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Human Rights Concept Through The Ages

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INTRODUCTION

The term "Human Rights" is comparatively of recent origin. But the idea of human rights is as old as the history of human civilization. Human rights are deeply rooted in the historical past. The history of mankind has been firmly associated with the struggle of individuals against injustice.[1]

Democracy, which entered the vocabulary of the English language in the sixteenth century, had is birth way back in Athens some 2500 years ago. Official respect for freedom was sanctified (in the Western heritage) by the 1688 English Bill of Rights. It is interesting to note that prior to the use of the term human rights such rights were typically called the Rights of Man or Natural Rights. Thomas Paine, who coined the expression "human rights" in his English translation of the French Declaration of the Rights of Man and the Citizen (1789), wrote his classic book on human rights in 1792 titled *The Rights of Man* in the same year, for the first time in recorded history.

The Virginian Declaration of Rights of 1776 other similar Constitutional enactments in the same year, the Constitution of New York and of New Georgia of 1777 and that of Massachusetts of 1780, the Declaration of Independence of 1776; the Bill of Rights in the form of the first ten amendments to the Constitution of America and the Declaration of the Rights of Man and of the Citizen adopted in 1789 by the French National Assembly and prefixed to the Constitution of 1793 and 1795 expressly acknowledged the inherent rights of man . It is a general belief that the concept of human rights is Western and that the origin of the concept of human rights in world history found its first expression in the "Magna Carta' of 1215 followed by the Petition of Rights of 1628, the Bill of Rights of 1688, the American Bill of Rights of 1791 and the French Declaration of the Rights of Man of 1789.

Mary Wollstonecraft argued for equal rights for women in her equally classic book *A Vindication of the Rights of Woman*. Eleanor Roosevelt suggested the change of name from "Rights of Man" to "Human Rights" in 1947. This term has since been universally accepted, beginning with the Universal Declaration of Human Rights which the General Assembly had passed on 10th December 1948.[2]

In this context, the following six UN human rights treaties have a central role to play: the International Convention on the Elimination of All Forms of Racial Discrimination (1965) (CERD); the International Covenant on Economic, Social and Cultural Rights (1966) (CESCR); the

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International Covenant on Civil and Political Rights (1966) (CCPR), together with the First Optional Protocol (OPI) to this Covenant; the Convention on the Elimination of All Forms of Discrimination Against Women (1979) (CEDAW); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (CAT); and the Convention on the Rights of the Child (1989) (CRC).[3]

'Human rights has become today one of the central challenges of civilization' stated by the United Nations General Secretary Boutros Boutros Ghali on the eve of the World Conference on Human Rights held on 29th March 1993.[4] The topic of human rights is a universal concern. It cuts across major ideological, political and cultural boundaries. The idea of human rights is getting momentum day by day and year by year.

The history of human rights is as old as the birth of human civilization itself.[5] So the art of human rights is a product of human civilization. From the period of man's experiment to live together in groups and struggle against natural forces for his very survival he has adopted certain social norms and individual restrictions which form the basis of the history of human rights. Throughout history powerful individuals dominated the society. But at the same time the society always felt that the need to protect the life and belongings of individuals as a responsibility of the leader who wielded power. Thus the rulers themselves had to follow certain political norms to maintain social order. The present day human rights are the historical outcome of a sustained struggle of man and societies lasting for about two thousand years. International conventions both global and regional state it, at length and in relation to a large number of rights. All Human beings are the central subject of Human rights and Fundamental freedoms. In simple terms, whatever adds to the dignified and free existence of a human being should be regarded as Human rights.[6] The concept of human rights, embodying the minimum rights of an individual versus his own state, is as old as political philosophy.

Human rights is a concept that has been constantly evolving throughout Human history. They have been intricately tied to the laws, customs and religions throughout the ages. One of the first example of a codification of laws that contain references to individual right is the tablet of Hammurabi.[7] The Sumerian king Hammurabi created the tablet about 4000 years ago. While considered barbaric by today's Standards the system of 282 laws created a precedent for a legal system.

Moreover, the concept of a human right has certain central elements that any plausible understanding of human rights must incorporate. First, human rights express ultimate moral concerns: Persons have a moral duty to respect human rights, a duty that does not derive from a more general moral duty to comply with national or international legal instruments. (In fact, the opposite may hold: Conformity with human rights is a moral requirement on any legal order, whose capacity to create moral obligations depends in part on such conformity). Second, human rights express weighty moral concerns, which normally override other normative considerations. Third, these moral concerns are focused on human beings, as all of them and they alone have human rights and the special moral status associated therewith. Fourth, with respect to these moral concerns, all human beings have equal status: They have exactly the same human rights, and the moral significance of these rights and their fulfillment does not vary with whose human rights are at stake. Fifth, human rights express moral concerns that are unrestricted, *i.e.*, they ought to be respected by all human agents irrespective of their particular epoch, culture, religion, moral tradition or philosophy. Sixth, these moral concerns are broadly shamble, *i.e.*, capable of being understood and appreciated by persons from different epochs and cultures as well as by adherents of a variety of different religions, moral

traditions and philosophies.[8]

