

UN CONTRIBUTION TO THE PROTECTION AND EXECUTION OF HUMAN RIGHTS : A STUDY.

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1. ABSTRACT

Human rights are constantly evolving throughout the human history. These were reflected in the ancient period through the Vedas, Babylonian Code of Hammurabi, the Bible, the Quran and the Analects of Confucius. In the modern period human rights were defined by Scottish philosopher John Locke, who advocated the theory of Natural Rights. After the end of the first world war, the League of Nations formed aimed at to achieve the protection of human rights was one of its goals. In the aftermath of the atrocities of second world war, there was increased concern for the social and legal protection of human rights as fundamental freedoms. Hence, the paper attempts how the UNO defined the concept of human rights and to conclude the various human rights treaties regarding the execution and protection of human rights. The paper also covered the various mechanisms which are working under the UNO in this regard.

Objectives of the paper.

- 1.To trace out the historical evolution of human rights.
2. To explore the importance of Universal Declaration of Human Rights (UDHR).
3. To analyse the various mechanisms of UNO for the protection and execution of human rights.

NEED OF THE STUDY

Rights are the ground work of a state. The nature of the state is known by the rights it maintains. For the socio, economic and political development of people in the country as well as in the world rights are necessary for physical and mental development. Human rights played a vital role in the society. Without human rights there is no peaceful atmosphere prevailed in the society and comfortable life is not possible. The paper attempts that how the UNO framed Universal Declaration of Human Rights (UDHR), various treaties which are promoting the better implementation of human rights across the world. Also to trace out the network of various mechanisms of the UNO regarding the protection and execution of human rights.

INTRODUCTION

Human rights are rights inherent to all human beings, whatever our nationality, place of residence , sex, ethnic origin , color, religion, language or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, independent and indivisible. These rights are universality in nature. Universal human rights often expressed and guaranteed by law in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays

down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Meaning of the Human Rights

Human rights mean the rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education and many more. Everyone entitled to these rights without discrimination. Human rights demand recognition and respect for the inherent dignity to ensure that everyone is protected against abuses which undermine their dignity and give the opportunities they need to realize their full potential, free from biased.

HISTORICAL DEVELOPMENT OF HUMAN RIGHTS

Human rights are the concept that has been constantly evolving throughout human history. Most societies have had traditions similar to the “golden rule” of “Do unto others as you would have them do unto you”. The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran and the Analects of Confucius are five of the oldest written sources which address of people’s duties, rights and responsibilities.¹The earliest conceptualization of human rights is credited to ideas about natural rights emanating from natural law. The first recording of human rights were inscribed by Cyrus the Great, the founder of the “Achaemenid Empire”, into the Cyrus Cylinder².

Although human rights were defined first by the Scottish philosopher John Locke (1632-1704) as absolute moral claims or entitlements to life, liberty and property, the best-known expression of human rights is in the Virginia Declaration of Rights in 1776 which proclaims that “ All men are by nature equally free and independent and have certain inherent rights, of which , when they enter a state of society, they cannot by compact, deprive or divest their posterity”.³

Human Rights in the 19th Century

During the 19th century, human rights became a central concern over the issue of slavery. A number of reformers, notably British parliament member W.Wilberfree, worked towards the abolition of the Atlantic Slave Trade and abolition of slavery. This was achieved across the British Empire by the “Slave Trade Act of 1807”, which was enforced internationally by the Royal Navy under treaties Britain negotiated with other nations and the Slave Abolition Act of 1833.⁴

During the reconstruction period immediately following the Civil War, several amendments to the US constitution were made. These included the 13th amendment banning slavery, the 14th amendment assuring full citizenship and civil rights to all people born in the United States, and the 15th amendment guaranteeing African Americans the right to vote. In Russia, the former Tsar Alexander II ended serfdom in 1861, although the freed serfs often faced restrictions of their mobility with the nation. In Europe and North America, labor unions brought about laws granting workers the right to strike, establishing minimum work conditions and

For bidding or regulating child labor. The women’s rights movement succeeded in gaining for many women the right to vote. National liberation movements in many countries succeeded in driving out colonial powers. The establishment of the international committee of the Red Cross, the 1864 Leiber Code and the first of the

Geneva Conventions in 1864 laid the foundations of international humanitarian law, to be further developed following the two world wars.

In the 20th Century

The world wars and the huge losses of life and gross abuses of human rights that took place during them were a driving force behind the development of modern human rights instruments. The League of Nations was established in 1919 at the negotiations over the Treaty of Versailles following the end of the world war I. The League's goals included disarmament, preventing war through collective security, settling disputes among countries through negotiations and diplomacy and improving global warfare.

