

HUMAN RIGHTS IN CONTEMPORARY INTERNATIONAL LAW

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1. UNITED NATIONS CHARTER AND INTERNATIONALIZATION OF HUMAN RIGHTS

To-day it is generally believed, "The concept of international protection of human rights is firmly established in international human rights law."¹ The international protection of human rights has been established in international law after the second world war. Before the second world war, besides Islamic State's human rights were protected by national instruments, the *Magna Carta*, 1215, Petition of Rights, 1627, Bill of Rights, 1688, Act of Settlement, 1702, American Declaration of Independence, 1776, American Bill of Rights, 1791, and French Declaration of Rights of Man and Citizen, 1789, were important national instruments in which some human rights and fundamental freedoms had/have been protected. From these instruments three important concepts relating to human rights and fundamental freedoms have originated : principle of inalienability, principle of inviolability and doctrine of rule of law.²

The Charter of the United Nations Organisation, 1945, was the first international instrument by which international protection of human rights have been legally recognised. In the Preamble the peoples of the United Nations record their determination "to re-affirm 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..." Human rights and fundamental freedoms have been mentioned in Articles 1, 13, 55, 56, 62, 68 and 76 and specific functions have been endowed to the General Assembly, to the States Parties to the United Nations, to the Economic and Social Council as well as to the Trusteeship Council.

One of the purposes of the United Nations, under Article 1, is "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples." Another purpose is "to achieve international co-operation in solving international problems of 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."

Article 13 states that the General Assembly shall initiate studies and make recommendations for the purposes of "promoting international co-operation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

Under Article 55, the United Nations has the duty to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." Under Article 56, all members of the United Nations 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.

Article 62 states that the Economic and Social Council "may make recommendations for the purposes of promoting respect for, and observance of, human rights and fundamental freedoms for all." Under Article 68, the United Nations requires the Economic and Social Council to "set up commissions in economic and social fields and for the promotion of human rights." Under Article 76, the basic objectives of the trusteeship system are, *inter alia*, "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 ..."

These were the main provisions relating to human rights as contained in the United Nations Charter, 1945. The Charter has internationalized human rights and created obligation of the Member States of the United Nations to cooperate with the Organization in the promotion of human rights and fundamental freedoms. Moreover, in pursuance of the provisions of the Charter the Organization has succeeded in clarifying the scope of the obligation of the Member States to "promote" human rights, expanding it and creating Charter-based institutions designed to ensure compliance by government.³

2. INTERNATIONAL BILL OF HUMAN RIGHTS

Following the Charter, on the 10th December, 1948, the General Assembly adopted and proclaimed the Universal Declaration of Human Rights as "a common standard of achievement for all peoples and all nations."⁴ The Declaration proclaims, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a

spirit of brotherhood." ⁵ It also sets out the basic principle of equality and non-discrimination as regards the enjoyment of human rights and fundamental freedoms.⁶

The Universal Declaration of Human Rights, 1948, proclaims two kinds of rights : civil and political rights and economic, social and cultural rights. Civil and political rights, mentioned in Articles 3-22, are as follows: right to life, liberty and security of person; freedom from slavery and servitude; freedom from torture or cruel, inhuman or degrading treatment or punishment; right to recognition as a person before the law; equality before the law and equal protection of law; right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; right to a fair trial and public hearing by an independent and impartial tribunal; right to be presumed innocent until proved guilty; freedom from arbitrary interference with privacy, family, home or correspondence; freedom of movement and residence; right of asylum; right to a nationality; right to marry and to found a family; right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; right to peaceful assembly and association; right to take part in the government of one's country and to equal access to public service in one's country.

The economic, social and cultural rights, recognised in Articles 22-27, include the right to social security; right to work and free choice of employment; right to equal pay for equal work; right to form and join trade unions, right to rest and leisure; right to a standard of living adequate for health and well-being; right to education; right to participation in the cultural life of the community; right to protection of the moral and material interests resulting from one's authorship of scientific, literary or artistic productions.

Article 28 recognises that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized. Article 29 provides that in the exercise of his rights and freedoms, everyone shall be subject only to the limitations that have been established by law to secure due recognition and respect for the rights and freedoms of others and to meet the just requirements of morality, public order and general welfare in a democratic society. These human rights and fundamental freedoms shall not be exercised contrary to the purposes and principles of the United Nations. Article 30 states that no State, group or person may claim any right to do anything aimed at destroying the rights and freedoms set out in the Declaration.

