

# Study Session 3

## Unit-III Protection of Vulnerable Groups

### Study Session Outline

- i. Protection of Vulnerable sections
- ii. Inclusion of vulnerable groups
- iii. Basic principles on the Women's & Children's rights
- iv. Fundamental Rights of Migrants and Refugees
- v. Basic principles about the Rights of Persons with Disabilities (PWD)

### **Study Session Duration**

Each Study Session requires a 2 hours of formal study time.

### INTRODUCTION

Dear learner, welcome to this unit of the module, under this unit discussions about the specific rights of vulnerable sections of the societies will be addressed. This particular Unit also addresses the meaning, justifications and objectives of supporting the necessity of protecting vulnerable groups, the assurance of inclusion as a standard in all protections, the basic principles and rights women, fundamental tenets on the rights of refugees and migrants, and basic principles on the rights individuals with disabilities. In sum, the Unit helps to sensitize the definition, characterization and degrees of vulnerability by recognizing the intersectionality and overlap of the problems.

---

### **Learning outcome of study session three**

---

At the end of this unit, students will/be;

- Aware of marginalized groups
  - Discuss about the rights of marginalized sections such as women, refugees & IDPs, disabled persons.
-

- Appreciate the intersectionality of problems and implications to human rights
- Aware the protection mechanism of vulnerable groups
- Appreciate the universal standards and basic principles in the protecting vulnerable groups

## **Unit Three- Protection of Vulnerable Groups**

### **Introduction**

Vulnerability is inevitable to a certain section of a society in any social segment. However, this is the most prevalent case in the developing and least developed countries. Vulnerabilities arising from human rights concerns and economic deprivations are the most prevalent ones. The protection from vulnerability and promoting the needs and interests of those vulnerable ones is also critical and one of the underlying fundamental goals of sustainable and inclusive development. It is critical and the normative mandate of states to protect from vulnerability and promote resilience.

### **3.1 Protection of Vulnerable sections**

The literal definition of vulnerability is related with the quality or status of a person who might be prone to be attacked or to face any physical or emotional harm. This refers to vulnerable groups and these individuals who cannot give to themselves. The harm may be inflicted on themselves or to other individuals. The categorical definition also indicates that vulnerable groups include children, women and persons belonging, or perceived to belong to groups that are in a disadvantaged position or who are marginalized ones. There are pertinent arguments whether the term is appropriate and free from stereotypes. There are clear indications that disadvantaged groups are better and free from linguistic barrier than the use of vulnerable groups. (preambles of AfchHPR, 1981, CRC,1989, CEDAW,1979)

*Dear student, what are the core duties of member states to the conventions?*

---

---

---

The four objectives of all human rights that are manifesting the duties of a state and its intervention are to protect, to respect, to fulfill and to promote the human rights principles and standards. The same is also true for the listed vulnerable and harmed groups. The promotion of human rights is the main purpose and basic principle of the United Nations instruments (UDHR, 1948). The protection of human rights is to ensure that individuals and groups receive some level or degree of decent and humane treatment. In relevance to vulnerable groups, it is to promote the resilience of the groups and it is to promote their human rights. It requires a double step of intervention to relieve from vulnerability and promote the human rights.

The two International and universal Human Rights Conventions manifesting the two generations of human rights are relevant to protect the vulnerable groups from the inter-sectional problem. An individual IDP may have multiple and overlapping problems and he/she may be categorized among the list of vulnerable groups. (AU Kampala Convention, 2009). However, the ICESCR is the most relevant convention with the purpose to provide special protection (ICESCR, 1996). This instrument sets out additional guarantee and protection to these groups. It is a vehicle for the protection by indulging states to provide special protective and safeguarding measures and a degree of priority coverage and consideration amidst of severe scarce constraints. This is to mean that the available standard of progressive realization of social, economic and cultural rights may not be a defense at all for all state parties (ICESCR, Art 2). The Convention necessitates member states to take steps individually and with the collaboration of international actors by exhausting the maximum available resources. The potential beneficiary among the vulnerable groups include *women and girls, children, internally displaced persons, indigenous peoples, stateless persons, persons with disability (PWD), elderly persons, refugees, HIV positive persons, national minorities, etc.* The list may not be exhaustive and it is possible to add other groups who experience discrimination and any form of vulnerability.

Beyond the existing human rights instruments, state parties to the conventions may take the commitment to advance the protection by legislating new and specific laws as a means to enforce the human rights standards and verify state compliance. This is part of the standard setting endeavor to protect the groups and the scope is still falling within the scope of human rights treaties. Rights may be classified as positive and negative rights. The right is positive where it requires state's intervention to fulfill the required resources. It is also negative where the state is hindered from violations and interferences on the privileges and rights of individuals. The effort of protection includes the promotion of negative rights but there are also instances where positive rights are equally protected by fulfilling and promoting the basic rights.

