

Human Rights in Indian Culture

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Human Rights are natural rights. The concept of Human Rights is as ancient as human civilization. The history of mankind is marked by efforts to ensure respect for the dignity of human beings. They are simply defined as the rights which every human being is entitled to enjoy and to have protected. The struggle for the recognition of Human Rights and the struggle against injustice and inequalities have been an integral part of the history of all human societies. Human Rights are inherent and inalienable rights which are due to an individual by virtue of his/her being a human being.¹ These rights are necessary to ensure the dignity of every person as a human being irrespective of one's Caste, Religion, Race, Colour, Language, Sex, Nationality or any other factor. Chief Justice of India J.S.Varma has stated that human dignity is the quintessence of Human Rights.

There are certain beliefs and ideas which gave birth to Human Rights. In ancient times, the people demanded their Human Rights. If we look back to the past history, it comes to our minds that the Human Rights were changing from time to time according to the needs and set up of time. The right of everyone is to be respected and everyone has a responsibility to the rights of other persons. Although there are differences in races, sex, language, and colour. Yet these differences do not change the said rights. There is a difference in thinking and ideas. Everybody has his own ideas and thinkings. Everybody is born with Human Rights regardless of whom he is and to which community he belongs, and wears different cultures. Everyone has a right to be protected by the state and people². More than five thousand years ago, the ancient Indian philosophers and thinkers interpreted a theory of higher moral law over and above positive law embodying values of universal validity, the aim of which was to establish harmonious social order by striking a balance between spiritual and material aspects of life. It was the concept of *Dharma* which governed in an integrative manner all civil, religious and other actions of men in society be it king or his subjects. *Dharma* has another dimension which relates to the individual persons who contribute society. The basis of Human Rights is *Dharma* which is vitally concerned with humanity. *Dharma* is one word which defines and covers totality of human experience and existence. It derived from the root, *Dhr* meaning to uphold, to support, to nourish, to integrate etc. The Law of *Dharma* in ancient India made an attempt at building an organized social life wherein each individual realized his goals within the parameters of social norms of morality. The natural law so revealed in the *Vedas*, *Puranas* and the epics *Ramayana* and *Mahabharata* was extolled by the mystics, saints, philosophers and poets. The philosophy explained by the saints of ancient India was a reinstatement of natural law with religious fervor to enthuse people towards the path of enlightenment and unity.

The root of the concern for Human Rights in the *Vedic* period may be traced to religion. Human beings were created in the image of god. They were endowed with intrinsic worth and dignity. The philosophers of the *Vedic* period believed that Human Rights were based on mankind's increasing demand for life in which the inherent dignity and worth of each human being deserved to receive respect and protection. The prime importance of Human Rights was in the rich Indian legacy of *Vashudhaivakutumbakam* or we are all human family. *Rig-Veda* refers three civil rights i.e. i.e. *Tana* [body], *Skridhi* [dwelling place] and *Jibhasi* [life]³. Panini, the Sanskrit grammarian of fifth century B.C. stated that *Dharma* as an act of religious merits, custom and usage. *Dharma*

has always occupied the premier place. *Dharma* is law in its widest sense-spiritual, moral, ethical and temporal. Every individual, whether the ruler or the ruled, is governed by his/her own dharma. The rights and duties of rulers, ministers, priests and people are governed by the concept of *Dharma*⁴. The ancient law giver Manu elaborated rules for the guidance of the king. It was his duty to uphold the law, and he was as much subjects to law as any other person. The king enforced not only the sacred law of the text but also the customary laws relating to the rights and claims of the subjects.

Kautilya's Arthashastra refers⁵ the rights and duties of rulers, ministers, priests, soldiers, people etc. The king's duties in the internal administration of the country are three fold *raksha* or protection of the state from external aggressions, maintenance of law and order within the state and *Yogakshama* or safeguarding the welfare of the people. The king shall protect agriculture from being harassed by fines, taxes and demands for labor. He shall build storage reservoirs either from natural springs or with water brought from elsewhere, or, he may provide to those who build reservoirs by giving them land, building roads and channels and shrines and sanctuaries or giving grants of timber and implements. The king shall enforce the laws regarding discipline among members of a family, slaves and persons mortgaged. According to Kautilya, a minister must be a self-controlled man, having good knowledge of politics, clever, sweet in speech, a good debater, possessing good conduct, attractive personality, pleasing nature, good health and courage. He also refers the responsibilities of townsmen. In the summer, citizens shall take appropriate precautions against fire. They shall not light fires during the middle quarters of the day; if food has to be cooked during this period, it shall be done outside the house. If a house catches a fire, every occupant, owner or tenant, shall take immediate steps. No one shall throw dirt on the streets or let mud and water collect there. This applies, particularly, to royal highways. No one shall throw out dead bodies of animals or human beings inside the city.

