CHAPTER VII

THE UNITED NATIONS AND HUMAN RIGHTS
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'Human Rights' is the twentieth century designation of what have been traditionally known as natural rights or in a more exhilarating phrase, the rights of man. The enjoyment of fundamental freedoms by men, women and children all over the world now engages the attention of the world community as never before.

During the seventeenth and eighteenth centuries, little significance was attached to the rights of minorities. But in the beginning of the nineteenth century most of the European Constitutions guaranteed and declared that protection will be provided to the rights of minorities. The idea of an international protection of minorities dates from the Congress of Vienna. The Congress of Vienna held in 1815 proclaimed eight articles which laid down the rights of minorities in the United Netherlands. The Congress of Vienna created this kingdom in 1814 uniting two peoples with distinct and different languages and cultures of their own. Since that time agreements have been based on the principle that all the subjects of a state are entitled to equal

2. Ibid., p. 30.
treatment. In 1830, when the kingdom of Greece was created, it undertook to grant equal political rights to all her subjects. The Treaty of Berlin of 1878 bound the new states then recognized to concede certain liberties to minorities. But for one reason or another these attempts to protect minorities by international agreement met with indifferent success.

The Covenant of the League of Nations reflected the very limited international concern with human rights. The subject of human rights was not mentioned in the Covenant. The phrase, "Human Rights and Fundamental freedoms", which is of such importance in the Charter of the United Nations, did not appear in the Covenant. It was not dealt with by the League, as the leading political figures of the time subscribed to the doctrine that the rights of citizen are a matter for the state concerned and not for the international community.

But general concern was expressed, directly or indirectly, by a number of actions taken at that time. In two fields of human rights, dealing with mandated territories and minority problems, the League of Nations made a particularly

significant advance over the past. The establishment of the mandates system by the League reflects in some measure a concern for the rights of the inhabitants of those territories.

The Covenant contained no provisions concerning the minorities of Europe but a series of treaties and declarations were concluded as an attempt to secure the rights of special groups of individuals. The principal allied and associated powers were conscious of the dangers to international peace that might arise from any unjust treatment of minorities. President Wilson, for example, believed that nothing was "more likely to disturb the peace of the world than the treatment which might in certain circumstances be meted out to minorities."

Therefore for the maintenance of peace, the Big Four decided to incorporate minimum guarantees for racial, linguistic or religious minorities in the fundamental law of several of the European States. The responsibility for the protection of minorities in Europe was assigned to the League of Nations by a series of treaties between the principal allied

1. Ibid., p. 649.
and associated Powers and various European States in 1919 and 1920.

Minorities were defined in the Minorities Treaties, as groups of persons who, by language, religion or race, differed from the majority populations.

Treaties for the protection of minorities were concluded between the principal allied and associated powers, on the one hand, and Yugoslavia, Czechoslovakia, Greece, Poland and Roumania on the other; and special chapters were inserted in the treaties of peace with Austria, Bulgaria, Hungary and Turkey. The obligations undertaken were similar in each case. Although the Minorities Treaties differed slightly in details, they were very similar. The States concerned pledged themselves by these treaties to guarantee to national, religious and linguistic minorities of their inhabitants, enjoyment of certain carefully defined rights. The League of Nations was charged with the duty of seeing that these pledges were faithfully executed.

On June 28, 1919, the first of the Minorities Treaties was concluded between the Principal Allied and Associated

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powers and Poland. This treaty formed the model for all the rest.

There were a number of League activities, which in effect at least, served to protect the human rights of individuals. The long standing international concern over slavery found concrete expression in the establishment of a Committee on Slavery and in 1922 an anti-slavery Convention was signed. In 1921 an Organization for the relief and rehabilitation of refugees was also established by the League.

During this period another form of international activity which in effect served to protect individual human rights was undertaken by the ILO. The ILO devoted itself to preserve labour standards and to reduce hours of work.

However, during the inter-war period, International Cooperation produced no comprehensive programme for the protection of human rights. The stress laid in President Wilson's fourteen points, in the 1919 Peace Treaties, and in the Minorities Treaties was not upon the rights of individuals but upon the rights of minority groups within nations.

2. Luard, Evan, op. cit., p. 13.
One of the most striking defects was the confinement of the application of the system to the small states of Eastern and Central Europe. Secondly, the attitude of the minorities themselves towards the League system was critical. Many of their criticisms were well-grounded, but the protection provided by the League was better than no protection at all.

The League of Nations and ILO dealt with some aspects in the field of human rights. Main interest was shown especially in the fields of slavery, forced labour, mandated territories and minorities. However, in general, the traditional concept that the civil, political, economic and social rights of the individual were strictly a concern of the nation state was respected. It was only after the economic depression of the thirties and the subsequent rise of Hitler and the Second World War that the traditional concept was modified and the international community began to assume greater interest in, and obligation towards the rights of the individual.

The minorities system of the League of Nations worked tolerably well in the "twenties." Yet inseparably its fate

was linked with that of the League itself. After 1931, the League of Nations gradually disintegrated and with that the League minorities system also broke down.

**U.N.O. — AND THE EVOLUTION OF THE CONCEPT OF HUMAN RIGHTS**

The Second World War marked a turning point in the development of international concern for human rights. Due to the systematic persecution of the Jews by the Nazis, the role of totalitarian ideologies in national politics, particularly in Germany and Italy, depriving the individual of both his civil and political rights, subjecting him to police tyranny and brutal oppression on grounds of race or religion, the attention of the world was centred on the question of the protection of human rights internationally.

