CHAPTER I

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 of British leaders gave special emphasis to the need for exorcising the Fascist and Nazi tyranny and safeguarding human rights in the peace settlement. The spokesmen for the governments at war with the Axis powers frequently defined their war aims in terms of human rights. These pronouncements and declarations were stimulated by the increasing evidences of a new barbarism and it was therefore, realized that the foundations of a durable peace could be built upon respect for the rights of man.

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 everywhere 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. It is clear that the list does not exhaust freedoms which might reasonably be considered essential yet the part it played in the whole movement should not be underestimated.

4. Ezejiofor, Gaius, op.cit., p. 54.
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. The common objectives of this Declaration were the defence of "life, liberty, independence and religious freedom", and the preservation of "human rights and justice in their own lands as well as in other lands."

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 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, specially 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. The text of the Charters of the United Nations which emerged from the San Francisco conference had a good deal more to say on the subject of human rights than had the Dumbarton Oaks text.

Sometimes the San Francisco Conference was referred to by the Americans as "the Conference to end all conferences." It was the biggest international conference ever held. The San Francisco Conference established an organization by means of a Charter or constitution.

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. A new era had been reached in human relations when the Charter of the United Nations was drawn up in 1945. 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. Although it took man ages to think of drawing up a universal charter, which speaks of human rights, it stands to the credit of our generation that we have begun to acknowledge the necessity of granting and upholding these freedoms and rights.

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. It was also recognized that the security of individual rights, like the security of national rights, was a necessary requisite to a peaceful and stable world order.


In the Preamble to the charter there is a re-affirmation of 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......"

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 set forth in Article 55", and Article 55 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 ECOSOC "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 and 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."

The promotion of and the encouragement of respect for, human rights have received particular mention among the organization's major purposes. The U.N. represents the latest stage so far reached in the history of international organization, in efforts to create a machinery by which nations work together for peace and for better living conditions for all mankind.

Special responsibilities in the sphere of human rights, under the Charter, were given to the 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 International Labour Organization, 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 U.N. 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 functions 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.