All these rights contained in the Universal Declaration of Human Rights, 1948, were declaratory because the Declaration was not a legally binding treaty. But it has got some moral and political significance. Mrs. Roosevelt went to the extent of saying that it was a *Magna Carta* of mankind. It has some attributes of *jus cogens*. Another significance lies in the fact that it is now considered to be an authoritative interpretation of the United Nations Charter, spelling out in considerable detail the meaning of the phrase human rights and fundamental freedoms.

Whatever merit and significance the Declaration may have, it was not a treaty which was legally binding on the Member States of the United Nations. So, steps were taken to give legal effect to these provisions of the Declaration in the form of covenants. Thus, in 1966 two International covenants on human rights were adopted: international Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights. In

addition, the Optional Protocol to the International Covenant on Civil and Political Rights was also adopted in that year. The two Covenants proclaim almost all the rights mentioned in the Universal Declaration of Human Rights with a view to giving legal coverage under international law. Some new rights have been introduced by the International Covenant on Civil and Political Rights. An important one is in Article 27 which states, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

The international instruments contain provisions relating to implementation of human rights and fundamental freedoms. The Human Rights Committee established under Article 28 of the International Covenant on Civil and Political Rights, 1966, is responsible for supervising implementation of human rights set out in the Covenant. The Optional Protocol to the International Covenant on Civil and Political Rights, 1966, enables the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violation of any of the rights set forth in the Covenant. The Committee on Economic, Social and Cultural Rights is responsible for the implementation of economic, social and cultural rights set forth in the International Covenant on Economic, Social and Cultural Rights, 1966. It should be noted in this connection that the International Court of Justice has no jurisdiction in connection with the enforcement of human rights contained in the International Bill of Rights.

From the above discussion it is evident that the Charter of the United Nations Organisation, 1945, was the first international instrument which internationalised human rights and fundamental freedoms. The Universal Declaration of Human Rights has interpreted and explained human rights and fundamental freedoms mentioned in the Charter of the United Nations Organisation. The International Covenant on Economic, Social and Cultural Rights, 1966, International Covenant on Civil and Political Rights, 1966, the Optional Protocol to the International Covenant on Civil and Political Rights, 1966, have given legal validity to the rights proclaimed by the Universal Declaration of Human Rights, 1948. These four instruments altogether are regarded as International Bill of Human Rights.

Undoubtedly, the International Bill of Human Rights represents a milestone in the history of human rights. It has a far-reaching impact on the adoption of European Convention on Human Rights, 1950, Inter-American Convention on Human Rights, 1969, and African Charter on Human and Peoples Rights, 1981. Following the Bill many of the Constitutions of the World adopted a Bill of Rights. National, regional and international courts have frequently cited principles set out in the International Bill of Human Rights in their decisions and opinions. In fact, the International Bill of Rights remains the beacon that lights all present and future efforts in the field of human rights, both nationally and internationally.

3. HUMAN RIGHTS INSTRUMENTS OTHER THAN INTERNATIONAL BILL OF RIGHTS

Besides the International Bill of Human Rights, there are other international instruments by which some specific

types of human rights and fundamental freedoms are protected. The names of these instruments are as follows: International Convention on the Prevention and Punishment of the Crime of Genocide, 1948; International Convention on the Elimination of All Forms of Racial Discrimination, 1965; International Convention on the Suppression and the Punishment of the Crime of Apartheid, 1973; International Convention on the Elimination of All Forms of Discrimination against Women, 1979, and International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1948.

The International Convention on the Prevention and Punishment of the Crime of Genocide, 1948, ensures that "genocide, whether committed in time of peace or in time of war, is a crime under international law", and "persons committing genocide ... shall be punished whether they are constitutionally responsible rulers, public officials or private individuals."

The Convention defines genocide as the commission of certain acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as (a) killing members of the group; (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 Convention provides that the persons charged with genocide might be tried by an international penal tribunal. Disputes between two or more States Parties relating to the

interpretation of the Convention may be submitted by either of them to the International Court of Justice.

