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# Evolution of Human Rights from Ancient Times till 20th Century

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## ABSTRACT

*The belief that everyone, by virtue of her or his humanity, is entitled to certain human rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War-II to propel human rights onto the global stage and into the global conscience.*

*The Universal Declaration of Human Rights proclaimed in 1948, provided a framework for a series of international human rights conventions. Human Rights involve both rights and obligations. State shoulder responsibilities and duties under International law to respect, to protect, and to fulfill human rights. The main aim of the study is to explore the historical development of Human Rights and analyze the various instruments. The data for this study was collected from several articles, books and related documents regarding Human Rights.*

**Keywords:** *Human Right-Natural Right-Universal Right-Universal Declaration-Fundamental Right.*

## I. INTRODUCTION

Human rights constitute a set of norms governing the treatment of the individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life.

These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold the duty-bearers accountable and provide redress for alleged victims of human<sup>2</sup>.

The history of human rights is as old as the civilization itself and has developed from over thousands of years and draws its sources from various religious cultural legal and philosophical developments. There have been human rights documents in every stage of history in different forms which includes religious as well as philosophical documents. The Vedas, Gita, Quran, Bible, Edicts of Ashoka, are some of the ancient sources which address the questions of people's rights and duties.

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<sup>2</sup> Stephen P Marks. 2005. *Human Rights: A Brief Introduction*. Harvard University.

However, it was only after the devastating two world wars that the idea of protection of human rights attained global conscience. It was during the 20<sup>th</sup> century that the United Nations (UN) and various conventions both at the national and international level came into being to address the various issues of human rights.

Human rights are claimed, by virtue of being human beings, against the state and society. However, the human rights of most people have been always violated all around the world.

## **II. CONCEPT OF HUMAN RIGHTS**

Man, right since the dawn of civilization strived not only to preserve his life but also to enjoy certain rights that in the pre civilizational times were unthinkable. It was for this very reason, the state came into existence.

Human beings since the beginning of civilization needed some set of rights to give them a moral vision<sup>3</sup> of human nature and human dignity so as to ensure that all human beings are treated with a certain level of dignity irrespective of any difference and to ensure a meaning full life full of dignity and liberty.

Man has struggled for over more than 4000 years to get his basic rights recognized and protected. It has been a lengthy, continuous, and gradual<sup>4</sup>. Human rights are the rights that one possesses because one is a human being. They are the rights that individuals need to have against the state or any public authority by virtue of being humans. Every human being possesses the same equal rights as others.

Human beings possess some inherent worth which is absent in other objects. Thus to violate a human right would, therefore, be a failure to recognize the worth of humans<sup>5</sup>. According to the United Nations center for human rights, “human rights could be generally defined as those rights which are inherent in our nature and without which we can’t live as human beings”<sup>6</sup>.

Some of the rights and freedoms which are come to be commonly considered as human rights include civil and political rights such as the right to life, liberty, freedom of expression, and equality before the law, social, cultural, and economic rights.

They are universal and inalienable rights, thus every human being is the possessor and holder of these rights and these rights can’t be taken away from anyone no matter how rudely one

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<sup>3</sup> Abdulrahim P. Vijapur and Suresh Kumar. 1999. *Prespectives on Human Rights*. Manak Publications.

<sup>4</sup> Abdulrahim P. Vijapur and Suresh Kumar. 1999 “*Prespectives on Human Rights*”, Manak Publications.

<sup>5</sup> Melden 1977.

<sup>6</sup> Chandra, A. 1993. *Human Rights and Conflict Resolution*, Rajat Publications.

behaves or how brutally one is treated<sup>7</sup>. Thus human rights are those basic standards without which people can't live with dignity. To violate someone's human right is to treat that person as though he or she is not a human being.

Contemporarily, human rights are defined in a multiplicity of ways. According to the United Nations, human rights are those rights that are inherent in our natural state and without which we cannot live as human beings<sup>8</sup>.

These are the rights that everyone possesses because of their humanity, regardless of race, ethnicity, or gender. Another definition of human rights, according to Christian Bay is that human rights are any claims that require legal or moral protection to ensure that their needs are fulfilled<sup>9</sup>. They can also be defined as the fundamental rights that every individual has in the face of any public authority or state as a part of the human family (Vincent, 1986) Scot Davidson's definition in 1993 directly links human rights to the safeguarding of people from the application of authority and the state in specific aspects of their lives.