**Dear learner**, what do you think is the reason why the law accords special protection for vulnerable sections of the society?

---

---

---

### 3.2 Inclusion of vulnerable groups



The main problem which may affect negatively all vulnerable groups is discrimination or social exclusion, and menace of poverty comparing with the majority of populations universally (Declaration on the elimination of all forms of intolerance and discrimination based on religion or belief (1981). They face or become manifested into homelessness, deprivation from basic needs, unemployment, and exclusion from education, social services and other forms of exclusions.

**Dear students**, if you appreciate the problems of vulnerable groups, how it is possible to promote inclusion beyond the assumptions on survival of the fittest?

---

---

---

The existing human rights instruments are enabling to promote inclusion and let the vulnerable to be advantaged and beneficiaries of affirmative action. The issue of inclusion through affirmative action is a priority. This sets aside the assumptions of survival of the fittest. It is must to develop well resorted approaches to respond for the immediate and long-lasting needs of the specific categories of the vulnerable groups. This has to be done by introducing and legislating context-specific legislation to overcome discrimination and other necessary interventions. The other possible intervention can be reinforced by increasing access to the existing mainstream services and opportunities. IDPs are also highly vulnerable it is an additional inter-sectional and folding status on top of the other vulnerability problems.

In response to all odds of vulnerability, state parties to the Conventions are mandated to avoid the discriminations, narrow the gaps, provide services and opportunities, discarding inequalities, tackling disadvantages and others. All forms of empowerment, that includes economic, social, political, and legal, are required to be enforced in all interventions. Stigmas, discriminations, and prejudices are the severe consequences of vulnerability and any proactive measure including affirmative action shall be enforced to diminish or eliminate the consequences and conditions. The most relevant Conventions that are promoting inclusion are

- The Child right Convention (CRC)
- Convention on the Protection of the Rights of all migrant workers and their Families
- Convention on elimination of all forms of discrimination against women (CEDAW),  
Convention on the rights of persons with disabilities (CRPD), can be mentioned.

The protection through inclusion shall be enforced through contributory social protection plans and programs. They help to enhance the empowerment of the vulnerable ones.

**Dear learner**, can you explain what affirmative action and inclusion means?

---

---

---

Let us see some of the human rights regimes that protect the rights and affirmative action of vulnerable sections of the society.

### **3.2.1 Basic principles on Women and Children's rights**

The overall requirement shall enhance the differential and preferential treatment of the vulnerable in context to causes of vulnerability. Women as one specific vulnerable group shall have different forms or generations of rights. The protection of the political rights women (Convention on the Political Rights of Women, 1952). From the context of human rights perspective, there shall be a social protection program in a way that reinforces best underlying interests of children as a way for promoting the design, implementation and evaluation of protections (UN Convention on the Rights of the Child (1989). Programmers must ensure the effective coverage to access social protection benefits, supportive services as well as guiding information on assistive technologies and facilities.

The fundamental human rights principles are the bench marks for the expanding and specific principles that are relevant to women and children. Women as well as children are frequently raised as the most vulnerable groups because of social, economic, physical, and political factors.

The fundamental principle is the principle of non-discrimination (CEDAW, 1979). Women and children shall not be discriminated in the social, cultural, political, and economic settings. The protection of women from discrimination helps to promote directly or indirectly the rights and resilience of children. The active and meaningful participation and inclusion of women in a society shall be the requirement for all interventions. The second principle is also the right of equality of opportunity in all social, and political and economic interventions and endeavors.

On the other verse, the contemporary universal human rights rules and instruments indicate the basic principles and rights of children (Child Right Convention,1989). The rights of children enshrine and recognize fundamental protections and guarantees to all human beings. The rights cover the right to life, principle of non-discrimination, the right to dignity by protecting physical and mental integrity by protecting from and avoiding torture, slavery, and wrong treatments etc. Children's fundamental rights are revolving on *civil and political rights*, covering the basic rights such as the right to identity, the right to a nationality, etc. On the other strand, the other rights are

including the socio, economic and cultural rights. Furthermore, the rights include economic, social and cultural rights, among others, those include the right to education, a decent standard of living, health rights, etc. The rights of children are those including individual rights, among others, every child has the right to protection right to live with parents, the right to education, and the right to get the important needs for good child development. The rights of children are also collective rights and they are including the rights of minority, refugee and children with disability that are requiring special protection.

