

United Nations Human Rights
Commission And India

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By

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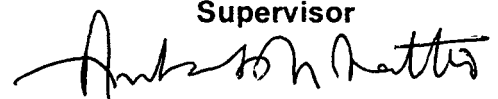
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"I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this fundamental statement, perhaps it is easy enough to define the duties of man and woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for".

(M.K. Gandhi)

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Preface

Universalization of the idea of 'Human Rights' is one of the most important developments of the modern world. For the first time in history, the framers of the United Nations' Charter realized that to maintain peace and security in the world and to achieve international cooperation it was essential to encourage respect for human rights and fundamental freedoms for all without any discrimination of race, colour, sex, language, religion or nationality.

To achieve its goal, as defined in the preamble of the UN Charter, "We, the people of the United Nations determined..... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in equal rights of men and women", the Economic and Social Council established a 'Commission on Human Rights' in the year 1946 with the stated objective to promote and protect human rights. The Commission may deal with any matter related to human rights. It makes studies, prepares recommendations and drafts international instruments to set international standards of human rights. It also undertakes special tasks assigned to it by the General Assembly or the Economic and Social Council, including the investigation of allegations concerning violation of human rights and the handling of communication relating to such violations. It cooperates closely with other UN bodies having competence in the field of human rights.

India is among the few Afro-Asian countries which has been a party to the negotiation and debate in the Commission on Human Rights from its very

inception. India has played a significant role in drafting of the international instruments on Human Rights and its implementation machinery.

India has always been instrumental in promoting the UN ideal to protect human rights throughout the world. It should be noted that India, on attaining its independence, has spelled out its foreign policy objective, which inter-alia, included promotion of human rights. The constitution of India adopted after three years of deliberation, which came into force in January, 1950, contains wide ranging provisions known as fundamental rights and cover almost all the rights enumerated in the Universal Declaration. With this kind of commitment at national level, what has been India's approach to the question of internationalisation of human rights? To what extent India has been in support of the promotion and protection of human rights and what is the India's record of human rights in theory and practice? What kind of implementation machinery India has envisaged for the protection of human Rights?. How far does India meet the international standards of Human Rights and to what extent India does follow the United Nations Commission On Human Rights' Guidelines?. These and related question are the subjects of this study.

The first Chapter provides the background and introduction to the concept of 'Human Rights'. The development and the internationalisation of the concept of Human Rights is the subject of this chapter. The clarification of human right in to three generations has also been discussed.

The concept of human rights became universal with the establishment of the United Nations. No less than seven references to human rights in the UN Charter..... the Preamble, Article 1 (purposes and principles), Article 13 (responsibilities of the Assembly), Article 55 (Objectives of economic and social co-operation), Article 62 (functions and powers of the ECOSOC), Article 68 (A commission to promote human rights) and Article 76 (objective of the trusteeship system) give a new approach to and emphasis on the promotion and protection of human rights. The Second Chapter deals with the provisions and implementary machinery in the United Nations to promote and protect human rights.

The Economic and Social council of the United Nations established, under the provision of Art. 68 of the charter, a commission on human rights to serve as the UN's principal focus for human rights activity, of whatever kind it might be. The structure, functions and the role of the United Nations Human Rights Commission has been analysed in the chapter three.

Chapter Four describes the Indian concept of human rights and India's policy and approach towards the international human rights standards. It also deals with the analytical study of human rights theory and practice in India and specially india's participation in the United Nations in the field of human rights and in the Commission on Human rights in particular.

The concluding chapter (Chapter Five) attempts an overall assessment of the United Nations approach to human rights through its 'Commission on Human Rights with special reference to India's role.

While dealing with the present study a systematic, analytical and objective approach has been adopted. The study is based on both primary sources such as United Nations' documents and records, Government records of debates, newspapers' articles etc., and the secondary sources like books, journals and periodicals etc.

In this regard I wish to express my profound sense of gratitude to my supervisor, Dr. Amitabh Mattoo, who never expressed inconvenience even at inconvenient time while supervising my work. In fact, without his affection, encouragement and kind supervision, I could not have completed this work.

I would also like to extend my thanks to the staff members of different libraries and research centres, specially JNU Library, Documentation office, Human Rights Teaching and Research, SIS, JNU, UNIC Library, UNHCR office, Nehru Memorial library and American Centre Library, where I consulted various documents, books, journals and periodicals.


(Vimal Kaushik)

Chapter - I

Chapter - I

Human Rights: An Introduction

Human Rights is the idea of our time; it asserts that every human being, in every society, is entitled to have his or her basic autonomy and freedoms respected and basic needs satisfied. Human Rights is the twentieth century name for what have long been called 'National Rights' or, in a more exhilarating phrase, the rights of men¹.

In a general sense they denote the rights of humans. However, in a more specific sense, human rights constitute those very rights which one has precisely because of being a human being. Pertinently the term 'human rights' received wider acceptance in place of 'the rights of men' in post world war liberal terminology as it conveyed equal concern for the rights of both sexes². They are claims recognized as such by the state/society/international community.

The concept of human rights has two basic meanings. The first is that they are inherent and inalienable because they are due to an individual simply because of his/her being a human being. Second meaning of human rights is that of legal rights, established according to the law creating process of societies both national and international. The basis of these rights is the consent of the governed, rather than a natural order, which is the basis of the first meaning.

1. Maurice Cranston, "What are Human Rights", New Delhi, 1973, p.1.

2. D.D. Raphael, "Political Theory and the Rights of Man", London, 1967, p.54.

The genesis of the concept of human rights can be traced into the emergence of classical liberalism, classical liberalism made a passionate defence of the principles like competitive individualism, private property and market ethics etc. It cherished the realization of individual's liberty, his development and human progress through the functioning of the above principles. The ideas of the rule of law, limited government and individualism characterised the seventeenth and eighteenth century anti-nationalist school of political liberalism³. In fact the concept of human rights has acquired much greater significance in different forms of states be it the Western liberal democratic states or the Communist states or the third world developing states. As these different forms of states profess their own variant of general political theory which tends to justify their society, politics and economy, there emerges 'the problem of fitting a doctrine of human rights into the general justificatory theory ... different in states with different general theories'⁴.

Individualist liberal theory has no difficulty accommodating the rights of life, liberty, and property, for it was built largely on the assertion of these as the natural rights of the individual, but it finds some difficulty fitting in the modern ideas of economic and social rights. Socialist theory, whose roots are essentially traced back to Marx, if not earlier, finds little difficulty with social

3. Ashutosh Kumar, 'Liberalism, Human Rights and Political Theory: A Third World Critique', in 'Human Rights in India: Problems and Perspectives' by B.P. Singh Sehgal (ed.), New Delh, 1995, p.67.

4. C.B. Macpherson, "The Political Theory of Progressive Individualism" Oxford, 1962, p.224.

and economic rights, but does not find it so easy to accommodate the earlier trilogy of natural rights of life, liberty and property, which they have tended to mistrust on the ground that these are essentially bourgeois rights⁵. The liberal-democratic concept of human rights in the second half of the twentieth century has come to mean defence of the rights of the human being against abuses of power committed by the organs of the state. It also involves the promotion of the establishment of human living conditions and the overall development of the human personality.

Socialist theory has argued against the individualistic theory of human rights. Making a scathing attack on natural rights concept, Marx in "On the Jewish Question" considers it as the ideological expression of bourgeois egoism and social atomisation⁶. Like the Marxist critique, one common theme in the analysis of third world conception of human rights in the individualism of human rights theory, its 'obsessive concern with the dignity of the individual, his worth, personal autonomy and property'⁷.

However, the issue is complicated by the fact that there is no agreed definition of the term 'human rights' and often no agreed understanding of the several facets of that term. In earlier usage, the word "right" had a legal connotation: the individual had an 'inalienable' right to life, for example, and

5. Ibid, p.224-225.

6. Jack Donnelly, 'The Concept of Human Rights', Kent, 1985.

7. Ashutosh Kumar, op.cit., p.72.

he could not be deprived of that right by the state without due process of law. Today, the word 'right' has also the connotation of a goal. For example, the individual has the right to free education, which the state is expected to provide. Furthermore, promotion of respect for human rights is at once a legal problem, requiring definition and codification of rights in the form of laws and treaties; a political problem, requiring enforcement action by the state; and a social problem, requiring the development of public opinion. All of these elements have been involved in international activity, as well as in national and local activity, with regard to human rights.

Hence human rights are fundamental entitlements of a person, constituting means to the end of minimal dignity and social justice. If persons have rights, they are entitled to a fundamental claim that others must do, or refrain from doing something⁸. The three aspects of liberty - civil and political rights, economic and social rights, and the right to self determination - although closely related have received different emphasis at different times in history. The current international preoccupation with human rights, however, represents a new and dramatic chapter in man's unending struggle for freedom-freedom to speak and worship as he chooses, to earn a living and improve his status, and to live under a government of his choice.

8. Thomas A. Weiss, David Forsythe, and Roger A Coate, "The United Nations and Changing Word Politics", Boulder 1994, p.103.

Human Rights and International Relations

One of the significant aspects of contemporary international relations is the importance being attached to the promotion and protection of human rights. Institutions of great importance spend an increasing amount of their time on questions of human rights and an increasing sector of the membership of international institutions accords human rights questions a priority that in many cases even exceeds questions of peace and security⁹. There is, a greater and growing sensitivity to the miseries and indignities suffered by fellow human beings in distant lands which were, but a few decades ago simply shrugged off.

Human rights are currently a matter of international interest and concern for a wide variety of reasons. Some of these are deeply rooted in the historical experience and are part of man's struggle for the realization of all his human values. With the emergence of nation states and establishment of despotic regimes towards the close of middle ages, the struggle for the rights of man started, originally, within the national boundaries. As a reaction to the authoritarian and repressive regimen, history witnessed the great political revolutions of the late seventeenth and eighteenth century¹⁰. The pace of history has since greatly accelerated with the incredible advance in science

9. History is replete with great historic movements for man's freedom - the English, American and French revolutions stand testimony to vindication of certain human values.

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and technology, the communications revolution and the improvement in the means of transport. These have levelled the barriers transforming the one time unknown and mysterious tracts into a close and familiar habitat of mankind. The resulting man-to-man contact has changed the very ecology of international life and the everyday shrinking distance has brought the human miseries in distant lands close to our doors.

The rapid industrialisation and the demands for higher standards of living have added to the complexities of present day societies. No nation today is in a true sense independent, no country, however large and powerful, is sufficient unto itself, no country, however small and unobtrusive, can live, much less thrive, in isolation. This increasing interdependence of modern world-economically, strategically, culturally, politically and technologically-has made concern for human rights 'a major international fact'¹¹.

Emergence of the Concept of Human Rights

Human rights have developed throughout the ages as a relationship between the state and the individual. They are 'designed to fix the position of the individual in the community, and to give him the safeguards which are considered necessary for his protection against the state'¹².

11. Moses Moskowitz, "Human Rights and World Order", Moscow, 1958, p.80.

12. R. Chakravarti, "Human Rights and the United Nations" Calcutta, 1958, p.3.

The problem of human rights is intrinsically bound up with the relations between men and his social environment, more specifically with all the institutions on which social existence depends. Rights are in a way the product of a given social order and, therefore, possess historical character. It is most probable that in all areas and all regions, societies have always implicitly or explicitly, in legal terms or otherwise, defined the rights and obligations of their members, particularly the nature of socially acceptable needs and ambitions as well as the restrictions imposed by the need to maintain social order. It was also but natural that in many instances, might prevailed rather than what was rights¹³.

From the dawn of civilisation the rights of man derived from the Laws of Nature, from religions, from human experience and from observation and reflections and have been a refuge against arbitrary use determined depredation of human might - a rallying cry of resistance to tyranny and oppression. With the passage of time, these rights gained recognition, in a systematic way, in different forms in various parts of the world.

Beginning with the Religions Peace of Augsburg, 1555, a new tradition had developed in international society. It secured the protection of religious minorities in cases of transfer of territories or conclusion of a general peace. A stage was reached in Europe when a mutual guarantee of religious liberty

13. K.P. Saksena, "Teaching About Human Rights", Paper presented to NCERT/UNESCO pilot project 1982-83 on the study of world problem: "Human Rights, Disarmament and New International Economic Order", NCERT, New Delhi, p.3-4.

became the only alternative to religious conflicts. John Locke, the philosopher most often quoted as an authority on the subject, wrote of the rights of life, liberty and property. The Bill of Rights enacted by the English Parliament after the 'Glorious Revolution' in 1689 - the same year in which Locke first published his theory of government. Locke's reasoning and the example of English Bill of Rights (1609) had a great significance throughout the civilized world. In Virginia in June 1776, a Bill of Rights was adopted by a representative convention, and its first clause proclaimed, "that all men are by nature equally free and independent, and have certain inherent rights, which when they enter into a state of society, they cannot, by any compact, deprive or divert their posterity: namely, the enjoyment of life and liberty, with the means of acquiring and possessing property and pursuing and obtain happiness. Here the right to happiness is added to those Locke named. The same word recurs in the Declaration of Independence, issued by the thirteen American States in July 1776:

"We hold these truths to be self evident: that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness".

The U.S. constitution of 1789 with concurrent amendments, defined these rights in greater detail. It specified freedom of speech and the press, the 'rights of the people to be secure in their persons, houses, papers and effects

against unreasonable searches and seizures; and the right to the free exercise of religion.

The Declaration of the Rights of Man and Citizen issued by the Constituent Assembly in France follow closely the English and American models. It asserts that 'men are born, and remain free and equal in rights'; indeed that the purpose of all political association is the conservation of the natural and inalienable rights of man: these rights are liberty, property, security and resistance to oppression. Such are the classical statements of the rights of man. yet it would be a mistake to think of this notion as the child of the Enlightenment; it is much more ancient. Human Rights found expression, for instance, in Greek Political system and Roman Law in Europe, Confucius system in China and the Panchayat System in India. Citizens of certain Greek Cities enjoyed such rights as **isogoria**, or equal freedom of speech and **isonomia** or equality before law, which are prominent among the rights claimed in the modern world¹⁴. In the Hellenistic period which followed the breakdown of the Greek city states, the stoic philosophers formulated the doctrine of natural rights as something belonged to all men at all times. In India, references occur as early as in the **Rig Veda** to the three civil liberties of Tana (body) Skridhi (dwelling house) and jibasi (life), Long before Hobbes, the Indian epic **Maha Bharata** described the civil liberty of the individual in a political state¹⁵.

14. Mauris Cranston, op.cit., p.2.

15. K.P. Jayaswal, "Hindu Polity", Bangalore, 1955, p.104.

When territorial state arose and became consolidated in the middle of the seventeenth century, human rights were treated, if at all, as national rather than international issues. Indeed, the core of the 1648 Peace of West-Phalia, designed to end the religious wars in Europe, indicated that the territorial ruler would henceforth determine the religion of the territory. In the modern language of rights, freedom of religion, or its absence, was left to the territorial ruler. The dominant international rule was what today we call state sovereignty. Any question of human rights was subsumed under that ordering principle. It was unfortunate that the ordering principle of state sovereignty to considerable disorder.

Later, the Magnacarta and the English Bill of Rights (1668) recognised human rights. The Bill of Rights began with a complaint against King James II for attempting to subvert rights of citizens and concluded with a demand that henceforth they should be respected by the Prince of Orange. The American declaration of 1776 complained about violations by king George III and asserted independence for a new government to be formed by the united colonies on the grounds that such a "tyrant is unfit to be the ruler of a free people". The French Declaration of Rights in 1789 asserted the inalienability of rights. It proclaimed liberty, equality and fratarmity for all. These revolutions had no immediate legal effect, and sometimes no political effect, on other nations. In fact many non-western peoples and their rulers were not immediately affected by these two national revolutions, oriented as they were to definitions of what were then called 'the rights of man'. Many non-western

societies, such as China, continued to rely primarily on supposedly enlightened leader for human dignity and social justice.

During the middle of nineteenth century, Western nations, which tended to dominate much of the world at that time, were swept by a wave of international sentiments. It may be time that the notion of human rights was not particularly resurrected them. But growing international concern for the plight of persons without regard to nationality may have laid the moral foundations for a later resurrection and expression of the notion of personal rights. Moral concern led eventually to an explosion in human rights developments¹⁶. In 1815, the Congress of Vienna demonstrated international concern for human rights. The congress dealt with religious freedoms as well as civil and political rights and heard petitions by individuals and groups for the international protection of those rights. Additionally, participants in the congress agreed in principle to abolish slavery¹⁷.