Justice P.N. Bhagwati, referring to the laws promulgated in the reigns of Uru ka gina of Lagash (3260 B.C.), Sargon of Akkad (2300 B.C.) and Hammurabi of Babylon (1750 B.C.), has pointed out that the roots for the protection of the rights of man may be traced as far back as in the Babylonian laws, Assyrian laws, Hittiti laws and in the Dharma of the vedic period in India.[9]

There are evidences to show that freedom of speech (*isogoria*), equality before law (*isonomia*), right to vote, right to be elected to public office, right to trade and right of access to Justice were protected in the Greek city states.[10]

Romans also enjoyed these rights under the jus civile of the roman law. It was in ancient Greece where the Concept of human rights began to take a greater meaning than the prevention of arbitrary persecution. Human rights became synonymous with natural rights, rights that spring from natural Law. According to the Greek tradition of Socrates and Plato, natural law is law that reflects the natural order of the universe, essentially the will of the gods who control nature.[11]

This idea of natural rights continued in ancient Rome, Where the Roman jurist Ulpian believed that natural rights belonged to every person, whether they were a Roman citizen or not. There were great law makers the Roman, Justinian, for one who published his great codex of various laws in the early 6th century- who tried to establish a cohesive schemes of rights and duties. The codification of Roman law was completed under Justinian.[12]

The great religions of the world Judaism, Hinduism, Christianity, Buddhism, Taoism, Islam and others have all sought to establish comprehensive, coherent Moral codes of conduct based on divine law.[13] All contain profound ideas on the dignity of the human being, and are concerned with the duties and obligations of man to his fellow human beings, to nature and indeed to God and the whole of Creation.

Once the concept of higher law binding on human authorities was evolved, it came to be asserted that there were certain rights anterior to society, which too were superior to rights created by the human authorities, were of universal application to men of all ages and in all climes and were supposed to have existed even before the birth of political society. These rights could not therefore, be violated by the state.

Blackstone in his "Commentaries on the laws of England" has pointed out that the right to personal security, right to personal liberty and the right to private property is 'founded on nature and reason'.[14]

The Magna Carta granted by king John of England on June 15, 1215 ensured feudal rights and dues and came as an assurance to the people of England that the King would not encroach upon their privileges. The Magna Carta made it clear that people had certain rights, which the king is bound to recognize and if he fails to do so, be compelled to observe by force.[15]

The protection of the people's rights, especially the right to political participation, and freedom of religious belief and observance, against an oppressive government was the catch cry of the English revolution of 1640 (which led to rebel leader Oliver Cromwell heading the government and the King being executed) It was also the catch cry for the rebellion against the civil administration– the 'Glorious Revolution'- of 1688, which saw another King on the throne, but also led to the English 'Bill of Rights' in 1689.[16]

The Bill of Rights dealt with the fundamental concerns of the time. It made the King subject to the rule of law, like any citizen, instead of claiming to be the law's (divine) source.[17] It required the King to respect the power of parliament- elected by the people, with the power to control the state's money and property. It protected some basic rights to justice – excessive bail or fines, cruel

and unusual punishments and unfair trails: it guaranteed juries, impartial courts and independent judges. It repeated some of royal promises made by King John, under duress, in the *Magna Carta*.

Rousseau who gave a Kinetic impetus to the doctrine by emphasizing that from the people was to guarantee the natural rights of man, of freedom of equality. These were "natural" rights in as much as they inhered in man in the 'state of nature': "Man is born free and everywhere he is in chains".[18]

Towards the end of the 18th century, according to the philosopher John Locke, it was argued that it was part of God's natural law that no one should harm anybody else in their life, health, liberty or possessions. These rights could never be given up. The existence of this natural law also established the right to do whatever was necessary to protect such rights.[19]

This view limited the role of government. No one could be subjected to another's rule unless they consented. A government's responsibility became the duty to protect natural rights. This limited what it could legitimately do and gave its citizens the right to defy and overthrow a government that overstepped its 'legitimate' authority.

This thinking underlay the American Colonies 'Declaration of independence' in 1776. This not only asserted that governments were established by the consent of the people to protect rights, but unforgettably expressed these rights in the terms that: "all men are created equal, that they are endowed by their creator with certain inalienable rights that among these are Life, Liberty and the pursuit of Happiness".[20]

Governments that did not carry out their protective role could be overthrown. In 1789, as a result of the French Revolution, the Declaration of Rights of Man and of citizens asserted the primacy of natural rights in similarly inspirational terms to the US Declaration of Independence.[21]

The declaration of the French Revolution, which may be regarded as a concrete political statement on Human rights and which was inspired by the Lockeian Philosophy declared: "The aim of all political association is the conservation of the natural and inalienable rights of Man". The French revolution ushered an era of liberalism and humanitarianism. Different human rights ideologies developed in various parts of the world. National governments felt the urgent need to enact legislations for securing social and economic security for the common man.[22]