During the course of the Second World War, views and opinions were voiced from different quarters all over the world as to the place of human rights in the international order which was to follow the end of hostilities. A major contributing cause of World War II had been the violations of fundamental human rights. The awareness of the fact of

human rights being a matter of international concern turned into a conviction in the trials and tribulations of the Second World War and a number of proposals were advanced for enforcement of human rights.

The wartime speeches of both American as well as British leaders gave special emphasis to the need for exercising the fascist and Nazi tyranny and safeguarding human rights in the peace settlement. It was realized that the foundations of a durable peace could be built upon respect for the rights of man. The spokesman for the governments at war with the Axis powers frequently defined their war aims in terms of human rights.

The new thinking found expression in President Roosevelt's message to Congress on January 1941, when he referred to the "Four essential human freedoms" to which he looked forward as the foundation of a future world: freedom of speech and expression, freedom of worship, freedom from want and freedom from fear, for all people every where in the world. The last two of these freedoms were clearly reaffirmed

the following August in the Atlantic Charter and on January 1, 1942 received a wide sanction in the Joint Declaration of the United Nations.

In the Atlantic Charter, President Roosevelt and Prime Minister Churchill expressed their hope, that after the final destruction of the Nazi tyranny there would be established "a peace which will afford assurance that all the men in all the lands may live out their lives in freedom from want and fear."

On January 1, 1942, similar assurances were incorporated by reference in the Declaration by the United Nations, which was signed by the representatives of twenty-six countries, including the four major powers, the United States, the U.K., the U.S.S.R. and China.

Little attention was given to the matter of human rights in the preliminary discussions on the drafting of a Charter for a new international organization to take the place of the League. The Dumbarton Oaks proposals briefly referred to the promotion of human rights as one of the

1. Eziofor, Gaius, Quaest., p. 54.
activities to be performed by the proposed General Assembly and under its authority, by the Economic and Social Council. The following provision was agreed upon at the Conference: "With a view to the creation of conditions of stability and well-being which are necessary for the 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. Responsibility for the discharge of this function should be vested in the General Assembly, in the Economic and Social Council."

This statement did not satisfy world opinion. It was felt that it did not go far enough. Therefore several delegations, especially those from small countries went to San Francisco, determined to enlarge the scope of United Nations action in this field. Eventually, the sponsoring powers gave their support to the movement and an amendment to the Dumbarton Oaks proposal was approved.

Largely because of the efforts of the delegations of certain small countries at San Francisco, the human rights

provisions of the Charter, as finally adopted, are considerably stronger than those of the Dumbarton Oaks proposals.

When finally approved, the Charter of the United Nations, in sharp contrast to the Covenant of the League of Nations contained a number of references to human rights both in the preamble and in the substantive articles. Its preamble proclaimed the determination of the peoples of the world to reaffirm their faith in fundamental human rights and in the dignity and worth of human person.

There are a number of reasons which explain or justify the contemporary international concern with human rights and fundamental freedoms, the more immediate and pressing being directly related to the origins and conduct of World War II. A solemn protest against the brutal oppression, torture and assassinations associated with the Nazi-fascist method of government resulted in the affirmation of human rights and fundamental freedoms in the United Nations Charter.

One of the principal purposes of the United Nations is "Respect for human rights and fundamental freedoms." The United Nations Charter has made seven definite references to the matter of human rights.

In the Preamble to the Charter there is re-affirmation of faith "......in fundamental human rights, in the dignity and worth of human person, in the equal rights of men and women and of nations large and small......"

The second reference is to be found in Article 1. Article 1 declares one of the purposes of the Organization to be the achievement of "......international cooperation ......in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

The third Charter reference is in Article 13. The fourth reference, in Article 55, should be read together with Article 56 which creates the only clear legal obligation in the Charter on members to promote respect for human rights. Article 56 says that "all members pledge themselves to take joint and separate action in Co-operation with the Organization for the achievement of the purposes setforth in Article 55," and Article 56 lists a number of things including "Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The fifth Charter reference to human rights is in Article 62, para 2, which states that the O.O.O.O "may make recommendations for the purpose of promoting respect for,
and observance of human rights and fundamental freedoms for all."

Article 68, the sixth reference, says that the Council "shall set up commissions in economic and social fields for the promotion of human rights, and such other commissions as may be required for the performance of its functions." The seventh and last reference to human rights in the Charter is in Article 76, where one of the objectives of the trusteeship system is declared to be "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion and to encourage recognition of the interdependence of the peoples of the world."

Special responsibilities in the sphere of human rights, under the Charter, were given to three principal Organs of the United Nations, the General Assembly, the Economic and Social Council and the Trusteeship Council.

Four of the specialized agencies in the United Nations system of organizations — the ILO, the UNESCO, the WHO and the FAO have a special interest in the protection of specific human rights.


but a remarkable and consistent restraint in the
drafting of the several parts of the Charter concerning
human rights is revealed by a careful study of the text. It
had been suggested by some of the delegates at San Francisco
that it should be the function of the UN not only to "promote"
and "encourage" but also to "protect" the fundamental rights
of man. However, this proposal was rejected on the grounds
that it would impose upon the Organization duties and func-
tions which only individual states are competent to perform.