The International Convention on the Elimination of All Forms of Racial Discrimination, 1955, is based on "the idea of the equality of races." In this Convention racial discrimination is prohibited. Racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." This definition has been recognised by the International Court of Justice as an authoritative interpretation of the meaning and scope of the non-discrimination clause of the Charter of the United Nations.⁸ The Committee on the Elimination of Racial Discrimination (CERD) consisting of 18 members is responsible for the enforcement of the Convention. The CERD has jurisdiction to hear complaints by one State that another State is not complying with its obligations under the Convention. It may deal with individual petitions, provided the State involved has recognised the right of private petition. The Convention provides for adjudication by the International Court of Justice of disputes between the States Parties with respect to the interpretation and application of the Convention.

The main purpose of the International Convention on the Suppression and the Punishment of the Crime of Apartheid is to proclaim apartheid "a crime against humanity" and to declare all inhuman acts attributable to the policies and practices of apartheid "crimes violating the principles of international law". The Convention defines the crime of apartheid by reference to the policies of racial

segregation and discrimination being practised in Southern Africa. Liability for the commission of the crime of apartheid extends not only to those individuals, members of organizations and institutions and representatives of the State who commit the offence, but to all those who "directly abet, encourage or co-operate" in its commission regardless where such individuals may be at time. A person charged with the offence may be tried by any State Party and by any international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

The measures of implementation provided for by the Convention consist of a periodic reporting requirement by the States Parties and the establishment of a Group of Three to review the reports. The Convention also empowers the UN Human Rights Commission to prepare various studies and reports relating to the crime of apartheid.

The Convention on the Elimination of All Forms of Discrimination against Women, 1979, seeks to eliminate discrimination against women. Discrimination against women is defined as "any distinction, exclusion, or restriction made on the basis of sex" which impairs the enjoyment by women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. The States Parties to the Convention are required to take all measures in the political, social, economic and cultural realms to advance the enjoyment of equal rights by women in all walks of life.

The States Parties are to provide periodic reports relating to the legislative, judicial, administrative or other measures they have adopted to give effect to the provisions of the Convention. These reports are reviewed by the

Committee on the Elimination of Discrimination against Women. Disputes between the States Parties relating to the interpretation or application of the Convention may be submitted to the International Court of Justice by any of the parties to the dispute.

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, is adopted with a view to preventing and punishing torture committed by government officials or others, acting in an official capacity. The Convention defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose, *inter alia*, of obtaining from him or a third person information or a confession. The States Parties undertake to adopt effective legislative, administrative, judicial or other measures to prevent torture in any territory under their jurisdiction.

The Convention establishes a reporting system as well as an optional inter-state complaints and individual petition system. These measures of implementation are administered by the Committee against Torture. Moreover, the International Court of Justice has been given power to settle disputes between the States Parties relating to the interpretation and application of the Convention.

The Convention on the Rights of the Child, 1989, has been adopted with a view to promoting and protecting rights of the children in international law. The Convention ensures right to life, to a name, nationality from birth, non-separation from their parents, protection from physical or mental harm, right to special treatment, education and care, highest attainable standard of health to the children. They are entitled to rest and play, equal opportunities for

cultural and artistic activities, protection from economic exploitation, and illegal use of drugs and involvement in drug production or trafficking. States shall ensure that each child enjoys full rights without discrimination or distinction of any kind. For monitoring the implementation of the rights of children a Committee on the Rights of the Child has been established by the Convention. The Committee will monitor the progress made by the States which ratify or accede to the Convention in fulfilling their obligations. States Parties accept the duty to submit regular reports directly to the Committee on the steps they have taken to put the Convention into effect and the progress in the enjoyment of children's rights. All competent organizations including non-governmental organizations may be invited to take part in the discussions of the Committee, may submit their views and may be consulted.

From the above discussion it is evident that some human rights instruments other than the International Bill of Rights have given protection to special types of rights which have no less political importance than that of the International Bill of Rights. These instruments must be regarded as complementary instruments to the International Bill of Rights.

4. OTHER CHARTER-BASED HUMAN RIGHTS

INSTITUTIONS

Besides the institutions mentioned in the foregoing pages, some institutions have been established within the framework of the Charter of the United Nations, which are connected in the protection of human rights. The Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities,

the Commission on the Status of Women may, for instance, be mentioned.

