

HISTORY OF HUMAN RIGHTS

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Rights are natural in the sense that they are essential for the existence of good life. The success and failure of democracy largely depends upon the extent in which civil liberties are enjoyed by the citizens. Human rights affirm the dignity and worth of a person. They allow human beings to fully develop and use their human equality, intelligence, talents and conscience and also satisfy the spiritual and other needs. They recognize the inherent honor, dignity and fundamental freedom of all members of human family and are the foundation for all basic freedoms, justice and peace in the world.

The universal declaration of human rights states, “Respect of human rights and human dignity is the foundation of freedom, justice and peace in the world.”(2)

Human rights of the individual are “those conditions of social life without which no man can in general, to be himself at his best.”(3)

Human rights are generally defined as “those rights which are inherent in our nature and without which we cannot live as human beings. The recognition of these natural rights of human beings is as ancient as the human civilization.” (5)

According to Aftab Alam, “Human rights are essential for the full development of human personality and for human happiness. These rights are inalienable because the enlightened conscience of the community would not permit the surrender of his own violation. These rights are not only vital for the development of human personality but also because without them men would be reduced to the level of animals. Human rights are based on mankind’s increasing demand for a decent and civilized life in which the inherent dignity of each human being will receive respect and protection. (8)

The concept of human rights is as old as the ancient doctrine of natural rights founded on natural law. The term of “Human Rights” is comparatively recent in origin, but the idea of human rights is as old as the history of human civilization. (13)

It has come to everyday parlance from the post second world war International Characters and Covenants human rights in fact has its origin in the ancient Greece and Rome closely tied up to the pre modern natural doctrines of Greek Stoicism and Hellenistic Stoics. (14)

HUMAN RIGHTS IN INDIA

The history of Indian human rights Jurisprudence has always occupied a place of prime importance.

Since the days Indus Valley Civilization, culture of India represents diversity of cultures, languages and religions. As Jawaharlal Nehru wrote, “there’s an unbroken continuity between the most modern and the ancient phases of Hindu thought extending over three thousand years.”(16) The rights of man have been the concerns of all civilizations from time immemorial. “The concept of the rights of man and other fundamental rights was not unknown to the people of earlier periods.”(17) While the ancient texts tend to laid emphasis on the principle of equality between individuals, there is no doubt that there was always a gap between the ideal and ground reality.

There is lot of contribution to the human rights movement in the ancient Hindu civilization. In the Vedic age human rights may be traced in religion humanities tradition and the unceasing struggle for freedom and equality. Theology presents the basis for a human rights philosophy streaming from a law higher than the state and whose source is the supreme being. 18

There is lot of writers kautilya, in his arthashastra, Jainism, Buddha also mentioned for every human being.

HUMAN RIGHTS IN THE ISLAMIC ERA

The decline of human rights jurisprudence had started with the decline of Mauryan Empire and as a result India was frequently invaded by the foreigners. The advent of muslim invasion of India created a new situation wherein the Muslim rulers adopted the policy of discrimination against the Hindu. The concept of human rights got lost on its way in the dark and narrow alleys of the middle ages. 33

HUMAN RIGHTS IN BRITISH INDIA

It is it is presumed that the modern version of human rights jurisprudence had taken birth in India during the British rule. The Indians were humiliated and discriminated in matters of their political and civil liberties with harsh repressive measures by the Britishers. Resistance of the Indian masses to foreign rule manifested itself in form of demand for fundamental freedoms and the civil and political rights of the people. Mahatma Gandhi launched his non-violent struggle to achieve self government and fundamental rights for themselves. Lokmanya Tilak advocated that “freedom was the birth right of Indians for which the will have to fight”. 36

As the result of the strong protests from the people of India that Charter Act of 1813- 1833 allowed the Indians to enjoy some political rights. The constitution of the Bill 1895 known as the “Home Rule Bill” prepared by the Indian National Congress paved the way for a constitution

guaranteeing every one of the citizen the basic human rights like freedom of expression, inviolability of one's own house right to property and equality before law. (37)

The Indian National Congress in its Bombay session in August 1918, demanded that the new constitution of India should contain a declaration of the rights of the people of India as British citizens have been guarantees of equality before the law, freedom of speech and press and protection in respect of liberty, life and property.

