed world or targets directly associated with it. It is more likely to be anonymous and relies heavily on the use of more advanced modern technology.

The two types of terrorism are, of course, not unrelated. The origin of al-Qaeda, for instance, can be traced to the anti-Soviet jihad in Afghanistan. The nature of super-terrorism, however, remains particularly unclear. It is even questionable whether it is a mere extension of a more traditional terrorism of local and regional conflicts, upgraded to a global terrorist network, or a new, qualitatively different type of terrorism. In fact, had it not been for the September 11 attacks, super-terrorism would have remained a largely unsubstantiated threat. It took the horror of September 11, however, to awaken much of the developed world, if only for a limited period of time, to the daily reality of a more traditional conflict-related terrorism in other parts of the world that might not be as high-profile as super-terrorism but is more widespread.

As is clear from the title of this study, its focus is primarily on terrorism of conflicts. A lowest common denominator for definitions of conflict-related, or conflict-generated, terrorism is the deliberate, politically motivated use of or threat to use, violence against civilians or civilian targets by a weaker side in an asymmetrical conflict. For practical purposes, this long definition can be reduced to three main points which are crucial for drawing clearer distinctions between terrorisms and other violent activities with which it is most commonly confused in conflict or post-conflict environments.

First and foremost, the asymmetrical nature of this type of violence must be stressed. This refers not merely to the gap in capabilities but primarily, and most importantly, to the asymmetry in the level and status of the actors involved: terrorist means are used by a non-state actor as one of its modes

of operation in an asymmetrical confrontation with a state to influence the actions or policy of the latter. Deliberate use of force by the state against its own or foreign civilians is not included in the definition of conflict-related terrorism, as it is not applied by a weaker actor in an asymmetrical armed confrontation. This, of course, does not make it less of an international crime from the point of view of the international law or armed conflict, which explicitly forbids such activities by the state and defines them, depending on the scale and the domestic or international context of atrocities, as either 'war crimes' or 'crimes against humanity'. Nor does this definition exclude state support for terrorist activities by non-state actors. Acts of inter-ethnic or sectarian inter- and intra-communal violence are not seen as acts of terrorism either, as they are not used in an asymmetrical confrontation.

Second, it is the existence of a political goal, broadly interpreted to include religious and ideological motivations, that distinguishes terrorism from criminal violence, including organized crime. Modes of action that are often seen as typical of terrorists, such as violating public security, terrorizing the population or forcing the authorities to meet the perpetrators' demands, do not amount to terrorism if these demands are non-political. They may be purely financial or material. This does not mean that a certain action cannot be driven by a combination of political and non-political motives, but action that lacks any genuine political motivation (as is quite typical for hostage-taking and kidnapping activities, often undertaken for purely financial gain even in the midst of an armed confrontation) cannot be seen as a form of political violence and thus does not qualify as a terrorist act.

3.2 Counter-Terrorism and Anti-Terrorism

To denote efforts to combat and prevent terrorism, the terms 'counter-terrorism' and 'anti-terrorism' are both used, as they have both become a standard part of the United Nations lexicon. In contrast to some national definitions, bootable those suggested by the US military doctrine, 'counter-terrorism' should not necessarily be viewed as being limited to offensive or active measures to fight terrorism, nor should 'anti-terrorism' be used to embrace defensive or passive strategies only. As used in this report, neither of the two terms carries any evaluative connotation. The choice between them is determined by a functional approach: while counter-terrorism is seen as a security task performed by the security component of a national or international authority, the use of political, legal, economic, civil-society and other peace-building instruments for the purposes of both countering and preventing terrorism is more broadly referred to as anti-terrorism.

3•3 Peace-Building

While most of the potential controversies over definitions and terminology are inevitably related to the debates on terrorism, some clarifications are needed on the other side of the equation as well. The use of the term 'peace-building' in this study cannot be limited to the post-conflict stage only, especially if the latter is strictly defined as a period that follows the end of hostilities. In many conflict areas the intensity and distribution of violence, both in geographical and in temporal terms, are very uneven. Open fighting may be going on in some parts of an area generally referred to as a 'conflict zone' while other parts might remain relatively stable for significant periods of time. In this context, it probably makes sense to focus on a period when-and an area where-hostilities have abated to or remain at a level which permits some peace-building efforts, however limited-such as reintegration, recovery, and confidence — and capacity-building activities — to begin or proceed at the national and/or international level. In fact, this broad definition is not in conflict with the usage of the UN Brahimi report, which refers to peace-building in both post-conflict and preventive terms. Apart from more typical post-conflict activities, such as strengthening the rule of law and the reintegration of ex-combatants, it extends the definition of peace-building to cover, for instance, conflict resolution techniques.

