



EVOLUTION OF HUMAN RIGHTS

-A STUDY ON HISTORICAL PERSPECTIVE:

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Abstract

A new world order came into being out of the ashes of the World War II in 1945, putting respect for human rights alongside peace, security and development as the primary objectives of the United Nations. The Universal Declaration of Human Rights, proclaimed in 1948, provided a framework for a series of international human right conventions. Presently almost all the national legislations influenced by these conventions. It is universally recognized that Human Rights and Fundamental Freedoms are the birth right of all Human being. The main objective of the study is to investigate the historical development of Human Rights and analyse the philosophical thinking. For conducting this study data was collected from several articles, books and related documents regarding Human Rights as a qualitative paper⁰¹



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Introduction

The term 'Human Rights' is a dynamic concept. These rights may be called the basic rights, the fundamental rights, the natural rights or the inherent rights. Human rights represent basic values common to all cultures, and must be respected by countries worldwide. The principal objective of both Indian and international laws is to protect the human personality and its fundamental rights. Hence the realization of human rights should be the goal of every state. The subject of human rights has been evoking public interest all over the world. The universal regime of promotion and protection of human rights has been conceived and has grown under the auspices of the Organization of the United Nations. The evolution of the international human rights regime has often been shaped by the push and pulls of political and historical forces and events at the expense of alternative approaches. The paper highlights some of the important conventions and treaties dealing with human rights and the procedural norms that mainly establish monitoring mechanisms to offer some protection against the State at the international level. The paper also focuses on the concept of human rights in Constitution and

briefly highlights the provisions of The Protection of Human Rights Act, 1993 [As amended by the Protection of Human Rights (Amendment) Act, 2006-No. 43 of 2006]⁰².

Meaning of Human rights

Human rights are referred as a fundamental rights, basic rights, inherent right, natural rights and birth rights. Human rights are rights of exceptional importance and belong to every individual by virtue of being a human. These rights are necessary to ensure the dignity of every person as a human being irrespective of race, religion, language, caste, sex or any other reason. The concept of Human right is based on the notion of equality of human being.

Definition of human rights

According to S. Kim, human rights are "claims and demands essential to the protection of human life and the enhancement of human dignity, and should therefore enjoy full social and political sanctions". Subhash C Kashyap opined human rights are those "fundamental rights to which every man inhabiting any part of the world should be deemed entitled by virtue of having been born a human being".

Characteristics of human rights

1. Human rights represent claims which individual or groups make on the society.
2. These rights are inalienable and human beings are entitled to them by birth.
3. These rights are the basic minimum requirement for survival of human beings in society.
4. It is universal in character but not absolute.
5. It is protected and enforced by the authority of the state.
6. These rights are meant to uphold human dignity.
7. These rights are essential and necessary for the development of the people.
8. It is irrevocable and equal to all
9. These rights are natural rights based on the law of nature.
10. Human rights are dynamic and evolutionary in nature⁰³.

Types of Human Rights

Human Rights are the integrated, broad and covered a wide range of rights. On the basis of Universal Declaration of Human Rights, 1948 there are following classification;

A. Civil rights & Political rights; Known as Fundamental rights, Guaranteed by Article (27-44) part (III) of Bangladesh Constitution.

B. Economic rights & Social and Cultural rights; Bangladesh constitution, part (II) Article (8-25) not guaranteed.

C. Solidarity rights, that is I) right to development II) right to self-determination. The total numbers of Human Rights are 27; from which 25 is described by the Universal Declaration of Human Rights, 1948 and rest two are described by the Declaration on the Granting of Independence to Colonial Countries and Peoples (DGICCP) and Declaration on the Right to Development (DRD)⁰⁴.

Landmarks in development of human rights:

1. The Magna Carta, 1215. The Magna Carta, also known as the Great Charter, of 1215 is the most significant constitutional document of all human history. The main theme of it was protection against the arbitrary acts by the king. The 63 clauses of the Charter guaranteed basic civic and legal rights to citizens, and protected the barons from unjust taxes. The English Church too gained freedom from royal interferences. King John of England granted the Magna Carta to the English barons on 15th June 1215. The king was compelled to grant the Charter, because the barons refused to pay heavy taxes unless the king signed the Charter.

