

Laying the Foundation of Human Rights: An Evolution of Dignified Society

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Abstract

Human rights are as old as the human civilization and are synonymous with a quality oriented life of humans. It is a universally accepted fact that Human rights are a pre requisite condition for human life. The rights have evolved concurrently with the evolution of human society. This paper aims to track the journey of evolution of human rights through the annals of history to the modern day world. Rights have been intricately woven into the socio-economic, cultural, religious and political life of man.

Key words: Human Rights, law, religion, equality, liberty, status, women, society.

I. Introduction

Human rights are inherent in the disposition of man. They are fundamental for the development of a man's personality. According to Arjun Sengupta, "human rights should be made available to all universally without any discrimination, they are interdependent since the realization of one is not possible without the realization of the other right."ⁱ So society should preserve the dignity and integrity of man. According to Erica-Irene A. Daes, "Citizens of the Greek city-states enjoyed equality before law, equal respect for all, equal freedom of speech."ⁱⁱ She also said, "Greeks also developed certain customary rules applicable throughout the ancient Greek world, such as inviolability of the Person of envoys, the right of asylum of persons resorting to sacred places, freedom of trading, and sanctity of treaties, especially concluded after a religious ceremony."ⁱⁱⁱ

Thus, human beings alone among God's creatures use reason to lead their lives. This is natural law."^{iv} Nearing the end of the 18th century, according to the English philosopher John Locke, it was debated that it was "part of God's natural law that no one should hurt anyone else in their life, health, liberty or possessions. These rights could never be surrendered. The presence of this natural law also recognized the right to do whatever was essential to protect such rights."^v

According to Shah, "All significant religions of the world, including Hinduism, Christianity, Islam, Buddhism, Jainism, etc., have all wanted to determine complete and wide-ranging rational moral codes of conduct based on divine law. All the religions encompass profound philosophies and thoughts on the dignity of the human being."^{vi}

Objectives

To give an understanding of historical context of human rights and their evolution

To comprehend the process of evolution of human rights in the society

History of Human Rights

According to Freedon, Micheal, "The history of human rights did not begin with the Magna Carta of 1215 or with American declaration of Independence of 1776 or adoption of the declaration of the rights of man and citizen by the National Assembly of France in 1798 rather it is as old as the human civilization itself."^{vii}

Human Rights in Ancient World

Human rights have been perpetually developing through the annals of history of mankind. These are very complexly woven into the laws, traditions, rituals and religions all through civilization. The first illustrative example of laws which were codified and contain citations to man's right is the tablet of Hammurabi."^{viii}

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Human Rights in Persian Empire

“The Achaemenid Persian Empire of ancient Iran established unprecedented principles of human rights in the 6th century BC under Cyrus the Great. After his conquest of Babylon in 539 BC, the king issued the Cyrus cylinder, discovered in 1879 and recognized by many today as the first human rights document.”^x The Cyrus cylinder also documents the protection of the rights to liberty and security, freedom of movement, the right of property, and economic and social rights.”^{xi}

Human Rights in Islam

Islam’s contribution to the development of humanitarian laws has been underestimated and not fully recognized by the western studies. According to Abdul Aziz, “In Islam as in other religious traditions human rights are concerned with the dignity of the individual, the level of self-esteem that secures personal identity and promotes human community. The religion of Islam establishes a social order designed to enlarge freedom, justice and opportunity for the perfectibility of the human beings. It also defines political, economic and cultural processes designed to promote these goals.”^{xii}

Human Rights and United Nations

As an International organization the United Nations comes with a unique feature of possessing jurisdiction for Universal Human Rights Legislation. Second world war and its aftermath resulted in the modern Human Rights jurisprudence. “The monstrous violation of human rights during the second World War and the belief that some of these human violations would have been prevented if there had been some effective international system for protection of human rights, led to the inclusion of certain human right clauses in the UN charter.”^{xiii}

