

## **EVOLUTION AND HISTORICAL DEVELOPMENT OF HUMAN RIGHTS - A JOURNEY FROM ANCIENT TO MODERN**

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*"the rights one has simply because one is human being "*

*- Jack Donnelly'*

### **I Introduction**

The term 'right' indicates a behavior, action, or a policy that is morally good or justified; required by law or duty.<sup>2</sup> In subjective terms, right connotes power to exact or to do something. Consequently, right entails one to decide how he/she is to be treated by other individuals, society and government.

The concept of right is as old as the world, and it is often said we cannot think of a world without rights, whatever it might be good and virtue but it would become morally insolvent.<sup>3</sup> Right is something, which arises from the obligation; it is something, which imposes a constraint, whether by way of forbearance, acquiescence or active support, on the people.<sup>4</sup> The preamble to the Constitution of India stresses on the 'rights' but there is no explanation in the Constitution. Any uncertainty, ambiguity, litigation, civil conflict and even war can be resolved with the analysis of rights. The concept of rights help to the maintenance of legal, political, social, economic, cultural and educational status quo.

### **II Human Right**

#### **(a) Meaning of the term 'right'**

There is no more ambiguous word in legal and juristic literature than the word 'right.' As a noun, it can be used in several senses in the legal literature. One meaning is *interest*

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<sup>2</sup>Donnelly Jack, *Universal Human Rights in Theory and Practice 10* (Ithaca: Cornell University Press, 1989).

Crawther Jonathan, ed. *Oxford Advanced Learner's Dictionary*, 1011.

Joel Feinberg, defines right as 'something which a man stand on, something which can be demanded or insisted upon without apprehension, embarrassment or shame,' Duties rights and Claims, *American Philosophy Quarterly* 136 (1966) (3).

<sup>4</sup>Hobhouse, LT, *The Elements of Social Justice*, 35 (Ruskin House, 4th edn., George Allen and Unwin Limited, London, 1958).

which covers both legal and moral rights' or which involves protection by law'. A second meaning is recognized claim to act or forbearances by another or all others in order to make the interest effective. Legally, interest is enforceable through the application of the force of a politically organized society or morally, by the pressure of the moral sentiment of the community or extra legal agencies of social control.' A third use is to designate a capacity of creating, divesting or altering rights and duties. Here, the proper term is 'power.'" A fourth use is to designate certain condition of general or special non-interference with natural faculties of action. These are called 'liberties' and 'privileges!'

### **(b) Human rights**

Human Rights are rooted in the culture and values of every nation of the world. To understand the true significance of the concept of human rights, we must know its historical context. The struggle to preserve, protect and promote basic human rights continues in every generation in every society. New rights arise from the womb of the old. Today we widen the sphere of human rights thought and action to new areas and constituencies!'

It was in ancient Greece where the concept of human right began to take a greater meaning than the arbitrary persecution. Human rights became synonymous with natural rights, rights that spring from natural law.

## **III Evolution of human rights**

Evolution of human rights can be studied into two main perspectives; they are - (A) religious or philosophical perspectives on evolution of human rights and (B) legal perspectives on evolution of human rights.

Fitzgerald, PJ., *Salmond on Jurisprudence* 217 (Sweet and Maxwell, London 1988).

<sup>6</sup> Roscoe Pound, *Jurisprudence* Vol. 4 59 (Minn. West Publishing Company, London, 1959).

*Ibid.* at 56.

Gray considers legal right as that 'power by which a man makes other persons to do or refrain from doing a certain act by imposing a legal duty upon them through the agency of law.' For instance, if a man lends some money to another, the right of the creditor to recover his money from the debtor is in reality, not his legal right but it is rather a power conferred on him by law by the exercise of which he recovers the debt. In other words, the creditor's interest to get back his money from the debtor is protected by law but this interest is not a legal right it itself, it is rather his 'object'. It is the power conferred on him by law to recover the money which is his legal right. Gray, *Nature and Sources of Law*, p.51.

<sup>9</sup> Hobbes has defined right as "right consist in liberty to do or forbear; whereas law binds to one of them' so that law and right differ as much as liberty and obligation". *Leviathan* 1651 Chap.14 as cited in Roscoe Pound, *Jurisprudence* 57.