The Vienna treaty of 1815 had abolished slave trade. The Geneva Convention of 1864 laid down rules for the protection of the wounded and the sick during wars. Founding of the Red Cross society was a remarkable event as it did humanitarian services for the war victims all over the world. The First World War spread democratic values in many countries.[23]

The important fundamental philosophy of human rights arose from the idea of positive law. Thomas Hobbes (1588-1679) saw natural law as being very vague and hollow and too open to vast differences of interpretation. Therefore under positive law, instead of human rights being absolute, they can be given, taken away, and modified by a society to suit its needs.[24]

Jeremy Bentham, another legal positivist sums up the essence of the positivist View: "Right is child of law; from real laws come real rights, but from imaginary law, from 'Laws of nature', come imaginary rights… Natural rights are simple nonsense".[25]

Karl Marx was primarily concerned with the protection and welfare of have-nots who were generally oppressed and exploited by the capitalists and land lords. He believed that economic security and equality are the corner stone of individual rights. Individual liberties are of no use without economic equality and social security. This marks a clear shift from liberty to equality.[26]

The League of Nations established in 1920 did a lot of humanitarian services.[27] The Russian revolution of 1917 and establishment of the proletarian governments gave a new dimension to the

concept of human rights. Social and Economic rights were placed on the same status of civil and political rights. The international labour organization in 1919 had resolved to work relentlessly for the promotion of social justice and respect for the dignity of workers. The rise of dictatorships in Europe during the inter war period and the harassment of minorities by Adolf Hitler's regime generated international concern for the rights of Minorities.[28]

The Second World War was a turning point in the history of human rights movement. The leaders of the Allied powers while formulating post war objectives stresses the need for safe guarding fundamental human freedoms. Though the concept of human rights is as old as the ancient doctrine of 'natural rights' founded on natural law, the expression 'human rights' is of recent origin, emerging from (post second world war) international charters and conventions.[29]

The first use of the expression 'Human Rights' is to be found in the Charter of the United Nations, which was adopted at San Francisco on June 25, 1945.[30] The United Nations Charter insisted on the need to promote international co-operations for the implementation of human rights. The Economic and Social Council was empowered in Article 62 to "make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedoms for all". Article 68 has provided for the setting up of the commission on human rights.[31]

Today, of course, the definition of "human rights" has been extended far beyond the limits which the Roman jurists and their heirs intended for "natural rights." The shift from "natural" to "human" reflects a modern unease with the conception of an essentialised "nature" and, in particular since the death of the natural-law tradition in Kant, with the idea of the existence of guiding natural principles.[32]

But the human rights movement, which has had such a powerful impact on international law and relations in the post-World War II period, has in recent years turned its attention to extradition. Treaties, executive acts and judicial decisions on extradition have all been affected. At the same time, transnational and international crime has increased. The international community has responded by creating new institutions and expanding the network of bilateral and multilateral treaties designed to outlaw transnational crime, promote extradition, and authorize mutual assistance.[33]

As in domestic society, it is necessary to strike a balance between the two so as to establish a system in which crime is suppressed and human rights are respected. This was stressed by the European Court of Human Rights in the leading case on extradition and human rights, Soering v. United Kingdom, when it stated:

Inherent in the whole of the [European] Convention [on Human Rights] is a search for a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. As movement about the world becomes easier and crime takes on a larger international dimension, it is increasingly in the interests of all nations that suspected offenders who flee abroad should be brought to justice. Conversely, the establishment of safe havens for fugitives would not only result in danger for the State obliged to harbour the protected person but also tend to undermine the foundations of extradition. These considerations must also be included among the factors to be taken into account in the interpretation and application of the notions of inhuman and degrading treatment or punishment in extradition cases.[34]

Accordingly the Economic and Social Council of the United Nations has established the Human Rights Commission in 1946. Mrs. Eleanor Roosevelt was appointed as its chairperson. The commission was required to make studies and submit its recommendations to the Economic and Social Council on the following subjects:

– International Bill of Rights

– International Declarations or Conventions on civil liberties, the status of women, freedom of information and similar matters

– The protection of Minorities, and

– The prevention of discrimination on the ground of race, sex, language or religion.

