

## **Full Length Research**

# **UNO AS A SAVIOUR OF HUMAN RIGHTS**

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**Know Your Human Rights-** The simple message from the UNs is addressed to the citizens of all countries because all human beings are same for all, regardless of race, colour, sex, language and religion. The UNO has described the human rights as those rights which are inherent in our nature and without which we cannot live as human beings. To speak of human rights requires a conception of for Human Rights and human dignity is the foundation of freedom, justice and peace in the world. Its protection and promotion has been a primary concern for United Nations Organization (UNO) since its inception in 1945. Human rights are the core of UN's identity. The entire UNO's intergovernmental bodies like General Assembly, Security Council, Economic and Social Council, Commission. They also investigate allegations of its violations & handles communications related to them. In this Paper, I would also like to highlight certain extra-conventional mechanisms like UN Special rapporteurs, representatives, experts & working groups that have been set up in order to monitor compliance with the various international human rights mechanism. Lastly in this Paper, I would try to highlight the efforts of UNO in areas like to train criminal justice personnel through its various seminars, courses, workshops, fellowships etc. Last, but not the least the role of respective UN General Secretaries may not be ignored in the realm of human rights. Hence, in this Paper I would focus over the efforts of UNO's mechanisms for sustaining the credibility of Human Rights globally. The UNO helps to unmask bigotry and defend the rights of the weak and the voiceless.

**Key Words:** Preamble, Intergovernmental bodies, OHCHR, HRC, etc.

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## **INTRODUCTION**

To speak of human rights requires a conception of which rights one possess by virtue of being human. Of course, we are not speaking here of human rights in the self-evident sense that those who have them are human but in the sense that in order to have them, one need only be human. Human rights have been identified as those rights which are important, moral and universal<sup>5</sup>. Any civilized nation or body like the UNO must recognize them. In fact, it is not a modern innovation. It is heir to all the great historical movements for human freedom to the

enduring elements in the tradition of natural law and natural rights and in the world's great religion and philosophies and also in the findings of contemporary science about inter-relations of simple respect for human dignity<sup>6</sup> and other individual and community values. The root cause for human rights may be traced to religion, humanitarian traditions and to the increasing struggle for freedom and equality in all parts of the world. The first major grant of such rights by a ruler was "Magna Carta" signed willy-nilly by King John of England at Runnymede

in 1215 A.D. But the demand for more and more rights in favour of the people as against the ruler was carried on by leaders-secular as well as ecclesiastical all over the civilized world. After about 600 years of Magna Carta, It was a mighty and triumphant leap-forward of human rights. The French Revolution of 1789 also made certain contributions to it.

The modern human rights jurisprudence can be called as Post World War II<sup>7</sup> (1945 onwards) phenomenon. The monstrous violation of the human rights during that period and the belief that some of these human rights violations could have been prevented if there had been some effective international system for the protection of human rights. The brutal act done by Hitler (German Dictator) against the Jews (Genocide i.e. the systematic killing of people because of their race and ethnicity) or the dropping of Atom Bombs over the Japanese cities (Hiroshima and Nagasaki on August 1945) by the American troops were the most tragic violations of human rights during the war period. Another great scourge on humanity surfaced in the form of drug and arms peddling. In its wake, world is faced with terrorism of great magnitude. The drug peddlers and terrorism are no respecters of human rights. Thus in 1945 (after the second World War) the UNO was established as the international organization for maintaining international peace and security as well as the protection and promotion of human rights universally. In other words, the human rights provisions in the UN Charter reflect the reaction of the international community to the horrors of war and the regimes which unleashed it. The UNO through its UDHR (Universal Declaration on Human Rights)<sup>8</sup> of 10th December, 1948 gave it a concrete fillip. The International Bill of human rights recognizes not only human right to life, liberty and security, but also freedom from exploitation, right to privacy as well as other economic, political, social and cultural rights. The human rights are thus a body of both rules & customs<sup>9</sup> that are essential for being human to every extent<sup>10</sup>.