A description by Biswal (2006) is that these are fundamental rights that every individual has in the face of any public authority or state as a part of the human family. It also focuses on the state's establishment of social circumstances that allow individuals to reach their maximum potential.

United Nations provides that these are rights that each and every human being possesses as a result of his or her human dignity<sup>10</sup>. They are the basic rights and liberties that every individual has from birth to death, regardless of what we believe, how we conduct our lives, or where we come from (EHRC, 2020).

The definition adopted in this paper is that human rights are those rights without which human beings cannot live in dignity, fairness, and freedom (cultural, political, economic, and social) in any state or nation, regardless of sex, religion, race, color, ethnicity, or place of birth, or any other factors.

### **III. CLASSIFICATION OF HUMAN RIGHTS**

Human rights can be classified and organized in a number of different ways. At an international level the most common categorization of human rights has been to split them into civil and political rights and economic, social and cultural rights.

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<sup>7</sup> Jack Donnelly. 2005.

<sup>8</sup> Mishra, 2000.

<sup>9</sup> Bay, 1979..

<sup>10</sup> UNOHCHR, 2016.

Civil and Political Rights are enshrined in Articles 3 to 21 of the “Universal Declaration of Human Rights<sup>11</sup>” and in the “International Covenant on Civil and Political Rights (ICCPR<sup>12</sup>).

Economic, social and cultural rights are enshrined in articles 22 to 28 of the Universal Declaration of Human Rights (UDHR) and in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

#### IV. HISTORY OF HUMAN RIGHTS

Human rights have developed with the change in times and conditions and have changed from generation to generation. The present status of human rights is the result of gradual evolution and developments through centuries in different parts of the world.

##### (A) Human rights during the ancient era

Almost all the leading religions of the world such as Islam, Christianity, Buddhism, Hinduism, Judaism though different in content but support the concept that every human being has worth and value and should be treated with a degree of dignity and respect accordingly. The roots of protection of the rights of man go back to the Babylonian laws, issued by the king Hammurabi, known as ‘Hammurabi codes<sup>13</sup>’.

It established fair wages, offered protection of property and required charges proved at a trial. Though during ancient times there was no clear concept of human rights but at the same time, various ideas of thought did originate in various philosophical and dramatic writings. In Sophocles’ play Antigone, the king prohibits Antigone to bury her dead brother but Antigone disobeys on the ground that she has a religious duty to do so.

The playwright thus gives an account of an individual’s right to oppose the state’s oppression and also as a human rights issue regarding freedom of religious practice<sup>14</sup>. The Greeks were the first founders of natural law principles. To the Greeks, it was not God but nature which was the source of standard moral principles, by which people’s actions and society’s laws were judged<sup>15</sup>.

Many Greek and Roman scholars acknowledged the concept of natural law and natural rights. The city-states of Greece gave freedom of speech, equality before the law, the right to vote, the right to be elected to the public offices, to access to justice to their citizens. An early version of universalism in ethical standards was developed by Plato implying fair treatment to all persons,

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<sup>11</sup> UDHR

<sup>12</sup> Joy Gordon. 1998. “The Concept of Human Rights: The History and Meaning of Its Politicization.” *Brooklyn J. Int’l L* 23(3).

<sup>13</sup> D.J O’ Byrne. 2003. *Human Rights: An Introduction*. Pearson Education.

<sup>14</sup> Freeman, M. 2002. *Human Rights: An Interdisciplinary Approach*. Cambridge Polity.

<sup>15</sup> B.Orend. 2002. *Human Rights: Concept and Context*. Broadview Press.

whether they are citizens or not.

Aristotle, in accordance with the political community, discussed the importance of virtue, justice, and rights. The rights of citizens, according to Aristotle, included rights to the property and participation in public affairs. In his work “Politics” he gave the idea of natural law by saying, “a person becomes a slave or free only by law, human beings do not differ at all by the nature of mankind”. The idea of natural laws continued also in ancient Rome<sup>16</sup>.

During the medieval ages, in Western Civilization, Catholic theologians and philosophers strengthened the idea of the universality of human worth and equality based on natural law.

In this regard, an important contribution was made by Saint Augustine and Saint Thomas Aquinas by combining the elements of Classical Greek philosophy and Christianity based on natural law, which identifies the rights of each person independent of the state to which the individual belongs<sup>17</sup>.

