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# Evolution of Human Rights Law and Global Initiatives

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## ABSTRACT

*Rights and freedoms are considered to be the most essential aspects for human survival, existence personality, peace and development among others, without which human beings would obviously be reduced to the level of animals. Historically, the evolution of human rights emerged out from the very concept of natural rights, divine rights or other superior rights. Though the concept of human rights is as old as human civilization, they were found in different form and nature in the ancient time. During the passage of time, the concept of human rights grew up in a gradual manner through different stages of human civilization. The article dwells upon the efforts of the League of Nations and the relentless endeavors of the United Nations, more particularly in the post-1945, and their relative impact on humanity and mankind has, eventually led to adoption of a global regime on human rights as a universally accepted standard norms for all people and for all nations.*

**Keywords:** *Divine rights, tyrannical rulers, slavery practice, vulnerable people, dependent colonies, mandate system, trusteeship system, human rights jurisprudence, domestic clause and sovereignty of state.*

## I. INTRODUCTION

The concept of human rights is as old as humanity itself and these rights are the common heritage of mankind which are essentially owned by every individual being born in the human society. They are considered to be absolutely essential for the survival, existence, peace and personality development, among others without which human beings will obviously be reduced to the level of animals. Evolution of the concept of human rights of individual primarily emerged out based on the natural rights, divine rights or other superior rights. As a matter of fact, human rights were in rudimentary form and nature in the ancient time, even in the middle age period, it was found to be in formative stage; however, it grew up because of the relative impact of men-made war and conflicts occurred elsewhere in the world. As a result, the process of crystallization of global human rights standard began to roll out consistently from the ancient times. However, the global community gradually evolved and developed them as a universally accepted standard in the 20<sup>th</sup> century, especially with the establishment of the world

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organization. It is worth mentioning that the concept of human rights has ultimately been transformed into a binding legal norm for all the people and for all the nations. It reveals that human rights were not the overnight creation of some rulers or some people, but it was the result of the ultimate manifestations of people's struggle against the tyrannical rulers and their systems. The human history has also shown the adequate testimonies of such historical evolution and development of human rights law even at the international level.

## **II. ABOLITION OF SLAVERY**

The League of Nations, as an international organization, was established in 1919 under the Covenant of the League of Nations and it was the first attempt in the history of mankind to set up a permanent politico-legal institution of the global community in the aftermath of the first-world war. In fact, the League of Nations was often termed as a child of wars and conflicts, simply because, it was established soon after the realization of unprecedented devastating effects of the first-world war. Nevertheless, there were some other factors which eventually influenced for adoption of the League Covenant *vis a vis* League of Nations; such as, establishment of the Concert of Europe of 1815, the adoption of the Hague Conferences of 1899 and 1907 and the movement of Universal Postal Union of 1874 were some of the historical significances that had greatly influenced the international public opinion for establishment of a world organization. Though the necessity for such a global body was realized even prior to the outbreak of first-world war, it had taken its shape only when the Treaty of Versailles was adopted in 1919. It was evident that the world community had the desire to set up an international body which could prevent and mitigate unprecedented men-made war and conflict in the past. Though the League Covenant of 1919 did not precisely mention the term human rights of individual as such, the League of Nations had its mandates to save the people of world from massive violations of individual's life and liberty. The League of Nations, as a part of the Treaty of Versailles, had its certain purposes and objectives as set forth in the Covenant of League of Nations, such as it had to maintain international peace and security, settle international disputes and to promote international understanding and cooperation between and among the national states.

Another unique feature of the League of Nations was that of its positive measures undertaken for the abolition of slavery, forced labour and immoral trafficking of women and children among others. Even though the specific term of human rights was neither defined nor enumerated in any part of the League Covenant, the efforts of the League of Nations was very clear that it took its initiatives for promotion and protection of the basic rights and freedoms of

certain vulnerable groups of individuals elsewhere in the world. Such kind of efforts of the League had, undoubtedly shown its international concern over certain issues of the basic rights and freedoms of individuals and persons. Even during the 19<sup>th</sup> century, the measures for abolition of slave trade and slavery practices were adopted and enforced at different parts of the World. For instant, Great Britain started abolishing such inhumane practices throughout its dependent colonies from 1807 on the ground of gross violations of human rights of individuals. Eventually, French and Great Britain also entered into an agreement under the banner of the Treaty of Paris, 1814, with the objective to abolish the practice of slavery and slave trade. Later, the Anti-Slavery Act of 1890 was signed and ratified by as many as nearly two dozen of independent states. Therefore, the prompt initiatives for abolition of such inhumane practices by some western civilized nations had, virtually led to recognize and guarantee some of the basic human rights of individuals, such as right to life, equality and dignity, among others. Further, the very adoption of Slavery Convention in 1926, which was later amended by the Protocol to Slavery Convention of 1953 also re-affirmed and re-endorsed the prohibition of slave trade and slavery at the global level.