<sup>10</sup> Baxi Upendra, *In human wrongs and Human rights, un conventional essays* 1 (Har Anand Publications, New Delhi, 1994).

**(a) Religious/philosophical perspectives on evolution of human rights:****Early civilization BC - The foundation**

Human rights in the early civilizations of both the East and the West were composites of various philosophies that served people's social and cultural contexts. Both religious and secular conceptions of civilization determined the laws that dictated early human rights. The primary forerunners of civilization, namely agriculture and warehousing of food, allowed for humans to stay settled and increase in population, leading to advances in civilization as settlements turned into cities. Civilization spread outward from ancient Mesopotamia taking and evolving the components of the western tradition, including the earliest tenets of human rights.

The Babylonian king *Hammurabi* issued set of laws to his people called as *Hammurabi 's* codes, which established fair wages, offered protection of property and required charges to be proven at trial. *The Code of Hammurabi* from about 1800 B.C. is often cited by historians for its foundational place in the western tradition of human rights. Two hundred eighty two mostly rational clauses governed Babylonian existence and were rooted in "eye for an eye" justice. Of course, there was great disparity between judgement on nobility and judgment on slaves."

Among the most famous texts that shaped human behavior in the ancient world was the *Hebrew Torah's Ten Commandments*," later part of the Christian Old Testament. The specific commandments attempting to discourage anti-social behavior are:

1. Honour your mother and father.
2. You shall not murder.
3. You shall not steal.
4. You shall not bear false witness.
5. You shall not convert anything that belongs to your neighbour.

In addition to the Ten Commandments, the Old Testament lent the *Proverbs* and *Ecclesiastic*, among other documents, to the history of good behavior and evolving human rights.

By 800 BC, the rise of Grecian city-states which focus on the rights of the (free) individual established an ideal atmosphere for Greek thinkers to develop some of the most

" Dr. Agarwal H.O, *International Law and Human Rights* 736 (Central Law Publication, 16<sup>h</sup> edn., Allahabad, 2009).

<sup>2</sup> [www.hebrew4christians.com/scripture/torah/Ten\\_Cmds/ten\\_cmds.html](http://www.hebrew4christians.com/scripture/torah/Ten_Cmds/ten_cmds.html) (last visited on Feb. 20, 2015).

sophisticated ideas the world had yet seen. Plato (427-348 BC) is among the foremost of the ancient Greek philosophers who developed theories of existence that included some of the basic tenets of human rights, emphasizing individual virtue to benefit the common good. Stoicism borrowed heavily from Plato and Socrates when defining *acosmopolite* meaning "citizen of the world." *Cosmos*, meanwhile, is the order of the universe within which all humans are moving together in common humanity."

As the Greeks waned and the Roman Empire grew and came into contact with unique cultures throughout the Mediterranean, the republic was obliged to strike relationships with people who held very different perceptions of the world. Most importantly, the philosophy rejects out war violence toward any other human being. The question of slavery under the Roman Empire, like slavery in any civilization, complicates the question of membership in the human race, but the fundamentals of human rights and duties, like those laid for roman citizens in "The Twelve Tables" from 450 B.C., were nevertheless in place.<sup>4</sup>

According to Roman Jurist Ulpian, natural law was that which nature and the state assured to all human beings. He stated that according to law of nature, all men are equal and by the same law all are born free.<sup>15</sup>

From the beginning, basic rights and duties of citizens would become central to the drafting of any local universal human rights ethic. The belief in a sympathetic existence is a common theme throughout the early history of human rights. But the value of brotherhood, in particular, is fundamental to early religious texts, including both the Christian New Testament and the Muslim Quran.

### **(b) First millennium - the rise of faith**

The birth of Christ and the record of his "Sermon on the Mount" (of Beatitudes) in the *New Testament* are key religious texts of the early first millennium in the Western tradition. Christian universalism explicitly preached that its adherents love their neighbors and endowed all human beings with the potential for virtue and moral equality.