UN Charter and Human Rights

In the aftermath of the atrocities of World War II, there was increased concern for the social and legal protection of human rights as fundamental freedoms. The foundation of the United Nations and the provisions of the UN Charter provided a basis for a comprehensive system of international law and practice for the protection of human rights. Since then, international human rights law has been characterized by a linked system of conventions, organizations and political bodies rather than any single entity or set of laws.

The preamble of the UN Charter provides that the members "reaffirm faith in fundamental human rights, in the equal rights of men and women and the articles 1, 55 and 56 deal about the human rights. Article 1(3) of the UN Charter states that one of the purposes of the UN is: "to achieve international cooperation in solving international problems 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".⁵

Universal Declaration of Human Rights (UDHR) 10- 12- 1948

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the UN General Assembly in Paris on 10th December, 1948 (General Assembly resolution 217A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.

The UDHR was framed by members of the Human Rights Commission, with former, First Lady of US Eleanor Roosevelt as chair, who began to discuss on "International Bill of Rights in 1947". The members of the commission did not immediately agree on the form of such a bill of rights and whether or how, it should be enforced. The commission proceeded to frame the UDHR and accompanying treaties, but the UDHR quickly became the priority. Canadian law professor John Humphry and French lawyer Rane Cassin were responsible for much of the cross-national research and the structure of the document respectively, where the articles of the declaration interpretative of the general principle of the preamble. The document was structured by Cassin to include the basic principles of dignity, liberty, equality and brotherhood in the first two articles of the declaration, followed successfully by rights pertaining to individuals; rights of individuals in relation to each

other and to groups; spiritual, public and political rights; and economic, social and cultural rights. According to Cassin, the final three articles place rights in the context of limits, duties and the social and political order in which they are to be realized. Humphrey and Cassin intended the rights in the UDHR to be legally enforceable through some means and it is reflected in the third clause of the preamble: "Whereas it is essential, if man is not to be compelled to have recourse, as a rebellion against tyranny and oppression, that human rights should be protected by the rule of law".

Human Rights Violations

Human Rights violations occur when actions of state (or non-state) actors, ignore, or deny basic Human rights (including civil, political, social and economic rights). Furthermore, violations can occur when any state or non-state actor breaches any part of the UDHR treaty or other international human rights or humanitarian law. Wars, aggression, war crimes and crimes against humanity, including genocide are breaches of international humanitarian law and represent the most serious of human rights violations.

The practice of human rights is still more a dream than reality. Violations exist in every part of the world. Article 3 of the Universal Declaration of Human Rights deals about "Everyone has right to life, liberty and security." Briefly it is known as "The Right to live free". But this right violated several times in many parts of the world. According to the Amnesty International's 2009 World Report and other sources show that individuals are:

- Tortured or abused in at least 81 countries.
- Face unfair trials in at least 54 countries.
- Restricted in their freedom of expression in at least 77 countries.
- An estimated 6500 people were killed in 2007 in armed conflict in Afghanistan- nearly half being non-combatant civilian deaths at the hands of insurgents. Hundreds of civilians were also killed in suicide attacks by terrorists.
- In Brazil in 2007, according to official figures, police killed at least 1260 individuals. All incidents were officially labeled "acts of resistance" and received little or no investigation.
- In Uganda 1500 people die each week in the internally displaced person camps. According to the WHO 500000 have died in these camps.
- Vietnamese authorities forced at least 75000 drug addicts and prostitutes into 71 overpopulated "rehabilitation" camps, labeling the detainees at "high risk" of contracting HIV/AIDS but providing no treatment.

UN Role in the Protection of Human Rights

The United Nations has repeatedly emphasized the need to integrate human rights into the broad range of its activities. It is essential to recognize the potential of almost all UN mechanisms and procedures for contributing to the protection and promotion of human rights. The following mechanisms which are protecting the human rights through the UNO:

1. International Human Rights Law

International human rights law lays down the obligations of Governments to act in certain ways or to refrain certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

One of the greatest achievements of the UN is the creation of a comprehensive body of human rights law a universal and internationally protected code to which all nations can subscribe and all people aspire. The UN has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and assist states in carrying out their responsibilities.

