

The History and Development of Human Rights in India

Rahul Naresh Raut

Ph.D Research scholar of CALORX TEACHER'S UNIVERSITY, AHMEDABAD

Abstract

India has second largest population country in the world and has most vibrant and culturally diverse population. India has a long civilization history and has seen different types of rulers in different parts of country. After independence democracy is adopted as a means to rule the nation and in starting of 21st century India has become largest democracy of world. It is also quite significant to mention that India got independence when concept of Human Rights was blooming in the world as a result of which Constitution of India shows strong commitment towards protection of Fundamental rights which is more or less basic human rights. As a democratic country one of the main Object is to give protection to the basic human rights of the people. Government of India has always given a prime consideration to protection and development of basic human rights in India. The present research paper aims at understanding the concept of evolution and development of human rights in India. As well as history and development of human right in India.

Keyword: History, Development, Human Right etc.

1. Introduction

Since the days of the Indus Valley Civilization, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contact with the enormous Indian sub continent over a very long stretch of time. As Jawaharlal Nehru rotes, there is "an unbroken continuity between the most: modern and the most ancient phases of Hindu thought extending Ove- three thousand years." The rights of man have been the concern 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." The Babylonian Laws and the Assyrian laws in the Middle East, the "Dharma" of the Vedic period in India and the jurisprudence of Lao-Tze and Confucius in China, have championed human rights the ghoulish history of human civilization.

The Indian concept perceives the individual, the society and the universe as an organic whole, everyone is a child of God and all fellow beings are related to one another and belong to a universal family. In this context, Mahatma Gandhi remarks, "I do not want to think in terms of the whole world. My patriotism includes the good of mankind in general. Therefore, my service to India includes the services of humanity.

2. literature of review

Sjoberg, Gill, and Williams (2001) provide a definition of human rights as "Human rights, as we conceptualize them, are claims made by persons in diverse social and cultural systems upon "organized power relationships" in order to advance the dignity of (or, more concretely, equal respect and concern for) human beings" (p. 25). The authors trace the sociological literature of human rights research. Since the events of WWII, specifically the Holocaust, human rights discourse was introduced. Before globalization it was easier to blame the nation state for committing human rights violations. The nation state, while still important, now has a weaker role in containing its influence. Transnational

organizations (such as NGOs or institutions like the World Bank) and mega-corporations are becoming increasingly more powerful and influential that the study of organizational power is what current human rights analysis is centered around (p. 13). As previously mentioned, human rights are an estimate of how the government treats its citizens.

Estevez (2012) writes that human rights are inherently structural resources because they are connected to the United Nations. Estevez refers to Donnelly when she writes that 'human rights' work because there is an overlapping consensus between nations on what justice is. Human rights are erga omnes norms which humans have no matter their nationality. Human rights legislation then has the ability to force states to cooperate with each other giving human rights its legitimacy (p. 27).

Dunn (2009) writes that human rights has been framed two ways: as citizenship-national sovereignty rights or human rights (transnational). He writes "the key point of difference between the citizenship view of rights versus that of human rights perspective revolves around the question of whether rights are conditional or unconditional" (p. 7). Under citizenship rights, people can be counted upon to receive support and defense from their government (if they qualify as a citizen). Under transnational human rights citizenship status is irrelevant. Humans deserve rights because they are human (p. 9). Dunn finds that the human rights framework is much more valuable for respecting the individuals who cross the U.S.-Mexico border.

Simmons and Mueller (2014) write that concepts like cultural relativism and universalism are limiting in that they don't contextualize human rights enough. "Human rights may possess universality, but they cannot be divorced from, or made sense of without considering concrete conditions in specific, complex, and multifaceted contexts. However, in a globalized world, the context in one country cannot be understood in isolation, without considering the actions or inactions of other states and transnational actors" (p. 3).

Alkire (2003) writes of human development as "the flourishing of fulfilment of individuals in their homes and communities and the expansion of valuable choices" which aims at growth with equity (p. 7). These choices are not just limited to income but also health, education, technology, the environment, and employment (p. 35). Anderson and Gerber (2008) frame development as having standards that "meet basic needs, including security in the event of unemployment, illness, disability, widowhood, and old age" (p. 222). As mentioned in the introduction, human development is focused on elevating communities to a higher standard and has a close relationship with human security.