The commission had completed its work in one year. It had utilized the services of experts in the field and adhoc working groups of nongovernmental organizations. The proposals of many member countries were also taken in to consideration while drafting this declaration. The Commission has decided that the International Bill of Human Rights should consist of three parts, *i.e.*, a Declaration, covenants and measures of implementation. The draft declaration was forward to the General Assembly through the Economic and Social Council. The Universal Declaration of Human Rights was adopted and proclaimed by the General Assembly of the United Nations on 10th December 1948.[35]

The universal declaration of Human Rights has been hailed "as an historic event of the profound significance and as one of the greatest achievements of the United Nations".[36] Mrs. Eleanor Roosevelt rightly observed that the Universal Declaration of Human Rights "might well become the international Magna Carta of all mankind". The Universal declaration of Human Rights consists of a preamble and 30 articles. The first twenty one articles deal with civil and political rights, the next six articles deal with economic, social and cultural rights and the rest are general in nature.[37]

The Universal Declaration of Human rights is neither a treaty nor a legal document and hence it is not binding on member countries. It simply emphasizes a common standard of achievement for all peoples and all nations. However it must be admitted that this declaration has a profound impact on the law makers of member countries and also courts of various countries have taken this into consideration while dealing with cases relating to human rights of citizens. The preamble of the Universal Declaration of Human Rights declares: "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, Justice and peace in the world".[38]

This preceded a range of international conventions, Covenants, Declarations and other treaties that have followed the tradition. Most came from the United Nation. Many nations have incorporated rights into their national constitutions acknowledging that the rights exist, not that they are created by their laws. Respect for human rights is becoming a Universal principle of good governance.[39] In 1966 the UN General Assembly adopted two covenants for the observation of human rights: i) International Covenant on Civil and Political Rights (ICCPR), ii) International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICCPR has a preamble and 53 Articles. These are divided into six parts. The ICESCR consists of 31 articles divided in to five parts. Various rights and freedoms are mentioned in them. The covenants define in more detail most of the rights set out in the Universal Declaration of Human Rights and deal with some additional rights. The two covenants came into force in December, 1976.

The right to health, a decent existence, work, and occupational safety and health; the right to an adequate standard of living, freedom from hunger, an adequate and wholesome diet, and decent housing; the right to education, culture, equality and nondiscrimination, dignity, and harmonious development of the personality; the right to security of person and of the family; the right to peace; and the right to development are all rights established by existing United Nations covenants.[40]

Progress of Human Rights at the United Nations :

The Universal Declaration was followed by the proclamation of several international conventions

and declarations. The rights and freedoms enshrined in the Universal Declaration on Human Rights have been incorporated in various declarations and conventions adopted by the United Nations, such as,

1948 Dec 10 - The Universal Declaration of Human Rights (UDHR).

1948 - Convention on the Prevention and Punishment of the Crime of Genocide.

1951 - Convention relating to the Status of Refugees.

1952 - Convention on the Political Rights of Women

1956 - Convention on the abolition of Slavery, Slave Trade and institutions and practices similar to Slavery

1957 - Convention on the abolition of Forced Labour.

1965 - International Convention on the Elimination of All forms of Racial Discrimination (ICERD) adopted.[41]

1966 - The International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted. The International Covenant on Civil and Political Rights (ICCPR) adopted.[42]

1973 - International convention on the suppression and punishment of the Crime of Apartheid.[43]

1979 - Convention on the Elimination of all forms of Discrimination against Women (CEDAW) adopted.[44]

1984 - Convention against Torture and other Cruel, Inhuman or Degrading treatment or Punishment (CAT).[45]

1989 - Convention on the Rights of the Child (CRC).[46]

1990 - Convention on the protection of the rights of all Migrant Workers and members of their families*.[47]

1991 - United Nations Resolution on forced evictions by the sub-commission on prevention of Discrimination and protection of Minorities.[48]

1992 - Declaration on the protection of all persons from Enforced Disappearance.

1993 - The world conference on Human Rights at Vienna.[49]

In this conference, 171 states reaffirmed that the Universal Declaration constitutes a "common standard of achievement for all people and all nations." They also accepted that "it is the duty of all states, regardless of their political, economic and cultural systems to promote and protect all human rights and fundamental freedoms."

1995-2004 - The Decade 1995-2004 was proclaimed as the United Nations Decade for Human Rights Education.

1998 - "Integrating Human Rights with Sustainable Human Development" – a United Nations Development Program (UNDP) policy document.

This document outlines plans of the United Nations Development programme to integrate human rights into activities for fighting poverty, promoting advancement of women, protecting the environment and developing the capacity for good governance.

2000 - Convention on the Rights of the child on the sale of children, child prostitution and child pornography.

2006 - Convention on the Rights of persons with Disabilities.

How seriously all the Nations of the world treat the issue of human rights can be judged by the fact that all the human rights agreements registered with the United Nations are signed by most of the members of the United Nations. Such Universal acceptance is rarely visible on other issues.