### **UNO AS A SAVIOUR OF HUMAN RIGHTS**

Certain Provisions are woven in the UN Charter "like a golden thread" that gives a remarkable space to the Human Rights. Much of the credit goes to lobbying by non- governmental organizations at the San Francisco Conference. Everyone keen to have a very strong provision in order to provide each human being a comfortable position in the society i.e. "Live and Let Live". Some have affirmed the binding nature and direct enforceability of the Charter provisions, while others have denied it. While denying to them, directly or indirectly, as relevant in the sense that they form part of the public policy of a state as a signatory of the Charter. Certain provisions are:

#### **(a) Preamble:**

The Preamble<sup>11</sup> of the UN Charter states " We the peoples of United Nations(are) determined..... to reaffirm faith in fundamental human rights, in the dignity & worth of the human persons, in the equal rights of men & women & of nations large & small".

#### **(b) Purpose of the UNO:**

Article 1(3) provides for the underlying purpose of the U.N. i.e. "to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, & in promoting and encouraging respect for human rights". It calls for no discrimination should be practiced on the basis of sex, race, religion, creed etc. It has sown for days ahead, it has achieved more than might have been expected, less than might have been hoped<sup>12</sup>.

#### **(c) Responsibilities of the General Assembly:**

Article 55(c) provides responsibilities to the General Assembly of U.N. to work upon for fulfilling the the above mentioned purpose of the U.N. This U.N. machinery is the largest body that includes almost every sovereign nation of the world. It provides an active universal platform for them to come forward with their issues & grievances over human rights. One of the early Acts of the General Assembly was to draft & adopt the UDHRs resolutions 217A of December 1948<sup>13</sup>. During its 60th session, the General Assembly adopted the World Summit" Outcome Resolution 60/1 of 16th September 2005 which called, inter alia, for strengthening of the UN's human rights mechanism. Reform of the human rights mechanisms is ongoing and the documentation is changing to reflect the changes. The General Assembly has adopted about 80 human rights conventions and declarations since 1948. Human rights are thus a core of everything we do & try to do<sup>14</sup>.

#### **(d) Aims of UN Security Council:**

The UN Security Council comprising of 15 members has the primary duty for the promotion and protection of international peace and security. Although, this UN mechanism has not been endowed any specific power in the field of human rights, but in reality, it has become the "centre piece of the human rights protection system of the international community. It regards human rights violations as a threat to international peace, making it possible to take action against such violations with measures provided in Chapter VII of the UN Charter. It identifies three human rights which have attracted most of its attentions: the right of peoples to self-determination, the right to democratic governance and the fundamental

rights (arising under international human rights law and international humanitarian law) of civilian population and minorities during war and internal conflict.

The Security Council can make recommendations and decisions for actions including providing humanitarian aid, imposing economic sanctions and recommending peace-keeping operations. It has been responsible for international tribunals to prosecute serious violations of humanitarian laws. For example, special tribunals have been set up to prosecute law crimes in Former Yugoslavia and acts of genocide in Rwanda.

On balance, the Security Council has increased attention to atrocity, crimes such as genocide, crimes against humanity, major war crimes and ethnic cleansing laws which is a combination of human rights humanitarian and criminal law<sup>15</sup>. In the meantime, some changes might be institutionalized. The relevant UN officials should always be invited to address the Security Council such as United Nations High Commissioner on human rights, UNHCR on Refugees, the UN Coordinator on humanitarian affairs or the President of the UN Human Rights Council. Secondly, when approving an enforcement action, it should always create a follow-on supervising committee to report back to it about fidelity to and progress in implementing the mandate. It is also needed to strengthen advocacy for a voluntary restraint in the use of veto power by the P-5 or Permanent members of the Security Council. The idea of human rights has a force of its own which government can never extinguish<sup>16</sup>.

#### **(e) Objective of International Economic & Social Cooperation:**

Article 13(2) set out in Chapter IX & X aims at to create a condition of stability & well-being for having a peaceful & friendly relation among nations based on respect for the principle of equal rights & self-determination<sup>17</sup> of the people. Similarly Article 55 & 56 bind member States to observe & respect human rights. From time to time, the UN International Court of Justice use to give its advisory opinions in many matters.

