

## Evolution of Human Rights

Human Rights can be generally understood as those rights which are inherent in human-beings without which they cannot live as human-beings. These are the rights which every human being is entitled to enjoy and to have them protected. Twentieth century is considered as the century of 'Democracy and Human Rights.' Generally main features of Human Rights are :

1. Basic and inherent with which a person is born.
2. Equal, universal and inalienable.
3. Contempt or disregard of them lead to barbarous acts devoid of consciousness of human being.
4. Recognizing and respecting every human being in political, social, cultural and economic spheres.
5. Indivisible inter-related and inter-dependent.

Human Rights demand treating others as we expect others to treat us. They are natural rights come by birth as human beings. No effort needs to be made to acquire them

Section 2(d) of the Protection of Human Rights Act, 1993 defines Human Rights as under:

“2(d) –“Human rights” means 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.”

The Universal Declaration of Human Rights 1948, declares “all human beings are born free

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and equal in rights and dignity”. Human rights broadly constitute two cartograms of rights; (i) rights which are essential for the dignified human existence, viz. the right to have basic human needs like food, clothing, shelter and medical care; and (ii) rights which are essential for the adequate development of human personality such as the right to education, the right to freedom of culture, the right to freedom of speech and expression, and the right to free movement.

It is nice to remember and recognize that human dignity is the spine of Human Rights.

### Evolution of Human Rights

The Human Rights have a long process of evolution. Basically, human rights are integral part of human life and it is the possession of these rights that distinguish human beings from other species. At all times and in all ages, right from the beginning there was oppression of human beings by human beings leading to struggles and revolutions for restoration and protection of human rights. In history and ancient scriptures, references to the basic human rights can be easily noticed. The Rigveda, one of the oldest documents of human civilization declares that all human beings are equal and they are all brothers. The Atharvanaveda proclaims that all human beings have equal right over food and water. The Vedas were the primordial source of 'Dharma', a compendious term for all human rights and duties. The observance of 'Dharma' was regarded as essential for securing peace and

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happiness to individuals as well as society. All such works were intended for securing happiness to all. “Sarve Jana Sukhino Bhavanthu” was the ethos of our motherland.

Right from 12<sup>th</sup> Century, in our country great saints, social reformers and mahatmas were pleading for human rights compassionately on the spiritual and moral basis.

Modern historians give credit to MAGNACARTA – AD 1215. The term Human Rights was introduced in the United States’ Declaration of Independence in 1776 and thereafter it became part of the bill of rights in US Constitution. Consequent upon the French Revolution, Declaration of Rights of Man and Citizen emerged in 1789. In 1929, the Institute of International Law, New York, USA., prepared a Declaration of Human Rights and Duties. The Inter-American Conference passed a resolution in 1945 seeking the establishment of an International Forum for the furtherance of Human Rights of Mankind.

*“Human Rights are inscribed in the hearts of people; they were long before they drafted their first proclamation” – Mary Robinson.* In Paris on December 10, 1948, the UN adopted the Universal Declaration of Human Rights (UDHR). The declaration came at the time when the world was recovering from a long period of bloody and horrific conflicts. The Declaration proclaims that all human beings are born free and equal in dignity and rights. All human rights derive from the dignity and respect inherent in the human person by virtue of his birth as a human being. In history and ancient scriptures, references to the basic human rights can easily be noticed though they were not referred to specifically as such.

It is interesting to now that “International Human Rights Movement was born in and out of the Second World War.” It is ironic that Adolf Hitler, who was responsible for the terror and violence, gave rise to the awakening of the

conscience of mankind, opposing repetition of such barbaric and inhumane crimes.

It is relevant to mention here as to the evolution of the contemporary concept of human rights. Contemporary evolving concept is stated in terms of three generations of human rights.

**First generation** of human rights are mainly concerned with the civil and political rights of the individual; in other words, the ‘liberty-oriented’ rights. These were meant to impose with ‘negative obligations on the Govts. to desist from interfering with the exercise of individual liberties’. These rights were among the major concerns of all liberal and democratic movements since the 19<sup>th</sup> Century.

The **second generation** of human rights can be said to be ‘security-oriented’ and provide for social, economic and cultural security. These rights are positive in nature as they make it the duty of the State to ensure for the realization of these rights. The United Nations Declaration of Human Rights indicates the consensus of principles which form the basis of the first and second generation rights.

The **third generation** of human rights relatively are of recent origin. They have come into existence in response to various new concerns over which the international consensus has emerged in recent years. These included the environmental, cultural and developmental rights. They relate to rights of groups of people rather than individual. The developing countries have played a significant role in bringing about international consensus on these rights. The most important example of these rights is the declaration on the right to develop, adopted by the United Nations General Assembly in 1986.

Twentieth century had witnessed unprecedented human losses, devastations and destruction of the two world wars. At the end of World War II, the United Nations was

established in 1945, to fulfill the long cherished aspirations of the world community for world peace, prosperity and happiness of all human beings inhabiting in any part of the world irrespective of race, religion, region, caste, creed, colour and community.

### **Universal Declaration of Human Rights 1948**

The United Nations Charter is a landmark document which proclaimed that the people of United Nations “re-affirm faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women” and in “universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion”.