For the purpose of this study, however, in addition to international peace-building operations and strategies, measures undertaken at the national level as part of domestic stabilization campaigns in post-conflict area - such as recovery, reconstruction, reintegration, and so on — are also treated as peace-building activities or elements of peace-building. In sum, this study argues for broadening the definition of peace-building almost as strongly as it calls for a narrower and more type-specific definition of terrorism.

3.4 The Security Context

For the purposes of exploring actual or potential links between the fight against terrorism and peace-building efforts, at least two basic scenarios for operations in conflict or post-conflict areas have to be addressed:

> International peace-building efforts and operations in failed, weak, seriously fractures, or emerging states, from the Palestinian territories to post-Tailiban Afghanistan; and

National 'stabilization' operations, carried out by functional states on parts of their own territory, and usually combining counter-insurgency strategies and techniques with post-conflict reconstruction and rehabilitation (ranging form the UK's operations in Northern Ireland to Russia's operations in Chechnya).

In a conflict or post-conflict environment the division between the security and non-security elements of international or domestic operations is often moot. For the sake of clarity, however, it does make sense to first identify counter-terrorism as a task performed by the security (enforcement) component of an international peace-building effort or of a national stabilization campaign, and then focus on the ways in which political, socio-economic and other peace-building instruments could be used for the purposes of combating and preventing tentrism.

The fight against terrorism during the final states of conflict or in a post-conflict environment is closely linked to the tasks of establishing and maintaining public security, law and order, and .or creating a relatively safe environment for both the local authorities and the population in the conflict zone. In the period between the cassation of hostilities and the establishment of a lasting peace when stable political institutions, law and order are restored and socio-economic recovery is achieved, the functional division between traditional military duties and other tasks taken on by the security component of a peace-building mission — such as law enforcement and counter-terrorism — can be very blurred. It is into this 'grey area' that most of the security tasks in a post-conflict environment fall, from patrolling refugee camps, escorting humanitarian convoys, and providing protection to refugees, internally displaced persons, international civilian personnel and local populations, to controlling riots or mob violence and pursuing war criminals.

Until recently counter-terrorism would certainly have been seen as falling within the range of these 'grey area' tasks and, for both conflict and post-conflict settings. x▪mild qualify as an 'operation other than war'. The events of 11 September, however, have demonstrated that there is a distinctive aspects that differentiates counter-terrorism from classic 'operations, and policing missions. This aspect is that, like military action, counter-terrorism can be directly linked with the vital national interests of the world's leading states and even associated with the global war on terrorism.

In reality, many of the problems that are blamed on the war on terrorism as it manifests itself in various conflict and post-conflict areas around the world have little to do with counter-terrorism in the narrower, traditional

sense. This 'war' is an uneasy combination of war-fighting, international peace enforcement and national counter-insurgency campaigns with the fight against terrorism as such.

3.5 The Political and Legal Context

Most of the political, legal, economic, socio-economic and other tools that are used as part of the general peace-building effort to promote the goal of a lasting peace are aimed at preventing violence in general rather than being addressed to any particular type of violence (such as guerrilla warfare, terrorism or criminal violence). As conflict-related terrorism is a very specific type of violence, the tools that could be adapted to serve anti-terrorist needs effectively should be selected from the general pool of peace-building instruments. Furthermore, this should be done without fundamentally changing the nature of the instruments applied in order not to compromise them as peace-building tools. This should be kept in mind as the potential role for peace-building instruments in combating and preventing terrorism at the end of conflict or at the post-conflict stage is

explored.

3.6 Political Governance and Institution Building

State-building is an important element of peace-building. It focuses more narrowly and specifically on political governance and institution-building (political authority, civil administration, and law and order) than does the more general process of 'post-conflict peace-building'. The latter might also include humanitarian assistance, refugee repatriation, demobilization and reintegration of former combatants, and a host of other activities. Clearly, all aspects of state-building are particularly pressing tasks in respect to failed states, such as Somalia, or embryonic states (state-like entities), such as the Palestinian Authority (PA), where the institutions have been seriously weakened or degraded by armed confrontation resuming even before the state-building process was completed.

Conflict-related terrorism has traditionally been seen as a mode of operation of a 'weak' side (a non-state actor) in an asymmetrical confrontation with a 'stronger' side (the functional state), but in fact in many conflict or post-conflict areas of the past decade, from Afghanistan to Somalia. the local context has been characterized not by the existence of strong or functional states but by weak or failed states. From the anti-terrorist perspective, the absence of a functioning state can mean two things.