Thus both Greece-Romans and religious Universalists had their contribution to the development of the concept of human rights.

### **(B) Human rights during the medieval era**

Later, centuries after, this concept of natural law developed into natural rights. The change of natural law into natural rights reflected a shift in emphasis from society to the individual. Whereas natural law provided a basis for checking undue state power over society, natural rights gave individuals the power to press claims against the govt (Origins of Human Rights 2017).

During the 18th century, the increase in human reason led to a more extensive belief in natural rights. The writings of various theorists played an important role. Among these, the writings of John Locke were the most important and influential. Locke asserted that certain rights, without any explanation, belong to individuals as human beings, and the main rights among them are the right to life, liberty and property (Richard Falk; Hilal Elver and Lisa Hajjar 2008). Locke stated that certain rights human being possessed were derived from their nature and not from the governments or laws.

According to Locke the function of the state was guaranteeing and upholding these rights. He believed that the natural rights of the individual are superior to the state and the legitimacy of the government rested on the respect it accorded to these rights. Hobbes also saw natural law as being very unclear and empty and too open to vast differences of interpretation. He was

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<sup>16</sup> D.J O’ Byrne. 2003. *Human Rights: An Introduction*. Pearson Education.

<sup>17</sup> Chiarello, Leonir. 2015. “The Emergence and Evolution of the Concepts of Human Rights and Human Security.” *The Center for Migration Studies*.

responsible for transforming classical natural law into modern natural rights, thereby beginning the “human rights revolution”.

Other writers such as Rousseau, Hugo Grotius, Voltaire and Montesquieu wrote on inalienable and irreversible rights of all people to liberty and equality. They sought to discover some universally accepted laws governing nature and society, including certain inalienable “rights of man”. Thus, the idea of human rights, though known by other names, played a significant role in the late 18th and early 19th century struggles against political despotism (Chiarello 2015).

The concept of natural rights was opposed for being too egalitarian and subversive. Natural rights were attacked philosophically and politically. Writers such as Edmund Burke did not reject the concept of natural rights altogether instead he recognized the natural rights to life, liberty, freedom of conscience, property.

According to him ‘real rights of men’ were not natural rights but social rights (Freeman 2002). The term ‘natural rights’ was finally rejected. The prime days of natural rights proved short but the idea of rights however continued.

### **(C) Human rights in the post-world wars era**

After the First World War, the League of Nations was established to ensure peace and security and facilitate international cooperation but at the same time, it made no provisions for the protection of human rights. The major aim of the League was, disarmament, avoiding war through collective security, settle down disputes between countries through cooperation, diplomacy and improving global welfare. The Charter contained a mandate to promote many of the rights which were later included in the Universal Declaration of Human Rights.

During the 19<sup>th</sup> and early 20<sup>th</sup> century’s, though, progress was made in the area of humanitarian law and the protection of economic, social and cultural rights but it was only after the destructive events of the 2<sup>nd</sup> World War that international humanitarian law began to develop in a logical and identifiable manner (Shamsi 2003).

The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. They protect people who do not take part in the fighting (civilians, medics, aid workers) and those who can no longer fight (wounded, sick and shipwrecked troops, prisoners of war<sup>18</sup>). The conventions safeguard the human rights of individuals involved in the conflict.

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<sup>18</sup> The Geneva Conventions of 1949 and their Additional Protocols, 2010.

## V. RIGHTS IN WAR AND THE GENEVA CONVENTIONS

The Geneva Conventions came into being between 1864 and 1949 as a result of efforts by Henry Dunant, the founder of the International Committee of the Red Cross<sup>19</sup>. The conventions safeguard the human rights of individuals involved in conflict, and follow on from the 1899 and 1907. Hague Conventions, the international community's first attempt to define laws of war (B.Orend 2002). Despite first being framed before World War II, the conventions were revised as a result of World War II and readopted by the international community in 1949.

The Geneva Conventions are:

- 1) First Geneva Convention “for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field”(first adopted in 1864, last revision in 1949).
- 2) Second Geneva Convention “for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea”(first adopted in 1949, successor of the 1907 Hague Convention X).
- 3) Third Geneva Convention "relative to the Treatment of Prisoners of War" (first adopted in 1929, last revision in 1949).
- 4) Fourth Geneva Convention “relative to the Protection of Civilian Persons in Time of War”(first adopted in 1949, based on parts of the 1907 Hague Convention IV<sup>20</sup>).