#### **(f) Functions of UN Economic & Social Council:**

Article 62(2) empowers ECOSOC<sup>18</sup> to make recommendations for the purpose of promoting respect for, & the obligations of human rights & fundamental freedom for all. Article 68 empowers ECOSOC regarding setting up a Commission for the promotion of human rights. & such other commissions as may be required for the performance of its functions.

#### **(g) Objectives of Trusteeship System:**

One of the basic objective of the trusteeship in

accordance with the purposes of the U.N. shall be to encourage respect for human rights & for fundamental freedoms for all without any distinction of language, race, sex etc. to encourage recognition of the interdependence of the peoples of the world.

#### **KEY RESOURCES AND OTHER MECHANISMS:**

The UN system basically works through two types of Bodies to promote and protect human rights. They are the Charter Bodies and the other one is Treaty Bodies. The Charter Bodies are established under the UN Charter in order to fulfill the United Nation's general purpose of promoting human rights. They have broad mandates that cover promoting human rights in all UN member states. Certain examples are the Human Rights Council (2006), Office of the UN High Commissioner for Human Rights. While the Treaty Bodies have the responsibilities for promoting and monitoring compliance with a particular human rights treaty. They consider reports from the State parties on their compliance with the treaty and some Treaty Bodies can also receive individual complaints of Treaty Bodies violations. Beside that they consider information contained in "Shadow Reports". The Shadow Reports are in fact those reports that are submitted to the Treaty Bodies by NGO's & Nation Human Rights institutions (rather than government). After that they make recommendations (often called Concluding Comments or Recommendations) about how the State parties can improve its compliance with its treaty obligations.

#### **INDIVIDUAL COMPLAINTS: A BOON FOR A COMMON HUMAN BEING**

Individual complaints can also be entertained by the Treaty Bodies. Certain UN mechanism are authorized enough to deal with those complaint under reasonable limitations. An individual might get few relaxations by going through complicated procedures<sup>19</sup>. In fact Human Rights must be enjoyed without any restrictions. It is one of the best mechanistic tool of this Global body. Through ratifications of international human rights treaties, the government undertakes to put into place domestic measures and legislation as well as duties. The domestic legal system, therefore provides the principle legal protection guaranteed under international law<sup>20</sup>. Where it fails to address human rights abuses, mechanisms and procedure for individual complaints or communications are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented and enforced at the local levels.

Thus the UN Treaty Bodies plays a vital role having a

committee of experts in the relevant areas who serve in their personal capacity and not as the representatives of their countries. Emiritus, Professor from Shearer and Elizabeth Evatt, Former Chief Justice of the Family Court of Australia are two recent examples of Australian representatives. It is suggested to have an unified Treaty Body to monitor implementations of all the principle human rights treaties.

### **The High Commissioner for Human Rights:**

On December 20, 1993, the General Assembly created the long -proposed post of High Commissioner for Human Rights. The main functions allotted to the post was to promote & protect the effective enjoyment of all human rights including the right to development, provide advisory services, technical & financial assistance, to coordinate the UN education & public information programs, to remove obstacles to the full realization of human rights, to engage in a dialogue with governments in order to secure respect for human rights, to enhance international co-operation for the promotion & protection of human rights and finally to rationalize, adapt, strengthen & streamline the UN machinery in the field of human rights in order to improve its efficiency & effectiveness.

In 1999, the High Commissioner Mary Robinson argued that the greatest threat to human rights is war & hence to prevent its tragic violation, it is needed to reconstruct the society which conflict has destroyed. She gave the statement at the opening of the Commission on 22nd March 1999 that "Modern media technology has ensured that we can witness the atrocities as we go about our ordinary lives, but it has not given us the tools to halt them".... The mechanism of the commission is quite unique as it takes the matter step by step. The Commission's reporting mandates is provided by early warning.