a. Human Rights Treaties

The creation of bodies of international human rights law is one of the UN great achievements. The UN has helped negotiate more than 70 human rights treaties and declarations- Many focused on the rights of vulnerable groups such as women, children, persons with disabilities, minorities and indigenous peoples. Together, these treaties and declarations have helped create a “culture of human rights” throughout the world, providing a powerful tool to protect and promote all rights. The important treaties were:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),(adopted 1979,entry into force, 1981).
- Convention on the Elimination of All Forms of Racial Discrimination (CERD), (adopted 1966, entry into force: 1969).
- Convention on the Rights of persons with Disabilities (CRPD) , (adopted 2006, entry into force:2008)
- Convention on the Rights of the Child (CRC), (adopted 1989, entry into force: 1989).
- United Nations Convention Against Torture (CAT) (adopted 1984, entry into force:1987).
- International Convention on the pollution of the Rights of all Migrant Workers and Members of their families (ICRMW) (adopted 1990, entry into force: 2003).

b. World Conferences and Summits

The standards articulated in the international Covenants and conventions have been reinforced through declarations and plans of action that have emerged from a series of world conferences organized by the United Nations. These conferences have gained importance as real forums for deciding on national and international policy regarding such global issues as the environment, human rights, and economic development. The important world conferences and summits were:

1. World Summit for Children (1990)
2. World Conference on Education for All (1990)
3. The World Conference on Human Rights (1993)
4. The World Summit for Social Development (1995)
5. The Fourth World Conference on Women (1995)
6. The Millennium Summit (2000) and
7. The World Summit and Special Session on Children (2005).

Other Mechanisms for Protecting Human Rights under UNO

The United Nations promotes respects for the law and protection of human rights through human rights bodies. These bodies can be classified into two groups:

1. Charter- based Bodies:- The Charter- based includes a) Human Rights Council 2).Universal Periodic Review. 3). Special Procedures of the Human Rights Council and 4).Human Rights Council Complaints Procedure. Among them the Human Rights Council is a separate entity from OHCHAR.

Human rights Council:- The UN Human Rights Council created in 2005 at the World Summit to replace the UN Commission on Human Rights, has a mandate to investigate violations of human rights. The Human Rights Council is a subsidiary body of the General Assembly and reports directly to it. Its rank is below the Security Council, which is the final authority for the interpretation of the UN Charter. Forty seven of the one hundred ninety- one member states sit on the council, elected by simple majority in a secret ballot of the UN General Assembly. Members serve a maximum of six years and may have their membership suspended for gross human rights abuses. The council is based in Geneva and meets three times a year; with additional meetings to respond to urgent situations. The Human Rights Council may request that the Security Council take action when human rights violations occur. This action may be direct action, may involve sanctions and the Security Council may also refer cases to International Criminal Court (ICC) even if the issue being referred is outside the normal jurisdiction of the ICC.⁶

2.Treaty-based Bodies:-There are ten human rights treaty bodies that monitor to implementation and protection of the core international human rights treaties:

- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on the Economic, Social and Cultural Rights (CESCR)
- Human Rights Committee (HRC)
- Committee on the Elimination of Discrimination against Women (CEDAW)
- Committee Against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Sub-committee on Prevention of Torture (SPT)
- Committee on the Rights of Persons with Disabilities (CRPD)
- Committee on Enforced Disappearances (CED)

The Above said treaty bodies are created in accordance with the provisions of the treaty that they monitor the Office of the High Commissioner for Human Rights (OHCHR) supports the work of treaty bodies and assist them in harmonizing their working methods and reporting requirements through their secretariats.⁷

The Office of the High Commissioner for Human Rights (OHCHR)

OHCHR is a department of the secretariat of the United Nations that works to promote and protect the human rights that are guaranteed under international law and stipulated in the UDHR of 1948. The office was established by the UN General Assembly on 20-12-1993 in the wake of the 1993 world conference on human rights⁸. The office is headed by the High Commissioner for Human Rights, who coordinates human rights

activities throughout the UN system and acts as the secretariat of the Human Rights Commission (HRC) in Geneva, Switzerland. The current High Commissioner is Michelle Bachelet of Chile.

The mandate of OHCHR derives from Articles 1,13 and 55 of the UN Charter, the Vienna Declaration and Program of Action and General Assembly Resolution 48/141 of 20-12-1993, by which the Assembly established the post of United Nations High Commissioner for Human Rights.

Objectives of OHCHR

- To promote universal enjoyment of all human rights by giving practical effect to the will and resolve of the world community as expressed by the UN.
- To play the leading role on human rights issues and emphasizes the importance of human rights at the international and national levels.
- To promote international cooperation for human rights.
- To stimulate and coordinates action for human rights throughout the UN system.
- To promote universal ratification and implementation of the international standards.
- To assist the development of new norms.
- To support human rights organs and treaty monitoring bodies.
- To respond to serious violations of human rights.
- To undertakes preventive human rights action.
- To undertake human rights field activities and operations.
- To provide education, information advisory services and technical assistance in the field of human rights.