In all of Christianity, Islam and Judaism, there are questions of religious tolerance among faiths and variations in the universality of rights in practice, especially with respect to slaves, women, homosexuals and each other, but the basic principles of modern human rights are nevertheless laid out.

<sup>13</sup> Naik K P & Wakman M., *Human Rights & International Organisations*, 223 (Trinity Publication, Davangere, 2013).

<sup>14</sup> *Ibid.*

<sup>15</sup> Dr. Agarwal H.O, *International Law and Human Rights*, 736 (Central Law Publication, 16th edn., Allahabad, 2009).

### (c) Renaissance and reformation

Jon E Lewi's *A Documentary History of Human Rights* calls the era following the fall of the Republic of Rome "*The Age of Faith*" because, the Church of Rome survived and spread across much of Europe. The Church continued to spread virtually unimpeded until the east-west schism of 1054 divided medieval Christianity along geographical and ecclesiastical divides. Western Roman Catholicism and Eastern Greek Orthodoxy took root and spread independently and was only the first of many divisions in Christianity.

Over the next few centuries, the Western world experienced a growth in urban population and an intellectual revival that helped to drive a transition from the high-middle ages in to renaissance. The era, however, was troubled by the vicious series of crusades attempting to free muslim-controlled Jerusalem. There was further violent religious persecution at the hands of the Spanish Inquisition. It was a period of extreme religious prejudice largely rooted in Christian fear and intolerance. But such intolerance and acts of violence would prompt reformers to encourage change based upon a return to what they perceived to be the central truths of the Gospels. Such change would reshape the western tradition not only in the old world, but by 15th century, began to broaden its reach. European conceptions (and restriction) of human rights extended into new world, as European conquest almost always violently suppressed indigenous practices and stripped native rights.<sup>16</sup>

Determining absolute conceptions of human rights was never an easy task. Sir Thomas More's *Canonical Utopia* from 1516 suggests an ideal world where men and women have access to free education and freedom from religious and economic oppression. Renaissance ideals like those suggested in *Utopia* emerged in a more secular, republican atmosphere that nurtured the revival of humanist ideals and rights from classical antiquity. Those greco-roman foundations of human rights had been largely supplanted by the Church during the middle-ages in Europe. It would take revolutions in science, geo-politics and culture to pave the way to individual enlightenment and revive the conservation of human rights.

Meanwhile, human rights were left in limb during religious tension set off by Martin Luther and the Protestant Reformation. The reformation of the 16th century and the subsequent several *Great Awakenings* (beginning in the eighteenth century) continued to divide and refine human rights as drawn from Christianity. Those divisions subtly changed how faith influenced conceptions of human rights according to where religion spread. The challenges to supremacy of Roman Catholicism incited wars across the European continent consuming the better part of a century between 1562 and 1648. That final year, the treaty

<sup>16</sup> *Supra* note 3.

of Westphalia ended the religious wars and divided the continent into spheres of influence. Individual religious freedom, however, would be saved for the colonization of the new world. Subsequent revolutions would affect nations of human rights all over the West.

### **(B) Legal perspective**

There are some of the important agreements, charters and treaties which are of great historical significance. Which has given way to the present day most widely accepted and translated document in the world. The Magna Carta of Human Rights. These charters have also been a source for the constitutions of many different countries in the world.

#### **Magna Carta 1215**

The Magna Carta (also called Magna Carta)<sup>17</sup> granted by King John of England to the English baron on June 15, 1215 was in response to the heavy taxation burden created by the third Crusade and the reason of Richard-I. The conception of human rights from the recognition of U.K. perspective may be found in *Magna Carta*.<sup>18</sup> The Magna Carta of 1215 CE, is considered as an important milestone in the human rights struggle, where the freemen English feudal lords intended to restrain the king from arbitrary arrest or punishment of any kind. Consequently, Magna Carta was only concerned with baronial liberties rather than universal human rights. This Great Charter promised that no civil or criminal action would be taken against any free man without sufficient proof.<sup>19</sup> The critics pointed out that this Great Charter was a set of baronial demands and not an assertion of the rights of all individuals.<sup>20</sup>

#### **Petition of rights 1628**

However, the movement of recognizing individual rights which started with Magna Carta continued through the Petition of Right 1628 and culminated in the Bill of Rights, 1689 which was enacted in the form of parliamentary statute.<sup>21</sup>

<sup>17</sup> The original Carta was in Latin which consisted of 70 clauses.