Arthashastra also refers to the women's right to property. A woman has control over her dowry and jewelry. She retained this control after the death of her husband so long as she did not remarry. If she remarried without the consent of her father-in-law, her new husband was obliged to return all her property to other family. A remarrying widow was also obliged to leave her property, at the time of remarriage, to the sons by the first marriage. In short, property passed down the male line, except when there were only daughters.

Asoka, the Mauryan emperor carried forwards the legacy of the Buddhist traditions and successfully established a welfare state. Gautama Buddha taught to honor parents, brothers, sisters, children, relatives and other persons in the society. If somebody hurts anybody physically or even vocally, he may be treated as a person lacking the basic human qualities⁶. Regard for human dignity is the basic social message of Buddhism. Buddha himself has suggested the people not to accept his words, simply because they were the Buddha's words, but only after duly examining them with reason. Thus he provided freedom of thought and expression, to the people⁷. After Kalinga war Asoka chakravarti embraced Buddhism and followed *Ahimsa*. He wanted to create a welfare state in which there would be no conflict among the people regarding sect, religion, caste etc. For this purpose, he constructed many roads. Trees were planted on both sides of the roads. The wells were dug for the facility of cold water. Hospitals not only for men, but also for the animals were opened in which the facilities of free medical service were given. In order to face the danger of drought, flood and other natural calamities, the Mauryan Government enforced both preventive and relief measures. Necessary precautions were taken by the state for the protection of public property and crops against fire.

During the reign of Guptas, the main object of the king was to work for the welfare, comfort and prosperity of the people. The inscriptions of the Gupta period mention that a king can become a successful ruler only if he waits upon the elders, studies the art of Government, cultivates religiousness and protects his subjects as efficiently as the divine guardians. It was the duty of the provincial Governments to protect their respective provinces from external invasions and internal revolts. Like this they worked for the welfare of the society.

Harshavardhana's [Pushyabhuti Dynasty] administration resembles that of Mauryas and Guptas. He always tried to do something for the welfare of the people. Often he disguised himself like an ordinary man and wandered in the country for welfare of his subjects. The Chinese traveler

Hieun-Tsang wrote that the king was very generous. He was really a duty bound king and always looked after the public welfare. He served his subjects very sincerely. He often used to inspect the work of Governors and other high officials of the state from time to time.

The idea of the inalienable rights of man is much older and in fact was often articulated by poets, philosophers and politicians in antiquity and in middle ages. The most important feature of the middle ages was that the writers considered that the ruler was under the supremacy of the natural law. This idea led to the development of the doctrine of natural rights of man. The Islamic tradition of Human Rights became evident in the medieval ages. Being inspired by the jurisprudence tenants of the Holy Koran it preached the universal brotherhood, equality, became evident in the medieval ages. Being inspired by the tenants of the Holy Koran it preached the universal brotherhood, equality, justice and compassion. The Sultan was the head of the state. All power and authority vested in him. The Bhakti and Sufi traditions too in their own unique ways popularized the idea of universal brotherhood. It revived and regenerated the cherished Indian values of truth, righteousness, justice, and morality. These values were rooted in religion, humanitarian traditions and the unceasing struggle for freedom and equality. The saints of these traditions were also preached a casteless, ethical, anti-ritualistic, monotheistic and highly spiritual religion.

The Mughal emperor Akbar, son of Humayun, with his policy of universal reconciliation and tolerance inaugurated an era of wealthy traditions in state craft proclamation of Tauhit-i-Ilahi [Din-Ilahi] or universal religion, in which he incorporated the best elements from all religions. His justice and loving traditions was followed by his son Jahangir.