“The first use of the term Human Rights is observed in the Charter of the United Nations, which was adopted at San Francisco on June 25, 1945.”^{xiv} The United Nations Charter asserted on the demand to encourage international co-operations for the achievement of human rights. “Human Rights would occupy a significant chapter in any story of the UN.”^{xv} If Hitler was horror to every human right lover, the United Nation’s Charter was a spring of hope for all.”^{xvi}

Universal Declaration of Human Rights

The Declaration has been hailed as “a historic event of profound significance and as one of the greatest achievements of the United Nations.”^{xvii} Mrs. Eleanor Roosevelt, first chairwoman of the Commission on Human Rights (CHR) who prepared the Declaration, correctly remarked that the Universal Declaration of Human Rights “might well become the international Magna Carta of all mankind.” The Universal declaration of Human Rights encompasses ‘a preamble and 30 articles.’ “The first twenty-one articles deal with civil and political rights, the next six articles deal with economic, social and cultural rights and the rest are general in nature.”^{xviii}

“The Declaration on Human Rights was prepared by the Commission on Human Rights in 1947 and 1948 and was adopted by the General Assembly on December 10, 1948. When the Universal Declaration of Human Rights was adopted, it was a most powerful expression of hope by a world which was trying to emerge from the horrifying effects of the war.”^{xix}

Dr. Nagendra Singh upheld, “that the declaration was not a mere resolution of the General Assembly but a continuation of the Charter and the dignity of the Charter.”^{xx}

Ancient India: Human Rights

Dharma and Stick were two pillars of the administration in ancient India which were implemented by the King who was also under the law. The King had a social responsibility which is evident by Dr. Nagendra Singh’s English version of Manu’s statement, “To end lawlessness was created the institution of the King whose supreme duty was to protect his subjects against disorder and anarchy. It was the King’s duty to enforce not only sacred Law of the texts but also customary laws of the subjects. This was perhaps human rights enforcement system in its embryonic stage.”^{xxi} The human rights were manifested in the Ancient Hindu and Islamic civilizations. ‘Emperor Asoka’ and the Prophet Mohammed both supported human rights. Innumerable mentions in the ‘Vedas’ tell us about the presence of early India. Nizami and Davila^{xxii} stated that, “Human rights have always occupied a place of paramount importance in India’s rich legacy because India believed in the principle, Vasudhaiva-kutumbakam, i.e. welfare of all.” In this philosophy the entire earth was considered as a family. As in the entire family welfare of all is considered important.

Rig Veda: Human Rights

The ‘Rig Veda’ also upholds the view that no one is superior or inferior. Equality was part of that particular era where slogan of ‘All are brothers’ was principle adopted by all. It was believed that everybody must

endeavor together for everyone's enhancement and development. This view expressed by the Vedas in the ancient era is echoed today also in 'Universal declaration of Human Rights'.

The 'Rig-Vedic' civilization was an unrestricted society. females also enjoyed many privileges just like male members of the society. Young women studied the Veda and fine arts and were free to choose their companions. Women had freedom to decide household matters

The daughters had palisade in their fathers' belongings before their marriage. She was authorized privileges in her father's assets if she did not have a brother. Once a mother died her belongings were distributed on equal basis. However, daughters after marriage were not given any share in father's property. Women were also denied their legal right in the possessions of their husbands. A widowed mother had some rights. The women were given somewhat similar status in the social and religious front for rites which were not performed by men alone. She used to take part in sacred rituals with her husband. Some of these practices really worked against the status of women and ultimately resulted in decline of her status in Indian society.

Epics: Human Rights

The age of the epics was written in Golden letters as far as freedom of woman is concerned. Females held a respectable position in the society. The Ramayana and Mahabharata had scholarly women in royal families. The Ramayana portrayed a perfect Hindu woman, the Mahabharata showcased women who were directing and guiding the men on all types of issues. Women played a big and decisive role in the society which indicates their good status. The status of women witnessed a downfall in an equivalent age as exposed by the Puranas.