In various provisions the Charter of the United Nations
indicates wide possibilities of the international recognition
of human rights. But it does not mean that the provisions of
the Charter on the subject signify a full and effective
guarantee of the inalienable rights of man on the part of
the international society; the Charter does not offer or
incorporate a precise definition of these rights nor does
it indicate a clear acknowledgement of the principle of the
enforcement of their observance.

**INTERNATIONAL BILL OF RIGHTS**

A proposal to embody an "International Bill of Rights"
in the Charter was put forward at the San Francisco Conference
which drafted the Charter of the United Nations. But at that
time it was not examined because it required more detailed
consideration than was possible at the time.
While the San Francisco Conference did not undertake to define human rights and fundamental freedoms, it recognized that this must be one of the initial tasks of the UN. At its first session in February 1946, the Economic and Social Council had established the Commission on Human Rights and decided that its work should be directed toward submitting proposals and reports regarding:

a. an International Bill of Rights;
b. international declarations 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;
e. any other matter concerning human rights.

In 1946, under the Chairmanship of Mrs. Franklin D. Roosevelt, the Commission on Human Rights came into existence and began its work in January 1947.

The Commission devoted itself mainly to preparing an International Bill of Rights. In the beginning there

was much discussion of the form which the Bill of Rights should take. The United States favoured a declaration that would set forth goals and aspirations rather than legally binding commitments. On the other hand, the United Kingdom preferred a treaty which would contain detailed and precise provisions and would legally bind all states accepting it. Finally, it was decided that both approaches should be adopted, and that two major documents should be prepared, one a declaration of general principles and the other a Covenant of binding obligations.

It was apparent that the drafting of an International Bill of Rights would have to be done in several stages, as different and divergent views were expressed about the form the International Bill of Rights should take. It was decided eventually that the "International Bill of Rights" would consist of a declaration of Human Rights, one or more Conventions on Human Rights and the necessary international measures of implementation. In 1947, the Commission on Human Rights recommended this formula. In the following year it was approved by the General Assembly and it led to the promulgation of the Universal Declaration of Human Rights as the first of these projected instruments.

2. The United Nations and Human Rights, op. cit., p. 11.
A. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Once again the struggle of man to define his rights in society and to develop institutions to protect them found expression in the "Universal Declaration of Human Rights."

On different occasions and in different times the desire for fundamental freedoms and protection against legislative and executive aberrations had resulted in such Charters of liberty as the Magna Carta (1215), the Bill of Rights (1688) in England, the Declaration of the Rights of Man (1789) in France, and the first ten amendments to the United States Constitution, known as the Bill of Rights. Unlike the Declaration these national bills of rights, however, were justiciable and could be enforced by the national courts.

The Universal Declaration of Human Rights was drafted in 1947 and 1948 by the Commission on Human Rights under the Chairmanship of Mrs. Franklin D. Roosevelt. The first draft was prepared by a drafting committee after using documentation furnished by the Secretariat. The Commission as a whole revised it in the light of views and comments of member governments. Then the revised draft was circulated, the drafting committee met again, and the commission prepared its final proposal.

This proposal went to the Economic and Social Council and then to the General Assembly which referred the proposal to its Third Committee. A detailed examination was made by this Committee. By the end of 1948, the resulting document was sent to the General Assembly. On the night of December 10, 1948, after a long discussion, the General Assembly took the first step towards an International Bill of Rights Under the name of the "Universal Declaration of Human Rights." The General Assembly adopted it without a dissenting vote: 48 in favour, none against, 8 abstentions and 2 absences.

This Declaration constituted the first inter-governmental statement of human rights in history. The two great World Wars within a single generation, and the unparalleled atrocities committed by the Nazis gave momentum to the forces working for the observance of human rights. Mankind thus came to write its Charter of liberty in the form of the Universal Declaration of Human Rights. The General Assembly adopted it, in order to amplify and enlarge the mention made in the Charter regarding human rights. The Declaration expresses the spirit of the Charter by enlarging the aims and purposes of the UN.

After the approval of the General Assembly the Declaration became operative. It was not necessary to submit it to members for ratification in accordance with their various constitutional procedures because it was not a treaty and was not intended to impose legal obligations. This is clearly shown by the language of the Universal Declaration of Human Rights.

The Declaration was not binding, therefore states with different cultural backgrounds, political and legal systems and ideologies found it much easier to agree on general principles of this declaration. The declaration was designed as a broad clarification and recommendation of policy rather than an enforceable treaty obligation.

The Universal Declaration of Human Rights is one of the greatest achievements of the UN. It includes social and cultural rights whereas the previous declarations were content to include personal, civil and political rights. The Universal Declaration of Human Rights is a political document. Its political nature is evident from the following: (a) the UN itself is a political organization; (b) the General Assembly which adopted it, consists of members who are the

2. Waters, op.cit., p. 428.
political representatives of the various nations of the world; and (c) the Declaration itself is the result of what is called the "politics of protest."

The Declaration constitutes an important landmark in the evolution and development of the law of nations. Though it is not to be considered binding as a treaty, it has developed such moral authority that it is not only a source of law but is also coming to have the force of law, though it was intended to be, as its preamble says, "a common standard of achievement for all peoples and all nations."

As finally approved, the Universal Declaration of Human Rights consists of a preamble and 30 articles. In thirty articles, the Declaration sets forth basic rights and fundamental freedoms to which all human beings everywhere in the world are entitled without any discrimination. Of the Declarations thirty articles, the first two and the last three are of a general nature. Article 3 to 21 deal with civil and political rights, which have been widely recognized throughout the world, especially in the western countries. Articles 22 to 27 deal with social and economic rights. These rights find precedents in the more recent national constitutions and are of a more novel nature.