Human Rights in the modern sense took shape during the course of British rule. Resistance to foreign rule was manifested in the form of demand for fundamental freedoms and civil and political rights for the people of India. The first attempt at a national revolt against the East India company rule in 1857A.D. failed because the whole country did not participate in the revolt. Some Indians helped to Britishers. But, it was only after the failure of this revolt that several factors or causes contributed to the rise and growth of national movement in India. The concrete demand for Fundamental Rights for the Indian people came logically which coincided with the birth of the Indian National Congress on 28th December 1885 by A.O.Hume. The main demand for Fundamental Rights found place in the constitution of India Bill 1895, also known as the Swaraj Bill and the Home Rule Document. It emphasized on the formulation of a constitution which would guarantee every citizen basic Human Rights of Life and Liberty. In 1925 the Indian National congress finalized a draft of the Common Wealth of India Bill, which embodied in it a Declaration of Rights, the demand for which was repeated by the Motilal Nehru Committee appointed in 1928. At the congress session in 1929 at Lahore under the presidentship of Pt. Jawaharlal Nehru, a resolution was passed for complete Independence. January 26, 1930 became the red letter day in the history of India and it was decided to celebrate it as the Independence Day every year. They believed that to get freedom in their right. With the object of achieving complete Independence the congress in 1930, launched the Civil Disobedience Movement under the leadership of Gandhiji. Gandhiji himself broke the salt act by marching to Dandi. The repressive measures of the government were violated. The Karachi session of congress in 1931 adopted a detailed programme on Fundamental Rights with the demand for it to be include the government of India Act of 1935. In 1945, the TejBahadur Sapru committee stressed on the need for a written code of Fundamental Rights. As a result the constituent Assembly included Human Rights in the constitution of Independent India.

The framers of the constitution of India adopted American pattern of incorporating the Bill of Rights in the constitution itself. The constitution provides a number of rights to individuals. The expression Fundamental denotes that these rights are inherent in all human beings and are essential for the individuals for blossoming of the human personality and soul. These rights represent the basic values of a civilized society. The Drafting committee of the Indian Independent Constitution declared that they shall be given a place of pride in the Constitution and therefore they elevated them to the status of Fundamental Rights. These rights protecting the dignity of the individuals and create conditions on which every human being can develop his/her personality to the fullest extent. The Indian constitution duly recognizes the concept of Human Rights in the Preamble itself which begins with words, we, the people of India, having solemnly

resolved to constitute India into a Sovereign Socialistic Secular Democratic Republic and to secure to all its citizens. Justice, social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity; and to promote among them; fraternity assuring the dignity of the individual and the unity and integrity of the Nation. The ideals of liberty, equality and fraternity have been taken from the French Revolution of 1789 and the ideals of justice-social, economic and political has been taken from the Russian Revolution of 1917. The preamble secures to all citizens of India equality of status and opportunity. This provision embraces three dimensions of equality. They are civic, political and economic. So, it is clear that the Human Rights may be regarded to be the offspring of the Preamble. India has played the most significant role in the promotion of the cause of Human Rights. It has incorporated the most elaborate Declaration of Human Rights -1948 in its constitution. Part III of the Constitution deals with the Fundamental Rights. Human Rights are enumerated in the Constitution as Fundamental Rights. The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination. They uphold the equality of all individuals, the dignity of the individual the larger public interest and unity of the Nation. These rights of the human being are set forth in seven groups. The Right to Equality includes prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth⁸, equality of opportunity in matters relating to employment or appointment to office under the state⁹, the abolition of untouchable¹⁰, prohibition of conferment of any titles by the state¹¹. The Right to freedom includes guarantees freedom of speech, assembly, association, travels, residence, acquisition of property, practice of any occupation¹². There is a "due process clause" respecting life and personal liberty¹³. The Right against exploitation prohibits forced labor and child labor¹⁴. The Right to Freedom of religion includes the guarantee to every religious denomination to manage religious affairs¹⁵. Religious instruction may not be provide in any educational institution wholly maintained out of state funds. Cultural and Educational Rights¹⁶ concern the protection of the interested minorities. Right to Constitutional Remedies¹⁷ includes right to move the Supreme Court for the enforcement of Fundamental Rights including the writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto. These above said rights facilitate the establishment of Rule of Law in the country. They protect the interests of minorities and weaker sections of society. They ensure the dignity and respect of individuals.

Part IV of the Constitution sets out the Directive Principles of State Policy¹⁸. Where by the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social and political, shall inform all the institutions of the national life. The founding fathers of the Indian Constitution hoped that through the Directive Principles of State Policy, Human Rights would be protected and preserved.