In 1864, First Geneva Convention for victims of war was concluded. It provided legal protection and assistance to fighters disabled in international war. Still another effort in the nineteenth century to identify and correct problem of human dignity on international basis was the antislavery movement. By 1890, in Brussels, all major Western States had finally signed

16. Thomas A. Weiss, David Forsythe and Roger A. Coate, *The United Nations and Changing World Politics*", op.cit., p.106.

17. Abdul Aziz Said, 'Pursuing Human Dignity' in *"Human Rights and World Order"*, New Delhi, 1978, p.2.

a multilateral treaty prohibiting the African slave trade. This capped a movement that had started about the turn of the century in Britain. Beginning the nineteenth century, demand for economic security and social justice, in addition to civil and political liberty, appeared in the forefront of socialist movements. In Europe and North America, the concept of natural rights was secularized, rationalised and democratized, by the end of Eighteenth century. These emerged a concept what was called 'The Rights of Man'. This concept covered substantially what is now known as civil and political rights. Although these rights were not fully secured but, they were widely recognised as norms. Beginning the mid-nineteenth century, the developments that followed, sometime accompanied by violence, within industrial capital economy of Europe and North America took a new direction. Struggle waged by the trade unions considerably improved the lot of the majority constituting the working class. Flow of wealth and additional resources from colonial territories also had a cumulative effect in ensuring, alongwith civil liberties, a minimum of economic and social security to almost all people. Bolshevick Revolution (1917) set a seal on the concept of economic and social rights.

While countries in Europe and North America, with rapid industrialization, were moving towards larger freedoms both political and economic the people of the non-western world were more or less experiencing the sufferings and humiliations of colonialism and imperialism. During colonial era, it was but inevitable that rights available to the citizens of colonial powers were denied by some powers to their 'subject' in the colonies. It was natural

that interaction and comparison between peoples of the two sides helped to generate wider awareness and demand for human rights among the people under colonial rule. For the people of non-western world, having colonial experience, declaration of great historical significance, was the clarion call made at the turn of the century in India by **Bal Gangadhar Tilak**: "Swaraj is my birth right and I shall have it". This was an addition to the concept of right to self-determination.

Human Rights in the first-world War

The first World War resulted in part from the explosive forces of nationalism and it released new forces of nationalism the consequences of which are still being felt. It crystallized the concept at self-determination, for which president Wilson became champion. Even before the United States entered the war, he voiced the concept in these eloquent terms: "No peace can last, or ought to last, which does not recognize and accept the principle that government derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property"¹⁸. These principles were developed in more detail by President Wilson in the "Fourteen Points" of his address of Jan 8, 1918 and in his later address, and they became a basis for the peace settlement.

18. Address to the Senate, January 22, 1917, *Congressional Record*, Vol.54, Pt.2, 64 Cong. 2 sess. p.1742.

The league of nations and Human Rights

The trend of focusing on human rights need across national borders increased during the League of Nations era, although most efforts meet with less than full success. Efforts were made at the Versailles Conference 1919 to write into the League's Covenant rights to religious freedom and racial equality.

The Covenant of the League of Nations reflected the very limited international concern with human rights. The phrase, "human rights and fundamental freedoms", did not appear in the covenant. The drafters of the covenant were preoccupied with the maintenance of security, the pacific settlement of disputes, the establishment of mandates system for former German and Ottoman territories¹⁹, and the protection of minorities in Central Europe - neither the Council nor the Assembly of the League subsequently dealt with questions of human rights as such or considered charged of violations of human rights. The wholesale and systematic suppression of human liberty in Communist Russia, Fascist Italy, and Nazi Germany went officially unnoticed by the League, although the implications of these acts of tyranny were recognised by many of its Member States.

The fact that the whole subject of human rights - whether civil and political or economic, social and cultural - was not mentioned in the covenant of the League and was not dealt with by the League, reflects the traditional idea that the rights of the citizen are a matter for the state concerned and not

19. Provision in the Art 22 of the corenant of the League.

the international community. The covenant contained in art. 15(8), a paragraph on domestic jurisdiction, but it related only to pacific settlement of disputes²⁰. The powers and functions of the League in the economic and social fields were sufficiently limited so that the question of domestic jurisdiction did not attain any major significance. Member states continued to feel that international law covered relations between State and not the relations of the citizen of the state.

During the 1930s, the League Assembly debated the merits of an international agreement on human rights in general. Some states were opposed in principle, and some did not want to antagonize Nazi Germany given the prevailing policy of accommodation or appeasement. Nevertheless, the language of Universal human rights was appearing more and more in diplomacy. European NGOs were especially active on the subject.

More successful were efforts to codify and institutionalize labor rights. Whether to undercut the appeals of Marxist revolution, to reflect Marxist concern for labor's plight, or for other reasons, the International Labor Organisation (ILO) was created and based in Geneva alongside the League²¹. Its tripartite membership consisted of government, labor and

20. Art. 15(8) was as follows: "If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and make no recommendation as to its settlement".

21. Established under the 'Treaty of Versailles', as an autonomous institution associated with the League of Nations. **Basic Facts About the UN**, Department of Public Information, New York, 1992. p.227.

management delegations, one from each memberstate. This was conducive to the approval of a series of treaties and other agreements recognizing labor rights, as well as to the development of mechanisms to monitor state practice under the treaties. It was one of the first international organizations to monitor internationally recognized rights within states²².

The League Covenant and constitution of the International Labor Organisation provided machinery for co-operation in the economic and social field. The concept of economic and social rights did not appear in the Covenant, however, and did often arise in the work of the League. The principle exception was perhaps the Geneva Declaration of the rights of the child, which was endorsed by the assembly of the League in 1925. However, international action to eliminate the worst social evils - slavery, forced labor, the traffic of narcotics, and the traffic in women and children - was greatly strengthened under the League²³.

Also, the League Mandate System theoretically sought to protect the welfare of dependent peoples. Established by Art 22 the League Covenant, it contributed an entirely new and almost revolutionary development in international affairs. The article proclaimed that to the German and Ottoman colonies and territories "there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization".

22. Earnest Hass, 'Human Rights and International Action' Stanford, 1970, p.129.

23. F.P. Walters, 'A History of the League of Nations', Vol.I, New York, 1952, pp.186-107.

The Council of the League, which with the assistance of the Permanent Mandates Commission, supervised the administration of the mandated territories, gave special attention to safeguarding the rights of the inhabitants in these territories.

The League of Nations and the International Labor Organisation thus touched some aspects of human rights. Concern was shown especially in the fields of slavery, forced labor, mandated territories and minorities. In general, however, the traditional concept that the civil, political, economic and social rights of the individual were strictly a concern of the national state was respected.

Human Rights in the Second World War

The second World War marked a turning point in the development of international concern for human rights. The excesses of Fascists in Italy and the Nazis in Germany, and the horrifying mass acers by the Hitler regime of millions of Jews and Poles, shocked public opinion throughout the world²⁴. President Roosevelt's **Four Freedoms** - set forth in his message to the congress in January 1941 - inspired and encouraged the forces resisting the Axis powers²⁵.

24. Brenda Cossman, 'Reform, Revolution, or Retrenchment? International Human Rights in the Post Cold War Era' *Harward International Law Journal*, Vol.32, No.2, Spring 1991, p.344.

25. "Four Freedoms" postulated by President Franklin D. Roosevelt, in his 'Annual Message to the Congress on the State of the Union (Jan. 6th 1941) became the basic symbol around which the War was organised. He said.....

The war resulted in a wide spread conviction that the effective international protection of fundamental human rights was a major purpose of the war in as much as it is an essential condition of international peace and progress²⁶. This faith was given repeated expression in several Allied Official Pronouncements and declarations which began early in the war to emphasize unmistakably the individual and his rights. Stimulated by the mounting evidence of a new barbarism, comprehensive international action on world basis was finally contemplated when the international community was reconstituted under the Charter of the United Nations.

Three Generations of Human Rights

Most current international human rights norms emerged in the aftermath of World War II, a product of the competing political ideologies of that period. The three generations of human rights correspond to the three different

"The first freedom of speech and expression - every where in the world".

"The second is freedom of every person to worship God in his own way - everywhere in the world".

"The third freedom from want - which translated into world terms, means economic understanding which will secure to every nation a healthy peacetime life for its inhabitants - everywhere in the world".

"The forth is freedom from fear - which translated into world terms, means world wide reduction of armaments to such a point and such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbour - anywhere in the world....

S.L. Bhalla, 'Human Rights: An Institutional Framework for Implementation', New Delhi, 1991, pp.3-4.

26. Hersch Lauterpach, 'Human Rights and International Law', New York, 1968, p.79.

political visions: Civil and political rights associated with Western liberal democracies; social and economic rights social and economic rights associated with Eastern Socialist states; and development rights associated with post-colonial, developing countries²⁷.

First Generation Negative Rights: These are civil and political rights that are well known in the west, called 'first-generation's because they were the ones first endorsed in national constitutions and called negative because civil rights in particular blocked public authority from interfering with the private person in civil society. These were the rights to freedom of thought, speech, religion, privacy and assembly.

Second Generation Positive Rights: These are socio-economic rights emphasized rhetorically at least, mostly outside the west. They are called "second generation" because they were associated with various twentieth century revolutions emphasizing material benefits, and called 'positive' because they obliged public authority to take positive steps to ensure minimal food, shelter, and health care.

Third Generation Solidarity Rights: These are the group rights emphasized at least rhetorically by some contemporary actors, called 'third generation' because they followed the other two clusters and called 'solidarity' because they supposedly pertained to collections of persons rather than to individuals.

27. Thomas G. Weiss, David Forsythe, Roger A. Coate, 'The United Nations and Changing World Politics', op.cit., p.115.

Later formulations have included claim to a right to peace, development, and a healthy environment as the common heritage of mankind²⁸.

All of these developments and institutional frameworks, referred to above, have made important contributions, but lacked conceptual clarity and totality of what constitutes right. While American and French Declarations set the seal on the basic principles of equality before law, freedom of thought, human dignity, the countries undergoing rapid industrialisation specially in Europe were experiencing need for additional economic and social rights. Again each of these declarations were either narrowly sectarian or generally vague²⁹. Likewise, the American Declaration followed by constitutional 'amendments' contained fairly exhaustive guarantees for the rights of the individual but in practice their operational aspect was confined to those who constituted what was abbreviated as WASP (White, Anglo - Saxon and Protestant). That blacks of the land were referred to as negro and not as men. Again, the French Declaration of Rights of man (equality, liberty and fraternity) lacked precise meaning and content. The Bolshevick Revolution of Russia laid more emphasis on economic and social rights and viewed Human rights in the context of class struggle.

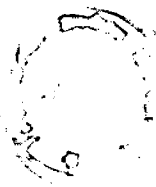
It was by the middle of the present century that there emerged, as a result of the convergence of several historical forces (including developments in science and technology), a concept of human rights, universal in its

28. Ibid. pp.115.-116.

29. For instance, in Greek political system, rights existed only for the 'citizens' and not 'aliens' or 'slaves'.

approach, comprehensive in its content (including inter-alia a set of economic rights, right of people to self - determination, rights of stateless persons, refugees etc.)and reaffirming the principle that man is the measure of all things. Besides what amounted to a revolutionary development was the principle of international concern with human rights. This development found expression in the Charter of the United Nations - the first international instrument which, in unequivocal terms, asserted the fundamental freedoms for all without regard to race, colour, sex, language or religion.

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Chapter - II

Chapter - II

The United Nations and Human Rights

The Second World War and what followed subsequently marked a turning point in the evolution of the concept of human rights. Several historical factors including development in science and technology, intellectual liberalism, and the sharp reaction to Nazi atrocities brought to focus the need for observance and promotion of human rights. Much before the World War ended, Allied powers in many of their declarations had expressed commitments to promotion of human rights as an essential condition of achieving international peace and social progress. The Atlantic Charter of 14th August 1941, which was subscribed to by 26 nations, expressed the hope "to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want"¹. The signatory Governments to the Declaration by the (wartime) United Nations of 1st January 1942 expressed their conviction "that complete victory..... is essential to defend life, liberty, independence and religious freedom, and to preserve human rights....."².

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1. Abdulrahim P. Vijapur, "The United Nations at Fifty: Studies in Human rights", New Delhi, 1996, p.24
 2. United Nations Documents, 1941-1945 (London, 1946) p.10.

It is interesting to note that the U.S. Department of State, in its early draft of the U.N. Charter (prepared in 1942) included a Bill of Rights containing "a common programme of human rights" to which all members would have to subscribe. The draft charter prescribed that the U.N. purpose was to establish and maintain "the instrumentalities by which peace and human rights may be assured". Though an agreement was reached on the main provisions relating to civil and political rights, difficulties cropped up with regard to the formulation of economic rights such as freedom from want and right to public education. There was also no agreement on the measures of implementation³. In its next draft Charter, the Department of State, included the "Declaration of Human Rights" (to be annexed to the charter) which would be given effect by member states without discrimination as to nationality, language, race, political opinion or religious belief. However the idea of preparing a Declaration was dropped and the "Plan for a General International Organisation" contained only a provision empowering the General Assembly to initiate studies and make recommendations for 'the promotion of the observance of basic human rights in accordance with principles or undertakings agreed upon by the member states of the International Organization submitted to the Dumberton Oaks Conference.

3. Ruth B. Russell, "History of the United Nations Charter", Washington, D.C., 1958, pp. 323-27.

The Dumberton Oaks Proposals

The question of including human rights provisions was discussed at the Conference of Dumbleton Oaks. In view of the British and Soviet objections to the inclusion of specific human rights obligations in the Charter, the Dumberton Oaks proposals contained only one direct reference to human rights and fundamental freedoms. Chapter IX (Arrangement for International Economic and Social Co-operation) Section A (Purpose and Relationship) reads: "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the organization should facilitate solutions of international economic, social, and other humanitarian problems and promote respect for human rights and fundamental freedoms...."⁴.

At San Francisco

Dumberton Oaks proposals were the basis of the work of the United Nations Conference on International Organization, which met at San Francisco in 1945 and prepared and opened for signature and ratification the charter of the United Nations. The Conference, in drafting the Charter, greatly enlarged and broadened the objectives of the United Nations as a whole by including among its purposes the phrase:

"... and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

4. A.P. Vijapur, 'The United Nations at Fifty', op. cit., p.25

It increased the originally contemplated functions and powers of the General Assembly by adding a similar phrase:

"... and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

It also increased those of Economic and Social Council by assigning to it an added responsibility: to make recommendation "for purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all"⁵.

The delegates for many states showed interest in human rights. The Australian delegate spoke of the promises of the Atlantic Charter and the need to provide machinery to assure fulfillment of those promises and pledges. The Indian delegate asked for the recognition of the dignity of common man and fundamental rights of human being⁶.

Panama, often a champion of human rights in the United Nations, proposed on International Bill of Rights to be included in the Charter⁷.

In the Committee meetings of the UNCIO, large number of delegates felt that the reference to human rights and fundamental freedoms in the

5. "The United Nations and Human Rights", UN, New York, 1978, p.2.

6. The United Nations Conference on International Organization Document (UNCIO), San Francisco, 1945 (London/New York, 1945), Vol. 1. p. 245.

7. UNCIO Docs. Vol. 1 p. 560.

Dumberton Oaks Proposals was inadequate. It was felt that something more had to be inserted in the final version of the Charter. Hence, many suggestions were made at San Francisco to broaden the provisions on human rights.

At the conclusion of the United Nations Conference on International Organization, the Charter of the United Nations was signed on 26 June 1945 in San Francisco, and came into force on 24 Oct. 1945. Through the United Nations Charter for the first time in history the human rights were internationalized.

Clauses Concerning Human Rights in the U.N. Charter

Although attempts by delegations such as that of Panama to have an international bill of rights included in the U.N. Charter was unsuccessful, the deep concern of the international community for the promotion and protection of human rights was clearly expressed in the charter of the United Nations. As unanimously approved by the San Francisco Conference on 25th June 1945, the United Nations Charter makes references to human rights and fundamental freedoms in a number of clauses.

The Preamble of the Charter reads, inter-alia, "We the Peoples of the United Nations determined... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small", and for this purpose "to practice tolerance and live together in peace with one another as good neighbours",

and "to employ international machinery for the promotion of the economic and social advancement of all peoples"⁸. One of the purposes of the United Nations, under Art.1, is "to develop friendly relations among nations based on respect for the principle of equal rights and self determination of peoples". Another is "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion"⁹. Under Art 55, the United Nations has the duty to promote 'Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion', with a view to "the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples".

Under Art.56, all members of the United Nations, "pledge themselves to take joint and separate action in cooperation with the organization for the achievement of the purposes set forth in Art. 55"¹⁰.