### **UNITED NATIONS HUMAN RIGHTS COMMISSION: (OHCHR)**

It is staffed by about 900 international civil servants who work on a wide range of human rights activities. There are currently about seven treaty bodies of international experts who monitor state parties compliance with the core international human rights treaties and conventions. Made up of 15 member states (earlier it was 18) elected by ECOSOC for three years terms & meets for six weeks annually. It was formed under Resolution 1237(XLII). It considers the entire UN human rights program through the mechanism of examining, discussing, fact-finding missions & setting priorities on a wide range of Human Rights institutions & bodies. For its help, it can create subsidiary bodies & mechanisms that could meet

regularly.

During its inception in 1946, it was decided to not to look into communications about individual human rights abuses. But much has changed now at varying degrees into a structure of legally binding treaties. Special investigators and mechanisms has been built up to hold countries to commitments to respect the human rights of their citizens and be accountable for their actions. Six major human rights treaties has been negotiated namely civil and political rights, economic and social rights<sup>21</sup>, racial discrimination, discrimination against women, torture & rights of the child. Almost all countries has ratified these six treaties.

But can only ractification can sort out the human rights issues? NO! It is firstly needed that the parties should have faith upon the UN mechanisms. They have to submit their human rights grievances. Reports and information must be accurate enough to be examined properly. Secondly, the UN mechanisms has to be vigilant enough to each pros and cons of the human rights issues.

Since 1980, the Commission has created a number of "Special Procedures" to look into violations of human rights on an urgent basis, conduct country investigations and report publically on their findings ratified by experts appointed on the basis of their merit and calibre. There are certain "Independent experts" also. The Special Procedures experts takes action on certain "thematic" human rights violations and the Independent experts serve as "Country special rapporteurs".

The thematic human rights violations include torture, forced disappearances, summary executions, arbitrary detention, violence against women, freedom of expression, racial discrimination, religious intolerance, the sale of children, independence of judges and lawyers, use of mercenaries, the right to education, the right to food and the human rights of migrants etc.

The Independent experts and Country Rapporteurs are mandated to address about a dozen situations including Belarus, Myanmar, Sudan, North Korea, Palestine Territories (Rappoteurs), Democratic Republic of Congo, Haiti, Liberia, Somalia, Berundi (Independent experts), Cuba and Combodia (Republic of HCHR, SG).

The OHCHR receives about 1/3rd of its funding needs from the UN's regular budget which is approved by the General Assembly every two years. But the proportion of the overall UN regular budget devoted to human rights remains small, at just under 3%, or US \$168.5 million of the total 2012-2013 biennium budget. The other 2/3rd of OHCHR's budget needs are met from voluntary contributions by member states and other donors. About 62% of voluntary funding was used in 2012 to support work in almost 60 field presences which receive little support from the regular budget. The remainder is distributed between other areas of Office's work.

### **HUMAN RIGHTS "HOTLINE"**

The UN High Commission for Human Rights in 1994 has established a Hotline number for 24 hours facsimile line that will allow it in Geneva to monitor and react rapidly. Each year it receives (0041-22-917-0092) nearly two lakh communications reporting violations to human rights emergencies. It is available to victims of human rights violations, their relatives and non-governmental organizations. It is valuable to those wishing to establish urgent, potential life saving contact with the special procedure Branch of the UN Office.

### **HUMAN RIGHTS COUNCIL: (HRC)**

The world leaders- Heads of states and governments met at UNO's Headquarters from September 14-16, 2005 and adopted a document at the end of the summit known as 2005 World Summit Outcome. It contains a number of global issues that are responsible for the protection of all human rights and fundamental freedoms. The General Assembly on March 15, 2006 adopted a resolution to establish the Human Rights Council<sup>22</sup>, based in Geneva, in replacement of the Commission of Human Rights. The Council shall be the main inter-governmental body for human rights in the UN system. It consists of 47 members that are elected directly and individually by secret ballot by the majority of the members of the General Assembly. They serve for the period of six years and are not eligible for immediate re-election. Its main functions are to promote human rights education and learning, give advisory opinion, serve as a forum for dialogue on thematic issues on human rights, undertake periodic reviews and submit annual report to General Assembly. It shall assume the role and responsibility of the Commission on Human Rights to the work of the Office of the UN High Commissioner for Human Rights.