There are many factors to be considered in the promotion of the basic principles. First, the fulfillment and promotion of the rights shall consider into account the necessity of assuring development of a child. This helps to enable children to live and grow in physically and/or intellectually suitable condition. Second, the basic rights enshrining basic principles also manifest that the vulnerable nature of a child shall be at the center of all decisions and this implies that specific assistance and protection shall be adapted in a way it reinforces age and degree of maturity (CRC, Art 3). Third, they shall be protected from ill-treatment, kidnapping, and labor exploitation. There shall be measures protecting the vulnerabilities, limitations and age-specific appropriate and timely needs. Among others, the basic rights shall protect a child from discrimination, maintain best interest, promote the survival and wellbeing of a child and finally enable to promote the views and thoughts of a child.

**Dear learners,** what are the basic principles and rationale in protecting women and children?

---

---

### **3.2.2 Fundamentals Rights of Refugees &Migrants (IDPs)**

Among the specific vulnerable groups, refugees (Refugee Convention, 1951) and IDPs also hold a special category of protection. Refugees are migrants who must have crossed an international frontier because of a well-founded and manifested fear of persecution. Unlike to the definition of refugees, an internally displaced person (IDPs) is an individual who is forced to abandon his or her home but who is still residing within the borders of his or her country. Hence, IDPs may not fall within the legal meaning of a refugee. It is important to define the situation of displacement to

contextualize the governing principles. Internally displacement is a situation where individuals and/or groups who might oblige to leave their homes, but they may still remain within the borders and jurisdictions of their home states. The difference between both categories is demarcated by looking whether the migrant has crossed his/her home state and brought the foreign element into existence.

*Dear student, what are the factors of migration and displacement and the responses from the human rights law?*

---

---

---

The factors deriving for migration and displacement may be multiple and the corresponding principles are also expected to decrease the severity and problem of vulnerability. The causes of internal displacement may vary but it may happen naturally in response to persecution, armed conflict, wide spreading violence, natural and human made calamities. But it may also occur because of large-scale expropriations for development projects. Unlike to this scenario, there are instances where people may migrate for better lives and working conditions in rare cases as pull factors. There are also push factors arising from the quest for personal security, conflict, environmental degradation or other human rights violations. The existing principles are also aiming to provide and promote the pull factors and lessen the push factors for creating conducive environment for living.

States may have a primary obligation to protect the rights of IDPs and migrants. It includes the basic right to life, health, food and water among other civil, political, and socio-economic rights. The state with relevant partners shall facilitate the fulfillment and promotion of adequate standard of livelihood. It is interpreted that the sovereignty of state shall not be considered only singled out to the right of the state but rather it is the primary duty to provide the protection and/or assistance without any discrimination to all IDPs in accordance to the international human rights laws. The state is duty bound to provide special measures of protection and assistance to IDPs that correspond to avoid or lessen the vulnerabilities. The state shall ensure that IDPs are treated equally with non-displaced citizens. Displacement risks key human rights and there are instances where the violation



of one human right may cause the violation of other human rights since human rights are interdependent and equivalent in hierarchy.

Some of the grand human rights must be fulfilled and promoted in accordance with the nature of the concentration camps. The human rights worthy to be protected include the right to freedom of movement in and out of the camp will be essential to have access to basic and natural resources and the opportunity for paid cultivated fields, employments etc. They have also the right to acquire a name and if necessary, nationality including of necessary documentations. It is a possibility where refugee and IDPs may need to leave without identity papers through the disclosure of their name and nationality. This helps in the process of recognizing refugee status and delivery of aid. Among others, refugees and IDPs have also the right to socio-economic and cultural rights. It is critical to consider the social and cultural integrity of minority groups, and the economic improvement of individuals are essential in the occurrence of displacement. In relation to accessing education, it is an essential right to all children in the occurrence of displacement. States are also bound not to expel (principle of '*non-refoulement*') a refugee where the life and freedom of the refugee may be endangered (CRSR, Art 33(1). However, there are exceptional reasonable circumstances where a refugee may be expelled and this happens if he/she is a danger to the peace and security of the nation and the individual is convicted as criminal for serious crimes (CRSR, Art 33(2).

**Dear learner** can you discuss the difference between Refugees and Internally Displaced persons (IDPs) and the set of rules governing such cases?

---

---

### **3.2.3 Basic principles about Rights of Persons with Disabilities (PWD)**

The fundamental principles of human rights are relevant on rights of those who are with disabilities. Beyond this, there is a specific convention on the rights of persons with disabilities (CRPD, 2006) and it sets out basic principles of disabled. First, they have the right to promote their inherent dignity, individual autonomy that includes the freedom to carry out one's own self choices, and independently from others. Second, it is non-discrimination and they have also the

right to be partakers of active and effective participation, representation and inclusion in society. Third, they have also the right to respect their difference and acceptance of persons with disabilities as part of diversity and inclusion by others. Fourth, they have also the opportunity and accessibility. Fifth, the right of equality between disabled men and women similar to the standards put on the convention on eliminating discrimination against women. Sixth, it is the respect for evolving capacities in children with problems of disabilities and respect and preserve the right of identities among such disabled children.