In the Indian Constitution, Fundamental Rights are complimented by Fundamental Duties. Part IV of the Indian Constitution lays down Fundamental Duties for the citizen of India. The original constitution did not provide for Fundamental Duties of the citizens. These were added during the operation of internal emergency [1975-77] by the 42nd Constitutional Amendment Act of 1976 on the recommendations of the Swaran Singh Committee. Article 51A specifies the ten Fundamental Duties viz, to respect the Constitution, national flag and national anthem; to protect the sovereignty, unity and integrity of the country; to promote the spirit of common brotherhood amongst all the people, to preserve the rich heritage of our composite culture and so on. The 86th Constitutional Amendment Act of 2002 added one more Fundamental Duty i.e. to provide opportunities for education by the parent the guardian, to his child, or a ward between the ages of 6-14 years as the case may be. These duties have sanctity as these are included in the Directive Principles of State Policy. The Fundamental Duties serves as a reminder to citizens that while enjoying their rights, they have also to be quite conscious of duties they owe to their country, their society and to their fellow-citizens. However, like the Directive Principles, the Fundamental Duties are also non-justifiable in nature.

In the context of protection of Human Rights relating to the working class several welfare measures could be taken by enacting and enforcing legislation viz workmen's compensation Act 1923, Trade Unions Act 1926, Child Marriage Restraint Act 1929, Children[pledging of labor] Act 1933, Payment of Wages Act 1936, Weekly Holidays Act 1942, Industrial Employment Standing Order Act 1946, Industrial Disputes Act 1947, Factories Act, Employees Wages Act and

Minimum Wages Act 1948, Caste Disabilities Removal Act 1950, The Employees Provident Funds and Miscellaneous Provisions Act 1952, Protection of Civil Rights Act 1955[Article17], Immoral Traffic Prevention Act 1956[Article 23],Young Persons [harmful publications] Act 1956, Orphanages and other Charitable Homes[supervision and control] Act 1960,Children Act 1960 ,Dowry Prohibition Act 1961, Maternity Benefit Act1961, Apprentices Act 1961, Beedi and Cigar Workers Conditions of Employment Act 1966, Medical Termination of pregnancy Act 1971, Equal Remuneration, Beedi Worker's welfare Fund and Bonded Labor Abolition Acts in 1976, Indecent Representation of Women Prohibition, Child and Labor Prohibition and Regulation, Juvenile Justice Environment Protection Acts in1986, Commission of Sati prevention and Mental Health Acts in 1987, Scheduled Castes and Tribes Prevention of Atrocities Acts in 1989, National commission for Women Acts in 1990, National Commission for Minorities Act-1992, The SAARC Convention(suppression of terrorism) and Protection of Human Rights, Employment of Manual Scavengers and Construction of Dry Latrines Prohibition Acts in 1993, the Transplantation of Human Organs and the Parental Diagnostic Techniques Regulation and Prevention of Misuse Acts in 1994, National Environment Tribunal, Persons with Disabilities[equal opportunities] Protection of Rights and Full Participation Acts in 1995, Juvenile Justice (care and protection of children) Act 2000, Prevention of Terrorism (repeal)Act-2004, Right of Information, National Rular Employment Guarantee and Protection of Women from Domestic Violence Acts in 2005.

For the protection of Human Rights the National Human Rights Commission is established in 3rd October 1993. The members of the Committee, including its Chairperson are appointed by the President of India after recommendations by a nominating Committee chaired by the Prime Minister and consisting of Speaker of Lok Sabha, Home Minister, Leader of Opposition in Lok Sabha, Leader of opposition in Rajya Sabha and Deputy Chairperson of Rajya Sabha as members. The present National Human Rights Commission consists of eight members. Apart from National Human Rights commission also envisages State Human Rights Commission at State level and Human Rights courts at district level for better protection of Human Rights. National Human Rights Commission has been striving hard for creating awareness about Human Rights.

To concludes that the Human Rights are enforceable rights in every civilized and welfare state. These are inherent in all individuals because of their being human, irrespective of their caste, creed, religion, sex language, ideology etc. These rights originate with the very birth of the individuals and are essential for the development of the human personality and for the human happiness and progress. India has played the most significant role in the promotion of the cause of Human Rights. It has made most sincere efforts for the protection and promotion of Human Rights the World over and is the greatest champion of the Human Rights in the Third World. India has not only incorporated an elaborate Bill of Rights in her Constitution, but also efforts have been made to translate these into reality. It is a pluralistic and multi-cultural society where many faiths and believes regulate the life of individuals. Each individual is called upon to perform his duty without being concerned about the reward for or consequences of such an action. All of us must learn to live like a member of one family. We will be able to develop the culture of Human Rights. In absence of these rights societies, individuals and families are disintegrating in the modern era. India needs a new and different out look. The Human Rights must be honored and our traditions of non-violence [ahimsa] reviewed and enriched. The people of India also should co-operate with the Government to protect Human Rights.

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