Smritis: Human Rights

This era was dominated by the thought of ancient law maker Manu. He had very contradictory opinion on women and her status in the society. On one hand, Manu said "Women must always be honored and respected by the father, brother, husband and brother-in-law, and he further stated that where women are honored, there only Gods are pleased, but where they are not honored, no sacred rite even could yield rewards".. He observes that the family, in which women suffer, is bound to be tumbled-down, while the family in which women are happy is bound to flourish

On the other hand Manu believed that a wife must obey and respect him despite his bad character. Only this would make her attain bliss. Women were deprived monetary rights by Manu. It seems that he had a very degrading and self-contradictory view about women

The status of women witnessed two opinions in ancient India. The first view held women at par with men whereas the second view held women in utter disregard and demeaning position. Second thought mainly highlighted women should be always controlled by menfolk otherwise women can be disastrous.

Buddhist Period: Human Rights

Women's status was somewhat upgraded in the Buddhist era. The holy arena saw that she occupied a noticeably greater position and had a collective group by the name of Bhikshuni Sangha where she could indulge in social and cultural deeds but their monetary status was as bad as earlier. This period tried to upgrade status of women covering different aspects of life. Violations of previous times were checked positively in order to improve overall status of women. Religion was an important institution but totally influenced by patriarchy. Women priests were never existed in Indian society, although worshipping of goddesses was there. So, Buddhism saw a welcome change in the status of women at least public participation and religious life changed a little bit.

Mauryan Domain: Human Rights

Although there is nothing special to talk about rights of women during his regime but Emperor 'Asoka' had a personality make over when he felt remorseful for the brutal war of 'Kalinga', and adopted Buddhism and thereafter started the policy of protection of human rights and the happiness of his subjects while treating them as equals. He provided them with educational institutions, free treatment in hospitals, etc. After war he became protector of human rights due to deep imprints of war on his mind and thinking.

Medieval India: Human Rights

This era had influenced status of women negatively. The Mughal kings in spite of being very despotic were always remembered for their judicial system which had all the elements of the modern systems like fair trial and independent judiciary. Despite this the Muslim rule witnessed the adoption of an anti-Hindu discriminatory policy on part of the Mohammedan rulers.

Akbar was a justice-loving king who did not hesitate when he said that, in case he was accused of doing something wrong, he will never say no to a trial against himself. Jahangir's palace had a provision of a bell which the people could ring in order to apprise him about their grievance so that deliverance of justice was possible at the earliest. The advent of the Muslims in the medieval era saw deterioration in the status of women. The female

folk achieved success in all the fields like literature, music and arts. This era saw illustrious women leaders like Razia Sultana, Nurjahan and Durgavati ruling the political scene, but condition of poor women was very bad. Sinful customs like female infanticide, sati and child marriage became rampant in the Indian society. Practices like purdah, zenana, Devdasi and polygamy became very common. Many malicious practices started during this period and ultimately effected women adversely.

British Era: Human Rights

The British era led to humiliation of the Indians and discrimination. Leading to freedom struggle to fight for civil liberties and fundamental freedoms of man. The English “East India Company” not only banned Indians from getting appointed to high posts and excluded them from all types of rights. Still some efforts were done to restore the rights and dignity of the individual. “Charter Act of 1813 was enacted and the Government of India Act, 1833 was passed, to allow the Indians to enjoy some political rights.” Congress party led the Indian National movement under stalwarts like Motilal Nehru, W. C. Bannerji, S. N. Bannerji, Jawaharlal Nehru etc..

Mahatma Gandhi organized the people of India for a struggle without violence with a purpose to attain self-rule and basic rights for one and all. One of the famous congress leaders from the liberal era Lokmanya Tilak encouraged, “freedom was the birth right of Indians for which they will have to fight.”^{xxiii} The Indian freedom struggle finally culminated into a free and independent India with the adoption of Indian constitution.

