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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**HUMAN RIGHTS PERSPECTIVE IN UN CHARTER**- Nitesh Kumar<sup>1</sup>

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**INTRODUCTION**

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**"Injustice anywhere is a threat to justice everywhere"**

– Martin Luther King

The *United Nations Charter* sets forth the "inherent dignity" and the "equal and inalienable rights of all members of the human family." Upholding these human rights principles as "the foundation of freedom, justice, and peace in the world" is fundamental to every undertaking of the United Nations.<sup>2</sup>

The United Nations (UN) is the only intergovernmental entity with a broad mandate for fulfilling all human rights in all countries, making it the primary institutional framework for advancing human rights in the global society. The United Nations is both a geopolitical instrument and a symbol of hope to different people. To provide context for analysing the UN's strengths and flaws as a force for the implementation of human rights in the global community, we begin with some introductory reflections on the place and promise of human rights in and under the UN Charter<sup>1</sup>.

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**OBJECTIVE**

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<sup>2</sup><http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/united-nations.htm#:~:text=The%20United%20Nations%20Charter%20sets,undertaking%20of%20the%20United%20Nations.>

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The purpose of this paper is to examine the status and perspective of Human Rights in the history and formation of the UN Charter. More specifically, this research will look at the perspective of Human Rights and its extension in the states and under the UN Charter. The research will also discuss the benefits and implications of Human Rights in the UN Charter.

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### RESEARCH METHODOLOGY

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This is a comprehensive examination of reports, research, and articles from a wide range of media sources (Print, Broadcast, News portals). The research method relies on a content examination of previously published works. Media studies of a similar nature have arisen in many parts of the world, thus those findings are likewise relevant. To ensure fairness and consistency, I have chosen to publish exclusively in English-language media.

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### RESEARCH QUESTION

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**RQ1.** WHAT IS HUMAN RIGHT UNDER THE UN CHARTER?

**RQ2.** WHAT IS THE RELATION BETWEEN HUAMNA RIGHTS AND UN NATION?

**RQ3.** HOW DOES INTERNATIONAL LAW PROTECT HUMAN RIGHTS?

**RQ4.** WHAT IS THE INDIAN PERSPECTIVE IN THE INSTRUMEN OF HUMAN DEVELOPMENT?

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### WHAT ARE HUMAN RIGHTS?

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All people, regardless of their colour, gender, country of origin, ethnicity, language, religion, or any other distinguishing factor, are endowed with some basic rights known as human rights. The list of human rights is extensive, including the right to life and freedom, the right to be free from slavery and torture, the right to freedom of speech, and the right to labour and education. Without exception, these protections should be extended to everyone.

Among the most crucial aspects of human rights are the ones listed below.

- Human rights are founded on respect for the dignity and worth of each person;

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- Human rights are universal, meaning that they are applied equally and without discrimination to all people;
- Human rights are inalienable, in that no one can have his or her human rights taken away other than in specific situations - for example, the right to liberty can be restricted if a person is found guilty of a crime by a court of law;

It is not enough to respect some human rights and not others since human rights are indivisible, linked, and interdependent. To put it another way: when one right is violated, the respect for other rights is generally compromised as well.

As a result, all human rights should be treated equally, as they are all crucial to upholding everyone's inherent worth and dignity.

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## INTERNATIONAL HUMAN RIGHTS LAW

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As part of its mission to promote and defend individuals' and communities' human rights and basic freedoms, international human rights law imposes duties on governments to take specific measures or refrain from others.

A global and internationally protected code to which all nations can subscribe and to which all people can aspire is one of the great achievements of the United Nations. Civil, cultural, economic, political, and social rights are all examples of universally recognised norms whose definitions were established by the United Nations.

More than that, it has put in place procedures to ensure the upholding and defence of fundamental rights and to aid nations in meeting their obligations.

The UN Charter and the Universal Declaration of Human Rights, both enacted in 1945 and 1948 by the General Assembly, serve as the cornerstones of this corpus of law. Since then, the United Nations has been working to broaden the scope of human rights law to include protections for historically marginalised groups such as women, children, people with disabilities, and members of underrepresented ethnic and religious communities.