First, there can still be grounds for home-grown groups that are involved in sectarian or communal violence, as well as for competing state-like entities struggling among themselves, to resort to terrorism. In this case there is not much place for asymmetrical warfare in the local context, but terrorist means can be used against neighbouring, more or less functional states, especially if the latter are perceived as meddlers or occupying powers. In this way terrorist methods have been used, for instance, by the Somalia based fundamentalist at-Ittihad al-Islami against neighbouring Ethiopia, which is perceived as occupying the Somali-populated province of Ogaden. Also, where there is a forewing or international presence not limited to military security presence, terrorist means can be locally applied against foreign or international targets.

Second, states that are filed or seriously weakened offer external or trans national terrorists networks opportunities for relocation, sanctuary and trans shipment of arms and people. In both cases the impact of terrorism is not confined within a failed or weak state, but has wider regional and international implications.

It is particularly problematic to apply anti-terrorist measures in weak or failed states as they lack effective national or local state capacity to fight terrorism. They are also areas where the line between home-grown and international terrorism can be very blurred. In the absence of local or national anti-terrorist capacity or where it is weak, the international community has found itself increasingly pressed, particularly since 11 September, to take up certain anti-terrorist tasks that are normally associated with a functional state.

It is in this way that the phenomenon of the failed state links anti-terrorism to peace-building and, more narrowly, state-building. In fact, it has almost become a cliché to agree that the reconstruction of a stable and functional state is one of the most effective long-term anti-terrorist strategies. Only a sufficiently strong state can effectively combat terrorism and serve as the best hedge against a post-conflict area re-emerging as a safe haven or hotbed for terrorism.

However, what are the implications for anti-terrorism of the type of state, political governance system and institutions that are to be built?

One way to address this problem is to stress the need to build, rebuild or strengthen the state and its institutions in such a way that they can serve as solid internal constraints on and defence against terrorism, and take upon

themselves the task of suppressing organizations that are involved in terrorism.

4.0 CONCLUSION

Anti-terrorism and peace-building during and after conflict, `do no harm,' approach is certainly a sound point of departure, but it should not be used as an excuse for doing nothing in the fight against terrorism. Actors involved in terrorist activities do threaten peace and stability, and anti-terrorism should not be played down for the sake of building a lasting peace. In other words, in conflict or post-conflict areas where terrorism is an issue, 'peace-building as usual' will not do.

However, both the difficulty of reconciling anti-terrorism and peace-building in conflict and post-conflict areas and the way in which they are inseparably interlinked can be demonstrated by one of the most complicated challenges posed by the global war on terrorism when it is applied to some of the most protracted armed conflicts and some of the demanding post-conflict environments.

A critical challenge here is to try to ensure that the various tools and methods used in the war on terrorism, as applied to conflict and post-conflict areas, are modified and refocused so that they at least do not interfere with and, at best complement and reinforce the more fundamental and longer term work of peace-building.

5.0 SUMMARY

In sum, while the terrorist activities and connections of these non-state actors operating in a conflict or a post-conflict environment cannot be ignored, the political, ideological, social and other fundamental challenges posed by them can go far beyond any threat they might present. This further underlines the need to reintegrate the peace-building perspective into the anti-terrorism agenda.

6.0 TUTOR MARKED ASSESSMENT (TMA)

I   Discuss what political, military, legal economic and other tools can be employed for anti-terrorist purposes in conflict and post-conflict areas.

2   What are the comparative advantages and disadvantages of these tools?

National 'stabilization' operations, carried out by functional states on parts of their own territory, and usually combining counter-insurgency strategies and techniques with post-conflict reconstruction and rehabilitation (ranging form the UK's operations in Northern Ireland to Russia's operations in Chechnya).

In a conflict or post-conflict environment the division between the security and non-security elements of international or domestic operations is often moot. For the sake of clarity, however, it does make sense to first identify counter-terrorism as a task performed by the security (enforcement) component of an international peace-building effort or of a national stabilization campaign, and then focus on the ways in which political, socio-economic and other peace-building instruments could be used for the purposes of combating and preventing tefforism.

The fight against terrorism during the final states of conflict or in a post-conflict environment is closely linked to the tasks of establishing and maintaining public security, law and order, and or creating a relatively safe environment for both the local authorities and the population in the conflict zone. In the period between the cassation of hostilities and the establishment of a lasting peace when stable political institutions, law and order are restored and socio-economic recovery is achieved, the functional division between traditional military duties and other tasks taken on by the security component of a peace-building mission — such as law enforcement and counter-terrorism — can be very blurred. It is into this 'grey area' that most of the security tasks in a post-conflict environment fall, from patrolling refugee camps, escorting humanitarian convoys, and providing protection to refugees, internally displaced persons, international civilian personnel and local populations, to controlling riots or mob violence and pursuing war criminals.