The British era brought some hope for women with changes in the socio-economic knit of the Indian society reducing disparities that existed between both the genders in the field of schooling, industrialization, occupation, urbanization, rights and social movements. These changes affected the status of women. The socio reform movements and Indian national movement played a big role in enhancing the status of women. Issues like sati, child marriage, ban on widow remarriage, denial of property rights to women, polygamy caught the attention of the social reformers. Raja Ram Mohan Roy performed an essential role in abolishing the custom of Sati due to the efforts of Ishwar Chandra Vidyasagar and other prominent personalities, law was passed in favor of women so that in case of widowhood they were permitted to re marry. Both upper classes educated and rural women participated in ‘Gandhi’s Satyagraha’. Effect of western education, leadership provided by educated women elites, compassionate approach of national leaders towards women’s struggle helped in improving the position of women in the pre-independence era.

Post-Independence Era and Human Rights

India witnessed a big milestone when its constitution was framed by the constituent assembly of India in which immense importance was given to human rights The constitution of India was enacted on 26th January, 1950. Part III of the Indian Constitution guarantees a number of fundamental rights like right to liberty, equality, religious freedom many of these rights are identifiable with provisions of the Universal Declaration of Human Rights.

The post-independence era brought a big improvement in the status of women. Indian women stand at par in the context of benefits of some fundamental rights and liberties ensued in the constitution are concerned such as right of life and personal liberty. ‘Article 14 and 15’ ensure equality before law and prohibition of any discrimination respectively followed by Article 16(a) which prohibits discrimination for holding a post under the state on the basis of religion caste, sex, descent, and place of birth, etc. The time after these unfolded, numerous other acts were made by the Indian legislature and implemented by the executive which led to the enhancement of the Indian women. These were the Hindu Marriage Act of 1955, The Hindu Adoption and Maintenance Act of 1956, The Hindu Minority and Guardianship Act of 1956, The Hindu Succession Act of 1956, The Hindu Women Right to Property Act of 1973, The Dowry Prohibition Act of 1961, The Equal Remuneration Act of 1976.” Hence, one sees that the pre-independent era laid the ground for improvement in the status and rights of the woman which was further solidified in the post- independent era.

There was dynamism in the status of women since beginning of human life. She lost her position in the Middle Ages only to regain it in the beginning of the 19th century. Even this cannot ignore the fact that the women from rural, downtrodden and low caste still have to face inequality and exploitation due to a number of factors.

India has witnessed some of the important national statutes since 1829 which led to the safeguard and encouragement of human rights. The year of 1923 saw the abolishment of the practice of sati. Various rights were secured through such acts like 1923 – Workmen’s Compensation Act. 1926 – Trade Unions Act. 1929 – Child Marriage Restraint Act. 1933 – Children (Pledging of Labor) Act. 1936 – Payment of Wages Act. 1946 – Industrial Employment Standing Orders Act. 1947 – Industrial Disputes Act. 1948 – Minimum Wages Act. 1950 – Caste Disabilities Removal Act. 1955 – Protection of Civil Rights Act. 1956 – Immoral Traffic Act. 1961 – Maternity Benefit Act. 1976 – Equal Remuneration Act. 1986 – Environmental Protection Act. 1986 – Juvenile Justice Act. 1987 – Commission Of Sati (prevention) Act. 1990 – National Commission for Women Act. 1993 – Establishment of Human Rights Commission. In 2005 – Right to Information Act was passed. 2010 witnessed The Right of Children to Free and Compulsory Education Act having come into force etc.

II. Conclusion

Rights are those pre-requisite conditions of life which are recognized by the society and provided as well as protected by the state. But each society also has certain challenges which obstruct the rights of an individual. Hence different ways of protecting human rights have to be adopted. A parliament which is answerable to the people, an executive who is eventually answerable to the elected representatives of the people and a free and fair judiciary are necessary. These fundamental organs of the government continuously work towards guaranteeing rights of the people but still are not completely sufficient in doing so. Hence it was realized that there is a need for other mechanisms apart from these basic institutions which once setup and strengthened will boost and raise the level of already existing apparatuses. But, along with this sociability he also possesses an animal instinct due to which he indulges in violation of law and infringes upon the rights of his fellow beings. This disturbs the peace and order of the society and causes conflict among the individuals. To curb this problem, life of man needs to be regulated by the laws of the state so that individual can enjoy his rights without violating the rights of his fellow beings.

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