Looking at the **6th General Assembly of the U.N. (2010)** we can see a clearer and narrower understanding of human security and who is responsible for it. Key points include the position that governments are responsible for the wellbeing of their citizens, the current circulation of people, money, and goods increases the risks of insecurity and development is essential in sustaining security. security means having "healthy political, social, environmental, economic, military and cultural systems..." (p. 4).

3. Objectives

Following are the main objectives of this study.

1. To understand the History of human rights in India.
2. To study the concept of various Human Rights & its importance.
3. Universal Declaration of Human Rights
4. Development of Human Rights and their types

4. Research methodology

The methodology followed in this examination isn't uni-dimensional. It is fairly a mix of the verifiable, hypothetical and viable parts of human rights. A chronicled approach has

been followed for the investigation of the birthplace and development of human rights in Ancient India. In breaking down the legal procedure and rights followed by the lords is logical. This investigation tries to understand and assess the jobs, powers, and the functioning of Human Rights in antiquated India.

Data Collection

The data will be collected through various sources which are as follow:

- Vedas
- Buddhist literature
- Jain canonical works,
- the Astadhyayi of Panini,
- Mahabhasya of Patanjali
- Kalidasa.
- Ramayana and Mahabharata
- Puraṇas
- Books
- Journals
- Government Publications

5. Meaning Of Human Rights

According to UN, "human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination".

These rights are inalienable and indispensable. The most unique feature of human rights is that it is difficult to define but impossible to ignore. It has been seen that human rights are essential for every human being in order to live their life to the fullest.

"Human Rights are not a privilege conferred by government. They are every human being's entitlement by virtue of his humanity" -Mother Teresa

Aristotle had said centuries ago, "Man is a social animal" From birth till childhood; from childhood till maturity; from maturity till adulthood; from adulthood till old-age; from old-age till death, every human exercises some basic rights to live with dignity. Human beings are rational beings. By virtue of their humanity, they are entitled to some rights that are necessary for their peaceful survival. To avoid conflicts in the social environment, one needs to respect the life of others. To fulfill this objective, every human is conferred with rights. These rights, in a layman language, are known as Human Rights.

6. History of Human Rights in India

The Buddhist doctrine of non-violence in deed and thought says Nagendra Singh, "is a humanitarian doctrine par excellence, dating back to the third century B.C. Jainism too contained similar doctrines. According to the Gita, "he who has no ill will to any being, who is friendly and compassionate, who is free from egoism and self-sense and who is even-minded in pain and pleasure and patient" is dear to God. It also says that divinity in humans is represented by the virtues of non-violence

The history and development of human rights in India can be divided into three stages: Ancient, Medieval, and Modern.

6.1.Human Rights In Ancient India

The concept of human rights is not alien to Indian political thinkers and philosophers. The concept is as old as ancient civilization.

In ancient India, law was based on the principle of Dharma. The Epics Ramayana and Mahabharata make us learn that Dharma was ordained for the advancement of all creatures as well as restraining creatures from injuring one another. The righteousness has been described as the essence of Dharma in The Bhagwat Geeta. The Upanishads speak of Dharma as the foundation of whole universe. The Vedas and Smritis talk about the concept of "Vasudha Kutumbakam" (the whole world as one family). All the four Vedas insist on equality and dignity for humans.

The teachings of Buddha worked effectively for the protection of human rights. The great King Ashoka had been successful in the creation of a welfare state for his subjects and provided them with basic freedoms and rights.

Hence, it is very much clear that Ancient Indian Literatures stood for enlarging and encouraging human rights, freedoms, liberty and equality for all people irrespective of any discrimination based on caste, creed, gender, sex, religion.

6.2 Human Rights In Medieval India

The Medieval period signifies the Muslim era in India. The Pre-Mughal period saw the existence of social, political, cultural, religious rights. But with the advent of Mughals, the concept of human rights got lost in the dark. But Akbar's period (1526-1605) showed that the great regard was given to the social, religious and political rights.