Article 1 of the Declaration adopts the philosophy of natural rights which states that "all human beings are
born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood."

Article 2 proclaims that "everyone is entitled to the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" and irrespective of whether a person belongs to an independent nation or not.

The personal, civil and political rights mentioned in Articles 2 to 21 summarize the rights that have long been recognized in the constitutions, Bills of Rights and statutes of most countries of the world: the right to life; the right to liberty; the right to equal protection of law; the right to a fair trial; the right to a nationality; the right to property; the right to freedom of thought, conscience and religion etc. Article 22 to 27 deal with economic, social and cultural rights. These rights are not included in older Bills of Rights and Constitutions, but are found in many of the newer ones. The Universal Declaration includes these rights, on important philosophical and practical grounds. As stated by the UN General Assembly in another connection, "the enjoyment of civil and political freedoms and that of economic,
social and cultural rights are interconnected and interdependent" and man is not free if he is "deprived of economic, social and cultural rights." These articles (22 to 27) deal with the right to work under just and favourable conditions, the right to equal pay for equal work, the right to rest and leisure etc. The concluding three articles 28 to 30 create a common framework for all rights so far mentioned. Since human rights can only be safely enjoyed in the absence of terror, turmoil and war, article 28 states that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized." Article 29 counterposes duties to rights; "everyone has duties to the community."

The Universal Declaration of Human Rights with its preamble and thirty articles represents a remarkable effort to arrive at unanimity on so complex and fundamental a matter as that of human rights.

In its own words, the declaration is "a common standard of achievement for all peoples and all nations." The adoption of the Universal Declaration of Human Rights was a landmark in the history of the United Nations. The statement by General C.P. Romulo of the Philippines expressed the sentiments

of the Assembly on this accomplishment: "To the roll of the historic declarations of the rights of man, the United Nations now adds the most comprehensive document of all, the first in history to define from a truly universal standpoint the basic rights and fundamental freedoms to which all men and women everywhere are entitled." December 10, is celebrated as Human Rights day in the memory of the Declaration's adoption.

The Declaration is, however, not free from blemishes and shortcomings. Article 1 of the Declaration affirms that "all human beings are born free and equal" and that they are "endowed with reason and conscience." As theoretical statement they may be alright in so far as they reiterate the principles of human dignity and equality, but not appropriate to a document, if enacted as a national law or concluded as an international agreement would assume a legal character. The statement that all human beings are born free and equal is a specific natural law doctrine and this doctrine is not generally accepted. "The Declaration should not be introduced by philosophical postulates from outdated theories of natural law." This criticism came from Brazil at the time of the adoption of this declaration. The Declaration, however, starts with a problematical statement and places the whole document under the sway of a highly disputed doctrine without
providing specific guarantees for the observance of its provisions.

According to some publicists and Jurists the Declaration has legal authority. The argue as follows:

"The Charter of the United Nations is a legally binding treaty. Under the Charter, all member states "pledge themselves to take joint and separate action" to promote "Universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (55 & 56). The Charter, however, does not define human rights. It is the Universal Declaration that gives an authoritative interpretation. To the extent that Member States are bound by the human rights provisions of the Charter, they are to some extent obliged to observe the Universal Declaration."

It is further argued that many of the provisions in the Declaration are based on National Constitutions and bills of rights. It may, therefore, be said that the Declaration contains a number of "general principles of law recognized by civilized nations."


It is, on the other hand, said that the provisions of the United Nations Charter form the legal basis on which the Declaration is based, and the Charter does not provide for the protection of human rights. The Declaration is neither more nor less than a recommendation without the obligatory character of a treaty. It cannot, therefore, constitute a source from which legal rights can be derived. As a super-structure on the Charter, the Declaration does not possess any reality in law which is not present likewise in the Charter. The logic that Member States should respect the Charter and any declaration or recommendation based on it does not lead to the acceptance of the Declaration as a code of human rights in international law.

It is generally accepted that the Declaration should have great influence on the law but it is denied that it forms part of the law. It is not a treaty. It derives its force as a statement of moral judgement, a declaration of man's faith in himself, of his belief in human dignity.

The Declaration has nevertheless great political and moral authority. It has had a definite impact on the thinking and practice of the United Nations itself and of governments,

when dealing with problems relating to human rights. Its influence is visible in national constitutions; it has been quoted in legal decisions. Many of the International Conventions have been based on its ideals. The European Convention for the protection of Human Rights and Fundamental Freedoms was inspired by the Declaration.

In 1960, six newly independent African countries inserted references to the Declaration into the Preambles of their new Constitutions. The Madagascar Constitution of 29 April 1960, for example, proclaims that it was inspired by the Declaration.

Various regional and other treaties and declarations which were adopted outside the United Nations system also invoke the Universal Declaration. A remarkable example is the European Convention for the protection of Human Rights and Fundamental Freedoms signed on 4th November 1950 by the 15 member governments of the Council of Europe in Rome. This Convention came into force on 3rd September 1953. This Convention embodies in a more precise and limited form,

binding obligations relating to the Civil liberties; as mentioned in the Universal Declaration. The signatory governments, members of the Council of Europe recalling, inter alia, the Universal Declaration of Human Rights proclaimed by the General Assembly on December 10, 1948, resolved, "as Governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration."