Present UN Secretary General Ban Ki-Moon quoted in 2007 that all victims of human rights abuses should be able to look to the HRC as a forum & as a springboard for action. Mr. Remigiusz Henczel (Poland) is the present President of HRC who succeeded Mrs Laura Depuy Lasserre (Uruguay).

### **UNIVERSAL PERIODIC REVIEW: (UPR)**

On June 18, 2007, the Human Rights Council adopted a resolution which established the Universal Periodic Review. It is a unique process which involves a review of the human rights records of all UN members once in every four years. Thus around forty eight states will be reviewed every year. It aims at the over-all study and condition of human rights in particular states. It will examine the reports submitted to it and also provide

technical support. The reviews are conducted by the Universal Periodic Review Working Groups consisting of around 47 members.

Recently, the government of Iran undertook its first UPR on 15th February 2010. Out of 189 recommendations, it accepted around 123 recommendations.

### **UNITED NATIONS AND HUMAN RIGHTS TODAY:**

The United Nations has been adopting in its human rights machinery in order to better respond to the changing demands of the international community. During the cold war, it created the normative and institutional structure for international human rights protection, steadily broadening its competence in the area. It was the protagonist of anti-imperialism and a supporter of decolonization that ultimately gave birth to over 80 new independent nations. It stood for the collective right to self-determination. Its efforts to end racial discrimination in South Africa is remarkable that was a step towards human rights protection. Recently, on March 14, 2014, the UN Assistant Secretary General for Human Rights Ivan Simonovic did a press conference to monitor the current human rights situations.

Today there is widespread recognition that the fifty years investment in developing human rights promotion requires new impetus to serve broader realization of economic and social rights." Right up Front Action Plan"- it is a new initiative by the present Secretary General of UNO, Ban Ki-Moon, to improve UN action to safeguard human rights around the world. Executive, arbitrary detention & unfair trials, discrimination against minorities, mistreatment of political prisoners & restrictions on freedom of expression are strong subjects that remain concern. The Economic imbalances, political instability, extreme poverty, economic interdependence, cultural differences etc. continue to be the fate of the nations. So, the current issue that UNO has highlighted in the realm of human rights is enhancement of the right of economic development because once it has been attained, then one can expect a true exercise of human rights to a great extent.

Secondly, it is needed to strengthen the UN machinery, that is, both governmental and non-governmental bodies. In the wake of the Vienna Conference, the UN has intensified efforts to refocus its human rights programmes, shifting its concern from standard setting to implementation. No doubt the Office of UN High Commissioner (OHCHR) has done its level best, but at the time of its implementation so many obstacles, both domestic and international comes in its way. So it is necessary to strengthen its wings through a lot of international laws and conventions. The first UN High Commissioner was Mr. Jose Ayala Lasso ((1994-97). He

assumed the post one day before the outbreak of genocidal killing in Rwanda. In 1997, the then Secretary General, Mr. Kofi Annan of Ghana<sup>23</sup> placed human rights as the fifth priority area (peace and security, economic and social affairs, developmental cooperation & humanitarian efforts). One of the another basic means of strengthening human rights was the consolidation of the High Commissioner Office and the Centre of Human Rights into a single office of OHCHR.

The office of High Commissioner based in Geneva with country offices around the world has a large number of staff. Its mechanisms deal with many areas of human rights such as activities and programmes, research and right to development as well as support services. Its annual budget is about \$ 20 million.(about 1.7% of the UN regular budget). There are certain voluntary contributions ( Human Rights Field Operations in Rwanda) also. There is also the expansion of technical support, for example, Angola, Cambodia, Mozambique, Haiti etc. The technical cooperation programme has also advised the UN electoral mission in Reitra and South Africa. Such advisory services often entail the provision of human rights expertise, legislative analysis and training of personnel. Many UN Specialised agencies including the World Bank and IMF also making effort to incorporate the promotion and protection of human rights into its activities and programmes.