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## UNIVERSAL DECLARATION ON HUMAN RIGHTS

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The UDHR is a seminal document in the development of human rights. The United Nations General Assembly, meeting in Paris on 10 December 1948, declared the Declaration, which had been drafted by representatives from all over the world with varying legal and cultural backgrounds, as a universal benchmark for human progress. Essential human rights must be upheld on a global scale are spelled forth for the first time.

The Universal Declaration of Human Rights (UDHR) was adopted in 1948 and has since been translated into over 500 languages (making it the most translated document in the world) and used as a basis for the constitutions of numerous newly independent States and democracies. The UDHR is a part of the so-called International Bill of Human Rights, which also includes the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints system and on the death penalty).

➤ Economic, social and cultural rights:

In 1976, the United States ratified the International Covenant on Economic, Social, and Cultural Rights. The Covenant seeks to promote and protect the rights of all people, including the right to work under fair and favourable conditions, the right to social protection, to an adequate standard of living, and the highest attainable standards of physical and mental health, and the right to education and the enjoyment of the benefits of cultural freedom and scientific progress.

➤ Civil and political rights:

In 1976, the United Nations General Assembly ratified the International Covenant on Civil and Political Rights and the First Optional Protocol to it. The Second Optional Protocol was adopted in 1989.

Freedom of movement; equality before the law; right to a fair trial and presumption of innocence; freedom of thought, conscience, and religion; freedom of opinion and expression; peaceful assembly; freedom of association; participation in public affairs and elections; and protection of minority rights are all covered in the Covenant. It forbids the taking of a life without due process, torture, harsh or

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humiliating treatment or punishment, slavery, forced labour, illegal arrest or imprisonment, invasion of privacy, incitement to violence, discrimination, or racial or religious hatred.

➤ Human Rights Conventions:

Since 1945, the body of international human rights legislation has grown thanks to the adoption of a number of treaties and other instruments relating to the protection of fundamental freedoms and fundamental human rights.

There are a number of such treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide (1948), 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 on the Rights of the Child (1989), and the Convention on the Rights of Persons with Disabilities (2006).

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### HUMAN RIGHTS COUNCIL

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The UN Commission on Human Rights was the primary UN intergovernmental organisation responsible for human rights for 60 years before it was replaced by the Human Rights Council on 15 March 2006 by the General Assembly and reported directly to it. The 47-member Council is responsible for handling situations of human rights breaches and making recommendations on them. This includes providing assistance in the event of an emergency involving a violation of human rights.

Probably the most novel aspect of the Human Rights Council is the Universal Periodic Review. Every four years, this one-of-a-kind system examines the human rights records of all 193 member states of the United Nations. Under the auspices of the Council, the Review is a cooperative, state-driven process wherein participating states present steps taken and difficulties to be overcome in order to improve the human rights situation inside their respective countries and fulfil their international duties. The purpose of the Review is to guarantee that all countries are given the same consideration.

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## UN HIGH COMMISSIONER FOR HUMAN RIGHTS

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When it comes to human rights in the United Nations, the High Commissioner for Human Rights is the one in charge. The High Commissioner's duties include taking action to prevent human rights abuses and responding to significant violations that have already occurred.

The United Nations' human rights efforts are coordinated by the Office of the High Commissioner for Human Rights (OHCHR). The UN Human Rights Office is responsible for providing secretarial support to the UN Human Rights Council, the treaty bodies (expert committees that monitor treaty compliance), and other UN human rights organs. Human rights field work is another area of focus.

Most major human rights treaties have an oversight committee to monitor the adherence of signatory nations to the treaty's terms. People who believe their rights have been violated can go straight to the Committees in charge of monitoring human rights treaties to have their concerns addressed.

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## HUMAN RIGHTS AND THE UN SYSTEM

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Human rights are an underlying concern in all UN activities, from peacekeeping to development to humanitarian aid to economic and social issues. Therefore, the protection of human rights is an issue addressed by practically every UN organ and specialised organisation. The right to development, which is central to the Sustainable Development Goals; the right to food, which is promoted by the UN Food and Agriculture Organization; labour rights, which are defined and protected by the International Labour Organization; gender equality, which is propagated by UN Women; the rights of children, indigenous peoples, and disabled persons; and so on.