In his religious policy Din-E-Ilahi (divine-religion), he tried to preach the idea of secularism and religious tolerance. Similarly, various religious movements like Bhakti (Hindu) and Sufi (Islamic) made remarkable contribution to the emergence of human rights which at times suppressed by the other Mughal Emperors like Babar, Humayun, and Aurangzeb.

6.3 Human Rights In Modern India

The British rule in India can be seen in the Modern period. During this period, the British Government of India had not only deprived the Indian people of their freedom but had based itself on the exploitation of the masses, and ruined India economically, politically, culturally and spiritually.

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.

The Preamble, Fundamental Rights, Directive Principles of State Policy, newly added Fundamental Duties, reservation for scheduled castes and tribes, special provisions for Anglo- Indians and other backward classes are important constitutional provisions from the human rights point of view.

6.4 Human Rights in British India

The modern version of human rights jurisprudence may be said to have taken birth in India at tile time of the British rule. When the British ruled India, resistance to foreign rule manifested itself in the form of demand for fundamental freedoms and the civil and political rights of the people, Indians were humiliated and discriminated against by the Britishers. The freedom movement and the harsh repressive measures of the British rulers encouraged the fight for civil liberties and fundamental freedoms.

The study of human rights with reference to Indian Constitution reveals that the Constitution enshrines almost all the human rights provided in the various international conventions, covenants and treaties, such as:

6.5 Universal Declaration of Human Rights, 1948;

International Covenant on Economic, Social and Cultural Rights, 1976;

International Covenant on Civil and Political Rights, 1976;

Convention on the Prevention and Punishment of the Crime of Genocide, 1948;

International Convention on the Elimination of All Forms of Racial Discrimination, 1965;

Convention on the Elimination of All Forms of Discrimination against Women, 1979;

Convention on the Rights of Child, 1989;

Convention on the Rights of Persons with Disabilities, 2006.

Apart from the various constitutional provisions, various statutes have also been enacted by the Indian legislature with a view to protect and promote human rights.

6.6. Some of the important legislations enacted by the union are:

Protection of Human Rights Act, 1993;

National Commission for Minorities Act, 1992;

National Commission for Women Act, 1990;

Protection of Civil Rights Act, 1995;

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989;

Immoral Traffic (Prevention) Act, 1987;

Bonded Labor System (Abolition) Act, 1976;

Juvenile Justice (Care and Protection of Children) Act, 2000;

Child Labor (Prohibition and Regulation) Act, 1986 etc.

India has also adopted a number of legislative measures for the social security of the labor, which have been greatly influenced by ILO's standards.

In this way, the concept of human rights developed and deepened its roots in India.

6.7 Judicial Process and Human Rights

Judicial process basically means, the role played by a judge in a court of law while espousing the concept of law over specific aspects of legal guarantee either by constitution, a legislative enactment or an order of the Executive. In other words, it is referred to as the procedure adopted by a Judge in civil or criminal proceedings according to the law of the land or espousing the real meaning of constitution or a statute or executive or administrative order of a country. The common law countries, especially the English courts have evolved the normative principle of judge made law. However, the modern concept is much concerned with the American system. The Anglo-American system mainly based on Kelson's pure theory of Law⁸, which was later expanded by other eminent jurists such as H.L.A. Hart, and Roscoe Pound, John Rawls et.al.

In countries where constitution is supreme, it is the duty of a judge, especially, that of the higher courts to expand the meaning according to the contemporary pace of social conditions. This is otherwise referred to as *boni judices Est ampliata jurisdictional* (which means, it is the duty of a good judge to extend the jurisdiction-based as it is on the principle that law must keep pace with the society to retain its relevance for if the society moves but the law remains static; it shall be bad for both). The Supreme Court of India since its inception acted basing on this maximum, especially in the last few decades to uphold the fundamental rights (civil, political or socio-economic and cultural rights) are concerned.