8. Preamble of the U.N. Charter, UN, New York.

9. Art. 1 of the Charter of the United Nations, and also, '**United Nations Action in the Field of Human Rights**', UN, New York, 1988, p.5., para.2.

10. '**United Nations Action in the Field of Human Rights**', UN, New York, 1988, p.5, para 3.

Art. 13 states that the General Assembly "shall initiate studies and make recommendations for the purpose of 'promoting international cooperation in economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion'".

Art. 62 states that the Economic and Social Council "may make recommendations for the purpose of "promoting respect for, and observance of, human rights and fundamental freedoms for all."

Art. 60 provides that 'Responsibility for the discharge of the functions of the organization set forth in this Chapter (Chapter IX) shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council', Chapter IX, to which Art. 60 refers, includes Articles 55 and 56.

Under Art. 64, the Economic and Social Council, "may make arrangements with the members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters, falling within its competence made by the General Assembly"; and "may communicate its observations on these reports to the General Assembly"¹¹.

11. Ibid.

Art.68 of the United Nations Charter provides that "the Economic and Social Council shall set up Commissions in economic and social fields and for the promotion of human rights, and such other Commissions as may be required for the performance of its functions". The Charter does not specify the composition or functions of any of the Commissions envisaged in the article¹².

Art.73 of the Charter deals with provisions regarding dependent territories that "Members of the United Nations which have or assume responsibilities for the administration of territories whose people have not yet attained a full measure of self government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present charter.

Under Art.76, one of the basic objectives of the International Trusteeship System, which the United Nations is authorised to establish by Art.75 of the Charter, is in accordance with the purposes laid down in Art. 1, to encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

As regards the primary purpose of the United Nations:-

- ▣ The maintenance of international peace and security - the General Assembly is authorised in Art.11 of the Charter to "discuss any

12. Ibid., p.15, para.113.

questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations", and to make recommendations "with regard to any such questions to the state concerned or to the Security Council or to both". Under Art.14 it may "recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations including situations resulting from violation of the provisions of the present charter setting forth the Purposes and Principles of the United Nations".

In Chapter V, VI & VII the Charter confers on the security Council primary responsibility for the maintenance of international peace and security and provides it with special powers, including enforcement measures, for this purpose. The Council has on several occasions involved these powers in dealing with situations violating gross violation of human rights threatened international peace and security.

The authority of the United Nations to promote and protect human rights is subject to the principle set out in paragraph of Art.2 of the Charter, which states that 'nothing contained in the present Charter shall authorize the United Nations to intervene in matters of domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter', and adds that 'this principle shall not prejudice the application of enforcement measures under Chapter VII'.

However, in practice this domestic jurisdiction has not been viewed as an insurmountable obstacle to the consideration of human rights questions by the competent United Nations bodies, which usually proceed on the assumption that any violation of human rights which arouses serious international concern is not "essentially within the domestic jurisdiction of any state"¹³.

There were, however, two significant omissions in these references to human rights. In the first place, the phrase "human rights and fundamental freedoms" was not defined, with the result that statements made in the United Nations documents issued by it use this phrase to connote both rights and aspirations and both individual and group rights.

In the second place, the key words used were 'promoting', 'encouraging' and 'assisting in the realization' and not 'protecting', 'safeguarding', and 'guaranteeing'. The result of these two omissions has been the absence of any agreement on exactly what constitutes the field of human rights and as precisely what are the powers and functions of the Organization in the field.

United Nations Bodies Concerned with Human Rights

The General Assembly and its Subsidiary Bodies

The General Assembly is the main deliberative body of the United Nations. Unlike other UN organs, it is composed of all UN members. The Assembly and

13. Ibid., pp.5-6, para 8-11.

its third Committee (social humanitarian and cultural matters) exercises wide range of powers on human rights issues. It is the Assembly which adopts Declarations, Covenants on human rights. During last 50 years it has adopted 88 such documents, some of which impose legal obligations on ratifying states.

For the most part, human rights items on the agenda of the General Assembly originate in sections of the report of the Economic and Social Council which relate to human rights, or in decisions taken by the General Assembly at earlier sessions to consider particular matters¹⁴.

Over the years, the Assembly has discussed and initiated action on complaints of gross violations of human rights in South Africa, in Bulgaria, Hungary and Romania, Soviet Union, Tibet, Vietnam, Northern Ireland and Chile. Among its subsidiary bodies the office of the U.N. High Commissioner for Refugees (UNHCR) needs to be mentioned which was created in 1951 to promote the rights of the refugees.

Economic and Social Council and its Subsidiary Bodies

Like the General Assembly, the ECOSOC has wide powers concerning promotion of human rights*, such as making recommendations or preparing draft conventions for submission to the General Assembly. The Council

14. A.P. Vijapur, 'Promotion of Human Rights and Problem of Domestic Jurisdiction' (Ph.D. thesis of Jawahar Lal Nehru University, New Delhi) 1986, pp. 237.

* Art. 62 and Art. 64 of the Charter.

normally holds on organizational session and two regular sessions each year. In addition, it occasionally holds special sessions. Human rights items are usually referred to the Council's Social Committee. The reports of the Social Committee, which contain draft resolutions and draft decisions, are submitted to the Council for consideration and final action in plenary meetings.

To assist in dealing with items relating to Human Rights, the Council has established the Commission on Human Rights. To assist in its work, the Commission, in turn, has established a number of subsidiary bodies, including the Sub-commission on Prevention of Discrimination and Protection of Minorities, the Adhoc Committee on Periodic Reports, the Adhoc, working Group of Experts on Human Rights in Southern Africa, and other Working Groups charged with particular tasks.

The Security Council

Though the Security Council does not have direct/specific powers to deal with human rights, Chapter VII (dealing with actions with respect to threats to the peace, breaches of the Peace and Acts of Aggression) and Art.24 of the UN Charter (which states that in discharging its duties the Security Council shall act in accordance with UN Purposes and Principles), enables it to take action on serious violations of human rights.

Violations of human rights on a massive scale in several instances have been designated by the Council as a threats to peace, in particular the policies of Apartheid of the Government of South Africa and the situations in

Namibia and Southern Rhodesia. The Council identified racial discrimination as a threat to international peace and security while imposing arms embargoes on South Africa in 1963, 1970 and 1977. Similarly, the security council took a strong action in a human rights related issue by imposing mandatory sanctions against the illegal minority regime in Southern Rhodesia. It was for the first time in the U.N. history that such sanctions had been imposed. Besides, the Council has concerned itself by passing many resolutions on matters of human rights¹⁵.

The Trusteeship Council

The Trusteeship council is authorised by the United Nations Charter to examine and discuss reports from the Administering Authority on the political, social, economic and educational advancement of the peoples of the Trust Territories and, in consultation with the Administering Authority, to examine petitions from Trust-Territories. It is gratifying to note that by December 1994 all the eleven Trust Territories have attained independence either as separate states or by joining 'neighbouring by independent countries'.

The last of the Trust Territories, Palau (Part of the Pacific Island) decided by UN supervised plebiscite to join a 'Compact of Free Association with the United States. Now this body has no regular work, therefore, the Secretary-General recommended that the General Assembly proceed with steps to eliminate the organ in accordance with Art.108 of the Charter¹⁶.

15. Sydney D.Bailey, '**The UN Security Council and Human Rights**', BasingStoke/London 1994, pp.57-59.

16. Boutros Boutros Ghali, '**Building Peace and Development**, 1994 - Annual Report on the Work of the Organization, New York, 1994, p.19.

The Secretariat

To assist the Secretariat in providing secretariat services to human rights bodies the Human Rights Centre for Human Rights was created. From 1946-1982, it was known as the Division of Human Rights. It has the responsibilities for questions relating to human rights and fundamental freedoms. The Division is headed by a Director, and reports to the Secretary-General through the under Secretary-General for Political and General Assembly affairs.

In 1982, the Division was upgraded as the Centre for Human Rights¹⁷, the Centre's broad functions are to serve as a focal point of the United Nations in the field of Human Rights, provide secretariat and substantive services to UN organs concerned with human rights, including the General Assembly and its Third Committee, the ECOSOC, and its social Committee, the Commission on Human Rights and its sub-commissions and their subsidiary bodies, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Committee on the Rights of Child. It carried out research and studies on human rights at the request of the organs concerned; follows up and prepares reports on the implementation of human rights. It also administers the programme of advisory services and technical

17. The decision of the Secretary-General to do so was announced on 28 July 1982, and was noted by the Assembly in decision 37/437 of 18 December 1982.

assistance on human rights; and co-ordinates liaison with non-governmental organisations, external institutions and the media on human rights. Also it collects and disseminates information and prepares publication¹⁸.

International Court of Justice

Nearly all UN human rights Conventions contain provisions by which any dispute between the contracting parties relating to the interpretations, applications or fulfillment of the Convention may be submitted to the International Court of Justice at the request of any of the parties to the dispute. For instance the Genocide Convention (1948), the International Convention on the Elimination of All forms of Racial Discrimination (1969), and the Convention on the Elimination of All Forms of Discrimination Against Women (1979), the Torture Convention (1984) and the International Convention on Protection of the Rights of Migrant Workers (1990) are some of the examples which confer compulsory jurisdiction to the ICJ on matters of interpretation. However, the UN covenants of 1966 do not provide for adjudication by the court.

Treaty Monitoring Bodies

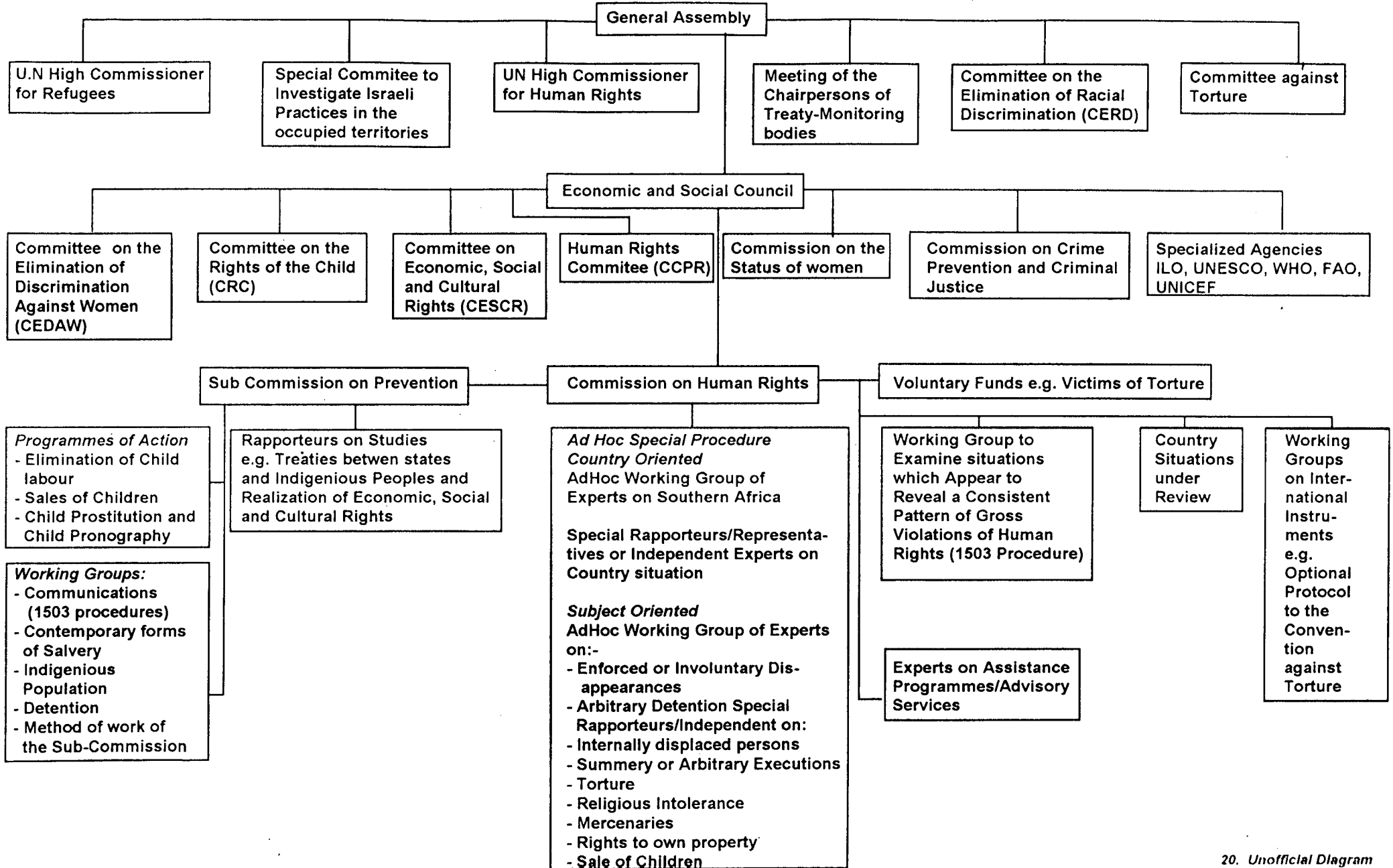
So far six treaty based bodies have been created as a result of the coming into force of six major human rights treaties. These are the Committee on the Elimination of Racial Discrimination (CERD, created in 1970), the Human Rights Committee (HRC, created in 1977), the Committee on Economic, Social

18. 'United Nations Action in the Field of Human Rights' op. cit., p. 23-24, para-164-171.

and Cultural Rights (CESCR, created in 1986), the Committee on Elimination on Discrimination Against Women (CEDAW, created in 1982), Committee Against Torture (CAT created in 1987) and the Committee on the Rights of the Child (1991)¹⁹.

19. A.P. Vijabur, *op.cit.*, p.11.

Structure of U.N. Human Rights Systems²⁰



The United Nations Charter was created in the name of all peoples and for the welfare of human beings. The global movement for human rights is founded on, and inspired by the UN charter. The UN charter was the first multilateral treaty to embody human rights concern in its provisions. The United Nations relevant activities in the field of human rights over the years can be classified into four distant categories:

- a) **Setting Standards:** Which includes defining and clarifying the rights of individual.
- b) **Promotional Activities:** which include studying particular human rights, or human rights in particular places, and recommending measures for their fuller realization.
- c) **Humanitarian Functions:** such as providing assistance to victims of human rights violations; and
- d) **Implementation:** which entails protecting violations in specific cases²¹.

The Charter was loaded with high ideals of promoting the observance of human rights universally, it nowhere defined them or listed them. However, the Charter envisages that the onerous task of elaborating and spelling out the human rights norms and standards will be taken up by the Commission on Human Rights which was to be created under Art. 68.

21. Sambhavi Vedantam, 'United Nations - Putting to Work', New Delhi, 1996, pp.132-133

Chapter - III

Chapter - III

United Nations Human Rights Commission

If when dealing with human rights, the broad and complex UN system is thought of as a wheel, its Human Rights Commission is the hub¹. Under Article 62 of the UN Charter, the Economic and Social Council may "make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all". It may also prepare draft conventions for submission to the General Assembly, and call international conferences, on human rights matters². Under Article 68 of the Charter, the Council "Shall set up commissions in economic and social fields and for the protection of human rights"³.

During the Conference on International Organization, convened in San Francisco on 25 April, 1945, the Big four recommended modest amendments making the promotion of human rights both a main purpose of the Organization and a specific responsibility of the General Assembly and ECOSOC.

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1. Howard Tolley, **'The United Nations Commission on Human Rights'**, Boulder/London, 1987, p.219.
 2. Art 62 of the Charter of the United Nations.
 3. Art 60 of the Charter of the United Nations.

The sponsoring powers had originally proposed broad authorization for the Economic and Social Council to create any subsidiary Commission needed to foster cooperative activities. A four power amendment to the Dumberton Oaks Proposals would have created both a human rights commission and a cultural commission. Stettinus, Chairperson of the United States delegation, characterized the proposed Commission as 'the heart of the matter'⁴. Considerable publicity had aroused expectations that a human rights commission would be expressly named⁵. After several more weeks of deliberation the final compromise text of Article 68 mandated the establishment of commissions generally, but only one in particular. It stated: ECOSOC shall "set up Commission in economic and social fields and for the promotion of human rights and such other commissions as may be required for the performance of its functions"⁶ that mandate for a human rights commission won unanimous approval in the conference drafting committee.