History of the United Nations Council for Human Rights (UNCHR) :

The UNCHR was created in 1946 as a component of the Economic and Social Council (ECOSOC).[50] Its original purpose was to draft the Universal Declaration of Human Rights. To devote the effort necessary to negotiate the Universal Declaration, the UNCHR initially denied itself the authority to investigate alleged human rights violations committed by UN member countries. Decolonization produced an increase in the size of the Commission as more developing countries were eligible for membership. These new members, in turn, expanded the Commission's activities. Issues such as the Arab-Israeli conflict, colonialism, and apartheid served to invigorate the Commission.[51]

ECOSOC Resolutions 1235 (1967) and 1503 (1970) authorized the Commission to investigate countries' human rights practices. Under Resolution 1235, the Commission was empowered to publicly shame a state by noting concern about a situation. Consideration of a resolution under the 1235 procedure entailed a public debate, and a successful resolution meant appointing a rapporteur to investigate the situation and report back to the Commission. Unlike the public procedures of Resolution 1235, Resolution 1503 empowered the Commission to confidentially investigate the human rights practices of member states. These investigations were based on communications from individuals to the Commission, and they were intended for information-gathering rather than obtaining redress for victims. The Commission had more courses of action available to it under 1503, including communicating with the accused government and appointing an envoy to the country. For either procedure, instigating an investigation required a majority vote from the Commission.[52]

The fifty-three members of the Commission were elected according to regional slates, with Africa allotted fifteen seats, Asia twelve, Eastern Europe five, Latin America and the Caribbean eleven, and Western Europe and Other ten. In any given year, one-third of the seats on the Commission were up for election, and elections took place according to a two-step procedure. First, the regional groupings attempted to agree on representatives, who were then subject to a confirmation vote by ECOSOC. If the states in a region failed to agree on a regional state, then regional representatives for the Commission were elected via secret ballot by ECOSOC.[53]

In the recent past, the Commission became a magnet for criticism as states with questionable human rights records gained seats. In 2003, the U.S. Department of State accused nineteen Commission members of violating human rights, including China, Zimbabwe, Sudan, Syria, Saudi Arabia, and Congo. A bipartisan commission on the U.S. relationship with the UN concluded that "the credibility of the Human Rights Commission has eroded to the point that it has become a blot on the reputation of the larger institution",[54] and the authors of the report recommended that the UNCHR be abolished. Within the UN, former secretary-general Annan also suggested eliminating the UNCHR, calling for its replacement by a Human Rights Council. According to the Secretary-General this was necessary because the Commission's capacity to perform its tasks has been increasingly undermined by its declining credibility and professionalism. In particular, States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others. As a result, a credibility deficit has developed, which casts a shadow on the reputation of the United Nations system as a whole.[55]

As a response to these criticisms, the United Nations abolished the UNCHR in 2006 and replaced it with a new Human Rights Council.

According to the then Amnesty International General Irene Khane, who is the first women, the first Asian and the first Muslim to head the World's largest human rights organization, "We would like to see a system whereby all countries will be equally judged by the proposed U.N.

Human Rights Council".[56]

There are several differences between the Commission and the Council that merit notice. Most important, the new Council is a subsidiary body of the General Assembly, not of ECOSOC. As a result, members of the General Assembly, rather than the smaller ECOSOC body, elect members (and receive its reports). Other major differences between the old Commission and the new Council are a smaller membership (the Council has forty-seven members) and a more regular meeting schedule (the Commission met once a year for six weeks, whereas the Council meets in at least three sessions a year, each of which lasts at least ten weeks). In addition, the original proposal to create the Human Rights Council included greater attention to surveillance through the creation of a mandatory self-reporting requirement. While the proposed review procedure still needs to be developed in full by the Council, it is envisioned as an annual enterprise requiring a review of reports submitted by all states.[57] While these changes are significant, the General Assembly rejected proposals to require nations seeking seats on the Council to receive a two-thirds vote of the General Assembly and to exclude from membership states under Security Council sanction for human rights abuses. These decisions may cause some of the same problems for the Council that brought down the Commission.[58]

The negativity surrounding the UNCHR and the skepticism that surrounds the new Human Rights Council raises a simple and obvious question: if the Commission lacked credibility, why did states seek to be elected as its members? While some states may have sought membership on the Commission to promote respect for human rights, other states appear to have sought membership precisely to weaken the UNCHR and the international norms of human rights and, in so doing, avoid censure. For scholars of international organizations, the UNCHR is an intriguing case because the ex post effectiveness of the institution seems to have been driven by perverse ex ante incentives regarding membership.

Human Rights Development in India :

The Indian civilization and culture had the highest forms of human rights and values for thousands of years.[59] Hindu scriptures are authentic in the field of human rights. They are perennial sources of human rights and values. The Vedas and Upanishads were the primordial sources for all kinds of human rights and duties. The charter of equality has been incorporated in the Vedas.[60]

In Rig Veda, the most ancient of the Vedas, equality of all was declared in the following words: 'No one is superior or inferior; all should strive for the interest of all and should progress collectively'. Atharvaveda says "All should live together with harmony supporting one another like the spokes of a wheel".[61] References of civil rights and criminal liabilities are found in our Puranas.

Dharma, stressed in Indian Hindu scriptures, makes code of righteous conduct. Indian philosophy also speaks about Dharma and Rights.[62] Arthasasthra enjoins the king to take an oath before assuming office that he would rule strictly according to Dharma, safeguarding the happiness of all. Sublime thoughts of secularism can be found in Kautilya's Arthashastra.[63] The Buddhist sources have prescribed duty upon the king and subjects to provide food, clothes, shelter and medicine to the needy.