10<sup>th</sup> December, 1948 was remarkable day in the modern history of man kind. That is the day on which the United Nations made declaration of human rights. The declaration was not either a sudden or miraculous event. It was the effect of a cumulative and continuing movement of human conscience and changes in thinking that went on over a long period.

The Proclamation of Universal Declaration of Human Rights (UDHR) on December 10, 1948, is not mere a declaration, it represents the collective wisdom of the World community to work together towards a World without injustice, indignity and ignorance; a World without cruelty and hunger.

Martin Luther King said, “injustice anywhere is a threat to justice everywhere.” It is more so when the whole world has become a global village due to tremendous advancement in science and technology and transport and communication. Mahatma Gandhiji also said peace all over world can be established not on gun powder but on pure justice.

Unless the synthesis of political and civil rights with economic, social and cultural rights is properly evolved, there will always remain in

the society, a sizeable deprived section. The gap and disparity between the fortunate, less fortunate and unfortunate inevitably lead to disturbance, tensions, conflicts, violence and commission of offences. This will impair peace, stability and progress of the country activating forces opposed to the preservation of human rights.

It is a matter of common knowledge that wars produce hunger. But people seem to be less alive to the fact that hunger can lead to war. It is un-debatable that hunger and peace cannot co-exist. In other words, while hunger rules, peace cannot prevail. All democratic institutions have onerous and great responsibility and duty to respond to the challenges, to maintain the abiding faith and continuing confidence of the society, which the society has reposed in them, because they essentially exist for the society.

Article(I) and the preamble of the Universal Declaration of Human Rights state that “All human beings are born free and equal in dignity; they endowed with reason and conscience and should act towards one another in a spirit of brotherhood”.

Human rights by their very nature, constitute the minimum that is necessary for an individual to live in civil and political society as a free individual with dignity and respect; to realize his full potential; and also as a member of the society. Denial of these rights would create handicap to the individual from developing his talents and from making his maximum contribution. Human Rights is a growing and dynamic branch of national and international law.

The Universal Declaration of Human Right was proclaimed in a little over three years after the United Nations Charter. This evolution was a statement of intent or principle, and not a treaty or a legal agreement between the countries or the binding legal document, yet it was a document of great influence.

## Human Rights Perspective in Indian Constitution

The Universal Declaration of Human Rights by the United Nations on December 10, 1948, gave global focus and thrust to the Human Rights. This Declaration guarantees rights to life, liberty, property, equality before law, privacy, fair trial, safeguards against torture, slavery and other degraded practices, protection of family and minorities, free expression, opinion, association, assembly, movement, religion, conscience and culture. These rights have been accepted by most of the countries and they are reflected in the Constitutions of many countries. Most political and social systems accept these rights as basic minimum of civilized existence. When the Constituent Assembly adopted the recommendations and drafted the Constitution of India, the Declaration of Human Rights 1948 had already been made hoping that ultimately nations will embody these Human Rights in the constitutional documents.

It is a matter of great pride and satisfaction that this great nation of ours, accepting and recognizing the principles of UDHR, made them an integral part of its constitutional obligations. This shows firm commitment and great concern of our country to Human Rights. The resolution of people is set out in the Preamble to the Constitution to constitute India into a sovereign, socialist, secular, democratic republic and to secure to its citizens justice, liberty, equality and fraternity. The resolution embodied in the Preamble assures the dignity of the individual which is the basic principle underlying the UDHR and in order to give effect to this assurance, provisions are made in Part-III and Part-IV of our Constitution as Fundamental Rights and Directive Principles of State policy. The rights conferred by Part-III are fundamental and they are enforceable by courts. The Directive Principles laid down in Part-IV are not so enforceable but they are none-the-less fundamental in the governance of the country. The UDHR speaks of two sets of rights – (1) civil and political and (2) economic and social rights. Broadly speaking, the traditional

civil and political rights were enshrined as Fundamental Rights under our Constitution, while the economic and social rights were set forth as Directive Principles. Thus in Part-III and Part-IV, the Indian Constitution sets out declaration of Human Rights elaborately consistent with unity of the nation and the interest of the general public.

A comparative study of UDHR on the one hand and the Fundamental rights enunciated in Part-III and Directive Principles stated in Part-IV of the Constitution shows many similarities in content and form. Though the framers of the Constitution of India would have been influenced by British legal concepts and American constitutional traditions, the impact of UDHR is quite visible being contemporaneous. In making of the constitution of the country, the historical background and prevailing conditions in the society invariably have impact.

Article 9(5) of the International Covenant on Civil and Political Rights 1966, indicates that an enforceable right to compensation is not alien to the concept of guaranteed rights as it provides for award of compensation to the victims who have been unlawfully arrested or detained and to get such a compensation is their enforceable right.

Respect for Human Rights is the greatest inspiration for integration of humankind, both internally and internationally. These are the days of modernization, liberalization, privatization and globalization. All these must have element of humanization. Humanize the globe so that human rights violations are less. Though they may not be totally eliminated but can be certainly minimized. 'All human rights for all' should not merely remain as declaration on paper but it must be the spirit of living in day-to-day life. Treat others as you expect others to treat you, will really serve the purpose of human rights. Recognition of the inherent rights of all human beings as well as equal entitlement of each individual to all human rights, forms the core of human rights doctrine. \_\_\_\_\_●