Article 68 of the United Nations Charter provides that "the Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights." The Commission is to submit to ECOSOC proposals, recommendations and reports dealing with international human rights instruments, status of women, protection of minorities, prevention of discrimination, and related human rights matters. It also co-ordinates the human rights activities of the UN system.

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities is a subsidiary organ of the Commission on Human Rights. Its functions are to undertake studies and to make recommendations to the Human Rights Commission "concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities." It may "perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights." The Sub-Commission has three working groups which meet regularly before each of its sessions to assist it with certain tasks : the Working Group on Communications, the Working Group on Indigenous Populations and the Working Group on Slavery.

The Commission on the Status of Women has a mandate to prepare studies, reports and recommendations on human rights and related issues affecting women. The Commission is also called upon to make recommendations to the Economic and Social Council on urgent problems requiring immediate attention in the field of women's rights with the

object of implementing the principle that men and women shall have equal rights, and to develop proposals to give effect to such recommendations. It has the functions of promoting the objectives of equality, development and peace, monitoring the implementation of measures for the advancement of women, and reviewing and appraising the progress made at the national, sub-regional, regional, sectoral and global levels.

In this way, the Charter-based institutions play a vital role in protecting and promoting human rights and fundamental freedoms. The role of the Sub-Commission on Prevention of Discrimination and Protection of Minorities is praise-worthy.

5. SPECIALIZED AGENCIES OF THE UNITED NATIONS ORGANIZATION AND HUMAN RIGHTS

The Economic and Social Council is authorised, under Article 63 of the Charter, to co-ordinate the activities of the specialized agencies through consultation with, and recommendations to, such agencies and through recommendations to the General Assembly and to the Members of the United Nations. In pursuance of the provisions of Article 63 read with Article 70 of the Charter, the Specialized Agencies of the United Nations Organisation, e.g., International (Labour Organisation) ILO, Food and Agriculture Organisation (FAO), United Nations Educational, Scientific and Cultural Organisation (UNESCO) etc. are concerned with protection of human rights and fundamental freedoms.

In the Preamble to the original Constitution of the International Labour Organisation established in 1919, it has been stated that universal peace can be "established only if

it is based upon social justice," that unjust conditions of labour imperilled the peace and harmony of the world; and that an improvement in such conditions was urgently required. The Declaration of Philadelphia, 1944, re-affirms the fundamental principles that labour is not a commodity; freedom of expression and of association are essential to sustain progress; and poverty anywhere constitutes a danger to prosperity everywhere.

However, the International Labour Organisation is concerned both with economic and social rights, such as the right to work, the right to the enjoyment of just and favourable conditions of work, the right to form trade unions and to join the trade union of one's choice, the right to social security, and the right to an adequate standard of living. It is also concerned with civil and political rights, such as freedom of expression, freedom of association, and the the right of peaceful assembly. "The ILO endeavours to implement the principles of its Constitution by laying down standards, by supervising their application, and by assisting Governments to achieve its objectives."

Food and Agriculture Organisation of the United Nations has the following purposes with respect to human rights and fundamental freedoms : "(a) Raising levels of nutrition and standards of living of the peoples under the respective jurisdictions of the nations accepting the Constitution; (b) Securing improvements in the efficiency of the production and distribution of all food and agricultural products; (c) Bettering the conditions of rural populations; (d) and thus contributing towards an expanding world economy and ensuring humanity's freedom from hunger." The main functions of the FAO are the collection, analysis, interpretation and dissemination of information relating to nutrition, food and agriculture; the promotion of national

and international action to improve education and administration relating to nutrition, food and agriculture; and the furnishing of technical assistance to governments in these fields.

The main purpose of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) established in 1946 is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations. To achieve its purpose, UNESCO is to accomplish the following :

"(a) Collaborate in the work of advancing the mutual knowledge and understanding of peoples ; (b) Give fresh impulse to popular education and to the spread of culture"

The World Health Organisation (WHO) established in 1946 has objective of "attainment by all peoples of the highest possible level of health." In order to attain this objective WHO performs the following functions :

(a) The first constitutional function of WHO is to act as the directing and co-ordinating authority on international health work; (b) WHO transmits policy decisions on international health matters to other inter-governmental and non-governmental organisations working in the field of health; (c) WHO promotes international agreement on health policies; (d) WHO promotes the rationalization and mobilization of resources for health and supports developing countries in identifying their needs for external resources; (e) The Organisation brings together the world's experts in

health matters; (f) WHO identifies or generates health technology acceptable to local needs, socially acceptable and economically feasible.

