



HISTORICAL DEVELOPMENT OF HUMAN RIGHTS

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ABSTRACT

Human rights, rights that belong to an individual or group of individuals simply for being human, or as a consequence of inherent human vulnerability, or because they are requisite to the possibility of a just society. Whatever their theoretical justification, human rights refer to a wide continuum of values or capabilities thought to enhance human agency or protect human interests and declared to be universal in character, in some sense equally claimed for all human beings, present and future. It is a common observation that human beings everywhere require the realization of diverse values or capabilities to ensure their individual and collective well-being. It also is a common observation that this requirement—whether conceived or expressed as a moral or a legal demand—is often painfully frustrated by social as well as natural forces, resulting in exploitation, oppression, persecution, and other forms of deprivation. Deeply rooted in these twin observations are the beginnings of what today are called “human rights” and the national and international legal processes associated with them.

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INTRODUCTION

The term 'Human Rights' is comparatively recent in origin, but the idea of human rights is as old as the history of human civilization. It has formally and universally, become recognized only after the formation of the United Nations in 1945. The term "Human Rights" denotes all those rights which are inherent in our nature and without which we cannot live as human beings. These are essential for individuals to develop their personality, their human qualities, their intelligence, talent and conscience and to enable them to satisfy their spiritual and other higher needs. Human Rights concept is a dynamic one which will find expanded expression and constantly cover new areas as human society continues to evolve to higher levels of development.

The New Lexicon Webster's Dictionary of the English language describes the 'Human Rights' expression as 'the right to the fulfillment of such vital needs as food, shelter, health care and education and the, right to enjoy civil and political liberties'. But the concept of Human Rights in its expanding comprehension, has now travelled to encompass what are called "third generation" rights which include to self-determination, the right regarded as belonging to people rather than individuals, right to sovereignty over natural wealth and resources of the country and, right to development as well as rights of disadvantaged groups to special protection.

The Lexicon Universal Encyclopedia describes the "Human Rights" expression as Human Rights are basic political and social conditions variously defined to which every individual is entitled as a human being. Originally they were called natural rights or the rights of man, and included the rights to life, liberty and the pursuit of happiness cited in the U.S. Declaration of Independence over the years. Human Rights have to be interpreted with some degree of relativity to ensure fairness to all and to the interest of society as a whole.

The U.S. Department of State in Jan. 1978 has released an official U.S. Government definition of Human Rights as freedom from arbitrary arrest and imprisonment, torture, unfair trial, cruel and universal punishment, and invasion of privacy, rights to food, shelter, health care and education, and freedom of thought, speech, assembly, religion, press, movement and participation in government.

The Protection of Human Rights Act, 1993 came into existence on 28th September, 1993 defined 'Human Rights' to mean the rights relating to life, liberty, equality, and dignity of the Individual guaranteed by the Constitution or embodied in the International covenants and enforceable by courts in India Establishment of Human Rights culture demands elimination of all kinds of exploitation, not only at the hands of the state, but also by members of civil society. The foundational norm governing the concept of human rights is that of respect for human personality and its worth, regardless of colour, race, sex, religion or other considerations. These rights are essential for the adequate development of the human personality and for human happiness.

After these preliminary consideration we may pass to the meaning of human rights. Human Rights, as we have seen comprise rights of individual or groups in a society in all spheres of life since inception upto the last i.e. from birth to death. Those rights that every individual must have by virtue of his being member of human family irrespective of any other consideration. These rights allow us to fully develop and use our human quality, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection.

The new phrase ' Human Rights' was adopted only in the present century from the expressions previously known as 'Naturals Rights or Rights of Men'. Introducing the concept of Human Rights it can be said that Human Rights is a twentieth century name for what has been traditionally known as natural rights or, in a more exhilarating phrase, the rights of men. The Greek thinkers developed the idea of 'natural law or natural right'. They said man possesses "insight" and this insight reveals to him the goodness and badness of things and makes him to know the absolute and eternal values. Greek citizens enjoyed such rights as isonomic a (equality before law), isotonic (equal respect for all) and isogoria (equal freedom of speech). These rights find place prominently in the modern human rights jurisprudent. According to Greek Philosophy, the laws of nature are unwritten. Human beings are born with human rights, which are inalienable.