The compromise formula created a legal framework but left unresolved the question of how much power and authority the Commission would exercise. What functions should the General Assembly and ECOSOC delegate to the Commission? Would the Commission be composed of state representatives or individual experts? What staff would be required? Should

4. Howard Tolley, *op. cit.*, p.6

5. Ruth B. Russell, 'A History of the United Nations Charter', Washington D.C., 1958, p.792.

6. Art. 68 of the United Nations' Charter.

the commission respond to alleged violations? Should it follow the ILO model of drafting narrow conventions or formulate a comprehensive bill of rights? The charter offered no clear answers. From June 1945 until the full commission on Human Rights first convened in January 1947, legal experts and United Nations representatives debated and decided important threshold questions about the Commission's membership and mandate.

In his closing address to the San Francisco Conference, President Harry Truman of United States had suggested that the Commission give first priority to drafting an international bill of rights. Many states and private organizations expected the Commission to proceed immediately with that task. Twelve different drafts had been proposed by early 1946⁷.

Reporting as the Chairman of the United States delegation, Stettinus declared that acceptance of the Commission might "well prove one of the most important and significant developments of the San-Francisco Conference"⁸. He quoted Jefferson's statement: "the people of every country are the only safeguardian of their own rights"⁹.

7. Jacob Robinson, **'Human Rights and Fundamental Freedoms in the Charter of the United Nations: A Commentary'**, New York, 1946, p.50

8. U.S. Department of State, Charter of the United Nations, **Report to the President on the Results of the San Francisco Conference**, by the Chairman of the U.S. delegation, the Secretary of State, June 26, 1945, Conference, Series 71, No. 2349, and also, Howard, Tolley, **The UN Commission on Human Rights'** Boulder, 1987, p.8.

9. Howard Tolley, *op.cit.*, p.9

A fourteen member Executive Committee of the United Nations Preparatory Commission meeting in London from August to October 1945 recommended that ECOSOC create six commissions. The Commission on Human Rights headed the list. The Executive Committee proposed that the Commission on Human Rights make studies and recommendations at the request of "the General Assembly or of the Economic and Social Council or the Trusteeship Council", in order to "help to check and eliminate discrimination and other abuses". The Executive Committee used unexpectedly strong language in listing among the objectives for the Commission the 'protection of minorities' and 'prevention of discrimination'. The full Preparatory Commission approved the executive committee proposals in December without resolving whether the Commission would be composed of government representatives or experts serving in their individual capacity.

At its initial session in 1946, the General Assembly established numbered Main Committees. The Assembly's Third Committee (Social Humanitarian and Cultural Questions) approved the Preparatory Commission's recommendations for the Commission on Human Rights¹⁰.

The first General Assembly nevertheless acted on a variety of other human rights items without awaiting recommendations from the yet to be convened Commission. Politically, sensitive issues such as the treatment of

10. John P. Jumphrey, **'Human Rights and the United Nations: A Great Adventure'**, New York, 1950, p.p. 224-225.

Indians in South Africa went to the First rather than to the Third Committee. The Assembly also adopted a resolution on religious and racial persecution and requested ECOSOC to draft a genocide convention¹¹.

At its first meeting in January 1946, ECOSOC appointed nine individuals to a "nuclear" Commission on Human Rights to recommend the functions and composition of the full commission. The group met at Huter College with Mrs. Eleanor Roosevelt as Chair¹². In addition to calling for an international bill of rights, the group identified the "need for an international agency of implementation entrusted with the task of watching over the general observance of human rights". Specifically, 'Nuclear Commission' proposed:

"Pending the eventual establishment of an agency of implementation the Commission on Human Rights might be recognised as qualified to aid the appropriate organs of the United Nations in the tasks defined for the General Assembly and the Economic and Social Council in Art 13, 15 and 62 of the Charter concerning the promotion and observance of human rights and fundamental freedoms for all, and to aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing the cases where violations of human rights committed in one country may by its gravity, its frequency, or its systematic nature, constitute a threat to peace"¹³.

The members apparently believed that human rights violations, which might lead to war, justified United Nations intervention. Charter Article 2(7)

11. Ibid, p.27

12. Hersch Lauterpacht, **'International Law and Human Rights'**, New York, 1950, p.224.

13. Ibid. pp. 224-225.

authorized intervention in a state's domestic affairs in situations which threatened peace, so the Commission attempted to extend authority to enforce human rights norms. ECOSOC, however, did not fully accept that expansive vision of the Commission's role. At its June 1947 session, ECOSOC regarding the ways and means for the effective implementation of human rights and freedoms".

In fashioning a mandate for the Commission, ECOSOC accepted the list of functions developed by Preparatory Commission a year earlier, giving top priority to the drafting of an international bill of rights. ECOSOC also authorized the Commission to submit recommendations in "any other matter concerning human rights not covered", to propose changes in its terms of reference and to make recommendations for any subcommission it wished to establish. The Council only mandated studies that it requested. Unlike the Preparatory Commission, ECOSOC did not mention possible requests for studies from the General Assembly or the Security Council. Nor did the ECOSOC accept the Nuclear Commission's recommendation that members should to serve in their individual capacity. The group's report noted that since government delegates served on both the General Assembly and ECOSOC, the Commission should reflect the perspective of independent experts. Several European state wanted government representatives to do politically sensitive drafting of an international bill of rights. As a result, ECOSOC provided for the election of eighteen state members to the full commission "with a view to

securing balanced representation"¹⁴. Private experts, public officials and government representatives were to be selected after consultation with the secretary-general and confirmation by the ECOSOC¹⁵. To provide continuity, the ECOSOC established staggered three year terms, six member states to be elected each year.

The Commission

The Commission on Human Rights, a subsidiary of the Economic and Social Council, is one of the six functional commissions which the Council established in 1946. The Commission was set-up in 'nuclear' form by the Council resolution 5(1) of 16 Feb. 1946, and as a 'full commission' by Council Resolution 9 (II) of 21 June 1946. Its terms of reference are extensive, it may deal with any matter relating to human rights. The eighteen states were the initial members of the Commission including five permanent members of the Security Council. The United States, its European, Latin American and Asian allies obtained an insurmountable majority power over the three Soviet Republics and Yugoslavia. Australia, Belgium, France, United Kingdom, and the United States comprised a five members Western contingent. There were also five Asian members - China, India, Iran, Lebanon and Philippines. Chile,

14. John P. Humphrey, **'Human Rights and the United Nations', A Great Adventure'**, op.cit., p.17.

15. Rule 11, ECOSOC, Rules of Procedure of the Functional Commissions of the ECOSOC, U.N. Doc. E/5975 (1977).

Panama, and Uruguay represented Latin America. Egypt was the only member from Africa¹⁶.

Its annual session at the **Palais des Nations** in Geneva is an immense forum, during the course of which virtually every question of human rights is discussed. Due to the increasing UN membership, the composition of the Commission on Human Rights was also enlarged from the initial 18 members to twenty two (22) in 1961, thirty two (32) in 1966, forty three (43) in 1979 and fiftythree (53) in 1990¹⁷. Its members are elected for a term of three years by secret ballot by ECOSOC. The equitable geographical principle is followed. Since the members of the Commission are nominees of government of the states selected to serve on the Commission, it has been generally commented that its decisions are often influenced by political considerations.

The Commission meets once a year and the period of session has been extended to six weeks in 1980 from the previous period of five weeks. The issues inscribed on the agenda of the Commission are nearly same each year: the delegates have dozens of annual reports to examine, in particular that of Sub-Commission, that of the Working Groups of the Commission (on minorities, enforced disappearances, human rights defenders, the mentally ill),

16. Appendix 3, list of all member governments and the years of services in the Commission on Human Rights.

17. A.P. Vizapur, '**The United Nations at Fifty: Studies in Human Rights**', New Delhi, 1996, p.64.

and that of the Special Rapporteur and Representatives, of Experts (Advisory Services Program) and of the United Nations Secretariat¹⁸.

Besides such regular sessions, its functions can be delegated to adhoc working groups established under ECOSOC resolution 9(II). The terms of reference of the commission were as follows:

The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding:-

- a) An international bill of rights;
- b) International declaration or conventions on civil liberties; the status of women, freedom of information and similar matters;
- c) The protection of minorities;
- d) The prevention of discrimination on grounds of race, sex, language or religion, and;
- e) Any other matter concerning human rights not covered by item (a), (b), (c) and (d).

The Commission shall make studies and recommendations and provide information and other services at the request of the ECOSOC. The Commission may propose to the Council any changes in its terms of reference. The Commission may make recommendations to the Council

18. Adrien Calude Zoller, 'The NGOs and the Protection of Human Rights Within the United Nations, System', Research Paper presented in the World Congress on Human Rights, JNU, New Delhi, December 1990. (HURITER), p.5.

concerning any Sub-Commission which it considers should be established¹⁹. It also undertakes special tasks assigned to it by the General Assembly or the ECOSOC, including the investigations of allegations concerning violations of human rights and the handling of communications relating to such violations. It co-operates closely with other United Nations bodies having competence in the field of human rights. In addition, it assists the Economic and Social Council (ECOSOC) in the co-ordination of activities concerning human rights in the United Nations System²⁰. Under paragraph 3 of the Council Resolution 9(II), the Commission was authorized "to call in ad-hoc working groups of non governmental experts in specialized fields or individual experts, without further reference to the council but with the approval of the President of the Council and the Secretary General". Under paragraph 8 of the resolution, the Commission was empowered to establish a Sub-Commission on the 'Protection of Minorities; and under paragraph 10 of that resolution, it was empowered to establish a Sub-Commission on the 'Prevention of Discrimination on the grounds of race, sex, language or religion²¹

The Sub-Commission (on Prevention of Discrimination and The Protection of Minorities):-

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19. UN ECOSOC Resolution 5(1) of Feb. 16, 1946, and Resolution 9(II) of June 21, 1946.
 20. This provision was added through Resolution E/1979/36 of the ECOSOC; 1979.
 21. United Nations Action in the Field of Human Rights, U.N., New York, 1988, p.15, para-115.

At its very first session in 1947, the Commission on Human Rights established the Sub-Commission on the Prevention of Discriminations and Protection of Minorities. The Sub-Commission consists of a number of experts, now close to thirty, elected by the Commission on Human Rights to serve for three years period with the possibility of being reelected. Although they are nominated by Governments of member states, these experts act in their individual/personal capacity and not as representatives of states. The method of work of this Sub-Commission is for individual expert members of the Sub-Commission, to be requested by it to prepare a study on some aspect of the problem of human rights, especially relating to discrimination and protection of minorities. That individual expert is called a Rapporteur for that particular subject; of course he gets all the assistance he needs from the secretariat, and his report is considered by the Sub-Commission and then by the General Assembly itself²². The Sub-Commission also work as a catalyst: it examines the of human rights situation in the world and draws the attention of the United Nations to serious human rights violations and to situations which have been neglected or forgotten.

Though the UN Charter was loaded with high ideals of promoting the observance of human rights universally, nowhere it defined or listed them. The charter envisaged that the onerous task of elaborating and spelling out the

22. C.V. Narsimhan, 'The United Nations: An Inside View', New Delhi, 1988, pp.253-254.

human rights norms and standards will be taken up by the Commission on Human Rights which was to be created under Art 68. On its creation in 1946, the Commission on Human Rights had as its main priority and pre-occupation the preparation of an International Bill of Rights, under the Chairmanship of Mrs. Eleanor Roosevelt. Five major legal instruments: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, social and Cultural Rights (1966), and the two optional protocols to the former Covenant together constitute the document known as the International Bill of Rights.

The Universal Declaration, adopted on 10th Dec., 1948, intended as a "common standard of achievement for all peoples". It spelt out basic civil and political rights and fundamental economic, social and cultural rights which human beings were everywhere entitled to enjoy. Important among the rights and freedom found in the Universal Declarations thirty articles are:²³.

- The right to Life, Liberty and Security of person;
- Equality before the Law;
- Freedom of movement and residence;
- Freedom from torture or cruel, inhuman or degrading treatment or punishment;
- The right to seek political asylum from prosecution;
- Freedom of thought, conscience, and religion;

23. Sambhavi Vedantam, 'United Nations: Putting to Work', New Delhi, 1996, p.134.

- ▣ The right to vote and participate in government;
- ▣ The right to education;
- ▣ The right to work and to form and join trade unions;
- ▣ The right to an adequate standard of living;
- ▣ The right to health protection;
- ▣ The right to participate fully in cultural life.

During the drafting the rights enumerated in the Declaration were divided into two legal instruments.

- a) Covenant on Civil and Political Rights, embracing the traditional civil and political rights recognised in Western Cultures and;
- b) Covenant on Economic, Social and Cultural Rights, to satisfy the aspirations of the Socialist and Third World Societies²⁴.

The provisions of the former were meant immediately to be legally enforced, whereas those of the latter were meant to be achieved progressively thorough long-range education, planning and promotion. With the adoption of these Covenants in 1966 and other relevant instruments, a solid legal foundation of human rights law was laid down for application at all levels of society local, national and international. Both were unanimously adopted on 16th December 1966 and opened for signature and ratification the same day. The international Covenant on Economic, social and cultural rights entered into force on 3rd January 1976 (as of 1st July 1993 it had been ratified or

24. Ibid.

acceded to by 123 states). The International Covenant on Civil and Political Rights and its Optional Protocol entered into force on 23rd March 1976 and as of 1st July 1993, this Covenant had been acceded to or ratified by 121 states (and the Optional Protocol by 29 states as of 1st June 1983)²⁵.

Generally, the two Covenants reflect rights and freedoms set forth in the Universal Declaration. There are a few instances, however, where the Covenants have departed from the Declaration. Owing to the opposition of the Socialist countries, the Commission on Human Rights decided not to include the right to property in the Covenants although the same right appeared in the Declaration. On the other hand, the Covenants include the right of self-determination, which was missing in the Declaration:

Other Human Rights Agreements

Of the thousands of treaties registered with the United Nations, about 70 relate to human rights. A few examples deserve mention:

- ▣ Convention on the Prevention and Punishment of the Crime of Genocide (1948; came into force in 1951).
- ▣ International Convention on the Elimination of All forms of Racial Discrimination (1965; came into force in 1969).
- ▣ Convention on the Elimination of All forms of Discrimination Against Women (1979; came into force in 1981).

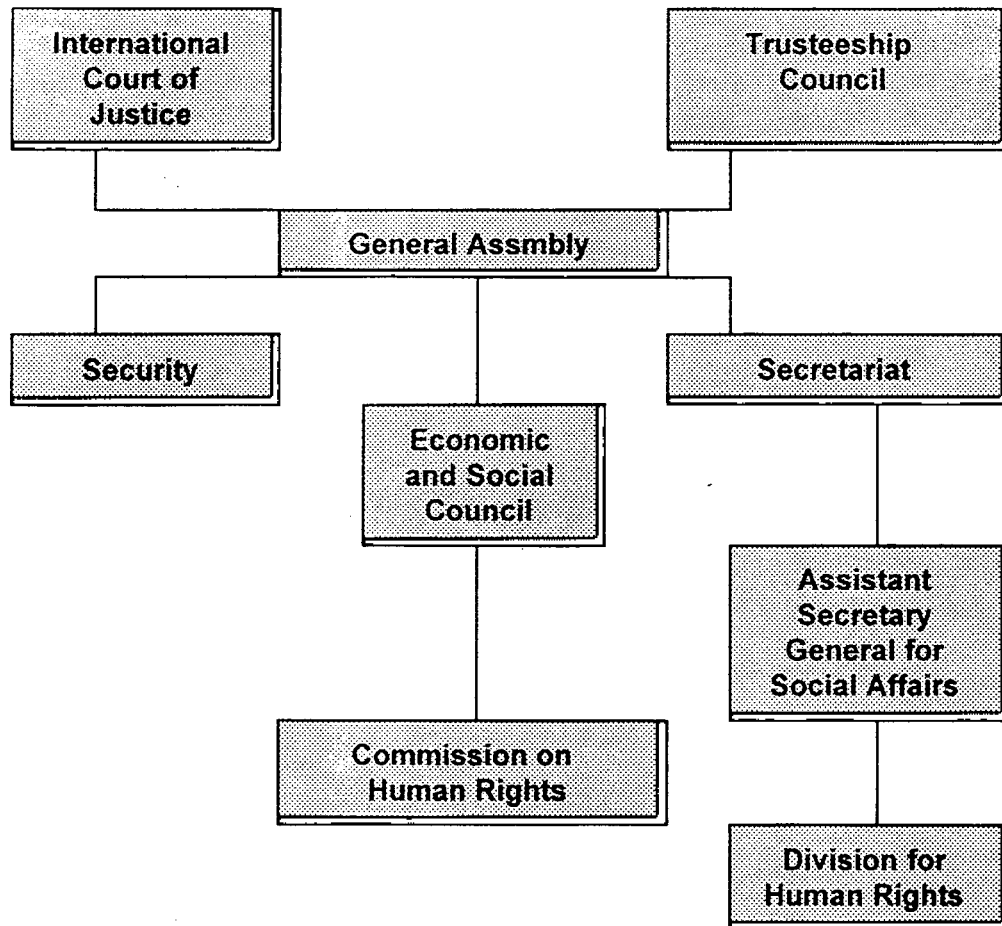
25. 'The United Nations and Human Rights', UN, New York, 1984, p.28.