### **III. RIGHTS OF DISADVANTAGED PEOPLE**

The evolution of another aspect of human rights also took place, especially in the context of labours and workers during the era of the League of Nations. The International Labour Organization (ILO), which was set up in 1919, worked extensively for protection of those people who belonged to the disadvantaged sections of human society. In this regard, the ILO also carried out its activities in collaboration with the League of Nations and its subsidiary bodies. Global forums also began to open a large room for setting up an efficient system with competent mechanisms in order to develop and co-ordinate among the international, regional and national agencies working in the similar field with the common objectives of achieving the socio-economic and political justice. It is worth mentioning that Article 23 of the Covenant of the League of Nations also dealt with the conditions of labour but this particular function of the League was, later taken over by the ILO under certain terms and conditions as set forth in the agreement between the two international entities. The League of Nations also had the mandate under to protect the rights and freedoms of minority people. Though the Covenant of the League neither defined the rights and freedoms of those minority people nor regulated any system of its own for the protection of minority rights and freedoms; however, in dealing with the issue, the League eventually derived its authority from the various international multilateral treaties, which were adopted after the first-World War. It is apparent that the League of Nations undertook a vital role as a global guarantor and protector for those minority people living in

different parts of world, and correspondingly the nations members were also obliged to discharge their responsibilities under the international agreements. To mention some of the significant measures, undertaken during the era of the League of Nations were, i) right of petition on behalf of minority people in case of violation of their rights and freedoms, and ii) creation of minority committee by the League Council as a competent international mechanism for dealing with issues of minority people. Such institutional set up at the global level and its efforts for protection of rights and freedoms of minority people elsewhere in the world virtually indicate that the issue of human rights for minority people was taken as an international concern but not as a mere state or local issue even during the era of League of Nations.

#### **IV. MANDATE SYSTEM**

The Mandate system, established under the League Covenant, was also an important aspect of the League of Nations. This system was, basically empowered to monitor and supervise over the manner in which the native populations of those mandated territories were treated and governed by the metropolitan countries. The Mandate System also proclaimed the very basic principle that “the well-being and development of the people in the mandated territories formed a sacred thrust of civilization”. Therefore, the mandated power was required to administer those dependent territories under certain universally accepted terms and conditions in order to recognize and guarantee freedom of conscience, religion, prohibition of abuses and denial of the basic human rights of those individuals living in the mandated territories. It is also quite apparent that both the ILO and the League of Nations gave serious emphasis on promotion and protection of socio-economic as well as civil and political rights of individuals with different reasons and perspectives. However, those initiatives and efforts made by the League of Nations in respect to promotion and protection of rights and freedom of individuals belonging to certain sections or groups of society were ultimately brought to the end due to dissolution of the League of Nations. Interestingly, the adoption of the Charter of UN in 1945 allowed to continue those measures, already adopted and initiated by the League of Nations in certain areas and under certain circumstances. For instance, the UN Trusteeship System, established under the Charter of UN, has been entrusted with the similar functions of the past Mandated System of the League. (art.- of Charter). This reveals that the UN has also followed the same suit on the same line of its predecessor, and the establishment of its relevant institutions and their subsidiary bodies with global mandates have not only facilitated the progress and also developed consistently in a systematic way even after the collapsed of the League of Nations. In a similar way, the ILO, as an autonomous international body, has certain underlining global mandates and objectives based on the principles of socio-economic justice. The function of the ILO was, primarily

associated with the League of Nations; however, after the dissolution of the League, the ILO has become an affiliated international entity to the United Nations from 1946 onwards as per the agreement between the ILO and the UN under Article 63 of the Charter. Hence, it reveals the clear testimonies of having adopted the global initiatives by the League of Nations in the past and the same has been found continued by the UN. Therefore, it can be said that the actual process of global endeavors on the issue of human rights front began to roll out with the adoption of world organizations.