In the middle age, great philosopher Thomas Aquinas reaffirmed that the "natural law" is higher than positive laws and it should be obeyed by all. According to him, any order or authority which contravened the natural law, could be disobeyed, for "unjust law have no moral validity".

The great scholars like Hobbes and John Locke of England provided the necessary wings to the movement of freedom and liberty. They were supporter and believer of individual freedom and equality of men. John Locke discussed that certain rights are apparently available to a person as a human being only, because they existed in the state of nature before humankind entered civil society and the main rights of those were the right to life, liberty and property.

The social contract Theory: which was propounded by Rousseau, which survived the conception of human rights. He gave the slogan of 'Liberty, Equality and Fraternity'.

The theory of natural rights entered into the realm of constitutional realism with revolutionary document, i.e., American Declaration of Independence. The fathers of American Constitution like John Adams, Jefferson etc. were convinced that there existed natural rights. These rights could be restrained or repeated by human laws and it was the function of the courts to defend human rights as recognized and sanctioned by the constitution, against any violation by the state. The declaration declared, "We hold these truths to be self-evident; that all men are created equal that they are endowed by their creator with certain inalienable rights; that among there are life, liberty and the pursuit of happiness."



Inspired by the American Declaration of Independence, the French National Assembly in 1789 formulated the Declaration of the Rights of Man. The remarkable thing that occurs with adoption of this declaration is that the inviolable, natural law human rights are set forth in a state document and thus in so far as that goes, incorporated in national positive law. The French Declaration of the Rights of Man and of the citizens issued by the Constituent Assembly asserted that 'men are born and remain freed and equal in rights, social distinctions can be based only upon public utility.'

The twentieth century was witnessed two world wars in 1914 and 1939 and Universal Declaration of Human Rights was adopted by the General Assembly on 10 December, 1948.

Different religions also talk about human rights. In old Hindu Scriptures, the individual existed as a citizen of the state and he has both rights and obligations. These rights and duties were expressed in the terms of duties (Dharma) duties to oneself, to one's family, to other fellowmen, to the society and the world. The concept of Dharma which was always governed the Indian society is much more comprehensive than the modern concept of human rights. 'One of the chapters in the Gita is dedicated to Karmayoga, i.e. the Yoga of works, which "expounds the necessity for the performance of work (duty : that which ought to be done) without any selfish attachment to results, with a view to securing the welfare of the world, with the realization that agency belongs to the modes of prakrti (nature) or to God himself."

In Buddhism there are two major sectors i.e. Hinayana and Mahayana. 'Hinayana or the lesser Vehicle confined its idea of salvation to a selected few, but Mahayana or the Greater Vehicle extended salvation to a much larger number of people.' Hinayana's Art believes in personal salvation but Mahayana Bodhisattva wants salvation for all. So Hinayana is individualistic and Mahayana is Universal.

The eightfold path of Buddhism is the path of morality, meditation and wisdom. These also indicate human rights and it may be elaborated as under:

1. Right thought with pure mind, devoid of lust, ill will and cruelty;
2. Right understanding of the impermanence of life;
3. Right speech avoiding falsehood, calumny, hard words and gossip;
4. Right action not to commit murder, the sexual misbehavior, avoid false speech and intoxicants and to practice charity, purity, generosity, honesty, truthfulness and self-discipline;
5. Right vocation, not to harm or injure others.
6. Right effort, preventing vices and imbibing virtues;
7. Right mindfulness with awareness of the correct functions of body and mind; and
8. Right concentration for the disciplined meditation.

The Buddhist period reveals that people were equal in all fields of their life. Man has been the central problem of Buddhist Philosophy that gives a sense of purpose leading to a greater understanding of the concept of progress in human evolution. Every person is enjoined upon to treat others just as he or she has a love and attachment for himself or herself.

The word Jainism is derived from 'Jina' which means 'Conqueror' one who has conquered his passions and desires. It is applied to the liberated souls who have conquered passions and desires and karmas and obtained emancipation. Karma is the link which united the soul to the body. Right faith (Samyak Darshana, right knowledge (Jnana) and right conduct (Charita) are the three Jewels (Tri-ratna) of Jainism and all these three forms are the path of liberation. Jainism talks about five vows (Vrata) to indicate its general character. They are in case of the ascetic

1. not to injure any living being (ahimsa),
2. not to utter falsehood (satya),
3. not to steal (asteya)
4. to lead celibate life (brahmacharya) and
5. to renounce the world (aparigraha).