- ▣ Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984; came into force in 1987).
- ▣ Convention on the Rights of the Child (1989; came into force in 1990).
- ▣ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990; not yet in force).

Regional agreements supplement and expand upon the above international instruments. Among them are the European Convention on Human Rights and Fundamental Freedoms (entered into force in 1963); the Helisinki Accords (adopted in 1973), the American Convention on Human Rights (entered into Force in 1978), and the African Charter on Human and Peoples' Rights (entered into force in 1986).²⁶

26. Md. Anowar Zahid, 'Human Rights Enforcement Procedure Under United Nations System', **BISS Journal**, Vol. 13, No.2, 1992, pp. 236-242.

Commission's Relationship to Principal U.N. Organs



The Chart illustrates the Commission's subordinate relations to the principal organs in January 1947 when eighteen approved state representatives convened the commission's first session at Lake Success in New York. Since that initial session, the commission has evolved into a far larger organs with significantly different responsibilities. Major changes in 1954, 1967 and 1980 delineate cumulative stages of growth²⁷.

27. Howard Tolley, 'The United Nations Commission on Human Rights', Boulder/London, 1987, pp. 12-13.

The Mechanism of the Commission

The Commission's work has taken three distinct forms: Standard setting, Promotional activities, and Enforcement. Enforcement has occurred through the establishment within the Commission of procedures to consider allegations of human rights violation by particular states.

Resolution 1235 of 1967

By resolution 1235 (XLII) of 1967 the Commission on Human Rights and the Sub-Commission were empowered not only to examine petitions / communications, but to 'investigate' and study those situations which appeared to reveal a consistent pattern of gross violations of human rights and to report back to ECOSOC with recommendations²⁸.

Eventually, under this procedure the working groups appointed by the Commission and the Sub-Commission inquired into human rights situations/violations in Southern Africa, Chile, Cyprus and occupied territories of the Middle East. This resolution was a great step forward over the "no action doctrine" prevailing earlier.

Resolution 1503 of 1970: "The 1503 Procedure"

The application of the famous resolution 1503 by the ECOSOC, on 27th May 1970, was an important milestone in the development of a UN communication

28. Soli H. Sorabjee, 'The United Nations and Human Rights' in, **The United Nations at 50: An Indian View**, ed. by Satish Kumar, New Delhi, 1995, p.198.

system to promote and protect human rights. With its adoption the Council had completed the establishment of the new UN machinery for dealing with communications. The fact that the resolution was adopted with a small majority (14 to 7 with 6 abstentions) and despite the strong and persistent objections raised at all stages of its drafting on the grounds that the envisaged machinery was incompatible/inconsistent with international law (as the individual was not a subject of that law), and the principle enshrined in Art. 2 (7) of the Charter, reveals that it sets forth an important machinery to deal with thousands of communications coming to the United Nations every month. It is learnt from an authoritative source that the Secretary-General receives every year approximately 30,000 to 40,000 even 50,000 communications²⁹.

The salient features of this celebrated resolutions are as follows:

First, it has introduced a three-tier machinery to deal with communications revealing a consistent pattern of gross and reliably attested violations of human-rights-a working group of the Sub-Commission the Sub-Commission and the Commission on Human Rights. The first machinery, i.e., the Working Group, meets once a year in private meetings immediately before the session of the Sub-Commission. The Working Group is required to consider all communications including replies of governments received under resolution 728 F with a view to bringing to attention of the Sub-Commission those communications which reveal a consistent pattern of gross and reliably

29. **'United Nations Action in the Field of Human Rights'**, UN, New York, 1988, p.319.

attested violations of human rights. The Secretary-General provides to the members of the Sub-Commission every month a list of communications received by him, together with replies of governments, if any; the second body, i.e., the Sub-Commission, then considers in private meetings (which are held in camera) all those communications brought to its attention by the Working Group. It is authorised to determine whether the particular situation of gross and reliably attested violations of human rights has to be referred to the Commission on Human Rights for its consideration. Finally, the Commission on Human Rights, after examining the situations referred to it by the Sub-Commission determines:

- i) Whether it required a through study by the Commission or,
- ii) on investigation by an ad-hoc committee of the Commission, with the consent of the state concerned and under conditions determined by agreement with it. Such investigation can be undertaken only if all available measures at national level have been exhausted and if the situation does not relate to a matter which is dealt with under any other procedure.

Another characteristic features of the "1503 procedure" is that its aim is not even to condemn states, but rather to find out whether allegations of gross violations of human rights are substantiated and, if so, to help states concerned to put an end to or at least curtail, such violations³⁰.

30. Abdulrahim P. Vijapur, **'The United Nations at Fifty: Studies in Human Rights'**, New Delhi, 1996, pp.72-73.

The most important and much criticized feature of this procedure is its confidential character. The deliberations of the Commission and Sub-Commission are conducted in the private meetings and nothing is known or publicized. Even the actions envisaged in the implementation of the resolution must remain in confidence until such time as the Commission may decide to make recommendations to ECOSCO.

The Commission on Human Rights has two methods to deal with the situation of serious human rights violations. First, through open and public discussion of such situations following a decision of the Commission to set up a Committee or Working Group to study a particular situation³¹. Secondly, it can examine, in close door meetings, with the assistance of Working Groups, the situations/communication referred to it by the Sub-Commission under 1503 procedure from the list supplied by the Secretary-General.

With the adoption of the 'rules of admissibility' of communication by the Sub-Commission on 13th August 1971, the 1503 procedure started functioning³².

Since 1980, the Commission has established Working Groups on various subjects such as Enforced or Involuntary Disappearances and also

31. Adrein Claude Zoller, **'The NGOs and the Protection of Human Rights'** (HURITER), op.cit. pp.10-11.

32. Resolution 1 (XXIV) of 13 August 1971, reported in the Report of the Twenty Fourth Session of the Sub-commission; UN Doc. E/CN.4/1070; p.50.

appointed Special Rapporteur on Summary or Arbitrary Executions, Torture, Religious Intolerance, Administrative Detention, and Freedom of Expression. The advantage of this procedure is that human rights violations in all countries in respect of which there is evidence are discussed and brought to attention rather than one particular state being singled out for its human rights record.

The Commission has a strong political complexion. Its activities and priorities disclose the political interests and bias of the different states composing it. The Sub-Commission has been found to more effective and has played a useful role in international dynamics of human rights. Its real value lies in providing a forum in which experts, NGOs and representatives of intergovernmental organs and of governments can meet. It thus provides a platform which activist groups can use to focus the international community's attention to violations taking place in many parts of the world and mobilize international opinion for redress of the situation.

Chapter - IV

Chapter - IV

India: Human Rights and UNHRC

India is poor country with rich resources. It has a 'socialist' constitution and a capital - friendly mixed economy. Its state policy of secularism is a hostage to casteism, fundamentalism, and obscurantism. Again, there is an elaborate and impressive body of law on human rights coexisting with widespread and flagrant violations.

Human Rights an understood by Indians, as outlined in the Constitution of India and as being implemented in the country can be said to compromise the Indian perspective of them.

The impact of the UN charter and that of the international declarations for the protection of human rights is manifest in the deliberations of the Constituent Assembly of India. India was a member of the League of Nations and the I.L.O. Its leadership fully shared the proposition that 'recognition of the inherent dignity and of equal and inalienable rights of the members of the human family is the foundation of freedom, justice and peace in the world' It pledged itself to achieve in cooperation with the UN the promotion of universal respect for the observance of human rights and fundamental freedoms¹.

1. L.M. Singhvi, 'Indian's struggle for Freedom and Human Rights' in '**United Nations and India**', ed. by S.C. Parashar, Indian Council of World Affairs, New Delhi, 1985, p.349.

In India, references of human rights occur as early as the **Rig-Veda** to the three civil liberties of Tana (body), Skridhi (dwelling house) and Jibasi (life). Long before Hobbes, the Indian epic **Mahabharata** described the civil liberty of the individual in a political state. Ancient Indian society was a highly structured and well organised affair with the fundamental rights and duties not only of individuals but of classes. The concept of **Dharma**, the supreme law which governed the sovereign and the subject alike covered the basic principles involved in the theory of rights, duties and freedoms. Long before the second century B.C., we find mention of elective Kingship and the law of nature which even Kings had to obey on pain of deposition. Also, Kings were required to take a pledge never to be arbitrary and always to act according to "whatever law there is and whatever is dictated by ethics and not opposed to politics"². Kautilya, the author of the celebrated political treatise '**Arthashastra**', not only affirmed and elaborated the civil and legal rights first formulated by Manu but also added a number of economic rights. While categorically asserting that an **Arya** can never be subjected to slavery, he ordains that "the being shall provide the orphan, the aged, the infirm, the afflicted and helpless with maintenance; he shall also provide subsistence to the helpless expectant mothers and also to the children they give birth to"³. In the ancient period, private ownership of land was not recognised, land could

2. Aitarey Brahmana, I.14 and Mahabharata, Shanti Parva, LIX, 106-107, cited in K.P. Jayaswal, **Hindu Policy**, Bangalore, 1955, pp.104 and also, B.N. Raw, '**Human Rights in India**' in year book on Human Rights, 1947, UN, New York, 1949, pp.150-51.

3. Kautilya's Arthashastra, translated by R. Shamsastry, Mysore, 1960, 6th ed., pp. 47 and 206.

not be made a private property even by a decree of the King. Recognizing the institution of private property and the individuals proprietary rights over various forms of wealth, the **Arthashastra** says that "lands could be confiscated from those who did not cultivate them and given to others"⁴.

Fundamental human rights in the sense of civil liberties, with their modern attributes and overtones are however, a development more or less parallel to the growth of constitutional government and parliamentary institutions from the time of British rule. As far back as in 1895, the Swaraj Bill which was inspired by Lokmanya Bal Gangadhar Tilak, contained the following rights:

- i) right to bear arms
- ii) freedom of speech, thought and expression,
- iii) inviolability of house
- iv) right not to be punished except by competent authority and only for a distinct breach of law
- v) the right of equality
- vi) the right to property
- vii) and the right to vote⁵.

From its earlier stages, the struggle for freedom in its practical manifestation, was largely directed against racial discrimination and to secure

4. Rangaswami Aiyangar, 'Ancient Indian Polity', Madras, 1935, p.118

5. B.Shiva Rao, 'The Framing of Indian Constitution', Selected Documents vol.1, New Delhi, 1996, p.6-7.

basic human rights. The Indian National Congress after its special session held in Bombay in 1918 after the publication of Montague - Chemsford Report demanded that Government of India Act should contain Declaration of Rights for people of India⁶.

Mrs. Besant's Commonwealth of India Bill finalised by National Convention in 1926 also enumerated fundamental rights. A resolution of the Congress in Madras Session in 1927 declared that the basis of the future constitution of India must be a declaration of fundamental rights.

Again in 1928 the Nehru Committee in its report which produced the draft constitution of future of India also laid emphasis for the inclusion of fundamental rights with a guarantee that they should not be withdrawn in any circumstances. The famous Karachi Resolution on "Fundamental Rights and Social Change" further clarified the goal and added another dimension to the demand for constitutional rights. Also, the resolution demanded several social and economic rights like those to free primary education, a living wage and healthy conditions of work for labour, protection against old age, sickness and unemployment, protection of women workers, protection against employment of children, relief to the peasantry etc.

Although the demand for constitutional rights did not find favour with either the Indian Statutory Commission or the Joint Select Committee of the

6. S.C. Khare, 'Human Rights and United Nations', New Delhi, 1977, p. 194.

British Parliament on the Government of India Bill of 1934, certain rights and forms of protection were incorporated in the Government of India Act, 1935. The idea of a written code of fundamental rights figured subsequently in the deliberations of the Sapru Committee (appointed by an All-parties' Conference, 1944-45), which considered these rights necessary not only as "assurances and guarantees to the minorities but also for prescribing a standard of conduct for the legislations, governments and courts⁷.

In 1946 when Cabinet Mission rejected the idea of Pakistan as unwise and impracticable and considered the expediency of fundamental rights for creating a sense of security among Indians minorities.

The objective resolution adopted by the Constituent Assembly on 22 Jan. 1947 was a veritable declaration of human rights. The sub-committee on Fundamental rights completed its draft report on 3 Apr. 1947. The Advisory Committee submitted its interim report to the constituent Assembly on 23 Apr. 1947. The Advisory Committee's recommendations on justiciable fundamental rights were discussed and the Draft Constitution was published in 1948⁸, the same year when the Universal Declaration of Human Rights was formed.

The Indian Constitution recognised the concept of Human Rights through its preamble, Human Rights are implied as civil liberties (Fundamental

7. Subash C. Kashyap, *Human Rights and Parliament*, New Delhi, 1978, pp. 24-25.

8. L.M. Singhvi, *Indian's, Struggle for Freedom and Human Rights*, op.cit., p.351.

Rights) and democratic rights (Directive Principles of State Policy) in the Indian Constitution⁹. Indian Constitution also provides an effective machinery for the enforcement of fundamental rights. If a fundamental right is interfered by an act of the executive or by a federal or state law, any person entitled to the right can move the Supreme Court to get the act or law declared unconstitutional¹⁰.

Initially the attitude of judiciary in India towards the Directive Principles was not favourable and it had nullified many important legislations embodying socio-economic reforms. However, with the passage of time there has been a shift in the attitude of the Indian Judiciary towards socio-economic rights contained in Part IV of the Indian Constitution.

A number of welfare measures have been introduced, for instance, Employer's 'Provident Fund Act, Minimum Wages Act, Food Adulteration Act, Drug and Cosmetic Act, Consumer Protection Act, etc. The Criminal Procedure Code has been amended for giving fair trial to the criminal and limiting pre-trial of the confinement detention. Capital punishment though not abolished, has been restricted to exceptional cases of human murders¹¹.

9. Appendix I

10. Art.32 and 226 of the Indian Constitution

11. Charanjit Singh, M.R. Garg, Naveen sharma, 'Concept of Human Rights and the Indian Constitution' in '**Human Rights in India- Problems and Perspectives**', ed. by B.P. Singh Segal, New Delhi, 1995, p.292.

India is a Party to as many as fifteen UN Conventions of human rights. The Constitution of India and a large number of other laws, byelaws, rules, regulations orders, ordinances, policy statements and election promises enshrine the human rights. They reflect most of the provisions of the Universal Declaration of Human Rights, the International Covenant on Human rights, and various international instruments. A comprehensive study of the basic human rights documents of the UN system on one hand and the constitution on the other shows that the Constitution of India is quite-essentially a human rights document.

During the period of the preparation of its draft constitution India has been instrumental in raising human rights issue in the United Nations. The issue of 'Apartheid' in South Africa and issues relating to freedom for countries under colonial rule were raised in the United Nations by India, spearheading the struggle for human rights.

India was one of the initial eighteen (18) members of the United Nations Human Rights Commission. When UNHRC started functioning and was engaged in its primary task of drafting an '**International Bill of Rights**', India had played an active role. As one of the very few Afro-Asian countries having its representation in the Commission on Human Rights from the very

* Appendix -II

* The Indian representatives to the Commission in early years were: Mr. K.C. Negoy (1946 - 47), Mrs. Hansa Mehtra (1948- 52), Mr. Rajeshwar Dayal (1953-54).

beginning, India piloted a resolution in General Assembly in 1951, which directed the commission on Human Rights to include an article on the right of all people and nations to self-determination¹². It also successfully opposed the insertion of the so-called 'colonia clause' proposed by United Kingdom and other colonial powers. Such a clause would have prevented the automatic application of the Covenant on civil and political rights to non-self governing territories. India pleaded that metropolitan countries could not deny these rights to the colonial people on the pretext of their being in lower state of social and political advancement. The entire Afro-Asian group lent its support to the Indian argument¹³.

India's approach was in accordance with its socio-economic structure and foreign policy objectives.

India also represented an Ad-hoc working group of Experts on Human Rights in South Africa. It was established by the Commission on Human Rights in resolution 2 (XXIII) of 6 March 1967, the mandate of the working group was to investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South-Africa. India was represented in that Group by Mr. Mulka Govinda Reddy¹⁴.

