

# Philosophy and essence of Human Rights

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**Abstract:** Human rights may be regarded as those fundamental and inalienable rights which are essential for life as human being. Human rights are the rights which are possessed by every human being, irrespective of his or her nationality, race, religion, sex, etc., simply because he or she is a human being. Human rights and fundamental freedoms allow us to fully grow and develop and use our human qualities, our intelligence, our talents, and our conscience and to satisfy our physical, spiritual, mental and other needs. Human Rights philosophy is the quest for translating the international standards of human rights from phrase to action. Man is a curious blend of emotions and aspiration. He values his physical, intellectual, moral and spiritual fundamental freedoms. He intends that his dignity, which is sacred to him, must be safeguarded at all costs. It is this respect for the human personality and the inherent dignity of the human soul, which is the cardinal thing in the society.

**Keywords:** Inalienable, Phoenix, Fostering, Interdependent, Homosapiens, Aspiration.

## 1. Introduction

Human beings are rational and prudent beings. They by virtue of their being human contain certain basic and inalienable rights which are commonly known as human rights. Human rights may be regarded as those fundamental and inalienable rights which are essential for life as human being. Human rights and fundamental freedoms allow us to fully grow and develop and use our human qualities, our intelligence, our talents, and our conscience and to satisfy our physical, spiritual, mental and other needs. Human rights, being the birth rights, are therefore, situated in all the individuals irrespective of their caste, creed, religion, sex and nationality. Human rights are sometimes called fundamental rights or basic rights or natural rights. As fundamental or basic rights they are the rights which cannot, rather must not, be taken away by any legislature or any Act of the government and which are often set out in a Constitution. As natural rights they are seen as belonging to men and women by their very nature. They may also be described as 'common rights' for they are rights which all men and women in the world would share just as the common law in England, for example, was the body of rules and customs which unlike local customs, governed the whole country.<sup>1</sup> They are non derogable rights. Their violation can never be justified. Human Rights are rooted in notions of universal justice. All human beings are entitled to basic economic, social, political, cultural and civil freedoms that are necessary for a life of dignity. Today, Democracy, Development and Respect for human beings are interdependent and mutually reinforcing.

<sup>1</sup> J.E.S. Fawcett, *The Law of Nations* (London: The Penguin Press 1968) p. 151.

## 2. Human Rights

Human rights are a product of long history. The promotion and protection of human rights is not a matter of priority for international community but a pious duty of municipal system of law. According to western political and philosophical thinking, "human rights are innate in individuals and are an intrinsic factor in the quality of the human persons."<sup>2</sup> "The term Human Rights covers in its ambit those essential rights, defined or undefined which lead and contribute to the balanced development of Human individual."<sup>3</sup> The *Lexicon Universal Encyclopaedia* describes the "Human Rights" expression as follows: "Human Rights are basic political and social conditions variously defined to which every individual is entitled as a human being. Originally they were called natural rights or the rights of man, and included the rights to life, liberty, and the pursuit of happiness cited in the U.S. Declaration of Independence. Over the years the concept of human rights has been broadened to include rights to social benefits such as social security, rest and leisure, and education."<sup>4</sup> "The concept of Human Rights is as old as the ancient doctrine of "natural rights" founded on natural law. The expression "human rights" is of recent origin, emerging from (post-second world war) international charters and conventions."<sup>5</sup> "The expression 'Human Rights' has not been specifically defined in any declaration or covenant of the United Nations. Human Rights are generally defined as "those

<sup>2</sup> Sankar Sen, *Human Rights in a Developing Society* (New Delhi: APH Publishing Corporation 1998) p. 3.

<sup>3</sup> A. P. Singh, "Human Rights: The Indian Context", (2000) AIR(J), 8-12, p. 8.

<sup>4</sup> *Lexicon Universal Encyclopedia*, Lexicon Publications INC, New York, NY, 297-298.

<sup>5</sup> D.D. Basu, *Human Rights in Constitutional Law* (New Delhi: Prentice Hall of India 1994) p. 5.

rights which are inherent in our nature and without which we can not live as human beings". The recognition of these natural rights of human beings is as ancient as the human civilization."<sup>6</sup> Human Rights are those minimal rights which every individual must have against the state or other Public authority by virtue of his being a 'member' of the human family' irrespective of any other consideration. "The first documentary use of the expression 'human rights' is found in the charter of the United Nations, which was adopted (after the Second World War) at San Francisco on June 25, 1945 and ratified by a majority of its signatories in October that year. The contemporary international statement of those rights is the Universal Declaration of Human Rights. Human Rights are something more than a set of do's and don'ts. They imply ethical values and attitudes to human relationship. They come to life and grow only if they relate to the local culture, traditions and philosophy. Most societies have always had some form of legal recognition and protection of human rights, but definitions as to what constitutes human rights (and who should have them) have varied considerably.

### 3. Philosophy of Human Rights

Human Rights to the people are believed to be an extremely modern concepts of recent origin, some ascribe their origin to the French Declaration of the Rights of Man and Citizen of 1789. Initially there was confusion between the natural rights propounded by political philosophers in the by gone ages and the concept of Human Rights."<sup>7</sup> The sum and substance of the aforesaid deliberation is that human rights derive from the dignity and worth inherent in the human being and human person is the central subject of Human Rights and Fundamental Freedoms. In simple terms, whatever adds to the dignified and free existence of a human being should be regarded as human rights. The importance of the study of Human Rights is constantly growing particularly in relation to governmental power and their use and exercise.<sup>8</sup> The development of international protection of Human Rights may be said to have its roots in antiquity, but a real beginning was made only during the early 19<sup>th</sup> century. The root of the concern for human rights may be traced to religion, humanitarian traditions and to the unceasing struggle for freedom and equality in all parts of the world. The International concern for human dignity and rights found expression in covenant of the League of Nations. It was with the birth of the United Nations that the Human Rights movement got a momentum in the International spheres. These rights were no longer to be confined to the rights of minorities. The idea of fundamental human rights has a long history, but as a subject of political importance in terms of the protection