MOTILAL NEHRU COMMITTEE

In 1977 the Madras session of the congress demanded incorporation of a Declaration of 'fundamental Rights' in any future constitutional frame work. A committee under Motilal Nehru was appointed by the All - Parties conference to study the fundamental rights. It is interesting to note that the constitution of the Republic of India, enacted in 1950 incorporated ten of the nineteen rights enumerated in the Motilal Nehru Committee Report 1928.

The following rights were emphasized in the Motilal Nehru committee report:

- 1) The right to personal liberty inviolability of dwelling place and property.
- 2) Freedom of conscience, profession and practice of religion subject of public order and morality.
- 3) The rights of free expression of opinion and assemble peaceably and without arms and to form associations and union subject to public order and morality.
- 4) The right to free elementary education and of admission into any educational Institution maintained or aided by the state without distinction of caste or creed
- 5) Equality for all citizens before the law and civil rights.
- 6) The right of every citizen to the writ of habeas corpus
- 7) Protection in respect of punishment under ex- post facto law
- 8) No discrimination against any person on grounds of religion, caste or creed in the matter of public employment, office or power or honor and in the exercise of any trade or calling
- 9) The equality of right to all citizens in the matter of access to, and use of, public roads, wells and other places of public resort
- 10) Freedom of combination and association for the maintenance and implementation of labor and economic conditions. (35)

THE FUNDAMENTAL RIGHTS ENMERATED IN THE CONSTITUTION

Right to Equality

Article 14: Equality before law.

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 15(3): A legislature may make laws with special provisions with women and children.

Article 16: Equality of opportunity in matters of public employment.

Article 17: Abolition of untouchability.

Article 18: Abolition of titles, No title, not being a military or academic discrimination, shall be conferred by the state.

Right to Freedom

Article 19: protection of certain rights regarding freedom of speech.

Article 19 (g)(1): the state make any special Provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes or the Scheduled Tribes in so far as such special provisions relate to their admission educational Institutions including private educational institutions, whether aided or unaided by the state, other than the minority educational Institutions respond to in clause (1) of Article 30.

Article 20: Protection in respect of conviction for offence

Article 21: Protection of life and personal liberty

Article 21A: Right to education.

Article 22: Protection against arrest and detention in certain cases.

Article 23: Prohibition of traffic in human beings and forced labor.

Article 24: Prohibition of employment of children in factories.

Article 25: Freedom of conscience and free profession, practice and propagation of religion.

Article 26: Freedom to manage religions

Article 27: Freedom as to payment on taxes for promotion of any particular religion.

Article 28: Freedom as to attend religious instruction or religious worshipping, in certain educational Institutions.

CULTURAL AND EDUCATIONAL RIGHTS

Article 29: Protection of interests of minorities.

Article 29(2): The state may make any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and the scheduled tribe constitution (first Amendment) Act, 1951.

Article 30: Right of minorities to establish and administer educational Institutions. All minorities, whether basted on religion or language have the right to establish and administer educational Institutions of their choice.

The government shall not discriminate against them in making grants on the grounds of religion, race or language.

Article 32: Remedies for enforcement of rights conferred by this part.

INTERNATIONAL COVENANTS OF HUMAN RIGHTS

The universal declaration was merely a statement of ideals, which was not of the nature is a legally binding covenant and had no machinery for its enforcement. The deficiency was sought to be removed by the U.N. General Assembly by adopting on 16 December 1966, two international covenants on Human Rights - one on economic, social and cultural rights and the other on civil and political Rights. While the former was addressed to the states to implement them by legislation, the latter formulated legally enforceable rights of the Individual.

The International covenant economic, social and cultural rights entered into force on 3 January 1976. The International covenant on civil and political Rights and the optional protocol entered into force on 23 March 1976.

International covenant on civil and political rights, and international covenant on economic, social and cultural rights were adopted by the general assembly in December 1966. Being treaties, the covenants are legally binding on the state parties. Each covenant established a distinct international enforcement agency designed to ensure their compliance by the state parties.

CONCLUSION

From the very beginning of human history, man struggled for his existence against the nature and his fellow men. The survival of man gave rise to the framing of rules and regulations, particularly for the safeguard of the weaker sections. This paved the way for the concept of human rights evolved over centuries. In India human rights can be traced from the days of Indus civilization, to Manusmriti, the concept of Vasudhaiva Kutumbakam and Kautilya's Arthashastra. The human rights are rooted in the constitution, the UN Charter and other covenants but what matters is their implementation. The human rights are Universal and indivisible.

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