12. The Indian representatives to the Commission in early years were: Mr. K.C. Negoy (1946-47), Mrs. Hansa Mehta (1948-52), Mr. Rajeshwar Dayal (1953-54).

13. Ravender Kumar, '**India and the International Covenant on Civil and Political Rights**', M.Phil Diss., JNU., New Delhi, 1986.

14. **United Nations Actions in the Field of Human Rights** UN, New York, 1988 p.16.

In another working Group of Governmental Experts on Right to Development, established by the Commission on Human Rights resolution 36 (XXX VII) of March 1981, India was represented by Mr. Kantilal Lallubhai Dalal. The mandate of the Working Group "was to study the scope and contents of the right to development and the most effective means to ensure the realization, in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights"¹⁵.

India has incorporated the most elaborate Declaration of Human Rights in its Constitution. It also became party to two covenants on March 27, 1979 when the Instrument of Accession was signed by the President of India. The Instrument was received by the Secretary-General of the United Nations on April 10, 1979¹⁶. They came into force on July 10, 1979. It is to be noted that the accession of two covenants is subject to certain reservations. India did not become a party to optional protocol on the civil and political rights. A cursory reading of the Constitution of India and various laws, byelaws and judicial procedures etc. existing in the country gives an impression that India has honoured all its obligations to its citizens and to the international community.

15. Ibid pp. 16-17.

16. H.O. Agrawal, **'Implementation of Human Rights Covenants: With Special Reference to India'**, Allahabad, 1983, pp. 95-96.

In line with the Commission on Human Rights guidelines, the Government of India enacted a separate full fledged statute entitled: 'Protection of Human Rights Act, 1993'¹⁷, notwithstanding the fact that 23 out of 30 articles been incorporated in the Constitution¹⁸. This act has been enacted for the better protection of human rights. It envisages the establishment of the three different institutions namely, the National Human Rights Commission¹⁹, State Human Rights Commission²⁰, and the Human Rights Courts²¹.

The setting up of a Human Rights Commission or any specialized institution in addition to judicial machinery may be created in all the states to perform various functions relating to the implementation of human rights covenants. The idea for the creation of such an agency was initiated by the UNESCO as early as in 1946. Later, on many occasions the General Assembly gave emphasis for its creation. In 1947, the Secretariat in the Memorandum on Implementation, Supervision and Enforcement of Human Rights had suggested for the creation of such a body²². In 1966, the General

17. The Act received the assent of the President of India on 8 Jan. 1994.

18. G.S. Bhargava, 'The Politics of Human Rights' in 'The Tribune', 31 March 1995, p.6.

19. Section 3 of the Act.

20. Section 21 of the Act.

21. Section 30 of the Act.

22. U.N.Doc. E/CN/AC1/12, p.2-3.

Assembly adopted a resolution for considering the advisability of the proposal for establishment of national commissions on human rights to perform certain functions pertaining to the observance of the two covenants²³.

The Commission on Human Rights in 1970 considered the question and agreed that the question of whether or not to establish national commissions on Human Rights should be decided by each Governments in the light of traditions and institutions of its own country²⁴. In 1978, the Commission on Human Rights again emphasized the need for the creation of a national institution²⁵. The Commission also invited member states within the framework of their national legislation and policy and accord to their valuable means to set up national institution for promotion for protection of human rights and asked them to communicate to the Secretary-General all relevant information on that subject.

Though the states paid little heed towards them, India showed a keen interest in establishing and strengthening national institutions for promotion and protection of human rights before the Third Committee of the General

23. General Assembly Resolution 2200 (c) XXI, December 16, 1966. The Resolution was adopted by a recorded vote of 76 to 18, with 3 abstentions. The resolution was adopted on the basis of the recommendation of the Third Committee.

24. See the Report of the Commission on Human Rights of 26th session (1970), Doc. E14816.

25. Resolution 23 (XXXIV) of the Commission on Human Rights adopted at 34th session (1978).

Assembly.. It introduced a draft resolution²⁶ wherein it emphasized the importance of the integrity and independence of such national institutions, in accordance with national legislatures and drew attention to the constructive role non-governmental agencies can play in protection of human rights.

The establishment of National Institution for protection, promotion and greater realization of human rights was also recommended in a U.N. seminar in Geneva in 1978. India also attended that seminar²⁷.

Under the provisions of 'The Protection of Human Rights Act 1993', a National Human Rights Commission was established by the Government of India, as an activist body for creating human rights culture in India. Apart from its functions of adjudicating complaints regarding human rights violations, it acts as an overseer of the human rights situation in the country with the help of its *suomotu* initiations. It can make inquiries either *suo-motu* or on the receipt of a complaint regarding violation of human rights or negligence in the prevention of such violation by a public servant²⁸. The Commission may intervene in any proceedings before a court which involve allegations of

26. The Times of India, November 1981. The Indian proposal was co-sponsored by Australia, Jamaica, Peru, New Zealand and the United Kingdom.

27. Report of the Seminar on National and Local Institutions for the Promotion and Protection of Human Rights, The Hindustan Times 30 Sep. 1978.

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28. Section 12(a) of the Protection of Human Rights Act, 1993.

violation of human rights²⁹. It is supposed to review constantly the laws and factors which inhibit the enjoyment of human rights make its recommendations³⁰. One of the most important function of the Commission is to undertake and promote research in the field of human rights, to spread human rights literacy among various sections of society and to promote awareness of the safeguards available for the protection of these rights through publication, the media, seminars and other available means³¹.

Comprehensive powers have been given to the Commission for the performance of its functions³². It has all the powers of a civil court including the power to summon and enforce the attendance of witness, discovery and production of any document, receiving evidence on affidavits, calling for the production of any public records.

The Commission or any other officer authorised by the Commission may enter any building or place where the Commission has the reason to believe that any document relating to the subject matter of the inquiry may be found and may seize any such document or take extracts or copies therefrom³³. The investigative machinery of the Commission also has all the powers necessary for the investigations of crimes.

29. Section 12(6)

30. Section 12(d)(e).

31. Section 12(g)(h)

32. Section 13.

33. Section 13 (3).

The Commission urged the Government of India to accede to the **United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment**³⁴.

Some observations on India's record on Human Rights front by Mr. Alain Juppe, Foreign Minister of France, are insightful and objective.

"France is attached to an universal view of human rights. From this angle, everyone knows that the legal institutions, of your country (India) made it a secular, democratic republic, based on universal suffrage, wherein human rights are explicitly recognised. Besides, India is a party to almost all the United Nations Conventions signed in this matter. India is governed by the rule of law. These are undeniable facts which are far from present everywhere in the world..... It may happen that human rights abuses and violations exist, which can in some cases be explained by the socio-economic context or the specific circumstances prevailing in a specific troubled zone. These violations are reported by the Indian press, which is completely free. The authorities in your country do not deny these problems where they exist and they agree, which is far from being the case in every country to take up these issues with non-governmental organizations. This conception of liberty and right is common to both our countries..... In my view, the establishment of the Indian

34. B.V. Somasekher, 'Programmes and Perspectives of NHRC towards Protection of Human Rights in India', In '**Human Rights in India - Problems and Perspectives**', ed. by B.P. Singh Sehgal, New Delhi, 1995, p. 556.

National Commission on Human Rights is an initiative which must be encouraged, as well as the policy of 'transparency' pursued by the Indian government, especially in Kashmir³⁵.

Mr. Salman Khurshid, then Minister of State External Affairs India, while speaking in the Fiftieth (50th) session of the U.N. Human rights Commission in 1994 stressed on the Indian stand and record of human rights. He said, "... the constitution of India, adopted in 1950, had gone beyond the Universal Declaration of Human Rights and anticipated the two International Covenants on Human Rights. It guaranteed the rule of law and the human rights and fundamental freedoms of all citizens, irrespective of care, creed, race, religion, or sex. It also provided for the punishment of human rights violations, among the other safeguards India were a free and critical press, an informed public opinion and an active community of non governmental organizations (NGOs). His government maintained a long standing dialogue with the centre for Human Rights on many issues, a dialogue which it hoped to continue. It would also seek closer interaction with the Commission's thematic rapporteurs....³⁶.

However, from the outset, a certain authoritarian tendency was implicit in the democratic policy of India. Immediate after independence, the

35. Interview in the '**The Times of India**', 3 Apr. 1994.

36. Debate in the 50th Session of UN Human Rights Commission ECOSOC Doc. E/CN.4/1994/SR.61, p.7.

restoration of self rule, adoption of democracy and faith in Indian Constitution provided a hope for enlargement and development of human rights. But the changing contours of human rights movements and with its nation wide experience of abrogation of civil liberties during the emergency (1975-77) was a major watershed in the history of human rights. The emphasis of human rights movement witnessed a major change in 1980s when the Indian State witnessed the rise of terrorism. Violence, criminalization and militancy have been the hallmark of Indian politics for the past two decades.

The exercise of Preventive Detention Act in 1962 during Indo-China conflict on Communist Groups and brutal police repression on Naxalites in several states in 70s, has further flared up the human rights and civil liberties movement. As such various NGOs emerged like the Association for the Protection of Democratic Rights (APDR), in Calcutta, Association for Democratic Rights (AFDR) in Punjab and later on the emergence of PUCL (Public Union of Civil Liberties) etc. placed on landmark in the Human Rights and Civil liberties movement.

Another trend appeared in human rights movement affected its dimension in 80s was in context of terrorist violence in Punjab and North-Eastern while on the other hand the atrocities committed by the militants on masses and on other hand the phenomenon of State-terrorism in form of

police tortures and exercising of Preventive Draconian Laws like NASA, TADA³⁷ etc. worsely affected the human rights record of India.

The Kashmir crisis and insurgency in the valley played a crucial role in raising the momentum. Barbaric acts committed by terrorists destroyed great number of lives and counter response of the state using Para-Military Forces and police forces for confronting terrorists, also made people's life miserable and they were forced to migrate to other safe places³⁸.

Over the years, the pattern of violations of human rights has changed increasingly, the forces of law and order have used extrajudicial methods to exercise control, particularly in regions experiencing internal armed conflict. Many people have "disappeared" after apparently being taken into custody by agents of the state. Legal safeguards for the protection of detainees are ignored with impunity. Records of detention are not adequately maintained, the lawful role of the judiciary in the detention process is ignored and there is little access to judicial remedies for the relatives of the 'disappeared'. Extrajudicial

37. There is a hue and cry that TADA has badly affected thte concept of 'Human Rights' in India. It gave unlimited powers to the police. The National Human Rights Commissiion of India has exerted its considerable moral pressure on the government to mute the extreme severity of TADA. Even NHRC has threatened to challenge the validity of TADA in the Supreme Court of India. -- '**TADA in diluted form**' in editorial '**The Tribune**', 21 March, 1995.

38. Charanjeet Singh, M.R. Garg, and Naveen Sharma, 'Concept of Human Rights and the Indian Constitution', in '**Human Rights in India - Problems and Perspectives** ed. by B.P. Singh Sehgal, New Delhi, 1995 p.541.

executions, carried out by state agents or with their acquiescence, are common, particularly in situations of armed conflict.

Within prisons and other places of detention, poor conditions accounting to cruel, inhuman and degrading treatment is widespread and fails to meet the requirements of the **UN Standard Minimum Rules for the Treatment of Prisoners.**

Dozens of political detainees have "disappeared", most of whom young men having suspected of links with armed opposition groups. The lack of adequate redress rules counter to provisions of the UN Declaration on the Protection of All Persons from Enforced Disappearance.

The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment sets comprehensive guidelines for arrest and detention, but many of these guidelines are not followed either by law or practice in India³⁹.

Though references of human rights conditions in India, have been put up at the UNHRC meetings, it took a serious turn in the 50th session of UNHRC the Human Rights Commission. Ms. Benazir Bhutto launched an attack on India comparing the human rights violations in Kashmir to those of Nazi Germany's holocaust, and called upon India to free political prisoners,

39. **Amnesty International And India**, AI. Index: ASA/20/05/96, London, 1996, pp.7-10.

remove additional forces from J&K and allow visits to international human rights organizations in Kashmir.

Pakistan tabled a resolution in the Commission's 50th session in 1994 on 25 Feb. 1994, asking the UN Human Rights Commission 'to send a fact finding team to Jammu and Kashmir to investigate and report on the human rights situation and report in the next session of the UN General Assembly to be held in New York to the 51st session of the UNHRC as well. The Indian delegation was represented by Mr. Atal Bihari Vajpayee. He was assisted by Mr. L.M. Singhvi, High Commissioner of India to London, and Mr. Salman Khurshid, the then Minister of State for External Affairs. The other members were Ms. Sujata Manohar, Chief Justice of Bombay High Court, Mr. Farooq Abdullah, former Chief Minister of Jammu and Kashmir, Ms. Savitri Kunadi, Joint Secretary UN, External Affairs, Brig. S.P. Singh Kanwar, Incharge of the Hazratbal operation, Mr. Vinod Kumar Grover, OSD, Special Unit, External Affairs and Mr.T.N. Kaul, former diplomat and Kashmir expert.

The Pakistani resolution did not find any co-sponsors among the 53 member nations of the UNHRC⁴⁰. It became evident to Pakistan that a majority of the countries would abstain from voting and member nations were willing to vote and that too against Pakistani resolution. In its worst diplomatic debacle, Pakistan withdrew its resolution on Kashmir at UNHRC in Geneva⁴¹.

40. Indian Express, 26 Feb. 1994.

41. Indian Express, 10 March, 1994.

Mr. Atal Bihari Vajpayee told the UNHRC that 900 million Indians were united on the Kashmir issue and will not allow their country to be divided once again. Mr. Salman Khurshid said, ".... Given high regard for the protection and promotion of human rights, his Government could not condone the pursuit of political or territorial goals in their name, and particularly in the name of the right to self-determination "....."⁴².

Mr. Spalding (International Association of Educators for World Peace) said that, ".... in Indian occupied Kashmir, as confirmed in numerous reports by human rights organizations, Indian security forces were committing widespread human rights violations. India must be strongly condemned on that account but the acts of the fundamental militants sponsored by Pakistan must also be denounced...."⁴³.

Mr. T.N. Kaul informed the UNHRC meeting that "... India had invited representatives of the International Commission of Jurists, the International Committee of the Red Cross and the Commission itself to visit Kashmir. In addition to 8 to 10,000 persons who had visited the State recently, travelling without any restrictions, a large number of foreign diplomates and parliamentarians and as many as 142 foreign journalists had unrestricted access to Kashmir...."⁴⁴.

42. United Nations ECOSOC Doc. E/CN.4/1994 SR-61, p.7.

43. UNHRC 50th Session Debate, ECOSOC Doc. E/Cn.4/1994/SR.8, p.4.

44. ECOSOC Records Doc. E/CN.4/1994/SR.57, p.6.

The Indian delegation to the 50th session of the UNHRC urged the sub-commission to study in depth the phenomenon of terrorism and its impact on human rights⁴⁵.

Indian delegation also welcomed the transition to a United, democratic and non-racial South Africa and, in the Middle democratic and signing of the Declaration of Principles on Interim Self-Government Arrangements. The Declaration must form the basis for a comprehensive settlement and the restoration of the legitimate rights of the Palestinian people. The delegation also supported the unity, independence, territorial integrity and non-aligned status of cyprus. Indian delegation showed its concern about the slow pace of peace negotiations among the three communities in Bosnia and Berzegovina and hoped for a speedy end to the atrocities there through a political agreement⁴⁶.

On June 25, 1994 Mr. Frank Wisner, then U.s. Ambassador Designate to India, made the following comments:

"Like U.S.; India also has firm opinions on the issue of Human Rights. On this issue India has shown the light to America. The American movement for civil rights in based upon Mahatma Gandhi's doctrines. In the matter of Human Rights a common

45. ECOSOC Records Doc. E/CN.4/1994/SR.25, p.5.

46. ECOSOC records DOc. E/CN.4/1994/SR.61, p.8.

endeavour must be undertaken. We are happy that many Human Rights groups are obtaining entry into India, and Human Rights organizations and groups are being also formed in India⁴⁷.

47. Interview to India Abroad News Service, All India Radio, 27/06/94.

Epilogue

Epilogue

Human Rights are legally recognized expectations from a state. Despite the fluid nature of human expectations in general, human rights have been well defined and their catalogue is well codified in the form of an International Bill of Human Rights, and various other conventions and declarations at the international level and legislative enactments, executive orders and judicial pronouncements at the domestic level. It was by the middle of the present century when, as a result of convergence of several historical forces, a concept of human rights, universal in its approach, comprehensive in its content and reaffirming the principle that the man is a measure of all things, developed and took a shape in the form of the charter of the United Nations.