7. Development of Human Rights and their types

The precise moment when the concept of Human Rights emerged is hard to pinpoint. Many cultures and traditional societies have believed in the worth every individual possesses as a human. Nevertheless, it was in early modern Europe when the idea of Human rights can be said to emerge in the form of "**Natural Rights**". The philosophers like John Locke, Thomas Hobbes, Hugo Grotius etc declared some rights as natural in the

sense that they were fundamental to human beings and are the very core of human nature. However, few early contributions are considered important and seen as landmarks that led to the beginning of the fairly new concept of human rights.

Some of the major historical contributions include the Magna Carta of 1215, the Bill of Rights of 1688, the US Declaration of Independence of 1776, and the Rights of Man and the Citizen, 1789 France. These centuries witnessed the growth of humanitarian ethics and there were gradual attempts to introduce rights. For instance, the Congress of Vienna of 1815 tried to promote the abolishment of the slave trade which was eventually achieved by the Brussels Convention of 1890. Even when most of the contributions were championed by states for their own country and their own people, they laid the thrust of the language of rights.

Nevertheless, it was with the end of the two brutal world wars that the popularity of Universal Human Rights gathered momentum. In 1948, the United Nations adopted the Universal Declaration of Human Rights in its general assembly. In 1966, two major human rights documents were adopted, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which came into force in 1976.

Karel Vasak, a distinguished and very well-known human rights scholar, introduced the idea of three generations of human rights, which allows us to understand the types and evolution of human rights better. The first generation of human rights is civil and political rights. The second generation of human rights includes economic, social and cultural rights and the third generation of human rights are called solidarity rights.

The first-generation rights i.e., civil and political rights are the initial form of natural rights. These rights developed during the English Revolution of the 17th century and the French and American Revolution of the 18th century. The key theme underlying these rights is liberty. The first-generation rights include the right to life, the right to liberty, and the right to property and have expanded to include non-discrimination, freedom from arbitrary arrest, freedom of thought, freedom of religion, freedom of movement etc. These rights are often seen as a manifestation of negative rights since they can be enjoyed only when there is a restriction upon others. The key documents to understand the content of the first generation of human rights are Article 3 to Article 21 of the UN Declaration and the International Covenant on Civil and Political Rights of 1966 which came into force in 1976.

In the twentieth century, especially post World War II, **second-generation** rights began to earn a greater prominence. The economy of countries was torn by war and there was massive destruction as a result of the world wars. Therefore, the effort for economic, social and cultural rights developed during the twentieth century. The rights rely on socialist assumptions and the underlying theme is equality which is in contrast to first-generation rights and the notion of liberty. The second-generation rights include the right to work, the right to health care, the right to education, the right to social security etc. Therefore, these rights are seen as a manifestation of positive rights as they place a claim on the state and a duty to oblige for action, for example, welfare provisions. The key documents to understand the content of second-generation rights are Article 22 to Article 27 of the UN Declaration and the International Covenant of Economic, Social and Cultural Rights of 1966.

The third generation of rights emerged post-1945 and are referred to as solidarity rights. This is for the simple reason that these rights are concerned with social groups and society on the whole rather than an individual. They are therefore seen as collective rights. The

underlying theme of the third-generation rights is fraternity. Usually, these rights are shaped by the difficulties faced by the countries of the Global South. These rights include the right to development, the right to environmental protection, the right to self-determination, the right to peace etc. The Stockholm Convention of Human Environment of 1972 and the Earth Summit of 1992 at Rio can be analyzed to understand these rights.

8. Conclusion

As we have dealt with what human rights are and its history and development, we are pretty much clear about the issues that are to be taken care of. Human rights jurisprudence in the Indian Constitution is extensive. This establishes the most comprehensive global human rights framework ever devised by any other country. Part III of the Constitution, in particular, could be referred to as India's "Magna Carta." In India, the judiciary plays an essential role in preserving citizens' human rights. The Indian courts have now established themselves as the courts of the oppressed and struggling masses, and have opened their doors to the country's poor, stupid, and illiterate masses.

The landmark Supreme Court judgments that we have gone through are evident in themselves that this country is capable of preventing the human rights violation; all that is needed is correct implementation or execution and a strong will to protect the citizens of our country and the whole world. As we all are aware of a saying that 'where there is a will, there is a way!'

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