Buddhism and Jainism both strongly believed in Ahimsa Parmo Dharma i.e., non-injury to all living beings, therefore, they did not wage wars. The historical responses came from Buddhism and Jainism both which emphasized on the principles of equality, non-violence and denial of materialistic pleasures.

Islam believes in five pillars. The five pillars of Islam are: 1. Belief in one God; 2. Belief in the angels; 3. Belief in the prophets; 4. Belief in the day of judgement and 5. Belief in Quran (the timeless knowledge of God). The law also orders men to perform good works and rejects those which are reprehensible. The Muslims are enjoined to adopt right behaviour and desist from taking wrong action. The Quran also identifies the desirable qualities in male and female and assigns them the same responsibilities. The Quran also states that both men and women can enter Paradise, the work of both sexes will be rewarded, and both men and women will be rewarded according to their deeds.

According to Christianity, human being is the crown creation of God. He has been given absolute freedom, but constantly abuses it. Christ is the Saviour and makes atonement for the sins of people. He elevates humanity and mitigates the ignorance of the people. According to the scriptures, man is created in the image of God. Man is first of all a creation of



God and is dependent on God in both being and action. He is creature composed of body and soul and has been made in the image and likeness of God. In order to bring fulfillment, the image of God in himself, the man must realize his destiny and achieve happiness. The moral duty of man is to respond to the good in the law of God, which ultimately brings happiness.

Human Rights study is primarily based on the Adi Granth; the scripture of the Sikhs-which is an embodiment of monotheism, universalism, humanism, tolerance, freedom and equality. The social values which have been enshrined and practiced by Guru Nanak are man centered and provide infrastructure for the maintenance and growth of man from a natural-being to a spiritual-being. Similarly, the discrimination on the basis of caste and its vehemently creed discarded. Sikhism regards all religions as various paths of union with God. Guru Angad, second in the line of Sikhism was deeply concerned with the contemporary socio-political milieu and developed a path of justice, equality, security and individual rights. Guru Amardas, the third Guru of the Sikhs, protested against pilgrimage tax (jazia) on his visit to Haridwar. The Guru branded it as a jabar (atrocious) and did not pay the tax; subsequently, the tax was exempted by the state officials. The economic exploitation has been condemned by Guru Arjan Dev, the fifth Guru of the Sikhs. He had to sacrifice his life for the struggle of the precious human right of freedom of worship and hospitality to all visitors, which was not liked by the then Mughal emperor Jahangir and he was put to death under the orders of Jahangir in 1605.

On 10 December 1948, the General Assembly of the United Nations approved and proclaimed the Universal Declaration of Human Rights. This Declaration of 1948 is the only International official document where the human rights, of which the Charter of the United Nations speaks, are set forth. It is a milestone in the history of the human rights movement. The Universal Declaration of human rights consists of a preamble and 30 articles setting forth the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled without any discrimination.'

No doubt, the adoption and proclamation of Universal Declaration of human rights by the General Assembly of the United Nations was good achievements in the field of human rights development. Out of the 30 articles in the Universal Declaration of human rights, there are some articles, i.e., 3, 5, 9, 12 which speak about the direct involvement of executive not only in the protection of human rights but also in their violations. They relate to the rights to life, liberty, security of person, freedom from torture, from cruel, inhuman or degrading treatment, freedom from arbitrary arrest, detention, etc.

Even every article of the Universal Declaration is reflected in the Indian Constitution, which was adopted by India's Constituent Assembly on 26 November, 1949. The Fundamental Rights and the Directive Principles of State Policy covered almost the entire field of Universal Declaration of Human Rights. The first set of rights enunciated in Articles 2 to 21 of the Declaration are incorporated under the Fundamental Rights Article 12 to 35 of the Constitution and the second set of rights enunciated in Articles 22 to 28 of the Declaration are incorporated under Directive Principles - Article 36 to 51 of the Constitution. This led to the realization that human rights have a significant role to play in the national context.' The Indian Constitutional format in respect of human rights was remarkable as a significant and unique attempt at conflict resolution for the delicate balance it sought to achieve between political and civil rights on the one hand and social and economic rights on the other or between the individual rights and social needs.

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