In the UN agenda, the core human rights issues today is multi-dimensional. It includes promotion of women's rights, protection of rights of child, human trafficking, child labour, educations, ending socio-economic disparities, economic upgradation, ending ethnic conflicts etc. The efforts of UN Specialized agencies like ILO, UNIFEM, UNESCO, UNICEF, UNIFEM, WHO, WTO are praiseworthy.

The UNO plays a vital role in monitoring human rights violations through its two types of human rights mechanisms- conventional and extra-conventional which respond to individual human rights abuses and to the systematic abrogation of human rights by member states. There are six core human rights treaties that are the conventional mechanisms. They are Human Rights Committees, Committee of social, economic and cultural rights, Committee on elimination of racial discrimination, Committee on elimination of discrimination against women, Committee against Torture Committee on the rights of the Child (CRE). The Committees use to report to the concerned UN mechanisms. The Human Rights Committee, for example has considered over 800 reports with respect to 56 countries and published 270 decisions. Certain extra-conventional mechanisms are also practiced like Fact-finding that permits a more flexible approach to individual violations. There are also Special Rapporteurs that are free to use all reliable sources available to them to prepare their reports, hold interviews with authorities, victims, etc. In 1997, there were fact-

finding mission to 14 countries and around 5000 cases under enquiries. The rapporteurs were much active in areas like Combodia, Rwanda, former Yugoslavia etc.

Recently, a new trend in the UN mechanisms has been highlighted, that is the efforts of the NGO's(representatives of a civil society) that are active enough in helping UNO in enhancing human rights arena. Major World Conferences (Vienna 1993, Cairo 1994, Copenhagen 1995, Rome 1996 etc.) was also very remarkable that held sessions over social development of women's rights, population explosion etc. Certain human rights organizations like Human Rights Watch, International Federation of Human Rights have a large international reach that conduct independent surveys, publish newsletters, and disseminate detailed reports. The Amnesty International, the largest human right NGO with 1.2 million members in 160 countries recently launched a worldwide petition driven to secure commitment of over 6 million peace to the UDHR.

But anyway, laws and mechanisms of implementation are not sufficient in themselves, People everywhere must first be aware of their rights before they can hope to have those rights protected and respected. Information and education are indispensable tools in the attainment of any objective.

Human Rights thus remain the central pillar of UNO for the coming century. Indeed they lie right at the heart of our multi-lateral endeavours. Without respect for the dignity and worth of all members of the human family, any effort cannot possibly succeed. There exists a triangular relationship between the requirement of legislation, implementation and information which form the basis of the work of UNO in the field of human rights. There should be universal implementation of human rights norms along with effective cooperation of both national and international institutions. Beside it, the partnership with governments, national and regional institutions, academic and research communities, media, NGO's are also needed.

It is also needed to enhance the role of UN mechanisms as per the betterment of the individuals human rights. With regard to the Human Rights Council, it is needed that there should be proper communication exchanges. The General Assembly's means of "Uniting for Peace Resolution" also should be exercised properly wherever there is a threat to human rights. It is essential to have the Advisory opinion of the International Court of Justice whenever it is needed to have some concrete legal framework over a human rights The role of International Criminal Court has to be strengthened to the extent it could punish the offenders strictly. The General Assembly, for example endorsed in December 1990 the Basic Principles on the role of lawyers adopted at the 8th UN's Congress on the Prevention of Crimes and the Treatment of Offenders. The concepts of R2P (Responsibility to Protect) and RwP (Responsibility while

Protection) has become one of the recent tools of the UN mechanisms in order to protect and promote human rights .

## CONCLUSION

Hence, human Rights are the core of the UN's identity. Men and women everywhere expects that it could be able to uphold universal ideals. They need it to be their ally and protector. They want to believe that UNO can help unmask bigotry and defend the rights of the weak and voiceless. For too long now, the UNO have indulged this view under its own capacities. No doubt, the world political situation does not allow for much concerted human rights activism, in the field. Doctrines of national security and sovereignty are often invoked to conceal, excuse or justify human rights abuses. Extreme poverty and exclusion from economic, political and cultural life continue to be the fate of millions in both developing and developed countries. Definitely, the United Nations Organization is a savior of the Human Rights.

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