For the most part, human rights items on the agenda of the General Assembly of the United Nations originate in sections of the report of the Economic and Social Council which relate to human rights. To assist the United Nations in dealing with items relating to human rights, the council has established the Commission on Human Rights.

The human rights items or issues in the United Nations can not be set apart by suggesting that the Commission on Human Rights deals with it. All U.N. Organs and its several specialized agencies, in some way or other, are concerned with the protection and promotion of human rights throughout the world. UNHR Commission was to prepare an international and common standard for all at the first and set an implementation mechanism.

Notwithstanding the adoption of resolutions by the commission on Human Rights relating diverse issues of human rights, gross violations go on unchecked almost everywhere. Disregarding human rights norms has become a way of life in international discourses between and among national states⁴⁸. Despite naming of many countries as perpetrators of human rights violations the recalcitrant states hardly show any inclination to improve their human rights. In practice, the commission also did not respond to abuses in East Pakistan, Uganda, the Kampuchea which led to an international conflict. Indeed, the commission has sought to prevent violations only after military conflict has begun. The commission has not controlled the United Nations human rights agenda, but has adopted its programme to prevailing issue of the first time individual civil and political rights, then decolonization and racism followed by disappearance and torture. The early commission adopted the position that it lacked the authority to inquire into rights behaviour in specific states. When private complaints about rights violations came to the UN, the commission buried them in an elaborate proceeding leading nowhere, one of the most trash baskets ever devised.

A North-South compromise, however, opened up new possibilities between 1967 and 1970. As a result, the Human Rights Commission began to deal with specific states and also began to examine private complaints more seriously. Developing states wanted to focus on Israel and South Africa, but

1. *The Tribune*, 31 march 1995

developed states broadened the commission's mandate so that states like Greece under military rule (1967-1974) and Haiti under the Duvalier dynasty (1957-1966) also became targets of commission activity.

From the early 1970s to the early 1990s, the Human Rights Commission has struggled to find ways of working for human rights in meaningful ways. Through a series of North-South coalitions, propelled partly by the efforts of human rights NGOs, the commission overcame persistent opposition in order to engage in indirect protective activities.

The Human Rights Commission also dealt in various ways with a series of specific states, both publicly and privately. Over the time that list of targeted states became balanced. During the waning days of cold war some of these targeted states were aligned with Washington (for example, El Salvador); others were aligned with Moscow (for example, Cuba). Communist China was so targeted after the Tiananmen Square massacre, providing that even permanent members of the security council are not immune to pressure.

The subject of human rights affects crucial questions of governmental power, and thus an inter governmental commission was highly politicized. Washington at time focused on rights violation in Cuba out of proportion to events there, especially compared to more serious rights violations in allied states like Guatemala and El Salvador⁴⁹. Washington was using human rights

2. Thomas A. Weiss, David Forsythe and Roger A. Coate - **'The United Nations and Changing World'**, Boulder, 1994. p.35.

as a political weapon to dislodge the Castro Government. Before 1985, Moscow was openly opportunistic, using human rights as a weapon against USA's Sallies, much as Pinochet's Chile from 1974 to 1984, but remaining silent about major violations of human rights in communist states. Again, human rights language was put at the service of ideological and strategic calculations. Most of the developing countries paid for more attention to rights violations by South Africa and Israel than to egergious ones in Idi Amin's Uganda or Indira Ghandhi's India.

Over time the Commission dealt mostly with civil rights such as freedom from racial discrimination, torture, forced disappearances, summary execution and arbitrary detention. The commission did not, in fact, deal very frequently or specifically with socio-economic rights. Developing states spent time debating a right to development, but most concrete efforts by agencies like the United Nationals Children's Fund (UNICEF) and the World Health Organization (WHO). The Commission also devoted little time and attention to political rights associated with democracy. Most of the states in the world were and are authoritarian, even in 'democratic times' in history only about on third of all states have democratic governments. Most of the states represented in the commission were listed by 'Freedom House', a New York based NGO, as either partly free or unfree⁵⁰. Thus it was difficult to secure sustained attention to political rights.

3. Raymond Gastil, (ed), 'Freedom in the World', New York, 1993, p.3.

It was frequently difficult to prove that the Human Rights commission had a specific and beneficial impact on a situation. While it is true that the resolutions of the commission, like those of the UN General Assembly, one non-binding, they help in evolving an international public opinion/pressure on certain gross violations. The Commission is also ill equipped to cope with the underlying military and economic causes of the worst human rights violations. It should also be noted that many member states are highly sensitive regarding international scrutiny/accountability of their domestic human rights situation. Nations are very touchy about adverse international opinion on their human rights record. To some extent, India's Kashmir is a case in point.

In fact, the main role of the commission, as its terms of reference and some of the resolutions adopted in 1994 suggest, is that of legislating international conventions/declarations on human rights⁵¹. In doing so, it is here that the member states try to hammer out their political and ideological differences on the nature, content and extent of international norms and standards of human rights. In sum, the commission serves as the first inter-governmental forum to evolve international consensus on human rights norms and issues.

As a member state of the United Nations every state is associated with almost all organs and agencies of the United Nations including the

4. A.P. Vizapur, 'The United Nations At Fifty - Studies in Human Rights', New York 1996, 0.160.

Commission on Human Rights. India on different occasions and at different level has played a significant role in serving the UN purpose of promotion and protection of human rights.

At the San Francisco Conference India was present 'at the creation' not as an independent actor but more as a witness to the proceedings, variably serving as an additional (proxy) vote, voice for the British', it played an important part and made its presence felt. The Indian delegation, led by Sir Ramaswami Mudaliar, argued in favour of making the proposed Economic and Social Council a principal organ of the UN and for strengthening the provisions relating to human rights. Mudaliar emphasized the "fundamental human right of all human beings all over the world should be recognized, and men, and women treated as equals in every sphere, so far as opportunities are concerned"⁵.

As an independent nation, the objectives of India's foreign policy formulated by Pt. J.L. Nehru were quite in concurrence with the principles and purposes enshrined in the United Nations charter. Indeed, the charter spells out what, in effect, have been India's aspiration and declared foreign policy goals - pursuit of international peace and security not through alignment with

* India, although a part of British Empire, was made to join the world wars as a 'separate entity'. Consequently, India became, a founding member of the 'League of Nations' as well as the United Nations.

5. M.S. Rajam, 'India and Making of the UN Charter', *International Studies (Journal)*, Vol.12, No.3 (1973), pp.443-44.

any power or group of powers but an independent approach, freedom and welfare of the subject people, elimination of racial discrimination, elimination of poverty, disease, ignorance and promotion of human rights and economic development of India⁶.

India's raising the question of treatment of Indians in South Africa heralded its advent on the international scene, since it provided the occasion for a heated debate and there were many occasions when the Indian delegate, Mrs. Vijaya Lakshmi Pandit, crossed swords with its counter-part of the British delegation. As noted in media reports, Mrs. Pandit, the only woman to head a delegation, used here "gentle, clear and cultured voice, without mercy, to excoriate South Africa for the treatment of Indians there, and everything pertaining to racial discriminations, the British Empire and anyone who supported the South Africa case⁷.

Indeed, during the critical period of 1950s and early 1960s, India was amongst the handful of member states whose record, particularly after the outbreak of Korean War, clearly bears out that the position India took on all key issues tended to strengthen the world body. India, for example was amongst the very few of non-communist countries which opposed the proposal which would permit the so called 'UN forces' to cross the "38 parallel" in Korea

6. K.P. Saksena, **'India and the Evolving UN'** in the "United Nations At fifty: an Indian View", New Delhi, 1996, p.4.

7. Ibid, p.5.

(Oct.1950). Likewise, it did not approve of the 'Uniting For peace' resolution (14 November 1950) which meant 'dividing for war'.

India has continuously been a member of the Adhoc committee on Non Self - Governing territories. The committee elected India as the first chairman of the committee on Decolonization. India is amongst the handful of states which have continuously been a member of the special committee on Decolonization⁸. This indicates the priority which India has attached to the right of self-determination.

Beginning 1952, on the initiative of India and support of other Afro-Asian, a wider question on the policies of Apartheid had been before various bodies of the U.N. Since 1974, a Special Committee against apartheid (composed of 19 members including India) had spearheaded the world wide anti-apartheid movement. India is also one of the handful member - states which has consistently been a member of the UN Commission on Human Rights since its very inception. This indicates the priority which India attaches to the promotion and protection of human rights. Mrs. Hansa Mehta was the first Indian to serve as a member of the Commission (1946-49) and played a significant part in drafting of the Universal Declaration on Human Rights. Further, as the UN official records bear out, India has been actively involved over the period in the drafting and steering to the adoption of several instruments on human rights, specifically the International Covenants on Human rights.

8. Ibid, p.13.

India has also ratified almost all human rights instruments on human rights adopted by the United Nations or its specialized agencies. It is also true that human rights issues have been increasingly used, and more so in recent years, as a diplomatic weapon in the arena of international politics. The Kashmir issue and the politics behind it in the 50th session of the UN Commission on Human Rights - 1994, is the witness to this practice.

During the period of this survey India was a party to several disputes: On Kashmir and several other questions with Pakistan, on the question of racial discrimination against people of Indian origin, with the South African Government; on self-determination for the inhabitants of French and Portuguese possessions in India⁹. India also sponsored or co-sponsored some questions or situations involving a threat to peace. In everyone of those cases, India sought to settle the dispute by peaceful means.

Apart from the international scene, India's record of human rights at the domestic level has also been a mixed bag. On several occasions till date the state of human rights in India has been an issue of criticism and debate. Reports published in daily newspapers, annual reports of non governmental organizations like Amnesty International and the occasional pamphlets brought out by other organizations provide a reverse picture of the human rights situation in India. If we compare this picture with the catalogue of human rights, we notice a difference in theory and practice.

9.

Human Rights mean different thing to different people at different points of time. During the 1975 emergency rule in India for instance, the most important right an educated, urban, elite India could aspire for was the Freedom of expression. Today, the same person may give top priority to some other freedoms. India is a poor country with rich resource. It has a 'socialist' constitution and a capital-friendly mixed economy. its state policy of secularism in hostage to casteism, fundamentalism and obscurantism. Again there is an elaborate and impressive body of law on human rights coexisting with wide spread and flagrant violations. On the other hand we find that Indian state has the almost exclusive duty to promote and protect human rights; and on the other we see the disintegration of, and disrespect for, the state authority. This disharmony is the principal cause of the present state of human rights in India. The need of the hour is for the people of India to maintain faith in their capacity to survive the ongoing problem.

Appendices

Appendix - I

Table Showing Human Rights Provisions in U.N. Documents and in the Constitution and Laws in India

S.No	<i>Provision in U.N. Documents</i>	<i>Provisions in the Constitution of India and/or Central Act, if any</i>
(1)	(2)	(3)
1.	All human beings are born free and equal in dignity and rights and should act in a spirit of brotherhood. [<i>Universal Declaration of Human Rights 1948, art.1</i>]	Preamble and article 51A (e)
2.	Prohibition of discrimination on grounds of race, colour, sex, language, religion, political or other opinion; national or social origin, property, birth or other status; special measures taken for purpose of securing advancement of certain social or ethnic groups requiring such protection not to be deemed social discrimination. [<i>Universal Declaration of Human Rights, article 2; Declaration of the Rights of the Child, 1959, principle 1; International Convention on the Elimination of All Forms of Racial Discrimination, 1966, articles 1(4), 2 and 5; International Covenant on Civil and Political Rights, 1966, articles 24 and 26; and International Covenant on Economic, Social and cultural Rights, 1966 article 2(2).</i>]	Articles 15, 16 and 17; Protection of Civil Rights Act, 1955; Untouchability (Offences) Act, 1955.
3.	Right to life, liberty and security of person; deprivation of liberty to be only on such grounds and in accordance with such procedure as may be established by law; right to seek pardon or commutation of sentence of death; sentence of death not to be imposed for crimes committed by persons below 18 years of age and not to be carried out on a pregnant woman. Human Rights [<i>Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, articles 6 and 9</i>].	Article 21; Indian Penal Code, 1860, Section 54; Code of Criminal Procedure 1973, Sections 416, 432-434.

(1)	(2)	(3)
4.	Freedom from slavery or servitude, and cruel, inhuman or degrading treatment; prohibition of slave trade, of traffic in women and children, and of forced or compulsory labour. [<i>Universal Declaration of Human Rights, articles 4 and 5; Declaration of the Rights of the Child, principle 9; International Covenant on civil and Political Rights, articles 7 and 8; Declaration on Elimination of Discrimination against Women, 1967, article 8; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956; Convention Concerning the Abolition of Forced Labour, 1957</i>].	Articles 17, 23 and 51A (e); Indian Penal Code, Section 370; Untouchability (Offences) Act, 1955; Suppression of Immoral Traffic in Women and Girls Act 1956; Bonded Labour System (Abolition) Act, 1976.
5.	Equality before the law and equal protection of law; equality before the law in the enjoyment of the right of access to any place or service intended for use by general public, such as transport, hotels, restaurant, cafes, theaters and parks; equality of opportunity and treatment in respect of employment and occupation. [<i>Universal Declaration of Human Rights, articles 6 and 7; Discrimination (Employment and Occupation) Convention, 1958, article 2; International Convention on Elimination of All Forms of Racial Discrimination, article 5; and International Covenant on civil and Political Rights, article 26</i>].	Articles 14, 15, 16, and 39A; Protection of Civil Rights Act, 1955.
6.	Right to an effective remedy to protect fundamental rights granted by Constitution or law [<i>Universal Declaration of Human Rights, article 8; International Covenant on Civil and Political Rights, article 2(3)</i>].	Articles 31D, 32, 39A, 226 and 227.
7.	Protection against arbitrary arrest, detention or exile [<i>Universal Declaration of Human Rights, article 9; and International Covenant on Civil and Political Rights, articles 6(1) and 9</i>].	Article 22; Code of Criminal Procedure, 1973, Sections 49, 50, 56, 57.

(1)	(2)	(3)
8.	Right to a fair and public hearing by a competent, independent and impartial tribunal in determination of rights and obligations and of any criminal charge against an individual [<i>Universal Declaration of Human Rights, article 10; International Convention on Elimination of All Forms of Racial Discrimination, article 5(a); and International Covenant on Civil and Political Rights, article 14(1)</i>].	Article 50; Part V, Chapter IV; Part VI, Chapter V and VI; Code of Criminal Procedure, 1973, 55. 303. 304, 310, 327, 461, 479 etc.
9.	Right to be presumed innocent until proved guilty; prohibition of retroactive penal laws and of double jeopardy [<i>Universal Declaration of Human Rights, article 11; and International Covenant on Civil and Political Rights, articles 14(1) and (2) and 15(1)</i>].	Article 20 and 22; Code of Criminal Procedure, Section 300.
10.	Right to certain minimum guarantees in determination of criminal charge against an individual; procedure in case of juvenile persons to be such as takes account of their age and promotes their rehabilitation; right to one's conviction and sentence being reviewed by a higher tribunal, [<i>International Covenant and Civil and Political Rights, article 14(3), (4) and (5)</i>].	Code of Criminal Procedure. 1973; Probation of Offenders Act, 1958.
11.	Protection against arbitrary interference with privacy, family, home correspondence, and against unlawful attacks on honor and reputation [<i>Universal Declaration of Human Rights, article 12; International Covenant on Civil and Political Rights, article 17</i>].	Article 21 (as interpreted in Kharak Singh's Case, A.I.R. 1963 S.C. 1295); Indian Penal Code, 1860, sections 441, 447, 499-503.
12.	Right to freedom of movement and residence within a State; right to leave any country, including one's own, and to return to one's country [<i>Universal Declaration on Human Rights, article 13; International Covenant on Civil and Political Rights, article (12)</i>].	Article 19(1) (d) and (e) and article 21 as interpreted in the Passport Case (Satwant Singh v. Regional Passport Officer, New Delhi, A.I.R. 1967 S.C. 1836).