WHO has not adopted international instruments in the field of human rights. But it has played an important part in the preparation of the Principles of Medical Ethics relevant to the role of health personnel, in the Protection of Prisoners and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

From the above discussion it is evident that four Specialized Agencies have been playing a dominant role in the protection and promotion of specialized types of human rights. They have been performing their functions with regard to protection and promotion of human rights and fundamental freedoms in co-ordination with the United Nations organ or organs and in this way they work within the framework of United Nations system.

6. NON-GOVERNMENTAL HUMAN RIGHTS

ORGANISATIONS

Article 71 of the Charter provides that the Economic and Social Council "may make arrangements for consultation with non-governmental organisations which are concerned with matters within its competence." In pursuance of this provision ECOSOC Resolution 1296 (XLIV) of 23 May, 1968, was adopted which establishes a formal system that enables qualified NGOs to obtain one of three categories of consultative status with the Organisation : (1) organisation in general consultative status, (2) organisation in special consultative status, and (3) organisation on the roster:

The functions of the NGOs may be summarised in the following words :

"Human rights NGOs *sic.* have played a particularly important role in the evolution of the international system for the protection of human rights and in trying to make it work. Governments which violate human rights are always eager to make sure that the applicable international human rights norms, institutions, and procedures remain weak and ineffective. The human rights NGOs *sic.* provide a needed counterpoint to these governmental attitudes and deserve much of the credit for the progress that has been made in recent decades."¹

Amnesty International, International Commission of Jurists, International Institute of Human Rights, International League for Human Rights, International Humanist and Ethical Union etc. are well-known NGOs which have worldwide interests and which have earned reputations by protecting, promoting, disseminating human rights and fundamental freedoms.

7. VIENNA DECLARATION AND PROGRAMME OF ACTION, 1993

From the 14th June to the 25th June, 1993, World Conference on Human Rights was held in Vienna, in which representatives of government and non-governmental organisations participated. After deliberations and discussions on the issues and matters relating to human rights and fundamental freedoms, at the conclusion of the Conference the representatives of 171 Governments adopted, on the basis of consensus, the Vienna Declaration

and Programme of Action, which is the most "contemporary and authoritative proclamation of the vital importance of human rights in the lives of people in all parts of the world." The basic features of Vienna Declaration and Programme of Action are as follows :

A. Universal Nature of Human Rights and Fundamental Freedoms

The World Conference on Human Rights reaffirms the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law. Human rights and fundamental freedoms are the birth rights of all human beings; their protection and promotion is the first responsibility of Governments.

B. Right to Self -Determination

All peoples have the right to self-determination. By virtue of that right they freely determine their political status, and freely pursue their economic, social and cultural development. The World Conference on Human Rights considers the denial of the right of self-determination a violation of human rights and underlines the importance of the effective realization of this right.

C. Effective International Measures

Effective international measures to guarantee and monitor the implementation of human rights standards should be taken in respect of people under foreign occupation, and effective legal protection against the violation of their human rights should be provided in accordance with human rights norms and international law.

D. Priority Objective of the United Nations

The promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles. The organs and specialized agencies related to human rights should further enhance the co-ordination of their activities based on the consistent and objective application of international human rights instruments.

E. Universality of Human Rights

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

F. Democracy, Development and Respect for Human Rights

Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world.

G. Right to Development

The right to development is considered as a universal and inalienable right and integral part of fundamental human rights. States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of

the right to development and the elimination of obstacles to development.

H. Right to Protection of Environment

The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. As illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone, so all States are called upon to adopt and vigorously implement existing Conventions relating to the dumping of toxic and dangerous products and waste and to cooperate in the prevention of illicit dumping. In this connection the right of everyone to enjoy the benefits of scientific progress and its application should be ensured.

I. Cooperation of Non-governmental Organizations

There is a need for States and international organizations, in cooperation with non-governmental organizations, to create favourable conditions at the national, regional and international levels to ensure the full and effective enjoyment of human rights.