It constituted a great advance on the Universal Declaration of Human Rights. Whereas the latter amounted in the last analysis to nothing more than an expression of intentions, the European Convention contains specific legal commitments which have been accepted by fifteen governments.

All the rights and freedoms enumerated in the Universal Declaration are not embodied in this Convention. It contains only some of the civil and political rights and freedoms. The main reason seems to be that some of the rights set out in the Universal Declaration are not capable of judicial

1. Ibid., p. 104.
enforcement, therefore, they were not considered appropriate for inclusion in the Convention under which such enforcement was envisaged.

In 1956, a General Convention was signed between France and Tunisia in Paris. According to this Convention, Tunisia agreed to grant to all persons living within its territory the rights and personal guarantees proclaimed in the Universal Declaration of Human Rights. Since its adoption this Declaration can thus be said to have exercised a profound influence upon the minds of men. It has been translated and distributed in some fifty languages.

The Year 1968 was observed as "International Human Rights Year", because it was the twentieth anniversary of the adoption of the Declaration. The main purpose of designating 1968 as the International Year of Human Rights was to inform world opinion of the importance of the Declaration. Throughout this year, conferences, seminars and meetings were organized by member states with a view to publicise the Declaration and to promote a better understanding of the issues involved.

2. World Mark Encyclopedia of the Nations, p. 103.
In pursuance of the General Assembly decision, an International Conference on Human Rights was held at Teheran in April and May 1968. Inaugurating the Conference, the Shah of Iran appealed for "appropriate revision" of the principles of the twenty year old Human Rights Charter to suit today's circumstances. The conference was attended by more than 1000 delegates from 71 countries and 52 agencies and international organizations.

The declaration is explicit and eloquent about the inalienable human rights in private, civil, political, economic, social and cultural fields, but few countries have made any serious effort to implement them. There are still instances of encroachments upon human rights and fundamental freedoms. In some parts of the world the practice of slavery and servitude is still continuing, discrimination based upon race, sex, language and religion still exists. There is hardly any freedom of speech and political activity in the Soviet Union, China and other Communist countries. In the Union of South Africa, all human beings are not treated alike, and so is the case in Rhodesia.

But notwithstanding its limitations, and occasional violations, the declaration constitutes a creditable achievement.
The General Assembly, before voting on the final version of the Universal Declaration, decided that the next step should be the preparation of a Covenant on human rights.

A Covenant is an international treaty, and countries ratifying or acceding to a Covenant are under a legal obligation to carry out its terms. From the time discussions began on the drafting of such a treaty, it was realized that the necessary consensus would not easily be achieved. In 1950, the General Assembly decided to include both civil and political rights as well as economic, social and cultural rights in one Covenant. But the General Assembly at its Paris session in 1952, at the urging of the United States, decided that the Commission should instead draft two Covenants: one on civil and political rights and the other containing economic, social and cultural rights, as there are some basic differences between civil and political rights and the newly emerging claims to economic social and cultural rights.

Four main arguments were put forward in favor of the separation of these rights. In the first place, the economic and social rights are objectives to be achieved progressively.

Secondly, the enactment of legislation is generally sufficient to put into effect civil and political rights. It is quite otherwise with economic and social rights for they depend on the socio-economic conditions in the state. Thirdly, the economic and social rights are drafted in broad sweeping language, on the other hand civil and political rights are drafted with much greater precision. Finally, economic and social rights are to be achieved progressively, therefore, the machinery of complaint, which the Committee on Human Rights contemplated for the civil and political rights, is not a suitable body for dealing with economic and social rights. It was also thought that the separation of these sets of rights would enable countries to ratify one document to begin with, and then the other at a later stage. But that if a single document embodied all these rights, certain countries might not ratify it at all.

In 1954, the Commission on Human Rights completed the drafts of two Covenants, but the adoption of the final texts by the Assembly was to take another twelve years. Between 1955 and 1966, during the regular sessions of the Assembly, its social, humanitarian and cultural committee made a detailed study of the two Covenants article by article.

Finally on 16th December 1966, the General Assembly adopted
the International Covenant on Economic, Social and Cultural
rights, the International Covenant on Civil and Political
rights and the optional protocol to the latter.

The two Covenants approach has been the subject of
some severe criticism. It has been argued that all rights
are of equal importance and are mutually interdependent.
Certain economic, social and cultural rights are essential
for the fulfilment of civil and political rights, and there-
fore, any distinction is merely artificial. On the other
hand, it is said, as indicated above, that the nature of
the two categories of rights makes it necessary to treat
them separately.

For the first time in history, international protec-
tion for the basic rights of man is provided by the two
Covenants or treaties on human rights. These Covenants in
due course would become legally binding on those countries
which ratify them. They are to come into force as and when
35 states signify their acceptance of and adherence to the
Covenants.

1. Ibid., p. 22.
Countries ratifying the Covenant on Civil and Political rights would undertake to protect their peoples by law against cruel, inhuman or degrading treatment. They would recognize the right of every human being to life, liberty, security and privacy of person.

A country ratifying the Covenant on Economic, Social and Cultural rights would acknowledge its responsibility to promote better living conditions for its people. It would recognize everyone's right to work, to fair wages, to social security, to adequate standards of living and freedom from hunger and health. These Covenants on human rights are international treaties. These are binding upon governments, willing to subscribe to them. The main objective of the Covenants is to establish certain binding international rules of conduct and conscience.