## V. HUMAN RIGHTS AND UN

Human rights history shows that the idea of making a universally accepted norm on bill of rights begun even before the outbreak of second-world war. After having witnessed two devastating world war that had ultimately led to establishment of two international organizations, viz; (i) the League of Nations was established after the first -world war in 1919 with the main objectives to maintain peace and security in the world, but it miserably failed to realize its objectives due to certain profound reasons, (ii) the United Nations was set up in 1945 after the second-world war with overwhelming consensus of the international community. Having realized the shortfalls and lacunas of the League of Nations, the framers of the UN Charter focused on promotion and protection of human rights without which UN can't fulfill its cherished purposes and objectives, set out in the UN Charter. However, the term of human rights is neither defined nor enumerated in any part of the Charter but the very inclusion of human rights provisions in the Charter itself is a clear evidence of UN initiatives on the issue. Hence there is nothing wrong to say that the contemporary human rights jurisprudence gained its importance largely due to active involvement and concern over the gross violations of human rights during the world war I and II. The actual idea of adopting a universally accepted bill of human rights initially took its shape at Dumbarton Oaks Preparatory Conference held in Washington in 1944. Eventually, the same has also been found reflected in the Charter of the UN, and as many as seven references of human rights have been found inserted like the golden thread to the world constitution. The peoples of the United Nations, through the preamble of the Charter, profoundly expressed their firm determination "to re-affirm faith in fundamental human rights in dignity and worth of the human person, in the equal rights of men and women". The world constitution explicitly recognizes the promotion and respect of human rights as one of the major objectives of the UN. In a way, it has created an inviolable and indispensable obligation for both the UN and its members to initiate and develop the global norms and measures on the human rights for all the people and for all the nations. Therefore, the Charter *per se* is the foundation and also a unique international document which has not only set out the legitimate basis and ground for evolution

of global human rights jurisprudence but also provided a large space for further development in the field of promotion and protection of human rights. As a result, the United Nations, especially the General Assembly, the International Court of Justice, the UN Human Rights Council, the Economic and Social Council and other UN specialized human rights agencies are being entrusted with the global responsibilities for promotion and protection of human rights elsewhere in the world.

## VI. GLOBAL MEASURES

The Charter of the UN was, primarily adopted as an international multilateral treaty; however, during the passage of time, it has turned to be a unique world legal document *inter alia* a binding law of nations. The provisions of the Charter bear the binding force of international law, and all the member nations of the UN are also under the binding obligations which include the legal obligation to promote and respect for human rights of individuals, to promote observance of human rights and to cooperate with the UN and other nations so as to attain the objectives set forth in the Charter. However, one of the practical limitations on the part of the UN and its agencies in realizing such objectives is the question of state domestic jurisdiction as laid down in Article 2(7) of the Charter which states that “nothing contained in the present Charter shall authorize the UN to intervene in the matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under the Chapter VII”. It is true that on one hand the issue of human rights of individuals obviously falls within the state jurisdiction where the individual belongs to. Another profound rider for the global body is the question of state sovereignty having recognized and guaranteed by the existing international law. In a way, question of state sovereignty has been remained intact even though strong international laws and global systems are put in place. On the other hand, the contemporary issue of human rights has become the solemn subject matter of international law and system rather than the concerned issue of domestic state due to emergence of global human rights and humanitarian regimes. On the contrary, the term “essentially within the domestic jurisdiction,” as mentioned in Article 2(7) of the Charter, is not defined in any provision of the Charter, and interestingly both the terms of domestic issue and global issue pertaining to human rights violations are always found to be closely interwoven. It may also be noted that the exception clause, incorporated in Chapter VII of the UN Charter in respect of the application of enforcement measures, indicates the mandatory obligation of the UN while discharging its duty, especially in those cases of gross violations of human rights occurring elsewhere in the world. Hence, the human rights violation, either it may occur in a

local area or within a nation state, has virtually crossed the territorial boundaries of the state and it has become a global issue. Therefore, the obstacles for the UN and its agencies have been found eroded to a large extent. Even there may be a direct or indirect threat to the international peace and security, the UN ought to take up its steps and measures positively by considering such issue as global human rights problem in one way or other. The traditional concept of individual as the only object of international law is, eventually found to be diluted to a great extent, and during the passage of time, it is also proved that individual has also become the subject of international laws rather than a mere object of it. Henceforth, the practical impediments of the UN and its specialized agencies have been gradually withered away, especially in the matter of dealing human rights issues. This may be apparent when the activities of the UN and its agencies on human rights are examined, especially in the post-1945.

## **VII. CONCLUSION**

Though the term “human rights” is not defined in the Charter of the UN, the efforts of the General Assembly, the Economic and Social Council, the Human Rights Council, the Commission on Human Rights and other UN human rights subsidiary bodies are found to be remarkable in the human rights history. It is also worth mentioning the regional and national achievements in the field of human rights elsewhere in the globe. Hence, the issue of human rights becomes a vital part of the global programs as well as a major agenda sponsored by the UN and its organs since the United Nations has come into existence. International organizations have marked a new beginning in the history of human rights by breaking through the traditional notion of sovereignty of state as the only sole authority to deal with the rights and freedoms of its subjects. The global human rights programs, which have been so far undertaken within the legitimate framework of the UN Charter, have also clearly paved the inroad for future development in the area of human rights jurisprudence.

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