Until recently counter-terrorism would certainly have been seen as falling within the range of these 'grey area' tasks and, for both conflict and post-conflict settings, v.outd qualify as an 'operation other than war'. The events of 11 September, however, have demonstrated that there is a distinctive aspects that differentiates counter-terrorism from classic 'operations, and policing missions. This aspect is that, like military action, counter-terrorism can be directly linked with the vital national interests of the world's leading states and even associated with the global war on terrorism.

In reality, many of the problems that are blamed on the war on terrorism as it manifests itself in various conflict and post-conflict areas around the world have little to do with counter-terrorism in the narrower, traditional

sense. This 'war' is an uneasy combination of war-fighting, international peace enforcement and national counter-insurgency campaigns with the fight against terrorism as such.

3.5 The Political and Legal Context

Most of the political, legal, economic, socio-economic and other tools that are used as part of the general peace-building effort to promote the goal of a lasting peace are aimed at preventing violence in general rather than being addressed to any particular type of violence (such as guerrilla warfare, terrorism or criminal violence). As conflict-related terrorism is a very specific type of violence, the tools that could be adapted to serve anti-terrorist needs effectively should be selected from the general pool of peace-building instruments. Furthermore, this should be done without fundamentally changing the nature of the instruments applied in order not to compromise them as peace-building tools. This should be kept in mind as the potential role for peace-building instruments in combating and preventing terrorism at the end of conflict or at the post-conflict stage is

explored.

3.6 Political Governance and Institution Building

State-building is an important element of peace-building. It focuses more narrowly and specifically on political governance and institution-building (political authority, civil administration, and law and order) than does the more general process of 'post-conflict peace-building'. The latter might also include humanitarian assistance, refugee repatriation, demobilization and reintegration of former combatants, and a host of other activities. Clearly, all aspects of state-building are particularly pressing tasks in respect to failed states, such as Somalia, or embryonic states (state-like entities), such as the Palestinian Authority (PA), where the institutions have been seriously weakened or degraded by armed confrontation resuming even before the state-building process .was completed.

Conflict-related terrorism has traditionally been seen as a mode of operation of a 'weak' side (a non-state actor) in an asymmetrical confrontation with a 'stronger' side (the functional state), but in fact in many conflict or post-conflict areas of the past decade, from Afghanistan to Somalia, the local context has been characterized not by the existence of strong or functional states but by weak or failed states. From the anti-terrorist perspective, the absence of a functioning state can mean two things.

First, there can still be grounds for home-grown groups that are involved in sectarian or communal violence, as well as for competing state-like entities struggling among themselves, to resort to terrorism. In this case there is not much place for asymmetrical warfare in the local context, but terrorist means can be used against neighbouring, more or less functional states, especially if the latter are perceived as meddlers or occupying powers. In this way terrorist methods have been used, for instance, by the Somalia based fundamentalist at-Ittihad al-Islami against neighbouring Ethiopia, which is perceived as occupying the Somali-populated province of Ogaden. Also, where there is a forewing or international presence not limited to military security presence, terrorist means can be locally applied against foreign or international targets.

Second, states that are filed or seriously weakened offer external or trans national terrorists networks opportunities for relocation, sanctuary and trans shipment of arms and people. In both cases the impact of terrorism is not confined within a failed or weak state, but has wider regional and international implications.

It is particularly problematic to apply anti-terrorist measures in weak or failed states as they lack effective national or local state capacity to fight terrorism. They are also areas where the line between home-grown and international terrorism can be very blurred. In the absence of local or national anti-terrorist capacity or where it is weak, the international community has found itself increasingly pressed, particularly since 11 September, to take up certain anti-terrorist tasks that are normally associated with a functional state.

It is in this way that the phenomenon of the failed state links anti-terrorism to peace-building and, more narrowly, state-building. In fact, it has almost become a cliché to agree that the reconstruction of a stable and functional state is one of the most effective long-term anti-terrorist strategies. Only a sufficiently strong state can effectively combat terrorism and serve as the best hedge against a post-conflict area re-emerging as a safe haven or hotbed for terrorism.

However, what are the implications for anti-terrorism of the type of state, political governance system and institutions that are to be built?