J. Alleviation and Elimination of Poverty

The existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights. The immediate alleviation and eventual elimination must remain a high priority for the international community.

K. Elimination of All Forms of Racism and Racial Discrimination

The speedy and comprehensive elimination of all forms of racism and racial discrimination, xenophobia and related intolerance is a priority task for the international community. Governments should take effective measures to prevent and combat them.

L. Dismantling of Apartheid

The World Conference on Human Rights welcomes the progress made in dismantling apartheid and calls upon the international community and the United Nations system to assist in this process. The World Conference on Human Rights also deplores the continuing acts of violence aimed at undermining the quest for a peaceful dismantling of apartheid.

M. Prevention from and Combatment with Terrorism

The acts, methods and practices of terrorism in all its forms and manifestations as well as linkage in some countries to drug trafficking are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments. The international community should take necessary steps to enhance cooperation to prevent and combat terrorism.

N. Rights of Women and Girl-Children

The human rights of women and of the girl-children are an inalienable, integral and indivisible part of universal human rights. Governments, institutions, intergovernmental and non-governmental organizations are to intensify their efforts for the protection and promotion of human rights of women and the girl-children. The World Conference on Human Rights urges universal ratification of the Convention by 1995 and its effective implementation by States Parties by adopting necessary measures.

O. Rights of the Minorities

The World Conference on Human Rights re-affirms the obligation of States to ensure that persons belonging to minorities may exercise fully and effectively all human rights and fundamental freedoms without any

discrimination and in full equality before the law in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The persons belonging to minorities have the right to enjoy their own culture, to profess and practise their own religion and to use their own language in private and in public, freely and without interference or any form of discrimination.

P. Rights of Indigenous People

The World Conference on Human Rights recognizes the inherent dignity and the unique contribution of indigenous people to the development and plurality of society and strongly re-affirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development. States should ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them.

Q. Rights of the Disabled Persons

Special attention needs to be paid to ensuring non-discrimination, and the equal enjoyment of all human rights and fundamental freedoms by disabled persons, including their active participation in all aspects of society.

R. Right to Asylum

The World Conference on Human Rights re-affirms that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to one's own country.

S. Rights of Vulnerable Groups and Migrant Workers

Great importance must be given to the promotion and protection of human rights of persons belonging to groups which have been rendered vulnerable, including migrant workers, the elimination of all forms of discrimination against them, and the strengthening and more effective implementation of existing human rights instruments.

T. Effective Framework of Remedies for Violation of Human Rights

Every State should provide an effective framework of remedies to redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development.

U. Massive Violations of Human Rights

The World Conference on Human Rights expresses its dismay at massive violations of human rights especially in the form of genocide, ethnic cleansing and systematic rape of women in war situations, creating mass exodus of refugees and displaced persons.

V. Human Rights Education

The World Conference on Human Rights considers human rights education, training and public information essential for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace.

W. Implementation and Monitoring Methods

The World Conference on Human Rights urges Governments to incorporate standards as contained in

international human rights instruments in domestic legislation and to strengthen national structures, institutions and organs of society which play a role in promoting and safeguarding human rights. It recommends the strengthening of United Nations activities and programmes to meet requests for assistance by States which want to establish or strengthen their own national institutions for the promotion and protection of human rights.

X. Follow-up to the World Conference on Human Rights

The World Conference on Human Rights recommends that the General Assembly, the Commission on Human Rights and other organs and agencies of the United Nations system related to human rights consider ways and means for the full implementation, without delay, of the recommendations contained in the Declaration. It further recommends that the Commission on Human Rights annually reviews the progress towards this end. It also requests the Secretary-General of the United Nations to invite, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, all States, all organs and agencies of the United Nations system related to human rights, to report to him on the progress made in the implementation of the present Declaration and to submit a report to the General Assembly at its fifty-third session, through the Commission on Human Rights and the Economic and Social Council. Likewise, regional and national human rights institutions as well as non-governmental organizations, may present their views to the Secretary-General of the United Nations on the progress made in the implementation of the present Declaration. Special attention should be paid to assessing the progress towards the goal of universal ratification of international

human rights treaties and protocols adopted within the framework of the United Nations system.

Y. The High Commissioner for Human Rights

The World Conference on Human Rights recommended that the General Assembly of the United Nations "begins, as a matter of priority, consideration of the establishment of a High Commissioner for the promotion and protection of all human rights."