<sup>18</sup> Magna Carta 1215, provided to no man will we deny, to no man will we sell or delay, justice or rights. This famous twenty ninth chapter of King John Charter of Liberties, or the twenty-ninth of Henry III is reissue of 1225, through which, it was mainly know, to our ancestor, as 'the palladium of our liberties' cited in Lohit, D. Naikar, The Law Relating to Human Rights 52 (Puliani and Puliani, Bangalore, 2004).

<sup>19</sup> Mcilvan CH "Due Process of Law in Magna Carta" Vol.14 27-51 (*Columbia Law Review*, 1914).

<sup>20</sup> It was the Charter of Concessions extended to feudal nobles than to the ordinary subjects. In 1222, the King Andrew II of Hungary guaranteed that no noble would be arrested or ruined without being first convicted in accordance with judicial procedure, see Sen AN "Human Rights" 16 (Law publications, edn., Haryana, 2002).

<sup>21</sup> Basu DD, *Law relating to Human Rights and Constitution*, 49 (Wadhwa and Company, 2003).

## Bill of rights 1689

The Bill of Rights contributed towards the development of fundamental rights.<sup>22</sup> This Bill was a part of major settlement between the Crown and Parliament and like Magna Carta it also constituted a demarcation of powers. Nonetheless, some of general principles such as prohibition of illegal and cruel punishments assumed universal significance and subsequently appeared in many instruments including UDHR.<sup>23</sup>

## Social contract

The doctrine of natural rights, during the 17<sup>th</sup> and 18th century received further impetus with the proponents of social contract theory particularly *Locke*<sup>24</sup> and *Rousseau*<sup>25</sup> who attempted to trace the genesis of political society and government in the terms of social contract among the subjects, without disturbing the natural rights of men. The concept of 'social compact' reflects that people set up the civil society and political government by virtue of social agreement in their desire of finding security to life and property. Even in such state of nature, they had retained the natural rights.<sup>26</sup> But to what extent theory can be relied upon is a debatable issue as the whole theory is developed on a priory rule.

## Virginia Bill of Rights 1776

For the first time, the Bill of Rights was adopted in the written constitution of the state as 'the basis and foundation' of the government.<sup>27</sup> It was the constitution of Virginia that recognised the natural rights as bill of rights. Consequently, it inspired the makers of the American constitution to introduce the First Ten Amendment to The Constitution.'

<sup>22</sup> Basu DD, *Select Constitutions of the World*, 10 (MC Sarkar and Sons, 3'd edn., 1990).

<sup>23</sup> Brownlie Ian, *Basic Documents in International Law*, 3 (Oxford University Press, 2'd edn., 2000).

" John Locke theory was that, in the original state of nature, man was governed by the law of nature, but for the sake of better safety, he joined in a political society by means of 'social compact' for the mutual preservation of life, liberty and property. Thus, the legislature was limited by natural law; and a law made by the legislature contrary to the natural rights of the individual was invalid. Some of these natural rights were equality, liberty and property,(Government, x, 135; xiii, 149).

<sup>25</sup> It was Rousseau who gave a kinetic impetus to the doctrine of social contract by emphasizing that the State should derive its authority from the people and guarantee the natural rights of man, of freedom and equality as they inherent in man in the 'state of nature.' "Man is born free and everywhere he is in chains," Rousseau, *Social Contract*, 1762(everyman), I.i; *Discourse on Inequality*, pt. II.

Basu DD, *Law relating to Human Rights and Constitution* 49 (Wadhwa and Company, 2003).

" The Preamble to the Declaration acknowledges the doctrine of natural rights: "All men are by nature equally free and independent and have certain inherent natural rights of which when they enter society, they cannot by any compact deprive or divest of their prosperity, cited in Basu DD, *Law relating to Human Rights and Constitution*, 51.

<sup>28</sup> Ritchie, D.G., *Natural Rights: A Criticism of Some Political and Ethical Conceptions* 4 (Muihead, London, 1952).