2. The English Bill of Rights, 1689. The next source and avenue of the development of the philosophy of human rights is the English Bill of Rights, enacted on December 16, 1689, by the British Parliament. The British Parliament declared its supremacy over the Crown in clear terms. The English Bill of Rights declared that the king has no overriding authority. The Bill of Rights codified the customary laws, and clarified the rights and liberties of the citizens.

3. American Declaration of Independence, 1776. The first colonies to revolt against England were the thirteen States of America. These states declared their independence from their mother country on 4th July 1776. The declaration charges the king with tyranny and affirms the independence of the American colonies. The declaration of independence has great significance in the history of mankind as it justified the right to revolt against a government that no longer guaranteed the man's natural and inalienable rights.

4. The U.S. Bill of Rights, 1791. The U.S. Constitution was enacted on 17th September 1787. The most conspicuous defect of the original constitution was the omission of a Bill of Rights concerning private rights and personal liberties. Madison, therefore proposed as many as twelve amendments in the form of Bill of Rights. Ten of these were ratified by the State legislatures. These ten constitutional amendments came to be known as the Bill of Rights. The

overall theme of the Bill of Rights is that the citizen be protected against the abuse of power by the officials of the States.

5. The French Declaration of the Rights of Man and of the Citizen, 1789: The fall of Bastille and the abolition of feudalism, serfdom and class privileges by the National Assembly ushered France into a new era. On 4th August 1789, the National Assembly proclaimed the Rights of Man and of the Citizens. The Rights were formulated in 17 Articles.

The Declaration of the Rights of Man and of the Citizen has far reaching importance not only in the history of France but also in the history of Europe and mankind. The declaration served as the death warrant for the old regime and introduced a new social and political order, founded on the noble and glittering principles. Further the declaration served as the basis for many Constitutions, framed in different countries, where the framers gave top priority to human rights.

6. Declaration of International Rights of Man, 1929. After World War I, questions about human rights and fundamental freedoms began to be raised. In 1929, the Institute of International Law adopted the Declaration of International rights of Man. The Declaration declared that fundamental rights of citizen, recognized and guaranteed by several domestic constitutions, especially those of the French and the U.S.A constitutions, were in reality meant not only for citizens of the states but for all men all over the world, without any consideration.

1.9.7. The UN Charter, 1945. The United Nations Charter was drafted, approved and unanimously adopted by all the delegates of the 51 states, who attended the United Nations Conference at San Francisco. The UN Charter contains provisions for the promotion and protection of human rights. The importance of the Charter lies in the fact that it is the first official document in which the use of 'human rights' is, for the first time traceable and which also recognized the respect for fundamental freedom.

8. The Universal Declaration of Human Rights, 1948. The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10th December, 1948. The Declaration consists of thirty Articles and covers civil, political, economic, social and cultural rights for all men, women and children. The declaration however is not a legally binding document. It is an ideal for all mankind.

9. International Covenants on Human Rights: The Universal Declaration of Human Rights, 1948 was not a legally binding document. It lacked enforcements. This deficiency was sought to be removed by the U.N. General Assembly by adopting in December, 1966, the two Covenants, viz,

10. International Covenant on Civil and Political Rights and 2. International Covenant on Economic, Social and Cultural Rights. The two International Covenants, together with the Universal Declaration and the Optional Protocols, comprise the International Bill of Human Rights. The International Bill of Human Rights represents a milestone in the history of human rights. It is a modern Magna Carta of human rights.

Conclusion

Human rights are moral principles or norms that describe certain standards of human behaviour and are regularly protected in municipal and international law. They are commonly understood as inalienable, fundamental rights "to which a person is inherently entitled simply because she or he is a human being" and which are "inherent in all human beings", regardless of their age, ethnic origin, location, language, religion, ethnicity, or any other status. They are applicable everywhere and at every time in the sense of being universal, and they are egalitarian in the sense of being the same for everyone. They are regarded as requiring empathy and the rule of law and imposing an obligation on persons to respect the human rights of others, and it is generally considered that they should not be taken away except as a result of due process based on specific circumstances.

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