of the quality and dignity of life of individuals, it has become of greatly increased significance since the end of the Second World War. The Second World War, witnessed not only tremendous loss of lives and properties but ruthless degradation of human rights. Suppression of religious and ethnic groups and minorities shocked the conscience of the civilised world. The horrowing experience of the Second World War gave rise to the conviction that effective international protection of human rights is one of the essential conditions of International peace and progress. The United Nations, which arose like a phoenix out of the ashes of the Second World War put utmost stress on promotion and fostering of human rights and basic freedoms. The concern of the United Nations with the promotion and protection of human rights stems directly from the realization by the international community that recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the "foundation of freedom, justice and peace in the world." The concept of human rights tells a detailed story of the attempts made to define basic dignity and worth of the human beings and his or her fundamental entitlement. Following the establishment of the United Nation, whose charter proclaims the protection of human rights as one of its principal purpose, scores of international instruments have been adopted, spelling out norms and standards to promote universal respect for, and observance of, human rights and fundamental freedom for all. Most instruments contain a set of rights and freedoms which they seek to protect. The contemporary philosophical respectability of human rights is itself remarkable and has taken root and no present political system, no contemporary political theory rejects or deny it. Earlier philosophical objections have subsided or have become irrelevant. Rights against government imply limitations on governments, but there is not a priority assumption that in general government is for limited purposes only. The rights which are fundamental include not only civil and political rights which government must not invade, but also rights to economic and social well-being which government must actively provide or promote.

### 4. Essence of Human Rights

Human rights have been the crucial element of philosophical, social and political debates in the second portion of the twentieth-century. They are not earned, bought or inherited nor are they created by any contractual authority. Human rights activism is not a legal pursuit. International treaties, declarations, legal precedents and the commentary of human rights bodies are important tools for human rights workers but they amount to little without public awareness and action. Human Rights are not an imposition from out side but they are an indigenious and internal sprouting and construct. The irony is that consciousness has been imposed rather than felt. They are based on mankind's demand for a life in which the inherent dignity of

<sup>6</sup> Sita Ram Singh, "Human Rights and Policing in India", (1996) Vol. 102 Cr.L.J p. 125.

<sup>7</sup> *Supra* note 10, p. 13.

<sup>8</sup> *Ibid.* p. 14.

member of homosapiens family will receive respect and protection. The need of hour is that human rights create a special climate of solidarity and responsibility. The denial of human rights and fundamental freedoms is an individual and personal tragedy. It leads to conditions of social and political unrest, sow the seeds of violence and conflict within and between societies and nations. There is great significance of human rights awareness to democratize societies of the world. This aspect is increasingly gaining currency in the thought of commentators and defenders of human rights and democratic world order. Only those people who are educated about and aware of their human rights can demand that their governments observe those rights. Knowledge of human rights is essential as a tool for the observance and the promotion of human rights and for the creation of a climate of public opinion in which gross violations of human rights are unacceptable. While education about and knowledge of human rights cannot totally prevent the occurrence of gross violation of human rights, it can create moral and mental inhibitions and a sense of shame on the part of violators of human rights and thus contribute to protection of human rights. Vigilance is the price of democracy. To be conscious of one's rights and be ready to assert for them is the minimum on the part of citizen, that makes the government and for that matter the state accountable to uphold these rights.

## 5. Conclusion

Peace and progress in a society will be possible only when the State - the Government and the people are conscious of the need to ensure that everyone enjoys Human Rights. Mere assertion of the principles of Human Rights in the Constitution and various laws will not ensure this.<sup>9</sup> Human Rights philosophy is the quest for translating the international standards of human rights from phrase to action. Man is a curious blend of emotions and aspiration. He values his physical, intellectual, moral and spiritual fundamental freedoms. He intends that his dignity, which is sacred to him, must be safeguarded at all costs. It is this respect for the human personality and the inherent dignity of the human soul, which is the cardinal thing in the society. Naturally, no interest of the states would ordinarily permit to violate human rights of an individual which are so basic and fundamental and on which the very dignity of human souls is fully dependent.<sup>10</sup> It is impossible to develop a harmonized human rights philosophy unless we consider emotions and aspiration

of individuals. Human rights constitute the very source of all rights of human beings. They embody the scheme of ideal rights. They provide for moral foundation of any system of rights

## REFERENCES

- [1]. Muralidhan, S. "Rights of Victims in the Indian Criminal Justice System." *Journal of NHRC* 2 (2003).
- [2]. Dhar, Pannalal. *Preventive Detention under Indian Constitution*. Deep & Deep Publications, 1986.
- [3]. Friendly, Henry J. "The Bill of Rights as a Code of Criminal Procedure." *California Law Review* 53.4 (1965): 929-956.
- [4]. Kolsky, Elizabeth. "Codification and the rule of colonial difference: criminal procedure in British India." *Law and History Review* 23.03 (2005): 631-683.
- [5]. Banerjee, Tapas Kumar. *Background to Indian Criminal Law*. R. Cambay, 1963.

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<sup>9</sup> S. Subramaniam, *Human Rights International Challenges* (New Delhi: Manas Publications 1997) p. 747.

<sup>10</sup> Albert Einstein, Address at Chicago Decalogue Society dt. 20-2-1954 quoted in V.R. Krishna Iyer, *Human Rights and Human Wrongs* (New Delhi: BR Publishing Corporation 1990) p. 83.