Various other UN Bodies:

i. The UN Security Council:- The UN Security Council, at times, deals with grave human rights violations, often in conflict areas. The UN Charter gives the Security Council the authority to investigate and mediate a mission, appoint special envoys or request the Secretary-General to use his good offices. The Security Council may issue a ceasefire directive, dispatch military observers or a peacekeeping force. If this does not work, the security council can opt for enforcement measures such as economic sanctions, arms embargos, financial penalties and restrictions, travel bans, the severance of diplomatic relations, a blockade or even collective military action. On April 28, 2006 the Security Council adopted a resolution no.1674 that reaffirmed “the responsibility to protect populations from genocide, war crimes, ethnic crimes against humanity” and committed the security council to action to protect civilians in armed conflict⁹.

ii. General Assembly:- The United Nations General Assembly under Article 13 of the UN Charter, has the power to initiate studies and make recommendations on human rights issues. Under this provision, the General Assembly passed the Universal Declaration of Human Rights on 10th, December,1948, and since then a wide variety of other human rights instruments. The Assembly has several subsidiary organs that deal with specific human rights issues, such as the Special Committee on Decolonization and the Special Commission against Apartheid (no longer operational) . Besides the General Assembly has set up a number of subsidiary organs that consider human rights issues in a number of high-profile contexts such as the UN council on Namibia, Special

committee to investigate Israeli practices in the occupied territories and the Committee on the Exercise of the Inalienable Rights of the Palestine People.

iii. Secretary-General:- The Secretary-General appoints special representatives, who advocate against major human rights violations. They are:

- a. Special Representative of the Secretary-General for children and armed conflict.
- b. Special Representative of the Secretary-General on sexual violence in conflict.
- c. Special Representative of the Secretary-General on violence against children.

iv. The Human Rights UP Front Initiative (HRUF):- It is an initiative by the UN Secretary-General to ensure the UN system takes early and effective action, as mandated by the Charter and UN Resolutions, to prevent or respond to serious and large-scale violations of human rights or international humanitarian law. The initiative underlines a shared responsibility among the various UN entities to work together to address such violations. HRUF seeks to achieve this by effecting change at three levels: cultural, operational and political. Through various presentations, letters and policy documents, the Secretary-General and Deputy Secretary-General have presented HRUF to the General Assembly and to staff and UN system leaders.

v. Commission on the Status of Women (CSW):- The commission on the status of women is the principal global inter-governmental body dedicated to the promotion of gender equality and the advancement of women. It was established in 2010, serves as its secretariat.

Conclusion:

The peacekeeping missions and operations being carried out by the UNO from time to time across the globe are aimed at safeguarding and promoting peace harmony among the nations. The untiring efforts of the UNO both immediate and time-bound phases, empower the people and the nations to assert and claim their human rights and pave the way for world organization and institutions to formulate their policies to uphold the rule of law.

The following recommendations and suggestions to the UNO to protect the human rights across the world are:

- The UNO must implement the international human rights laws without bias. Sometimes the UNO faces the criticism about its policy of refraining from actions against the violations of the US and its allies in the post-cold war era. For instance NATO is still executing military operations against the terrorism in Iraq, Afghanistan, Syria and Libya led by USA where the genocide of civilians is taking place enemas. So the UNO should try to minimize the violence in this regard.
- The UNO must take necessary measures against the mass human rights violations by the dictatorial regimes in some countries especially North Korea, Syria, Sudan etc. Being a world organization, the UNO had right to force on these countries through its various mechanisms to avoid human rights violations in those countries.
- The UNO should avoid the exploitative attitude of the Multi National Companies (MNCs) in the developing and undeveloped countries. MNCs are spreading all over the world especially in the third world countries by investing the capital in the wake of globalization. The result is the MNCs are

providing employment partially in those countries and exploiting the resources of underdeveloped countries in the form of profits and ultimately poverty increased. This may lead to harm the human rights in those countries. So the UNO should try this exploitation through its specialized agencies like IBRD, IMF and WTO.

- The UNO should enhance the assistance at all levels of all sorts to the countries which are severely hit by natural calamities like drought and floods. Especially the African countries like Somalia, Sudan, Kenya are often become casualties to the inexorable drought conditions prevailing in those countries. These countries unable to face the calamities due to poor economies and the UNO should provide special assistance to these countries to increase the living standards of the people.

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