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## PROMOTING AND PROTECTING HUMAN RIGHTS THROUGH THE UNITED NATIONS

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Political readiness to restrict the scope of Charter Article 2(7) (local jurisdiction) and enlarge that of Article 56 has opened the door for United Nations intervention on a wide variety of human rights concerns over the last thirty years (cooperation with the UN to achieve human rights). Investigations of abuse, resolutions explicitly denouncing countries by name adopted by the UN General Assembly and the Human Rights Council, the dispatching of special envoys and

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rapporteurs, the receipt of complaints from individuals, the addressing of urgent appeals to governments, and the conducting of inquiries are all examples of UN actions that would have been considered "intervention" by most states a few decades ago. Three forms of prevention (education and information, standard-setting and interpretation, and institution building within Member States) and five forms of response to human rights situations and protection are all part of the UN's toolkit for fulfilling its Charter mandate to promote and protect human rights (monitoring through reporting and factfinding, adjudication, political supervision, humanitarian action, and coercive action). Together, these strategies for advancing and safeguarding human rights define what the United Nations may do to put the ideals enshrined in the Universal Declaration of Human Rights into practise.

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### HOW DOES INTERNATIONAL LAW PROTECTS HUMAN RIGHTS?

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Human rights law on a global scale establishes norms that all nations must abide by. If a country signs a treaty, it is legally obligated to uphold the rights of its citizens and to prevent any violations of those rights. According to the principle of respect, states must not restrict citizens' ability to exercise their human rights. The commitment to protect mandates that states safeguard citizens from harm. States have a responsibility to ensure their citizens' ability to exercise fundamental human rights by taking measures to make this possible.

When a country ratifies a treaty protecting human rights, it commits to enacting domestic policies and laws that are in line with the commitments it makes in the treaty. Therefore, the primary legal protection of human rights promised under international law is provided by the domestic legal system. Where domestic legal proceedings are ineffective in addressing human rights abuses, regional and international mechanisms and procedures for individual and group complaints are available to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.

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### CONCLUSION

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This essay just scratches the surface of the intricate network of United Nations organisations and bodies and their enormous potential to contribute, via multilateral diplomacy and action, to the

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full fulfilment of human rights. State sovereignty should be seen as less of a permanent barrier to UN action in pursuit of the Charter objective of universal respect for human rights. Limits based on Article 2(7), which have been in place in the past, are becoming less common. Since then, the United Nations has had more room to manoeuvre. By calling attention to governments' failures to meet human rights duties and strengthening their capacity to respond to individual complaints, treaty organisations have shown remarkable energy. Holders of mandates in special procedures have become more self-sufficient and knowledgeable. Extensive documentation of topic and country concerns, with targeted suggestions to governments and political entities, has been supplied (specifically, the Human Rights Council and the General Assembly). Across the Middle East, the transition to democracy in communist-party regimes and in current and previous dictatorships has unlocked the potential for civil society to participate in transformative processes of governance. When it comes to human rights, the UN has been quite helpful in terms of both moral support and technical aid through the Office of the High Commissioner for Human Rights (OHCHR). Conversely, while, considerable

Continued violations are seen during internal armed conflicts, especially those fueled by xenophobic nationalism and religious fanaticism. The United Nations backs the International Criminal Court.

To use the International Criminal Court (ICC) and other prosecutorial procedures to bring criminal charges against the offenders and their commanders. Integrating the human rights dimension into comprehensive peace agreements, with the cooperation of OHCHR, has proven useful in preventive diplomacy, peacemaking, and peacekeeping.

These are only some of the many obstacles that the UN's human rights programme must overcome. Human rights have been promoted and protected in ways that increasingly redefine the pledge of member states "to take joint and separate action in co-operation with the Organization for the achievement of... universal respect," despite criticisms that the United Nations is too slow and unresponsive to urgent human rights problems or that it is limited by the competing interests of the states that provide political supervision.

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