### **American declaration of independence 1776**

Theory of natural rights, then, entered into the realm of constitutionalism with two revolutionary documents, namely the American Declaration of Independence and the French Declaration of Rights of Man, which asserted that there were certain inalienable rights and it was the duty of the state and its organ to protect these rights.<sup>29</sup>

### **French declaration of rights 1791**

Inspired by the American Declaration of Independence, the French National Assembly in 1789 formulated the declaration of the Rights of Man. This Declaration recognised and declared natural rights as imprescriptibly and inalienable rights and operated as limitation over the acts of the government.<sup>30</sup>

### **American Bill of Rights 1789**

The original draft of the Constitution of America didn't contain the bill of rights. Therefore, some states urged for inclusion of Bill of Rights as precondition for their ratification to the federal Constitution. The demand was conceded and ultimately led to incorporate a Bill of Rights in the form of First Ten Amendments to the Constitution in 1791.<sup>31</sup> By the 14th Amendment, the First Ten Amendment has been extended to the states in the year 1868.<sup>32</sup> It should be noted that the fundamental rights emerged as limitation over governmental power, so that it could not be used tyrannically against the individuals."

The concept of universality understood in 18<sup>th</sup> century was not worldwide in scope, and these rights were incorporated in constitution and applied only to the citizens of the state.<sup>34</sup> Nonetheless, not all the citizens enjoyed the privileges, particularly women, children and slaves who were excluded fully or partially from possessing the rights. Similarly, in France, women were not given equal status with men. In 18<sup>th</sup> century, Olympe de Gouges was executed, as she demanded to include women to be full subjects of rights and proposed 'Declaration of Rights of Woman and of the Female Citizen'. This gender discrimination was based on enlightenment thought, that rights are based on universal human nature derived by the reason, and women were considered as naturally irrational.

<sup>29</sup> The Declaration as drafted by Jefferson in 1776 states: "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and pursuit of happiness.

" *Supra* note 29.

" *Aid*

<sup>32</sup> See generally, Chemerinsky E, *Constitutional Law*, (Aspen Law Publishers, New York, 2001).

" *Adamson v. California*, (1947) 332 US 46.

" Eva Brems, *Human Rights: Universality and Diversity*, 17.



#### IV Human rights in Indian scenario

The Indian History is warranted by the fact that human rights jurisprudence has always occupied a place of prime importance in India's rich legacy of historical tradition and culture. This is evident in the prevalence of different cultures, traditions and faiths in India. It is claimed, that what the west has discovered today in the field of human rights has been an accepted principle in India since time immemorial."

The concept of Human Rights has evolved and developed gradually through ages in different parts and religions of the world so as to attain the present status. Long before civilization dawned in Egypt and Greece, we have the Hindu jurisprudence of about 4000 BC. 'A king should enter the court- room with all humility,' More cruel than the man who lives the life of a murderer is the king who gives himself to oppress and act unjustly (towards his subjects)."' Tor it is punishment alone that guards this world and the other, when it is evenly met by king to his son and his enemy, according to the offense."

The concept of human rights as it is understood today has evolved over the centuries. Though the expression 'Human Rights' seems to have modern face, human rights are as old as human civilization. Human rights have existed, in however, nascent form, ever since man, as a gregarious animal, has lived in communities, families, clan, tribe, village, town or nation and now in an independent world community". As far as historical perspective it can be said that, the concept of human rights in India may be seen to have existed in the crystallization of values that are considered to be the common heritage of mankind.

##### (a) Human rights in ancient India

The concept of human rights is not new thing to the Indian political thinkers and philosophers. They have expressed concern to secure human rights and fundamental freedom for all human beings everywhere since the very early times of *vedic* age. Philosophy of human rights had already occupied a place of prime importance in ancient Indian Brahmanical society. The Indian thinkers are of the view that it is not justified to limit the origin of the concept of human rights to only western civilization. What the west has discovered today in

" Sharma Arvind, *Hinduism and Human Rights: A Conceptual Approach*, 30 (Oxford University Press, New Delhi, 2006).