A special working group was established by the Third Committee of the General Assembly that followed the World Conference. After extensive debate and consultation it successfully reached consensus on the creation of such a post and its mandate. The proposal in its final form was adopted without the need for a vote by the General Assembly on 20 December 1993—less than six months after the World Conference (Resolution A/48/141, adopted by the UN General Assembly, 20 December, 1993). The Resolution not only creates the post of High Commissioner for Human Rights but also provides rules for appointment, functions, responsibilities and duties of the High Commissioner. The High Commissioner has started working at the beginning of this year.

It may be mentioned that the Vienna Conference was the second world conference organised by the United Nations Organisation. The first one was held in 1968 in Tehran. The basic difference between the first conference and the second conference lies in the fact that the second one was held after twenty-five years, in which more issues and matters were discussed and evaluated which were developed within the span of this twenty-five years. The second one, as it is revealed from the documentary evidence and personal experience, was more lively, more dynamic and more attractive than the first one. Another

difference is that the issues and matters contained in the Vienna Declaration and Programme of Action have already become issues and matters to be implemented by the governmental and non-governmental bodies for the benefit of the people at large and they have created a new movement for protection and promotion of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

8. SUMMARY AND CONCLUSION

From the above discussion and observation it is clearly evident that human rights and fundamental freedoms are given some sort of protection under international law or norms. The U.N. Charter was the first instrument which has internationalised human rights and fundamental freedoms by making references to these provisions in many Articles including the Preamble. Following the U. N. Charter, the International Bill of Rights was adopted which explained human rights and fundamental freedoms. Human rights of special types have been given protection under some instruments other than International Bill of Rights. Moreover, some Charter-based institutions were established in order to promote human rights and fundamental freedoms. The Specialized Agencies of the United Nations are entrusted with specialized types of human rights activities and they are performing their functions within the framework of the United Nations. The non-governmental human rights organisations are also playing a vital role in protecting, promoting and disseminating human rights and fundamental freedoms. In this way, theoretically an over-all system has been developed under international norms in

order to protect and promote human rights and fundamental freedoms.

But if the matter is thought from practical point of view it is sometimes found that the observance of human rights and fundamental freedoms is not duly regarded and respected. So violation of human rights has become apparent which in turn destroys peace and harmony of the world and as a consequence development activities are hampered and global imbalance has become evident. It is, therefore, suggested that human rights and fundamental freedoms, as embodied in the international instruments and as developed under international norms and practices, must be duly respected and observed, must be implemented without distinction as to race, sex, language or religion, must be applicable equally to all nations, large and small. Moreover, new mechanisms must be introduced with a view to enforcing human rights and fundamental freedoms in a way better than what is in existence. It is also suggested that new instruments relating to human rights must be adopted in order to give the legal coverage of the developments made due to advancement of science and technology. It is expected that all the peoples, poor and rich, would be brought under the same international norms by which they would enjoy their human rights and fundamental freedoms without hindrance from any authorities, from the government or from any dictator who claims to be above law but he must be under law. And in this way rule of law will be established throughout the world which will again give guarantee to human rights and fundamental freedoms.

Fortunately, in the Vienna Declaration of 1993, there is an echo of these aspirations which, if they are

fulfilled, will realise the dreams of peoples of the world who are devoid of their rights and freedoms.

NOTES AND REFERENCES

1. B. G. Ramcharan, *The Concept and Present States of the International Protection of Human Rights Forty Years after the Universal Declaration* (Dordrecht: Martinus Nijhoff Publishers, 1989) p. 9.
2. Paul Sieghart, *The International Law of Human Rights* (Oxford : Clarendon Press, 1984) p.8.
3. Thomas Buergenthal, *International Human Rights* (Minnesota: West Publishing Company, 1988) pp. 21-23.
4. Preamble to the Universal Declaration of Human Rights, 1948.
5. Article 1, *ibid.*
6. Article 2, *ibid.*
7. Schwelb, The International Convention on the Elimination of Racial Discrimination (1966) 15 *International and Comparative Law Quarterly* 996 at p. 1057.
8. *Advisory Opinion on Legal Consequences for States of the Continued Presence of South Africa in Namibia., (1971) I. C. J. Rep. 16 at. p.57*