During the ancient period, efforts were taken to establish a duty based society guaranteeing human rights to all instead of making right as the foundation of social life. Vedas laid down the importance of education. Education is the special manifestation of man. In Manu Smiriti, there are references about the rules relating to treatment of conquered people and they constitute the watermark of the respect for and protection of human rights.[64]

These principles of Dharma as enunciated by ancient legal system which remained in-force substantially in the medieval period of history also, all the Hindu emperors and Mughal kings adopted these principles for the welfare of society.[65] The disputes and controversies were decided according to Dharma. Although in this period the Mohammadan culture makes inroads in Indian culture and system and also affected the justice delivery system but substantially, there was no change, because under Mohammadan system, the justice was delivered according to the principles of Quranic and Muslim law. Medieval India witnessed emergence of new politico-legal system under various Muslim rulers professing allegiance to Islamic law. Quranic law and Islamic jurisprudence are known for their republican, humanitarian approach and reverence to life and justice.

Substantially, there was no change in the Hindu concept of Dharma and Muslim concept of Quranic law barring few exceptions with regard to law of marriage and divorce, succession and other principles of law effecting personal life of man. The principles of all kinds of public and other laws other than personal remained one and the same. But the position changed during the British regime. The applicability of Indian legal system was ousted. Principles of British law were enforced in Indian irrespective of their relevance. Although some of the principles of Hindu law and Muslim law were incorporated into India under the British concept of justice, equity and good conscience after the enforcement of judicature Act of 1874. Britishers, for the sake of judicial reforms, made certain acts incorporating few principles of Hindu and Muslim laws either for whole of the society or only confined to their sects only barring the personal law and religious law, the entire British law was adopted in India.[66]

The categorical choice made by colonial India, of the values of social justice, secularism and republicanism, not only laid a foundation for a new epoch of human rights system but also gave a specific orientation towards realizing the social purposes underlying human rights values. The Nineteenth century social reform legislations benefiting slaves, women and workers demonstrated the inevitable link between social justice and human rights.

In 1843, legislation was passed to abolish slavery in its various forms and punish its practice. It conferred in the same breath right to equality, personal liberty, and economic freedom and right against exploitation. In view of the rampant practice of sati, in 1829 a Regulation was made to abolish its practice. Similarly, legal prohibition of female infanticide and child marriage and legal recognition of widow remarriage aimed at gender justice. The laws relating to factories, trade unions and industrial disputes protected basic human rights of workers by application of modest social justice norms.

The period of British rule in India was crowded with both positive and negative developments in the realm of liberty. Positively, it included experimentation in evolving common law and statutory principles of procedural fairness in the justice delivery system, efforts of social reforms, renaissance, mass movements of nationalism and evolution of institutions of democracy either by petty colonial concessions or bold native assertions as an effort of moulding Constitutional values. Negatively, it included tyrannies of colonialism, exploitations, due process failures, repressive events and state arbitrariness, which adversely affected the system of liberties.[67]

Perhaps the first explicit demand for fundamental rights appeared in the constitution of India Bill of 1895. A series of congress resolutions adopted between 1917 and 1919 repeated the demand for civil rights and equality of status with English men.[68]

By the mid-twenties, Congress and Indian leaders generally had achieved a new forcefulness and consciousness of their Indianness and of the needs of the people, thanks largely to the experience of World War I, to the disappointment of the Montague-Chelmsford Reforms, to Woodrow Wilson's

support for the right of self-determination, and to Gandhi's arrival on the political scene of India. These influences reflected the tone and form of demands for the acceptance of civil rights for the Indian people.[69]

During the years when independence had been more of a hope than a reality, the Congress had been loud in demanding written rights. The decade of the 1940's generally was marked by a resurgence of interests in human rights. The denial of liberties under German and Russian totalitarianism and elsewhere resulted in the Atlantic Charter, the United Nations Charter, and the activities of the United Human Rights Commission.

Assembly members were sensitive to these currents, which supported their own faith in the validity of written rights for the Indian people. The British Cabinet Mission in 1946 recognized the need for a written guarantee of fundamental rights in the Constitution of Indian, envisaging a Constituent Assembly for framing the Constitution of India.[70]

The Indian Independence Act passed by the British parliament came into force on 15th August, 1947, giving legally to the Constituent Assembly the status it had assumed since its formation. India saw the dawn of Independence during the evolution of modern human rights. The Constitution of India adopted and enacted on 26th November 1949 and commenced from 26th January 1950 was influenced by the concept of Human Rights.[71]

In India through the protection of Human Rights Act of 1993, an honest attempt has been made to define 'Human Rights'. It created the National Human Rights Commission which monitors the observance and violations pertaining to our rights.[72]

Now, support for human rights is even more strongly associated with global humanitarian concerns. Across repeated surveys, ratings of the importance of promoting human rights have correlated consistently with ratings of "supporting democracy abroad," "combating world hunger," "improving standards of living (of other nations)," and "protecting the global environment".[73]