<sup>36</sup> See, W.H. Drew and J. Lazarus, (trans.) Thirukkural 112 — 113 (The voice of nobility, written by Thiruvallavar around 300 B.C. in Tamil language, 1991).

<sup>37</sup> See, K. D. Irani and Silver Morris, (ed.) *Social justice in the ancient world*, 95 (1995).

" R. P. Dhokalia, Human Rights as objects of Thought and Expression of Global Conscience, *Banaras Law Journal*, 5 (1992) Vol. 26.

the field of human rights has been an accepted principle of India's rich the declarations made in the *vedas*, the relevant declarations are:

*Ajyestaso akanishtas ete*  
*Sam Bhrataro va vridhuhu sowbhagaya"*  
*Samani prapa saha vaha ann abhagaha*  
*Same yoktre saha vaha yunajmi*  
*Araha habhimiva Abhitaha*<sup>40</sup>.

These *vedic* provisions forcefully declare equality among human beings. The last of them impress that just as no spoke of wheel is superior to other, no individual can claim to be or regarded as, superior to others. Equality of all human beings and the duty of each individual to strive for the happiness of every other individual as also the equal rights over food, water and other natural resources are found incorporated in these declarations.'

The modern utopia of a global village is more or less akin to this concept. It is quite interesting to pinpoint here that the immoral epics, *Vedas*, *Ramayana* and *Mahabharata* demonstrate the deep commitment and faith of our *sages* towards justice. All the four *vedas* insist on equality and respect for human dignity.

In the whole eighteen *puranas*, *Vyasa* has said two things doing well to another are right, causing injury to another is wrong. *Manu* says, 'king should protect and support all his subjects without any discrimination in the same manner as the earth supports all living beings.'<sup>42</sup>

There was however, a downfall of human rights jurisprudence in *Post-Vedic* age. But with the rise of Buddhism and Jainism there was a revival of human rights jurisprudence. Influenced by the teachings of Buddha worked extensively for the protection of human rights. His chief concern was the happiness of his subjects. Torture and inhuman treatment of prisoners were prohibited under Ashoka's administration. King used to dispense justice to

" No one is superior (*ajyestaso*) or inferior (*akanishtasha*). All are brethren (*bhrataraha*) all should strive for the interest of all and should progress collectively (*sowbhagayanam va varidhulu*). *Rig Veda*—*Mandala 5, Sukta- 60, Mantra*— 5, cited in inaugural address of Justice M. Ramajois, in (Judicial Colloquium in Mangalore, Feb. 24-26, 1998).

<sup>40</sup> All have equal rights in articles of food and water. The yoke of the chariot of life is placed equally on the shoulders of all. All should live together with harmony supporting one another like the spokes of a wheel of the chariot connecting its rim and the hub. *Atharvaveda*— *Samjuana Sukta*, cited in inaugural address of Justice M. Ramajois, in Judicial Colloquium in Mangalore, Feb. 24-26 (1998).

*H Supra* note 40.

<sup>42</sup> S. N. Dhyani, *Law, Morality and Justice*, 87 (1984).

the people. The study of *Mudra Rakshas*<sup>43</sup> shows that dispensation of justice was considered as one of the important duties of the rulers.

Hence, it is abundantly clear that ancient Indian jurisprudence stood for enlarging and encouraging human freedom, liberty and equality for all people. It has developed common ideals based on human unity and harmony which transcends diversities of race, colour, language, religion, etc.

### **(b) Human rights in medieval India**

During Muslim era in India, especially in the pre-mughal period, there were series of cultural, social and political stressed and strain on the style and way of life of *hindus*. The *muslim* rulers in India were fundamentalists and despotic who forced upon the *hindus* their own laws, customs and religious practices. *Hindus* were not treated in law on par with the Muslims, the latter being the conquerors and former being the *Kafirs* - the non-believers of Islam, special disabilities like *jazia*, were imposed on *Hindus*. Both in theory and practice, there was discrimination against *hindus* vis-à-vis *muslims*. Muslim rule in India was not founded on the basic principles of human dignity, equality and justice and was essentially autocratic, theocratic and irresponsible, devoid of the idea of rule of law, morality, justice, tolerance and social harmony. So significance of *muslim* rule in India from the point of view of human rights was counter-productive to harmony, justice and equality and the concept of human rights got lost on its way in the dark and narrow alleys of the middle ages. It was however; at a later stage that Muslim state in India became considerably modified in its form.