All four conventions were last revised and ratified in 1949, based on previous revisions and partly on some of the 1907 Hague Conventions. Later conferences have added provisions prohibiting certain methods of warfare and addressing issues of civil wars. Nearly all 200 countries of the world are “signatory” nations, in that they have ratified these conventions. The International Committee of the Red Cross is the controlling body of the Geneva conventions (Shamsi, 2003).

The inhumane Nazi atrocities in the 2<sup>nd</sup> World War resulted in human rights resurgence. The allied governments declared, in the deceleration of the United Nations that it was necessary ‘to preserve human rights and justice’.

After the war, the United Nations Organization was set up, the Charter of UN (1945) included several human rights provisions (Freeman 2002). The charter of the UN begins by reaffirming a “faith in fundamental human rights, in the dignity and worth of the human person, in equal

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<sup>19</sup> “The Geneva Conventions of 1949 and Their Additional Protocols.” 2010. *International Committee of Red Cross*. Gaur, Atula. 2010.

<sup>20</sup> *Protection and Implementation of International Human Rights in Domestic Law*. Serials Publications.



rights of men and women and nations large and small’.

It further states that the purpose of the UN, among other things, is to achieve international cooperation...in promoting and encouraging respect for “human rights” and for fundamental freedoms for all without distinction as to race, sex, language or religion<sup>21</sup>.” The Charter contains a number of provisions for the promotion of human rights and fundamental freedoms in the Preamble and in Articles 1, 13(b), 55, 56, 62(2), 68 and 76(c).

## VI. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Thus, it was in the charter of the UN which was adopted after the second world war that the use of the expression of ‘human rights’ was found. The UN charter, however, was not a binding instrument and only declared the ideal which was to be afterward developed by different agencies and organs.

The first concrete step by way of formulating the various human rights was taken by the UN general assembly in Dec 1948 by adopting the Universal Declaration of Human Rights (Krasno 2004).

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was adopted by the United Nations General Assembly in Paris on 10<sup>th</sup> December, 1948.

The declaration was not legally binding but would in the words of Eleanor Roosevelt, proclaim, “a common standard of achievement for all peoples and all nations”. The universal declaration in its final form contained a list of civil and political rights and economic, social and cultural rights which applied to all people without any kind of discrimination<sup>22</sup>.

Some of the important rights in the declaration are, protection against arbitrary arrest, detention and exile; the right to the fair trial; freedom from ex post facto criminal laws; the right to own property; freedom of thought, conscience and religion; freedom of opinion and expression and freedom of peaceful assembly and association, right to social security, recognition as a person before the law<sup>23</sup>.

In 1966, the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** were adopted

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<sup>21</sup> Richard Falk; Hilal Elver and Lisa Hajjar. 2008. *Human Rights Critical Concepts in Political Science*. London Routledge.

<sup>22</sup> Shamsi, N. 2003. *Human Rights in New Millennium*. Anmol Publishers.

<sup>23</sup> Richard Falk; Hilal Elver and Lisa Hajjar in 2008.

by the United Nations, between them making the rights contained in the UDHR binding on all states. However, they came into force only in 1976, when they were ratified by a sufficient number of countries.

The ICESCR commits 155 state parties to work toward the granting of economic, social, and cultural rights (ESCR) to individuals.

Thus the International Covenant on Economic, Social and Cultural Rights (ICESCR) together with its sister Covenant, the International Covenant on Civil and Political Rights (ICCPR), and the Universal Declaration, form the International Bill of Human Rights which is the pillar for human rights protection within the United Nations. The Covenants reflect the commitments adopted after World War II to promote social progress and better standards of life, reaffirming faith in human rights and employing the international machinery to that end.

