

1.2 Origin and Historical Development of Human Rights

The expression “human rights’ came into use during World War II and the establishment of the United Nations in 1945. However, the idea of human rights is much older. In fact, it goes back to ancient Greece and Rome where it was closely linked with the pre-modern natural law doctrine of Greek Stoicism.

The doctrine of natural rights rests on a belief in “Nature”, as the original creating force, which gave to every man the power of finding by reason the right principles on which to organize his life. Natural rights refer to some conditions, situations or conduct that is right, as opposed to being neutral or wrong for human beings. Even during the times of Plato and Socrates, this idea was linked to the kindred notions of natural law and political idealism. On the basis of these ideas, it was later argued that above and beyond the real world of the laws and rules promulgated by kings and emperors there existed certain immutable and natural laws to which all human beings are entitled and by which rulers should be judged.

In the medieval period, which stretches from 13th century to the Peace of Westphalia (1648), encompassing the period of Renaissance and the decline of feudalism, certain basic changes in the beliefs and practices were witnessed because the people felt the idea of human rights as general social need and reality. It was during this period when resistance to religious intolerance and political-economic bondage began and the real foundation of human rights was truly laid. The Magna Carta (1215), the Petition of Rights (1628), and the English Bill of Rights (1689) were proofs of increasingly popular view that human beings are endowed with certain eternal and inalienable rights. It was only in 17th and 18th centuries that modernist conception of natural law was conceived. During this period, there were many scientific and intellectual achievements. The astronomical discoveries of Galileo and Newton, the materialism of Hobbes, the rationalism of Rene, Descartes and G.W. Leibniz, the pantheism of Spinoza, the empiricism of Francis Bacon and John Locke-encouraged a belief in natural law and universal order.

In 18th century, the so called age of enlightenment, a growing confidence in human reason and in the perfectibility of human affairs led to its more comprehensive expression in the writings of English philosopher John Locke and the works of Montesquieu, Voltaire Rousseau. John Locke, the father of liberalism argued in detail, mainly in writings associated with the Glorious Revolution (1688), that certain rights like right to life, liberty and property self-evidently pertain to individuals as human beings because they even existed in the “state of nature” that is, before humankind entered into civil society. He further argued that while entering into civil society through contact humankind surrendered to the state only the right to enforce these natural rights and not the rights themselves. He also cautioned that if state failed to protect these rights people also have a right to revolt against state. The teachings of these liberal thinkers had a profound influence on the western world. Together with the practical example of England’s revolution of 1688 and the resulting Bill of Rights, the liberal, intellectual ferment had great influence on the western world. Adoption of Declaration was really an event of great significance. The 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 the Pursuit of Happiness. Similarly, the French Declaration of the Rights of Men (1789) emphasized that “men are born and remain free and equal in rights,” which are “Liberty, Property, Safety and Resistance to Oppression.” It defined liberty so as to include the right to free speech, freedom of association, religious freedom and freedom from arbitrary arrest and confinement. Another factor, which can be attributed to the development of human rights, was indeed the failure of rulers to respect the principle of freedom and equality. In the words of Maurice Cranston, it was in fact political absoluteness, which prompted men to claim their rights, which were denied to them. The idea of human rights still remained controversial due to its abstractness. It came under severe criticism both from the contemporary liberal and radical circles. The conservatives like Edmund Burke and David Hume in England started questioning the very basis of the doctrine of Natural Rights. They were of the opinion that we can never discover the nature of man, and thus we can never identify human rights. They further condemned the doctrine out of fear that public affirmation of natural rights would lead to social upheaval. They criticized the Declaration of Human Rights of men as “monstrous

fiction” of human equality. Jeremy Bentham, the founder of utilitarianism asserted that, “right is the child of law”, from real laws come real rights but imaginary laws from law of nature, come imaginary rights.” He goes on to the extent of calling it (natural rights) as ‘simply, nonsense, natural and imprescriptibly rights, nonsense upon stills’. This attack on natural law and natural rights intensified during 19th and early 20th centuries by philosophers like J.S. Mill, Friedrich, Karl -Von Savigny, Sir Henry Maine and John Austin. So there existed intense attack on natural rights theory because there was all these assaults the notion of human rights manifested itself in one or the other form. But it was not until the rise and fall of Nazism in Germany that the real meaning was imparted to the ideal of human rights.

Human rights were further developed in the international sphere with the establishment of the League of Nations, after the First World War. The League Covenant made an indirect reference to the welfare of the people governed under the mandate. Article 22 (1) reads “that the well-being and development of such people form a sacred trust of civilization” likewise Article 22 (5) made responsible to the mandatory state to maintain such conditions in the territory will guarantee “freedom of conscience and religion” and “the prohibition of abuses such as slave trade” etc. The contribution of the International Labour Organization under the aegis of the League was equally noteworthy in creating an atmosphere of international involvement in securing fair and humane conditions of labourers. The horrors and worst kind of brutalization of human rights in the World War-II led to the birth and recognition of the modern human rights movement in the international sphere, but it was only after the U.N., hardly any defence for it to be the real rights of men till the First World War. Despite globe. In this connection, the first documentarian use of the expression took place in Universal Declaration of Human Rights and two other international covenants - launched a new era of hopes in the protection and promotion of human rights across the International Covenants on Civil and Political Rights (ICCPR) and International Covenants on Economic, Social and Cultural Rights (ICESCR) of 1966 which came into force in 1976 with the approval of the United Nations

Charter was signed in 1945 that any serious attempt was made to provide comprehensive protection of all individuals against all forms of injustice and human rights violations. The Charter of the United Nations, however, did not define

the content of human rights. For this purpose, the U.N. General Assembly on 10th December 1948 proclaimed the Universal Declaration of Human Rights. It defined specific rights - civil and political as well as economic, social and cultural. It spells out the rights to life, liberty and security of person, to fair trial by due process of law, to freedom of conscience, thought, expression, association and privacy, freedom of movement.

Thus the “20th century brought a new and changing political context for human rights and transformed to philosophical and ideological debate about it. In a way, this historical narration underscores men’s struggle for rights being as old as the history of mankind itself.