REFERENCES

1. V.R. Krishna Iyer, *Human Rights and Inhuman Wrongs*, (New Delhi; B.R Publishing Co.. 1990). p.36
2. Waltz and Susan Eileen, "Universalizing Human Rights: The Role of Small States in the Construction of the Universal Declaration of Human Rights", *Human Rights Quarterly*, Volume 23, No.1, February, 2001, p.44.
3. C.H. Heyns and Frans Viljoen, "The Impact of the United Nations Human Rights Treaties on the Domestic Level", *Human Rights Quarterly*, Vol.23, No.3, August, 2001, p.483.
4. Naorem Sanajaoba, *Human Rights: Principles, Practices, & abuses*, (London: Omsons Publications, 1994), p.24.
5. Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen*, (Pennsylvania: University of Pennsylvania Press, 2003), p.98.
6. V.P. Srivastav, *Human Rights - Issues and Implementations*, (Delhi: Indian Publishers Distributors, 2002), p.3.
7. Paul Gordon Lauren, *The Evolution of International Human Rights*, (Philadelphia: University of Pennsylvania Press, 1998), p.281.
8. Thomas Pogge, "The International Significance of Human Rights", *The Journal of Ethics*, Vol. 4, No. 1/2, (Jan. - Mar., 2000), pp.46.

9. C.F. Agarwal, *Human Rights*, (Allahabad: Central Law Publications, 2000), p.4.

10. Justice Hosbet Suresh, *Fundamental Rights as Human Rights*, (Mumbai: Sabrang Communications and Publishing Pvt. Ltd., 2003), p.3.

11. Thomas Paine, *Rights of Man*, (Narmonds Worth: Everyman Ed., 1958), p.8.

12. Jan Nieuwenhuis, *Growing human rights and values in education*, (New York: Van Schaik, 2007), p.36.

13. Giriraj Shah, *Human Rights-Looking back And Forging Ahead*, (Mumbai: Himalaya Publishing House, 2004), p.150.

14. J.L Brierly, "The Law of the Nations" in Humphrey Waldock (ed.),(London Cambridge University Press,1963), p.20.

15. R.D. Trivedi, *A Compendious History of English Literature*, (New Delhi: Vikas Publishing House., 1976), p.28.

16. Durga Das Basu, *Human Rights in Constitutional Law*, (Nagpur: Wadhwa and Company, 2003), p.49.

17. Patrick T. Conley, John P. Kaminski,*The Bill of Rights and the states: the colonial and revolutionary origins of American liberties*, (London: Rowman & Littlefield, 1992), p.428.

18. Rousseau, *Social Contract - Discourse on Inequality*, Pt. II, ((London: J.M. Dent, 1913), pages 207-238

19. C.B. Macpherson, *Natural Rights in Hobbes and Locke in Raphael - Political Theory and the Rights of Man*, (London: Cambridge University Press, 1964), p.6.

20. A.H. Robertson and J.G. Merrills, *Human Rights in the World*, (Delhi: Universal Law Publishing Co. Pvt. Ltd, 2005), p.12.

21. J.S. Verma, *The New Universe of Human Rights*, (Delhi: Universal Law Publishing Co. Pvt. Ltd, 2004), p.114.

22. Anuradha Kumar, *Human Rights Global Perspectives*, (New Delhi: Sarup & Sons, 2002), p.28.

23. Robert W. Tucker, *The Law Of War And Neutrality At Sea*, (London: The Lawbook Exchange, Ltd., 2006), p.98.

24. Cf. I. Shapiro, *The Evolution of Rights in Liberal Theory*, (Cambridge: Cambridge University Press, 1964), p.469.

25. J. Bentham, *Anarchical Follies*, quoted in N. Kinsella, *Tomorrow's Rights in the Mirror of History*, (Toronto: Butterworths Publications, 1982), p.17.

26. Kenneth Janda, Jeffrey M. Berry, Jerry Goldman and Kevin W. Hula, *The Challenge of Democracy: American Government in a Global World*, (New York: Cengage Learning, 2008), p.9.

27. Warren F. Kuehl and Lynne Dunn, Keeping the covenant: American internationalists and the League of Nations, 1920-1939, (New York: Kent State University Press, 1997), p.134.

28. Emanuel Adler, Beverly Crawford, *Progress in postwar international relations*, (New York: Columbia University Press, 1991), p.21.

29. Naorem Sanajaoba, *Human Rights – Current Issues*, (New Delhi: Omsons Publication, 2004), p.73.

30. M.S. Rajan, *The Expanding Jurisdiction of the United Nations*, (Bombay: N.M. Tripathi Pvt. Ltd, 1982), p.64.

31. Joan Church, Christian Schulze and Hennie Strydom, *Human rights from a comparative and international law perspective*, (London: Unisa Press, 2007), p.212.