The international principles put on access of justice enjoyed by persons with disabilities promoting for inclusive human rights protection. The first principle requires to the recognition of legal capacity. They shall not be denied from accessing justice on by the mere fact of disability. Second, any facility service must be universally fulfilling accessibility to ensure on the basis of equal access to justice without discrimination. Third, all people with disabilities including children with disabilities have the right to benefit from proper procedural accommodation. Fourth, they are entitled to access for legal notices and constructive information similar to other disabled persons. It is mandatory to provide timely and accessible notices on an equal basis comparable to other persons. Fifth, they have the rights to all substantive and/or procedural safeguards that have got acceptance under international norms by keeping balanced the horizontal equality with others. The states are duty bound to provide adequate accommodations without compromising the due process of law. Sixth, it is also their right to get affordable legal assistance without payment. Seventh, they have the right to partake in justice administration of the same with other segment of the population. Eighth, they have the right to lodge complaints and accordingly initiate legal actions, proceedings and investigations for alleged human rights violations and crimes. They have to get and look the potential remedies from the legal proceedings. Ninth, they have the right to install efficient, effective and vigorous monitoring mechanisms that may play a critical role to support services in accessing to justice. Tenth, the state has a duty to work for raising awareness of those who work in the justice system. The state is bound to work training programs that are addressing the rights and privileges of disabled persons.

## **Unit Summary**

Vulnerability is the status or quality where person is exposed and/or have the possibility of facing negative impacts that are caused by the physical, emotional and/or economic attacks caused by others. Vulnerable groups may also consist of so many individuals that cannot care for themselves and/or who have may have a higher chance of being negatively affected by others. The listing is also illustrative. There are clear indications that disadvantaged groups are better and free from linguistic barrier than the use of vulnerable groups. Based on specific contexts, the human rights standards include the civil, political, social and economic rights. In common to both, the three objectives of all human rights intervention are for the purpose of protecting, fulfilling and promoting human rights principles and standards. The normative obligation of states and other actors is also first to relieve from vulnerability and then implement a double step of intervention to relieve from vulnerability and thereby promote human rights. The efforts and relevant interventions may also require sensitizing rights as negative and positive ones. The convention on civil and/or political rights is the most relevant convention with the purpose to provide special protection and avoid vulnerability.

The basic principle of any human right is to assure protection through inclusion. Inclusion aspires to avoid discrimination or social exclusion, and risk of poverty in comparison to the majority of the population. It is devised and enforced through the implementation of an affirmative action by designing social programs. The list of vulnerable groups may require special nature of vulnerability and the basic principles shall aim for preferential and differential treatment where it is necessary. The basic principles and rights of priorities for women and children may include such as the right to life, right to dignity by protecting physical and mental integrity and non-discrimination rights, protection from slavery, torture and bad treatment etc. It is also critical to consider the economic on one hand social and cultural rights among others that are including for the right to education, to a decent standard of living, and the right to health etc.

It is also underlined that IDPs and refugees may require additional basic principles and protections that basically arise from the segregation of both categories based on the foreign element. Almost the protection of the rights may be standing in equivalent with the fulfillment or avoidance of the pull and push factors respectively. Both may require promoting the basic right to life, health, food and water among the other civil and political, and social and cultural rights. A state is under obligation to provide and maintain special measures for protection and assistance to IDPs with the

purpose to avoid or lessen the vulnerabilities. The state shall ensure IDPs are equally treated with non-displaced citizens.

Furthermore, persons with disabilities as a special category as another classifying vulnerability factor may require states to respect for individual autonomy and inherent dignity including the freedom to decide one's own choices independently from others, non-discrimination and assure the right to full and effective participation and inclusion in society, the right for respect for difference and/or acceptance of persons with disabilities strengthening human diversity and humanity.

In broader terms, the basic principles governing the human rights are multiple and they must be accommodated and enforced for the better protection, fulfillment and promotion of the civil and/or political rights in one dimension and the socio-economic rights on the other dimension. It requires avoiding the social and economic barriers.

## Self-review questions

1. What is the meaning of vulnerability?
2. Who are vulnerable groups?
3. What are the four duties of states or objectives of human rights?
4. What is the intersection between vulnerability and human rights?
5. Can you discuss about the two core generations of human rights?
6. What are the problems faced by vulnerable groups?
7. Which strategy is optimum to promote inclusion and resilience?
8. What are differential and preferential treatments?
9. What are the basic principles of women and children?
10. What are IDPs and refugees' human rights?
11. What are the basic rights of persons with disabilities?