An explicit recognition runs, throughout both Covenants that the protection of human rights is "the foundation of freedom, justice and peace in the world."

The main difference between the Covenants and the Universal Declaration of human rights is that after ratification these Covenants would have a binding force in International

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2. Ibid., p. 38.
Law, which is not possessed by the Declaration and the Covenants are to be supported by measures of implementation.

In spite of the fact that emphasis has been laid on the acceptance of Human Rights on an international scale, the violations of human rights are writ large almost all over the globe. An example of the most flagrant and glaring violation of human rights is the practice of Apartheid.

Apartheid is the official name given by the Government of South Africa to its racial policies. The United Nations has repeatedly expressed grave concern at what the General Assembly has described as "the aggravation of the explosive situation in the Republic of South Africa as a result of the continued implementation of the policies of Apartheid by the government of South Africa."

The basic aim of the policies of "Apartheid" was formulated by the former Prime Minister of South Africa, Dr. H. F. Verwoerd, in a speech in Parliament on 25 January 1963. He stated: "Reduced to its simplest form the problem is nothing else than this: We want to keep, South Africa white......... "Keeping it white" can only mean one thing, namely, white domination, not 'leadership', not 'guidance', but 'control', 'supremacy!'"
Upto now, the South African Government has resisted the United Nations pressure, claiming that its policies benefit both blacks and whites in South Africa and that, in any case, the matter is a domestic one in which the United Nations should not intervene.

The most recent and unmistakable violation of human rights took place in East Pakistan, which has now been recognised as the People's Republic of Bangla Desh. The barbarities reported to have been committed by the West Pakistani authorities on the unarmed people of Bangla Desh have few parallels in modern history. Many villages and residential localities in East Bengal have been destroyed and the entire civil population of the country had been exposed to murder, arson and plunder.

Undoubtedly, the Covenants represent some progress in this direction but, as would be presently seen, the measures proposed are weak and cannot be expected to prove effective in upholding human rights in the face of their violation. There is no Judicial agency to safeguard these rights.

C. IMPLEMENTING MACHINERY FOR HUMAN RIGHTS

One of the reasons put forward for preparing two separate Covenants was the view that different measures of
implementation would be required for the two categories of rights. After much discussion, the Third Committee decided that the provisions for hearing complaints concerning violations of the Covenant would not be included in the Covenant on Economic, Social and Cultural rights. States that become parties to this Covenant would be required, however, to report periodically to the ECOSOC on the progress they have made in carrying out its provisions. The articles on implementation adopted by the Commission on Human Rights provided that with regard to civil and political rights, a Human Rights Committee should be established, empowered to hear complaints from signatory states. It would hear and mediate disputes arising over violations of the rights contained in the Covenant. The Committee would also perform the role of a fact-finding Commission and would make available its good offices to the states concerned with a view to reaching a friendly solution of the matter on the basis of respect for human rights. If such a solution is not reached, either state may bring the case before the International Court of Justice.

2. Ibid., p. 104. Also see, Tiwari, S.C., op. cit., p. 33.
3. Ibid., p. 105.
An additional means of implementation proposed is a system of reporting on legislative or other measures including judicial remedies, adopted by individual states which give support to the rights in both Covenants. These reports should be submitted to the Economic and Social Council, which would indicate steps taken by the parties to carry out their obligations and the factors and difficulties affecting the degree of fulfilment of obligations under the Covenant. The ECOSOC may transmit the reports to the Commission on Human Rights for study and general recommendation or, as appropriate, for information.

In addition to the reporting system, the Covenant on Civil and Political Rights provides for a system of state-to-state communication in matters concerning the application of the covenant.

NEW APPROACHES TO IMPLEMENTING HUMAN RIGHTS MEASURES

A three-part human rights programme was launched by the United Nations in the later fifties. It provided for:

2. Izijolor, Gaius, op. cit., p. 92.
1. Periodic reports by member states
2. World-wide studies, and
3. Advisory services.

In 1966, the ECOSOC acting on a recommendation of the Commission on Human Rights, initiated a system of periodic reports on human rights. Under this system states, who are members of the United Nations and of the Specialized Agencies, are asked to submit every three years reports describing developments and progress achieved and the measures taken by them to safeguard human liberty in their metropolitan areas and in their Non-Self-Governing and trust territories, if any. The reports have to deal with the rights enumerated in the Universal Declaration of Human Rights and with the right of peoples to self-determination.

The ECOSOC at its 1965 summer session revised the system for periodic reporting. Under the new system, the members of the United Nations, members of the Specialized Agencies and the Specialized Agencies themselves are invited to supply information regularly within continuing three year cycle scheduled as follows: in the first year on civil and political rights, in the second year on economic social and

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cultural rights and in the third year, on freedom of information.

In 1966, the Council authorized the Commission on Human Rights to make studies of specific rights or groups of rights. One of the most extensive studies has been the "Study on discrimination in the matter of religious rights and practices", completed in 1959.

The Third and perhaps the most successful of the new programmes established, is advisory services for the implementation of human rights. The General Assembly, in 1953 and 1954, in three separate resolutions authorized the Secretary General to assist governments, at their request, in promoting and safeguarding the rights of women; in eradicating discrimination; in protecting minorities; and in promoting freedom of information. In 1955, the Assembly incorporated these provisions in a comprehensive resolution on "advisory services in the field of human rights."

This programme of advisory services was established by the General Assembly resolution 936(X), under which

3. For details see Year Book of the United Nations, 1966.
the Secretary-General is authorized, to organize seminars on human rights, to award fellowships or scholarships and to extend services of experts to governments.