Some of the Moghul rulers especially Akbar, he brought some basic change in administration. He adopted the policy of tolerance and non-discrimination towards Hindus. Hence, it was not wrong to say that, with Akbar a new era began. The right of an accused to be released on bail did exist during Mughal rule in India. Similarly the right to benefit of doubt was known to Muslim jurisprudence in the administration of criminal justice. The benefit of doubt was known as *shuba* (doubt) which entitled an accused to be acquitted."

Finally, the bhakti movement evolved in later periods ultimately revived and regenerated the old Indian values of justice and morality. It may be recalled that from time immemorial Indians have called their culture by the name of human culture. No gain saying the fact that

43 *Mudra-Rakshas* was written by Vaishaka Dutta who was contemporary of Chandra Gupta.

44 Martin Ennals, "The Struggle for Human Rights", in A. R. Desai (ed.), *Violation of Democratic Rights in India*, 37 (1986).

human dignity had universal appeal and Indian culture had tried to be so comprehensive as to suit the needs of every human being, irrespective of age, colour, sex or caste.<sup>45</sup>

### **(c) Human Rights in Modern India**

The transition from the medieval to modern period has resulted in a prodigious change in the Indian history. The British Indian rulers discriminated against Indians in matters of their political and civil liberties and rights. They resorted to arbitrary acts such as brutal assaults on unarmed satyagrahis, internments, deportation etc., against Indians fighting for national independence, equal justice and economic equality. After witnessing the colonial rule, every Indian was of the firm opinion that the recognition, protection and implementation of human rights are not only basic but also inalienable for them for leading a civilized life.

To review the philosophy of human rights in modern sense, concerted efforts were made by the Indian National Congress, which demanded basic human rights in the Constitution of India Bill, 1895. Constant resistance to the foreign rule manifested in the form of demand for fundamental freedoms, civil and political rights for the people. The rights like freedom of expression, right to property, equality before law figured in this Bill. Congress as early as in 1918 in Bombay session demanded declaration of rights of people of India and again demanded of these basic rights ere reiterated in Nehru Committee Report in 1928. The congress in the resolutions of 1917 and 1919 asserted demand of civil rights and equal status with the English men. In 1922, congress aimed at achieving swaraj to shape dignity of the country. The Sapru Report 1945 incorporating the proposals of fundamental rights did not find favour. Later the British cabinet mission in 1946 recognized the need for a written guarantee of fundamental rights in the Constitution of India and envisaged a constituent assembly for framing the Constitution of India.

The constitution assembly pledged to draw constitution for the country wherein shall be guaranteed and secured for the people of India Justice: social, economic and political equality of status and of opportunity before the law; freedom of thought, expression, belief, faith and worship, vocation, association and action, subject to law and public morality.<sup>46</sup>

The aspirations of people of India found expression in the Indian Constitution, which enacted a nearly complete catalogue of human rights around the time when the international

<sup>45</sup> Sanjay Joshi, *The Right to Equality, Life and Liberty under the Constitutional Law of India*' 83 (1999).

<sup>46</sup> *C.A.D.*, Vol. II, 296.

scene was witnessing the framing of Universal Declaration of Human Rights. The human rights content of the Indian Constitution is a complex amalgam of civil and political rights along with economic, social, religious and minority rights.

### **V Conclusion**

In conclusion it can be said that, the word human rights is essentially a recent phenomenon however the spirit is as old as the human civilization. Human Rights are a dynamic concept and endeavors to adopt itself to the needs of the day. Human rights constitute those very rights which one has precisely because of being a human. In their basic meaning, human rights are claims of the individuals for such conditions, which are essential for the fullest realization of the innate characteristic which nature has bestowed upon him/her with as a human being. Apart from the constitutional provisions, various statutes have also been enacted by the Indian legislature with a view to protect and promote human rights. These legislations seek to protect different aspect of human rights.