## EIGHTH SEMESTER PAPER I HUMAN RIGHTS LAW AND PRACTICE

## Part VI

## Role of the United Nations in Promotion and Protection of Human Rights

The United Nations plays a pivotal role in maintaining international peace and security, enhancing economic, developmental and humanitarian cooperation, and promoting respect for human rights and fundamental freedoms.

The United Nations was founded as a reaction to the atrocities of the Second World War in which basic human rights and fundamental freedoms of people were massively violated. Promoting and encouraging respect for rights and freedoms for all without distinction is one of the main objectives embodied in the United Nations Charter. The Charter of the United Nations as a multilateral treaty, embodies the general principle of "cooperation in solving international problems of economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without any distinction" as one of the main goals of the organization (Art.1 Para 3). Even the preamble of the Charter contains a reaffirmation of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". However, the general provisions of the Charter had to be substantiated through various General Assembly Resolutions and by international treaties. The most important among these instruments is the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly on 10 December 1948. Its preamble states: "Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms..." Many resolutions and international treaties followed the Universal Declaration.

To implement the provisions of the U.N. Charter concerning human rights, the General Assembly of the United Nations decided to prepare an International Bill of Human Right. Gradually the International Bill of rights had been prepared. The International Bill of Human Rights is a collective term applied to these major international instrument ---- the Universal Declaration on Human Rights, 1948, the International Covenant on Civil and

Political Rights, 1666, the International Covenant on Economic, Social and Cultural Rights, 1966 and the Optional Protocols to these covenants.

The process of setting of international human rights standards and its codification is still developing and besides the UN member states, many international organizations, agencies, and for the last couple of decades the nongovernmental organizations also, are participating in promoting and protecting the human rights. The first important step towards the international protection of human rights and fundamental freedoms is a broad ratification of pertinent international treaties followed by member states through implementation of the obligations in domestic legislation. In 1993 International Conference on Human Rights took place in Vienna. On the basis of the Vienna Declaration and Programme of Action the General Assembly established the Office of the United Nations High Commissioner for Human Rights. It plays the leading role on human rights issues and emphasises the importance of human rights at the international and national level. Its activities cover the stimulation and coordination actions for human rights, promotion of universal ratification and implementation of international standards, assistance in the development of new norms, support of human rights organs and treaty monitoring bodies, as well as, responding to serious violations of human rights, undertaking preventive human rights action, promoting the establishment of national human rights infrastructures, undertaking human rights field activities and operations, providing education information advisory services and technical assistance in the field of human rights. The Office is headed by the High Commissioner for Human Rights with the rank of Under-Secretary-General. The High Commissioner advises the Secretary-General on the policies of the United Nations in the area of human rights; ensures that substantive and administrative support is provided for the projects, activities, organs and bodies of the human rights programme; represents the Secretary-General at meetings of human rights organs and at other human rights events. It is the main but not the only, pillar of the promotion and protection of human rights and fundamental freedoms within the United Nations.

The United Nations, General Assembly (according to the art. 10 and 13 of the Charter) and the Economic and Social Council (according to the art. 62 Para 1 and 2 of the Charter) could ask the member states of the United Nations for information or reports on the status of human rights and fundamental freedoms in their respective countries. As a result, the General Assembly as well as

the Economic and Social Council can make recommendations. To fulfill better its function, the Economic and Social Council established the Commission on Human Rights as its subsidiary body. It was the UN's principal mechanism and international forum concerned with the promotion and protection of human rights. (In 2006, the Commission on Human Rights has been replaced with the UN Human Rights Council).

Apart from its regular sessions, the Commission can also meet exceptionally, to consider urgent human rights situations, between its regular sessions in a special session, provided that a majority of the members of the Commission so decide. During its regular annual session, the Commission adopts about a hundred resolutions and additionally, some decisions on matters of relevance to rights of the individual. It is assisted in this work by the Sub-Commission on the Promotion and Protection of Human Rights, a number of working groups and a network of individual experts, representatives and rapporteurs mandated to report to it on specific issues. These special procedures and mechanisms of the Commission on Human Rights are mandated to examine, monitor and publicly report either on human rights situations in specific countries or territories (known as country mechanisms or mandates) or on major phenomena of human rights violations worldwide (known as thematic mechanisms or mandates). To promote the work under Special procedures and the Commission as such, for the last couple of years, some member states have introduced a standing-invitation to the Special Procedures of the Commission to visit the country and to monitor all aspect of human rights within their mandate.

Less political and more technical way of monitoring the promotion and protection of the human rights and fundamental freedoms, is through the establishment of specific committees referred to as the "treaty bodies system". Each of the following treaties are monitored by a specific committee: - The International Covenant on Civil and Political Rights, 1966, The International Covenant on Economic, Social and Cultural Rights, 1966, The International Convention on the Elimination of All Forms of Racial Discrimination, 1965, The Convention on the Elimination of all Forms of Discrimination against Women, 1979, The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 and The Convention on the Rights of the Child,1989. The state parties to these human rights instruments are required to submit periodic reports on compliance with their obligations arising from each of the treaties. Expert bodies are established to consider these reports and to make recommendations in order to

improve the promotion and protection of human rights. Most of the bodies are also competent to deal with individual complaints on violations of the treaties.

As an example the Human Rights Committee (HRC) is an independent expert body established to monitor compliance with the International Covenant on Civil and Political rights. It is located in the UN headquarters in Geneva. The Committee reports to the General Assembly of the United Nations through the Economic and Social Council, conducts its sessions, financed by the UN budget and receives all administrative services from the UN secretariat. The Committee serves three main functions. It receives periodic reports from the states parties to the Covenant on their compliance with the human rights standards set out in the Covenants and issues observations therein. It also makes "general comments" on the provisions of the Covenants. In addition, the Human Rights Committee may receive communications from individuals and/or states alleging violation of human rights by state parties to the Covenants that have accepted the competence of the Committee to review such petitions. The procedure for dealing with communications is essentially quasi judicial (although in inter-state cases, the Committee primarily provides its good offices in an attempt to find an amicable solution or facilitate conciliation). The Human Rights Committee admits evidence, receives submissions and makes its views available to the parties.

The United Nations also offers technical cooperation in the field of human rights. Sates may receive, at their request, technical assistance in the promotion, protection of human rights and creating of appropriate legislation. Technical cooperation projects are undertaken in specific countries and also at the regional and international levels. Such projects might include training courses for, members of the armed forces, police forces or legal profession. Advisory services for the incorporation of international human rights norms and standards into national legislation are also the part of the technical services.

The United Nations system of the promotion and protection of human rights and fundamental freedoms is complex in both senses – the form and the methods. There can be two different forms of protection, the direct and the indirect protection. The indirect protection includes the creation of an international environment that is conducive to the realization of human rights, as well as the elaboration of norms and standards; education, teaching, training, research and the dissemination of information and the provision of the advisory services in the field of human

rights. As an example of the direct action, the United Nations may provide protection by way of food, shelter, and medical care to a population in distress from armed conflict. All these direct and indirect actions are taken with the agreement of concerned member states and within the international law. In order to safeguard and defend basic human rights and fundamental freedoms, the United Nations seeks to use all available methods. These may be anticipatory, preventive, curative, mitigatory and or remedial.