Seminars have served very useful purposes. They are vehicles through which experience and information may be exchanged within a region or inter-regionally. The seminars, whose participants are persons of high standing in various professions and services, make available an exchange of experience in the protection of human rights to the end that each country may benefit from the experience of the others. In 1961, both the Commission on Human Rights and the CCNUCC emphasized the need to study other effective measures which might be taken through advisory services for the protection of human rights and suggested a greater emphasis on the provision of human rights fellowships and scholarships.

Since 1948, the General Assembly has adopted and opened for signature, ratification or accession by the member-states, a number of Conventions relating wholly or in part to human rights.

2. Ibid., p. 109.
All the rights in the Declaration and the Covenants are to be enjoyed by all persons, without any discrimination as to race, sex, language, religion, national or social origin, property, birth or other status. The principle of non-discrimination is basic not only to the Covenants but to all United Nations activities to promote human rights.

CONVENTIONS & DECLARATIONS


The conclusion of a Genocide Convention has been one of the most important achievements of the United Nations in dealing with specific aspects of human rights. As a result of Nazi atrocities, the Convention seeks to make genocide, an international crime. The General Assembly, at its first session in 1946, adopted a resolution condemning genocide "as a crime under international law." Two years later on December 9, 1948, the General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide. This Convention came into force on January 12, 1961.


Article II of the Convention defines genocide as any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such:

a. Killing members of the groups;

b. Causing serious bodily or mental harm to members of the group;

c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

d. Imposing measures intended to prevent births within the group;

e. Forcibly transferring children of the group to another group.

The purpose of the Convention is to prevent genocide. Persons involved in genocide must be punished "whether they are constitutionally responsible rulers, public officers or private individuals." The Genocide Convention is among those concluded under United Nations auspices that have received the largest number of ratifications.

The parties to the Convention are given the right to call upon the competent organs of the United Nations to

take appropriate action under the Charter for the prevention and suppression of genocide.

B. SLAVERY AND SERVITUDE

Since 1949, the Economic and Social Council has been studying the problem of slavery. In 1949, it asked the Secretary General to appoint a Committee of experts "to survey the field of slavery and other institutions and customs resembling slavery, to assess the nature and extent of these problems and to suggest methods of attacking them."

In 1951, after careful inquiries the four-member committee reported to the United Nations that apart from slavery in its crudest form, a number of institutions or practices analogous to slavery or resembling slavery in some of its aspects still existed in some parts of the world. Since many of these institutions or practices were not covered by the League of Nations Slavery Convention of 1926, the Committee proposed that a supplementary convention be drafted by the United Nations. In 1953, the General Assembly adopted a protocol under which the functions exercised by the League of Nations under the Slavery Convention of 1926 were transferred to the UN.


This Supplementary Convention on Slavery adopted in 1956, invoked the anti-slavery article of the Universal Declaration. The major purpose of this Convention is to bring about the complete abolition of slavery. This Convention has been in force since April 30, 1957.

C. **ABOLITION OF FORCED LABOUR**

The question of forced labour was first taken up by the Economic and Social Council in 1949 and in the following year the Economic and Social Council requested the Secretary-General to cooperate closely with the ILO in its work on questions concerning forced labour, and also to approach all governments and to inquire in what manner and to what extent they would be prepared to co-operate in an impartial investigation into the extent of forced labour in their countries, including the reasons for which persons were made to perform forced labour and the treatment accorded to them.

A Committee on Forced Labour was established jointly by the United Nations and the ILO. In 1953, the Committee completed its work, and in the same year, General

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Assembly invited the ECOSOC and the ILO to give early consideration to the report of the Committee.

After examining the committee's report in 1954, both the ECOSOC and the General Assembly condemned the systems of forced labour and appealed to all governments to re-examine their laws and administrative practices in the matter.

A second report on forced labour was considered by the ECOSOC in 1956. This report was prepared by the Secretary General and the Director-General of the ILO jointly. On this occasion, the Council again condemned all forms of forced labour as contrary to the principles of the United Nations Charter and the Universal Declaration of Human Rights. A Convention on the Abolition of Forced Labour was adopted in June 1957 by the International Labour Conference. The Convention came into force on January 17, 1959.

D. CONVENTION ON THE STATUS OF REFUGEES AND STATELESS PERSONS

In connection with the work of the United Nations relating to the status of refugees and stateless persons,

a conference of plenipotentiaries convened in Geneva in 1951. This Conference adopted the Convention relating to the status of Refugees. Another Conference of Plenipotentiaries Convened in New York by the ECOSOC in 1954, adopted the Convention relating to the status of stateless persons. It came into force on June 6, 1960. A stateless person is defined in the Convention as "a person who is not considered as a national by any state under the operation of its law."

The Preamble of both conventions invoke the Charter and the Universal Declaration of Human Rights, which "have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination."

II. DECLARATION OF THE RIGHTS OF CHILD

On November 20, 1959, the General Assembly unanimously adopted a Declaration of the rights of child. This Declaration elaborates upon human rights provisions of the Charter and those of Universal Declaration of human rights, particularly article 25 of the Universal Declaration. In the form of ten principles, the Declaration sets forth a code for the well being of every child without any exception. It

declares that every child shall be entitled to the rights setforth in the Declaration without distinction or discrimination on account of race, colour, sex, language or religion, national or social origin, property, birth or other status, whether of himself or his family.

f. DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

In 1960, the General Assembly adopted the Declaration on the Granting of Independence, to colonial countries and peoples. This declaration is closely connected with human rights. But in a resolution adopted in 1966, the General Assembly noted with deep regret that six years after the adoption of the declaration, many territories were still under colonial domination and deplored the negative attitude of certain colonial powers which refused to recognize the right of colonial peoples to self-determination and independence.