32. Anthony Pagden, "Human Rights, Natural Rights, and Europe's Imperial Legacy", *Political Theory*, Vol. 31, No. 2 (Apr., 2003), p.176.

33. John Dugard and Christine Van den Wyngaert, "Reconciling Extradition with Human Rights", *The American Journal of International Law*, Vol. 92, No. 2 (Apr., 1998), p.187.

34. *Ibid*., p.188.

35. General Assembly Resolution, 217 (III), U.N.Doc. A/810, 1948.

36. H. Lauterpacht, *International Law and Human Rights*, (London: Oxford University Press, 1968), p.394.

37. James Avery Joyce, *Human Rights: International Documents*, (London: Brill Archive, 1978), p.137.

38. Günther Doeker-Mach, Klaus A. Ziegert, *Law, Legal Culture and Politics in the Twenty First Century*, (London: Franz Steiner Verlag, 2004), p.206.

39. J. E. S. Fawcett, *The Law of Nations*, (London: Penguin Press, 1968), p.152.

40. Barbara Rose Johnston, "Human Rights and the Environment" *Human Ecology*, Vol. 23, No. 2 (Jun., 1995), p.115.

41. U. N. Document. 2106 A (XX) 1965.

42. General Assembly Resolution 2200 A (XXI) 1966; see also U.N. Document. A / conf. 32 (4) 1966.

43. General Assembly Resolution 3068 (XXVII), 1973.

44. U. N Document No. A / Res / 34 / 180, 1979.

45. U. N. Document. No. A / Res / 39 / 46 /, 1984.

46. U. N. Document. No. A / Res / 4425, 1989.

47. Only those treaties appearing with an asterisk (*) are still open for signature. All treaties are Open for ratifications, acceptance, approval and/or accession in accordance with their provisions.

48. U.N. Document . E / CN 4 / 1101, E / Sub, 2 / 332.

49. U.N. Chronicle, Vol.XXX.No.3 (Sep. 1993) PP: 54 - 61.

50. Thomas George Weiss, Sam Daws, *The Oxford handbook on the United Nations*, (London: Oxford University Press, 2007), p.517.

51. Martin S. Edwards, Kevin M. Scott, Susan Hannah Allen and Kate Irvin, "Sins of Commission? Understanding Membership Patterns on the United Nations Human Rights Commission" *Political Research Quarterly*, Vol. 61, No. 3 (Sep., 2008), p.398.

52. Richard Pierre Claude, Burns H. Weston, *Human rights in the world community: issues and action*, (Pennsylvania: University of Pennsylvania Press, 2006), p.491.

53. *Ibid*., p.492.

54. Report of the Task Force on the United Nations, 2005, p.5.

55. United Nations, Report of the Secretary-General 2005, p. 45.

56. *The Hindu*, 27 February, 2006.

57. General Assembly Resolution A/RES/60/251

58. United Nations, *United Nations Documents Index, April-June 2006*, (New York: United Nations Publications, 2007), p.24.

59. Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era*, (New York: University of California Press, 2008), p.66.

60. Mamta Rajawat, *Burning Issues of Human Rights*, (New Delhi: Gyan Books, 2001), p.130.

61. Rama Jois, *Legal and Constitutional History of India, Vol.1*, (Bombay: N. M. Tripathi Ltd, 1984), p.583.

62. Jaganath Mohanty, *Human Rights Education*, (New Delhi: Deep and Deep Publications Pvt. Ltd, 2003), p.2.

63. Donald E.Smith, *India as a Secular State*, (New Jersey: Prince town University Press, 1967), p.60.

64. Kireet Joshi, *The Veda and Indian culture: an introductory essay*, (New Delhi: Motilal Banarsidass Publ., 1994), p.29.

65. M. R. Jois, *Human Rights and Indian Value*, (New Delhi: National Council of Teacher education, 1998), p.36.

66. Peter James Marshall, *The Cambridge Illustrated History of the British Empire*, (Cambridge: Cambridge University Press, 2001), p.168.

67. P. Ishwara Bhat, *Fundamental Rights- A Study of their Interrelationship*, (Calcutta: Eastern Law House, 2004), p.69.

68. M. M. Singh, *The Constitution of India: studies in perspective*, (New Delhi: World Press, 1975), p.1257.

69. Praveen Vadkar, *Concepts, Theories and Practice of Human Rights*, (New Delhi: Rajat Publications, 2000), p.192.

70. G.S. Bajwa, *Human Rights in India*, (New Delhi: Anmol Publications Pvt. Ltd, 1995), p.55.

71. P.L. Mehtha and Neena Verma, *Human Rights Under the Indian Constitution*, (New Delhi: Deep and Deep Publications Pvt. Ltd, 1999), p.37.

72. Madhusudan Saharay, *Public Interest Litigation and Human Rights in India*, (New Delhi: Premier Pub. Co., 2000), p.295.

73. Sam McFarland and Melissa Mathews, "Who Cares about Human Rights?" *Political Psychology*, Vol. 26, No. 3 (Jun., 2005), p.365.

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