One way to address this problem is to stress the need to build, rebuild or strengthen the state and its institutions in such a way that they can serve as solid internal constraints on and defence against terrorism, and take upon

themselves the task of suppressing organizations that are involved in terrorism.

4.0 CONCLUSION

Anti-terrorism and peace-building during and after conflict, 'do no harm,' approach is certainly a sound point of departure, but it should not be used as an excuse for doing nothing in the fight against terrorism. Actors involved in terrorist activities do threaten peace and stability, and anti-terrorism should not be played down for the sake of building a lasting peace. In other words, in conflict or post-conflict areas where terrorism is an issue, 'peace-building as usual' will not do.

However, both the difficulty of reconciling anti-terrorism and peace-building in conflict and post-conflict areas and the way in which they are inseparably interlinked can be demonstrated by one of the most complicated challenges posed by the global war on terrorism when it is applied to some of the most protracted armed conflicts and some of the demanding post-conflict environments.

A critical challenge here is to try to ensure that the various tools and methods used in the war on terrorism, as applied to conflict and post-conflict areas, are modified and refocused so that they at least do not interfere with and, at best complement and reinforce the more fundamental and longer term work of peace-building.

5.0 SUMMARY

In sum, while the terrorist activities and connections of these non-state actors operating in a conflict or a post-conflict environment cannot be ignored, the political, ideological, social and other fundamental challenges posed by them can go far beyond any threat they might present. This further underlines Se need to reintegrate the peace-building perspective into the anti-terrorism agenda.

6.0 TUTOR MARKED ASSESSMENT (TMA)

1.   Discuss what political, military, legal economic and other tools can be employed for anti-terrorist purposes in conflict and post-conflict areas.

2.   What are the comparative advantages and disadvantages of these tools?

3   How effective are formal mechanisms, instruments and institutions-building processes for countering the challenges posed by organisation's involved in terrorist activities?

7.0 REFERENCES AND FURTHER READINGS

Hoffman, B (1998), *Defining Terrorism, Inside Terrorism:* (Columbia University Press New York, page 13-44.

Stepanova E (2003), *Anti-Terrorism and Peace-Building:* (Stockholm International Peace Research Institute) Stockholm, page 1-22. Roma Statute of the International Criminal Court, UN Document A/CONF.183/9, 17 July 1998, article 7, Crimes against humanity, aid and war crimes pp 7-13.

Human Rights Watch, Human Right Watch Commentary 2 on the UN Draft Comprehensive convention on Terrorism, press release, New York, 22 October 2001

Hugh Miall, Oliver Ramsbothem and Tom Woodhouse (2000) *Contemporary Conflict Resolution,* London.

Lederach, John Paul, "Just peace-the Challenge of the 20 Century", Pul Van Tongeren (ed.). (1999) *People Building peace: 35 Inspiring Stories from Around the World.* European Center for Conflict Prevention: Utrecht: 27-36.

Fenwick Charles G., (1965) *International Law* (4th ed.). New York: Appleton-Century Crofts.

R.A Akindele and Bassey Ate (2001). *Beyond Conflict Resolution,* Lagos, Nigerian Institute of International Affairs.

Okwudiba Nnoli (1998), *Ethnic Conflict in Africa,* lbadan, lbadan University Press.

Ronald J. Fisher (1977), *Interactive Conflict Resolution,* New York, Syracuse University Press.

Boutros-Ghali Boutros (1995), *An Agenda fin· Peace,* New York, United Nations.

John Paul Lederach (1997), *Building Peace: Sustainable Reconciliation in Divided Societies,* Washington ac, United States Institute of Peace.

NATIONAL OPEN UNIVERSITY OF NIGERIA

Form QST1
Questionnaire

Dear Student,

While studying the units of this course, you may have found certain portions of the text difficult to comprehend. We wish to know your difficulties and suggestions, in order to improve the course. Therefore, we request you to fill out and tend us the following questionnaire, which pertains to this course. If you find the space provided insufficient, kindly use additional sheet.

Course Code: _____   Course Title: _____

1.   How many hours did you need for studying each of these units?

Unit			3	4	5	6		8	9	10	11	12	13	14	15
No. of hours															
Unit	16	17	18	19	20	21	22	73	24	25	26	27	28	29	30
No. of hours															

2.   Which of these units do you find most difficult to understand?

3.   Please give specific problem you find difficult with the unit.

_____

_____

_____

_____

5.   How would you like the unit improved?

_____

_____

_____   _____

Please Mail to
The Course Coordinator ....THROUGH the Study Centre Manager

National Open University of Nigeria
Victoria Island,
Lagos.