G. ELIMINATION OF RACIAL DISCRIMINATION

Since the inception of the United Nations, the problem of eliminating racial discrimination has preoccupied the

1. Ibid., p. 34.

2. Ibid., p. 36. Also see Year Book of the United Nations, 1960.
General Assembly. The system of Apartheid prevailing in South Africa is the most blatant manifestation of discriminatory practices in the post war world.

Apartheid is a form of genocide as it is intended to destroy racial and ethnic groups of the indigenous population in South Africa.

The matter had become so grave in 1960 that the Security Council had to be called into session. The Security Council passed a strongly-worded resolution calling upon the Union government to modify its policies in conformity with the purposes of the UN Charter. The United Nations acted as an intervention in her internal affairs prohibited by Article 2 (7) of the Charter.

With the entry of so many newly independent African and Asian nations into the UN, the Assembly's efforts to mount a frontal attack on the over-all problem of racial discrimination received a new impetus. As a consequence, the Assembly in 1962 adopted a resolution, sponsored by nine African States, requesting the Commission on Human Rights to

prepare a Draft Declaration and a Draft Convention on the 
Elimination of All Forms of Racial Discrimination.

Three reasons are advanced for Apartheid, political, 
economical and biological.

The political reason is that whites are afraid that 
they would lose their political control over the country if 
whites and blacks are treated alike. The economic reason 
for Apartheid is equally clear. The South African Whites 
enjoy one of the highest standards of living in the world. 
They are not prepared to give it up. The biological reason 
is equally clear. Many whites have developed strong anti- 
pathy towards sexual relationship between Whites and Blacks.

Apart from these facts, there is the sentiment and 
the psychological reason, the superiority complex and the 
Desire to rule.

The United Nations Declaration on the Elimination of 
all forms of racial discrimination was proclaimed by the 
General Assembly on 23rd November 1963. The Declaration 
setsforth principles for the elimination of discrimination.

The Convention on the Elimination of All Forms of Racial Discrimination was adopted unanimously by the General Assembly in 1965, two years after the Declaration. This Convention was the most important and comprehensive international instrument in the field of human rights prior to the adoption by the Assembly of the two Covenants on Human Rights in December 1966. On January 4, 1969, the International Convention on the Elimination of All Forms of Racial Discrimination entered into force.

The Convention contains a long list of rights and freedoms in the enjoyment of which racial discrimination shall be prohibited and eliminated.

But in spite of the persistent efforts by the United Nations, the freedom loving and civilized world as well as the pleadings of humanitarian organizations, the South African Government is showing no signs of abrogating or even reasonably amending her wicked apartheid policy.

At every stage of the deliberations, the representatives of the Union of South Africa have argued that since Article 2 (7) forbids intervention in the internal affairs

of Member States, the United Nations has no right to have
discussions and pass resolutions on the South African policy
of apartheid. The South African government and some of its
supporters have consistently argued that the records of the
San Francisco Conference make it clear that the matters per-
taining to the domestic jurisdiction of a state are by their
very nature outside the purview of the United Nations.

But this argument of the South African government is
based on fallacious reasoning. The events in South Africa
because of their nature and their origin have gone far
beyond the point of being an internal affair. They are now
a matter of grave concern for the whole world and for the
United Nations. Though the Assembly in dealing with this
particular situation is able to proceed on the basis of a
strong majority consensus, its action has been ineffective
in altering South African policy.

H. STATUS OF WOMEN

The measures taken by the United Nations to advance
the status of women have been inspired by the Charter, which
sets forth, in its Preamble, the principle of "the dignity
and worth of the human person" and of "equal rights of men

and women." A Commission on the Status of Women was established in 1946. Since its establishment the Commission has dealt with a wide range of questions related to women's political, economic, civil, social and educational rights. Among the Commission's earliest achievements was the drafting of the Convention on the Political Rights of Women, adopted by the General Assembly in 1952, and the Convention on the nationality of married women adopted in 1956.

The work of the United Nations in helping to assure equal rights for women resulted in the adoption by the General Assembly in 1967 of the "Declaration on the Elimination of Discrimination against Women." On November 7, 1967, the General Assembly unanimously adopted a draft declaration on the Elimination of Discrimination against women, which declares that such discrimination is fundamentally unjust and constitutes an offence against human dignity.

From the very beginning, after the proclamation of the Universal Declaration of Human Rights in 1948, the United Nations has taken interest in adopting, as indicated above, treaties and declarations on a number of specific rights. These Conventions are in effect between the states which have become parties to them.

Almost every activity of the United Nations is involved in one way or another with human rights, for the simple reason that almost all of our daily activity is related somehow to the exercise of human rights. But a great deal of work concerning human rights and fundamental freedoms is yet to be done. This stupendous task is not that of the United Nations alone. The promotion and protection of human rights must be viewed as a national, in fact, as an international one. Both national and international action in many forms is necessary in order to realize and preserve these rights throughout the world. And above all, we must ourselves practise tolerance and respect the rights and freedoms of others.