This study attempts to analyse the United Nations' role in the promotion and protection of human rights and the extent to which the question of "domestic jurisdiction" as enunciated in Art.2(7) of the UN Charter has proved to be an hindrance in that role.

It should be recalled that prior to the establishment of the United Nations, the question of promotion and protection of human rights was generally considered as a matter of domestic jurisdiction — beyond the reach of international law and international organization. While the Covenant of the League of Nations was being drafted, a proposal for insertion of "the principle of the equality of nations and the just treatment of their nationals" was quietly shelved, the reasons for non-acceptance of such a proposal — reflecting only a rudimentary adherence to the principle of universality of human rights — were of course political, and the main opposition came from the United States. However, the fact remains that its rejection did not even create a stir indicates that the concept of international concern for human rights had by then not gained sufficient grounds.

It is true that the League Covenant did contain certain provisions which had bearing on promotion of general welfare of the people; particularly in regard to the "minorities"
in Europe and the inhabitants of Mandate territories. However, it fell short of spelling out international recognition to the concept of human rights. It is in this sense that, compared to the League Covenant, the Charter represents a revolutionary change, since in unequivocal terms it reaffirms, to quote the Charter, "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women ... without distinction as to race, sex, language or religion." Thus, the questions of human rights are no longer matters which are of concern of the individual and the state alone, but a concern of the international community as a whole.

While emphasising the concept of human rights and its universal application, the Charter also has given recognition to the concept of domestic jurisdiction. Art.2(7) specifically lays down that: "Nothing contained in the ... Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the ... Charter ..." Do the provisions in the Charter

1. It should be noted that the League Covenant did include a few provisions, besides, relating to just treatment of indigenous inhabitants of Mandate territories and protection of minorities and their rights. It covered some specific human rights problems, such as, slavery, forced labour, traffic in narcotics, children and women. The International Labour Organization was also concerned with the better treatment of labour based on the principle of social justice. This point has been further elaborated in Chapter I of this study, see pp.7-8.
relating to human rights and the one relating to domestic jurisdiction come into conflict. What is meant by the phrase: essentially within the domestic jurisdiction? Should a conflict arise in a given situation, which of the provisions — relating to human rights or that of domestic jurisdiction — shall prevail? What has been the experience during the last forty years?

Again, over the decades, various international instruments — the Declaration and Covenants/Conventions — have been adopted setting the norms and standards to be followed by Member States. How these norms have been interpreted in general and are applied in particular cases involving violation of human rights? Further, to what extent the "reservation" clause in case of Covenants/Conventions has restricted the principle of universal application of human rights provisions? What remedy, if any, is available to the United Nation, if a state, which is a party to the Covenants/Conventions, continues to violate its obligations? What efforts have been made to create and establish the procedures of "reporting" by Member States on matters concerning the progress or lack of it, in the observance and promotion of human rights? To what extent such efforts have experienced hindrances because of the question of domestic jurisdiction? Did this clause prevent bringing of complaints/violations of human rights to UN forums? What kind of cases, alleging violations of human rights in a given situation, came up for UN consideration/
investigation or study, and what course of action was adopted by competent bodies of the United Nations? To what extent, if any, the UN concern for the promotion of human rights has eroded the concept of sovereignty (domestic jurisdiction) of a state?

These and related questions are the subject of this study.

The attempt here is to assess the progress achieved in ensuring implementation of the norms and standards that are spelled out in the Charter, the Universal Declaration of Human Rights and further elaborated in other international instruments. For obvious reasons, it is not possible to cover the entire field of UN activity relating to human rights, the focus, therefore, here is on select areas of activity. There are more than twenty five international instruments, but the basic of them are the Universal Declaration, and the International Covenants. Hence, while reference has been made to all the other instruments but the codification of the provisions of these two instruments have been treated in detail. Further, International Convention on the Racial Discrimination, being the first international instrument which provided for the implementation machinery, has also been discussed. Some specific case studies involving complaints of the gross violations of human rights have also been
examined with a view to analyse the issues relating to human rights and domestic jurisdiction as noted above.

The first chapter analyses the provisions relating to human rights and domestic jurisdiction under the UN Charter. It not only deals with the drafting of these provisions but also takes note of their implications. The second chapter deals with the drafting and contents of the basic human rights instruments, especially the Universal Declaration, the Convention on the Elimination of All Forms of Racial Discrimination and the international Covenants. The third chapter provides an analysis of the problems of interpretation and implementation of the Charter provisions and those of international Covenants in the context of domestic jurisdiction principle. The fourth chapter deals with the mechanisms, institutions and procedures of reporting and communications evolved by UN bodies to monitor observance of human rights and cases involving their gross violation. The next chapter provides a comprehensive study of some case-studies concerning violation of human rights, which had come before the United Nations or were investigated by its bodies. The final chapter attempts an overall assessment and conclusions.