## **VII. SUBSEQUENT HUMAN RIGHTS DOCUMENTS**

In addition to the covenants in the International Bill of Human Rights, the United Nations has adopted more than 20-principal treaties further elaborating human rights. These include conventions to prevent and prohibit specific abuses like torture and genocide and to protect especially vulnerable populations, such as refugees<sup>24</sup>, women<sup>25</sup> and children (Convention on the Rights of the Child, 1989<sup>26</sup>). As of 1997 the United States has ratified only these conventions:

- 1) The Convention on the Elimination of All Forms of Racial Discrimination,
- 2) The Convention on the Prevention and Punishment of the Crime of Genocide,
- 3) The Convention on the Political Rights of Women,
- 4) The Slavery Convention of 1926
- 5) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In Europe, the Americas, and Africa, regional documents for the protection and promotion of human rights extend the International Bill of Human Rights. For example, African states have created their own Charter of Human and People's Rights (1981), and Muslim states have created the Cairo Declaration on Human Rights in Islam (1990). The dramatic changes in Eastern Europe, Africa, and Latin America since 1989 have powerfully demonstrated a surge in demand for respect of human rights. Popular movements in China, Korea, and other Asian nations reveal

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<sup>24</sup> Convention Relating to the Status of Refugees, 1951.

<sup>25</sup> Convention on the Elimination of All Forms of Discrimination against Women, 1979.

<sup>26</sup> Bosco, Fernando J. 2004. "Human Rights Politics and Scaled Performances of Memory: Conflicts among the Madres Se Plaza de Mayo in Argentina." *Social and Cultural Geography* 5(3): 381–402.

a similar commitment to these principle.<sup>27</sup>

## VIII. CONCLUSION

Human Rights have continued to evolve and, since its foundation, the United Nations has adopted more than 20-principal treaties including conventions to prevent and prohibit specific abuses like torture and genocide and to protect particularly vulnerable populations, such as refugees, women and children.

A multitude of other treaties and documents have clarified and further developed some of the basic concepts that were laid down in the original UDHR, thus envisaging new generations of rights. Human rights are an idea whose time has come.

The Universal Declaration of Human Rights is a call to freedom and justice for people throughout the world. Every day governments that violate the rights of their citizens are challenged and called to task. Every day human beings worldwide mobilize and confront injustice and inhumanity. Like drops of water falling on a rock, they wear down the forces of oppression and move the world closer to achieving the principles expressed in the Universal Declaration of Human Rights.

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<sup>27</sup> Burke-White, William W. 2004. "Human Rights and National Security: The Strategic Correlation." *Harv. Humrits. J.* 17: 249–80.

**IX. REFERENCES**

1. Stephen P Marks. 2005. *Human Rights: A Brief Introduction*. Havard University.
2. Abdulrahim P. Vijapur and Suresh Kumar. 1999. *Prespectives on Human Rights*. Manak Publications.
3. Melden 1977.
4. Chandra, A. 1993. *Human Rights and Conflict Resolution*, Rajat Publications.
5. Jack Donnelly. 2005.
6. Mishra, 2000.
7. Bay, 1979.
8. UNOHCHR, 2016.
9. UDHR
10. Joy Gordon. 1998. "The Concept of Human Rights: The History and Meaning of Its Politicization." *Brooklyn J. Int'l L* 23(3).
11. D.J O' Byrne. 2003. *Human Rights: An Introduction*. Pearson Education.
12. Freeman, M. 2002. *Human Rights: An Interdisciplinary Approach*. Cambridge Polity.
13. B.Orend. 2002. *Human Rights: Concept and Context*. Broadview Press.
14. Chiarello, Leonir. 2015. "The Emergence and Evolution of the Concepts of Human Rights and Human Security." *The Center for Migration Studies*.
15. The Geneva Conventions of 1949 and their Additional Protocols, 2010.
16. "The Geneva Conventions of 1949 and Their Additional Protocols." 2010. *International Committee of Red Cross*.
17. Gaur, Atula. 2010. *Protection and Implementation of International Human Rights in Domestic Law*. Serials Publications.
18. Richard Falk; Hilal Elver and Lisa Hajjar. 2008. *Human Rights Critical Concepts in Political Science*. London Routledge.
19. Shamsi, N. 2003. *Human Rights in New Millennium*. Anmol Publishers.
20. Richard Falk; Hilal Elver and Lisa Hajjar in 2008.
21. Convention Relating to the Status of Refugees, 1951.
22. Convention on the Elimination of All Forms of Discrimination against Women, 1979.

23. Bosco, Fernando J. 2004. "Human Rights Politics and Scaled Performances of Memory: Conflicts among the Madres Se Plaza de Mayo in Argentina." *Social and Cultural Geography* 5(3): 381–402.
24. Burke-White, William W. 2004. "Human Rights and National Security: The Strategic Correlation." *Harv. Hum. Rts. J.* 17: 249–80.

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