Introductory Note

This study attempts to analyse India's role at the United Nations in the drafting and steering to adoption of the International Covenant on Civil and Political Rights. Further, it attempts to assess the role of the Covenant in generating world-wide respect for and promotion and protection of human rights and the extent to which the implementation machinery of the Covenant has been effective in that regard.

It should also be noted here that as of now there are more than fifty international instruments relating to human rights adopted by the United Nations and its specialised agencies; the most important of them is, however, the International Covenant on Civil and Political Rights. It, together with the International Covenant on Economic, Social and Cultural Rights, covers comprehensively all facets of human rights. It is not surprising, therefore, that the international community as representing at the United Nations took nearly eighteen years to discuss and adopt their text. There were several controversial points which needed to be resolved through negotiations and evolving of consensus among member states. However, certain questions could be resolved by the process of voting. India is among
the few Afro-Asian countries which has been a party to the negotiations and debates from the very inception of the draft, discussion and its subsequent adoption by the General Assembly. India was a member of the Commission on Human Rights when the preliminary draft was prepared by the Commission. When the Third Committee of the General Assembly deliberated and discussed the draft and adopted substantive parts article by article (1954-66) Indian delegation played a significant role. Likewise, when provisions of implementation machinery and final clauses were adopted (in 1966), India played a key role.

It should be noted here that one of the most revolutionary developments beginning the post war period has been the internationalization of the concept of human rights. Various provisions of the United Nations Charter clearly emphasised that promotion and protection of human rights were matter of concern to international law and international organization and they were no longer confined to the domestic jurisdiction of the States. Therefore, following the lead of United Nations Charter most of the governments have given special importance to the provisions relating to promotion and protection of human rights in their foreign policy objectives. Most of the newly independent and developing countries have included the
provisions relating to human rights in their respective constitutions. India, also, on gaining independence has spelled out its foreign policy objectives which inter alia include promotion of human rights. The Constitution of India, adopted after three years of deliberations, which came into force in January 1950 contains wide-ranging provisions known as "Fundamental Rights" and cover almost all the civil and political rights set-forth in the Covenant.

Some of the issues which are pertinent for detailed examination are - to what extent ratification/accession of Covenant of Civil and Political Rights by member states have improved the process for protection and promotion of human rights.

Again, there were several points, in the original text of the Covenant which were resolved through negotiation and evolving of consensus. Several questions, however, could be resolved by resort to voting. As such, how explicit is the Covenant in terms of defining the obligations of member states for upholding the civil and political rights of individual? To what extent the implementation machinery, specially Committee on Human Rights, have played its part in monitoring the violation and providing international supervision for the implementation of civil and political rights?
Further, India in terms of its Constitution, foreign policy objectives, is fully committed to the promotion of human rights in general and of its citizens in particular. To what extent India's declared policies and actions indicate acceptance of internationally binding obligation? Why did India took more than ten years to ratify the Covenant? How to achieve wider acceptance (ratification) by member states? Is there scope of improving the role of implementation machinery of the Covenant?

These and related questions are the subjects of this study.

This study has been divided into seven chapters. The first chapter provides a brief history of preparation and adoption of the International Covenants on Civil and Political Rights. The structure, functions and the rules of procedure of the Committee on Human Rights has been discussed in chapter two. Article 40 of the Covenant provides for the Reporting System under which the state-parties to the Covenant undertake to submit reports to the Human Rights Committee on measures they have adopted for the implementation of the rights recognised in the Covenant. What is Reporting System? To what extent it has been effective? What are the limitations experienced
by the state-parties in submitting their reports. These points have been taken up in the third chapter.

Inter-state complaint system is a very important part of the implementation mechanism. It authorises the Committee to consider communication from the state-party which considers that another state-party is not giving effect to the provisions of the Covenant. The inter-state complaint system and its potential effects on the mutual relationship of the state-parties and related aspects have been discussed in fourth chapter. The individual petition system which provides opportunity to individuals to express their grievances at the international level has been discussed in fifth chapter. India had submitted its first report to the Committee on 13 July 1983. What were the limitations before India which delayed ratification/accession and latter on submission of its report? What is the effectiveness of the Covenant in India? These and related matters are the subjects of analysis of sixth chapter. Seventh chapter attempts to put the assessment of the study.