(1)	(2)	(3)
13.	Right to nationality; prohibition against arbitrary deprivation of nationality and right to change it; Right of the child to a name and a nationality from birth; Women to have the same rights as men to acquire, change or retain their nationality; marriage to an alien not to automatically affect nationality of wife [<i>Universal Declaration of Human Rights, article 15; Declaration of the Rights of the Child, principle 3; Declaration on Elimination of Discrimination against Women, article 5</i>].	Citizenship Act, 1955.
14.	Right to marriage and to found a family; marriage with free and full consent of intending spouses; family to be protected by society and State; equality of rights and responsibilities of spouses as to marriage, during marriage, and at its dissolution; Prohibition of Child marriage and betrothal of young girls before puberty; specification of a minimum age for marriage, compulsory registration of marriages [<i>Universal Declaration of Human rights, article 16; Declaration on Elimination of Discrimination against Women, article 6(2) and (3); International Convention on Elimination of All Forms of Racial Discrimination, article 5; International Convention on Economic, Social and Cultural Rights, article 10(1)</i>].	Hindu Widows Remarriage Act, 1856; Indian Christian Marriage Act, 1872; Anand Marriage Act, 1909; Parsi Marriage and Divorce Act, 1936; Dissolution of Muslim Marriages Act, 1939; Arya Marriage Validation Act, 1937; Special Marriage Act, 1954; Hindu Marriage Act, 1955; Dowry Prohibition Act, 1961; Foreign Marriage Act, 1969; Child Marriage Restraint Act 1929 Indian Penal Code, ss. 366, 493-498.
15.	Right to own property, and protection from arbitrary deprivation; Women to be ensured equal rights with men in civil law and in particular the right to acquire, administer, enjoy, dispose of, and inherit property [<i>Universal Declaration of Human Rights, article 17; and Declaration on Elimination of Discrimination against Women, article 6(1) (a)</i>].	Articles 19(1) (f) and 31(1); Requisitioning and Acquisition of Immovable Property Act, 1952; Married Women's Property Act, 1874; Married Women's Property (Extension) Act, 1959 and Hindu Succession Act, 1956.

(1)	(2)	(3)
16.	Right to freedom of thought, conscience and religion including freedom to manifest religion in teaching, practice, worship and observance; right of ethnic, religious or linguistic minorities to profess and practice their own religion [<i>Universal Declaration of Human Rights, article 18; and International Covenant on Civil and Political Rights, articles 18 and 27</i>].	Articles 19, 25, 26 29 and 30; Indian Penal Code, as 295-298.
17.	Right to freedom of opinion and expression; Right to freedom of peaceful assembly and association; prohibition against compulsion to belong to an association [<i>Universal Declaration of Human Rights, articles 19 and 20; and International Covenant on Civil and Political Rights, articles 19 and 21</i>].	Article 19(1)(a), (b) and (c); the Trade Unions Act, 1926.
18.	Right to take part in government of one's country; right of equal access to public services; expression of people's will in free, universal and equal suffrage by periodic elections to be the basis of Government; Right of Women, on equal terms with men, to vote and to stand for elections, to hold public office, and to exercise public functions [<i>Universal Declaration of Human Rights, article 21; Convention on Political rights of Women 1953, articles I, II and III; Declaration on Elimination of Discrimination against Women, article 4; International Covenant on Civil and Political Rights, articles I and 25; International Covenant on Economic, Social and Cultural Rights, article 14</i>].	Preamble, Articles 16, 55, 56, 58, 62, 66, 67, 83, 84, 172, 173, 326; Representation of the People Act, 1950; Representation of the People Act, 1951; Representation of the People (Miscellaneous Provisions) Act, 1956; Presidential and Vice-Presidential Elections Act, 1952; Union Territories (Direct Election to the House of the people) Act, 1965; Parliament (Prevention of Disqualifications), Act, 1959.
19.	Right to social security, to realisation of economic, social and cultural rights indispensable to one's dignity and development of personality [<i>Universal Declaration of Human Rights, article 22; and International Covenant on Economic, Social and Cultural Rights, article 9</i>].	Preamble

(1)	(2)	(3)
20.	<p>Right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment; Right to equal remuneration for men and women for work of equal value; Right to just and favourable remuneration; Right to form and join trade unions for protection of one's interests. [Universal Declaration of Human Rights, article 23; Convention concerning Equal Remuneration for Men and Women Workers for works of Equal Value, article 2; International Covenant on Civil and Political Rights, article 22(1) and (2); International Covenant on Economic, social and cultural Rights, article 7 and 8(1) (a)].</p>	<p>Article 16, 19, 39, 41, 42, 43 and 43A; Workmen's Compensation Act, 1923; Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; Mica Mines Labour Welfare Fund Act, 1946; Coal Mines Labour Welfare Fund Act, 1947; Industrial Disputes Act, 1947; the Factories Act, 1948; the Dock Workers (Regulation of Employment) Act, 1948; Employees State Insurance Act, 1948; Minimum Wages Act, 1948; Mines Act, 1952; The Employees Provident Funds and Miscellaneous Provisions Act, 1952; Apprentices Act, 1961; Motor Transport Workers Act, 1961; Iron Ore Mines Labour Welfare Cess Act, 1961; Equal Remuneration Act, 1976; The Payment of Wages Act, 1936.</p>
21.	<p>Right to rest and leisure, including limitation of working hours and periodic holidays with pay [Universal Declaration of Human Rights, article 24; International Covenant on Economic, Social and Cultural Rights, article 7].</p>	<p>Article 43; Weekly Holidays Act, 1942; the Coal Mines Labour Welfare Act, 1947; Industrial Employment (standing orders) Act, 1946.</p>
22.	<p>Right to an adequate standard of living and right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood; Maternity and Child Welfare-Prevention of dismissal of Women on account of marriage of maternity leave and necessary social services; Protection of children and young persons from economic and social exploitation; child not to be admitted to employment before an appropriate minimum age and not be</p>	<p>Articles 24, 39, 41, 42 and 47; Children (Pleading of Labour) Act, 1933; Employment of children Act, 1938; Mines Maternity Benefit Act, 1941; Employees State Insurance Act, 1948; Plantations Labour Act, 1951; Orphanages and other Charitable Homes (Supervision and Control)</p>

(1)	(2)	(3)
23.	<p>caused or permitted to engage in any occupation or employment interfering with his physical, mental and moral development; Duty of society and public authorities to extend particular care to children without a family and to those without adequate means of support; special treatment, education and care to be given to a physically, mentally or socially handicapped child [<i>Universal Declaration of Human Rights, article 25; Declaration of the Rights of the Child, principles 5, 6 and 9; Declaration of Elimination of Discrimination against Women, article 10; International Covenant on Economic, Social and Cultural Rights, articles 10 and 11 (1)</i>].</p>	<p>Act, 1960; Children Act, 1960; Maternity Benefit Act, 1961; Personal Injuries (Compensation Insurance) Act, 1963 the Factories Act, 1948, Workmen's Compensation Act, 1923; Mica Mines Labour Welfare Fund Act, 1946; Coal Mines Labour Welfare Fund Act, 1947; Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948; Employment of Children Act, 1948; Employment of Children Act, 1938; the Mines Act, 1952; the Apprentices Act, 1961; Dock Workers (Regulation of Employment) Act, 1948; Local Authorities Pensions and Gratuities Act, 1919; Employers' Liability Act, 1938.</p>
24.	<p>Right to education - elementary education to be free and compulsory; technical, professional and higher education to be made available on merit; Education for full development of human personality, strengthening of respect for human rights and to further activities of U.N. for maintenance of peace; Prior right of parents to choose the kind of education for their children; freedom of individuals and bodies to establish and direct educational institutions subject to certain requirements; Girls and Women to be ensured equal rights with men in education [<i>Universal Declaration of Human Rights, article 26; Declaration of the Rights of the Child, principle 7; Declaration on Elimination of Discrimination against Women, article 9; International Covenant on Economic, Social and Cultural Rights, articles 13 and 14</i>].</p>	<p>Articles 15, 28, 30, 45, 46 and 51; Delhi Primary Education Act, 1960.</p>
	<p>Right to freely participate in the cultural life of the community, to enjoy arts and to share in scientific advancement and its benefits; Right to protection of moral and</p>	<p>Articles 29 and 39; Designs Act, 1911; Copy-right Act, 1957; Patents Act, 1970.</p>

(1)	(2)	(3)
	<p>material interests resulting to an author from his scientific, literary or artistic production; Right of ethnic, religious or linguistic minorities to enjoy their own culture and to use their own language <i>[Universal Declaration of Human Rights, article 27, International Covenant on Civil and Political Rights, articles 2 (1) and 27].</i></p>	<p>Articles 29 and 39; Designs Act, 1911; Copy-right Act, 1957; Patents Act, 1970.</p>
<p>25.</p>	<p>Limitations in exercise of rights and freedoms only for securing due recognition and respect for rights and freedoms of others and for morality, public order and general Welfare <i>[Universal Declaration of Human Rights, article 29; International Covenant on Civil and Political Rights, articles 12, 18, 19, 21 and 22].</i></p>	<p>Articles 19(2) to (6), 23(2), 25(1), 26(1), 31(2), 31C, 31D and 33.</p>

Appendix - II

States	(1) <i>International Covenant on Economic, Social and Cultural Rights</i>	(2) <i>International Covenant on Civil and Political Rights</i>	(3) <i>Optional Protocol to the International Covenant on Civil and Political Rights</i>	(4) <i>Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty</i>	(5) <i>International Convention on the Elimination of All Forms of Racial Discrimination</i>	(6) <i>International Convention on the Suppression and Punishment of the Crime of Apartheid</i>	(7) <i>International Convention against Apartheid in Sports</i>	(8) <i>Convention on the Prevention and Punishment of the Crime of Genocide</i>	(9) <i>Convention on the Non-Application of Statutory Limitations to War Crimes and Crimes against Humanity</i>	(10) <i>Convention on the Rights of the Child</i>	(11) <i>Convention on the Elimination of All Forms of Discrimination against Women</i>	(12) <i>Convention on the Political Rights of Women</i>	(13) <i>Convention on the Nationality of Married Women</i>	(14) <i>Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages</i>
Dem. People's Rep. of Korea	X	X		X	X ^b			X	X	X	X	X	X	
Denmark	X	X ^a	X	X	X ^b			X	X	X	X	X	X	
Djibouti									X	X				
Dominica	X	X							X	X				
Dominican Republic	X	X	X		X			s	X	X	X	X	X	
Ecuador	X	X ^a	X	X	X ^b	X	X	X	X	X	X	X		
Egypt	X	X			X	X	X	X	X	X	X			
El Salvador	X	X	X		X	X		X	X	X	s			
Equatorial Guinea	X	X	X				X		X	X				
Eritrea									X	X				
Estonia	X	X	X		X	X	X	X	X	X				
Ethiopia	X	X			X	X	X	X	X	X	X			
Fed. States of Micronesia										X				
Fiji					X			X	X	X	X	X	X	
Finland	X	X ^a	X	X	X ^b			X	X	X	X	X	X	
France	X	X	X		X ^b			X	X	X	X		s	
Gabon	X	X			X	X	s	X	X	X	X			
Gambia	X	X ^a	X		X	X		X	X	X	X			
Georgia	X	X	X					X	X	X	X			
Germany	X	X ^a	X	X	X		X [*]	X	X [*]	X	X	X	X	
Ghana					X	X	X	X	X	X	X	X		
Greece	X				X			X	X	X	X		s	
Grenada	X	X			s			X	X	X	X			
Guatemala	X	X			X		X		X	X	X	X	X	
Guinea	X	X	X		X	X	X	X	X	X	X	s	X	
Guinea-Bissau	X						s		X	X				
Guyana	X	X ^a	X		X	X	X		X	X				
Haiti		X			X	X	s	X	X	X	X			
Holy See					X				X	X				
Honduras	X	s	s	s				X	X	X				
Hungary	X	X ^a	X	X	X ^b	X	s	X	X	X	X	X	X	
Iceland	X	X ^a	X	X	X ^b			X	X	X	X	X	X	
India	X	X			X	X	X	X	X	X	X	s		
Indonesia							X		X	X	X			
Iran (Islamic Rep.)	X	X			X	X	X	X	X	X				
Iraq	X	X			X	X	X	X	X	X				
Ireland	X	X	X	X	s			X	X	X	X	X		
Israel	X	X			X			X	X	X	X	X	s	
Italy	X	X ^a	X	X	X ^b			X	X	X	X		s	

Appendix : III

Commission Membership, 1947-1987

TABLE B.1
Countries Elected as Commission Members by Region, 1947-1987

<u>Africa</u>	
Algeria 1980-82, 1986-88	Morocco 1967-72, 1979-81
Benin 1964-68, 1979-81	Mozambique 1983-88
Burundi 1979-81	Nigeria 1967-69, 1972-74, 1977-81
Cameroon 1984-86	Rwanda 1976-78, 1982-84, 1987-89
Congo 1985-87	Senegal 1966-89, Ch 1968, 1978
Egypt 1947-55, 1967-80 Ch 1953-54	Sierra Leone 1974-76
Ethiopia 1980-82, 1986-88	Somalia 1987-89
Gambia 1982-87	Tanzania 1967-76, 1983-85
Ghana 1970-75, 1980-83	Togo 1982-84
Kenya 1984-86	Tunisia 1973-76
Ivory Coast 1978-89	Uganda 1977-79, 1981-83, Ch 1983
Lesotho 1976-78, 1985-87	Upper Volta 1975-77
Liberia 1963-65, 1985-87	Zaire 1967-75, 1981-83
Libya 1976-78, 1983-85	Zambia 1980-82
Madagascar 1968-70	Zimbabwe 1982-84
Mauritania 1969-71, 1984-86	
Mauritius 1971-73, Ch 1973	
<u>Asia</u>	
Afghanistan 1961-63	
Bangladesh 1983-88, Ch 1985	
Ceylon 1957-59, Ch 1958-59	
China 1947-64, 1982-87	
Cyprus 1974-1988	
Fiji 1981-83	
India 1947-88, Ch 1961	
Iran 1947-49, 1957-59, 1967-80, Ch 1970	
Iraq 1956-61, 1965-67, 1970-75, 1979-81, 1987-89	
Israel 1957-59, 1965-70	
Japan 1982-87	
Jordan 1976-78, 1980-86, Ch 1980	
Lebanon 1947-1960, 1962-64, 1968-76, Ch 1951, 1962	
Mongolia 1980-81	
Pakistan 1951-57, 1960-62, 1967-69, 1971-84, 1987-89, Ch 1965	
Philippines 1947-49, 1953-73, 1980-89, Ch 1957, 1965	
Sri Lanka 1985-87	
Syria 1977-83, 1984-86	

(cont.)

Eastern Europe

Bulgaria 1973-86, Ch 1982
 Byelorussia 1947-48, 1972-77, 1980-82, 1986-88
 German Democratic Republic 1984-88
 Poland 1952-72, 1978-83 Ch 1972
 Romania 1972-74
 Ukraine 1947-71, 1983-85 Ch 1967
 USSR 1947-88

Latin America

Argentina 1957-62, 1966-68, 1980-88 Ch 1960
 Brazil 1979-87, Ch 1981
 Chile 1947-56, 1963-74
 Colombia 1978-80, 1983-88, Ch 1986
 Costa Rica 1964-67, 1975-77, 1980-88, Ch 1966
 Cuba 1976-84
 Dominican Republic 1973-75
 Ecuador 1963-65, 1972-77 Ch 1964, 1976
 El Salvador 1962-64
 Guatemala 1949-51, 1967-72
 Jamaica 1965-70
 Mexico 1955-60, 1971-73, 1981-89
 Nicaragua 1973-75, 1983-88
 Panama 1947-48, 1961-63, 1974-82
 Peru 1967-72, 1974-82, 1985-87
 Uruguay 1947-54, 1969-71, 1976-84
 Venezuela 1960-62, 1968-73, 1985-87

Western Europe and Other

Australia 1947-55, 1978-83, 1985-87
 Austria 1960-62, 1964-75, 1977-79, 1985-87, Ch 1974
 Belgium 1947-50, 1952-54, 1958-60, 1986-88
 Canada 1963-65, 1976-84, Ch 1979
 Denmark 1949-51, 1960-65, 1980-82
 Finland 1970-72, 1983-85
 France 1947-76, 1978-89, Ch 1955-56
 Federal Republic of Germany 1975-77, 1979-87
 Greece 1950-52, 1954-56, 1967-69, 1980-82
 Ireland 1983-88
 Italy 1957-59, 1962-69, 1972-77, 1982-84, 1987-89
 Netherlands 1961-66, 1970-75, 1980-85, Ch 1984
 New Zealand 1966-71, Ch 1969
 Norway 1955-57, 1972-74, 1986-88
 Portugal 1979-81
 Spain 1966-68, 1984-86
 Sweden 1966-68, 1977-79
 Turkey 1954-56, 1962-64, 1970-78
 United Kingdom 1947-78, 1980-87
 United States 1947-89, Ch 1947-50

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