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# Human Rights Law of U.K, U.S.A, Canada and India: A Comparative Study

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## ABSTRACT

*The concept of Human Rights Law is rapidly expanding in most of the countries who are signatory to the United Nations Organisation. The journey started since the Magna Carta in England in 1215. Then through some successive struggles of the people in the countries like England, France, America the concept of the human rights came into being. After the failure of the League of Nations the need of far stronger institute was felt. And then the journey of the United Nations started. The first document of the Un was the United Nations Declaration of Human Rights. And since then, on one after one treaty, conventions, covenants were accepted, adopted by the United Nations and most of the countries who are the party to the conventions ratified it in the constitutions of their own countries. Very soon UDHR was followed by the the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights. These international Bill of Rights were adopted and ratified by the most of the countries to strengthen the Human Rights in those concerned countries. Several other treaties and conventions regarding may aspects of human rights were adopted to protect, promote and propagate the noble concept of human rights in the world.*

*This paper focuses on the different kinds of Human Rights laws adopted in the countries United Kingdom, United States of America, Canada and India. The comparative discussion of the Human Rights law in these countries have been discussed for the proper understanding of the people.*

**Keywords:** UDHR, ICCPR, ICESCR, Human Rights, United Nations.

## I. INTRODUCTION

*“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or*

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*under any other limitation of sovereignty.” Article 2, UDHR*<sup>2</sup>

The journey of democracy had its origin long back in the history of the civilization. Today's modern democratic society had its many ups and downs through its zig zag way through the world. The monarchy that prevailed in all the countries was oppressive in nature because it was the rule of an individual. But, on the contrary democracy was a rule by a group of people. So, democracy was considered to be the best form of ruling of the state. As democracy is the rule of a law in a country and to establish this rule of law separation of powers was the urgent requirement. To stop the use of arbitrary power the modern nation states have separated the powers among the Parliament, Executive and the Judiciary. But this distribution as per the provisions of the constitutions of different countries were not similar. It varies from one country to the other. The present study will focus in the differences of the constitutional provisions as to how the three organs are functioning differently in the countries of United Kingdom, United States of America, Canada and India. Through this research the focus will be on the variety of approaches in different countries and thereby a comparative discussion will be made here.

This paper will also focus on the provision and jurisdictions of human rights instruments in the above-mentioned countries. The main issues relating to the protection of human rights, including the role of the courts, the constitutional status of human rights provisions, and the ways in which way rights are protected will be discussed. Though implementation of Human Rights mechanisms is varied in nature but within the framework of the national constitution the basic human rights are protected and promoted. Thus, this project is the comparative study of the Human Rights and Constitutional Laws are provided in the framework of the national constitution among the countries United Kingdom, United States of America, Canada and India. The comparative study will thoroughly show the similarities and dissimilarities in the exercise of human rights and constitutional laws of the nations.

## **II. DEFINITION OF HUMAN RIGHTS LAWS**

The Human rights are those rights inherent to all of the human beings, regardless of gender, nationality, place of residence, sex, ethnicity, religion, colour or and another categorization. The human rights are inherent to all human beings as they are human being. The rights include the right to personal life and liberty, freedom from anything including slavery and torture, freedom of any kind of opinion and expression, the right to scope of work and getting education and etc. Thus, human rights are inevitably non-discriminatory. Any kind of discrimination is strictly prohibited under the human rights laws. It is very cruelly true that all human beings are entitled

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<sup>2</sup> *Article 2 of the Universal Declaration of Human Rights*

to enjoy all kinds of human rights, but all human beings don't have the scope to experience most of the rights equally throughout the world. In many cases the govts itself and in some cases different institutions grossly violate the provisions and scopes of Human rights and exploit the fellow human beings. There are a variety of human rights, including the following:

- The Civil rights (such as the rights to life, liberty and security of the citizen),
- The Political rights (Rights to the protection of the law and equality before the law),
- The Economic rights (It includes the rights to work, to own property and to receive equal pay for equal work),
- The Social rights (The rights to elementary education and consenting marriages),
- The Cultural rights (The right to freely participate in their cultural programmes of the community), and
- The Collective rights (The right to self-determination of the nations).

Concept of Human Rights owes its origin to the following:

- The Magna Carta of 1215
- The Habeas Corpus Act of 1679
- The Bill of Rights of 1689

The atrocities of the Second World War that killed millions of people made the world to think of protection of human rights an international priority. The United Nations Organisations was established in the year 1945 replacing the League of Nations. The United Nations involved 50 Member States to contribute to the draft of the Universal Declaration of Human Rights, adopted on 10<sup>th</sup> December in 1948. This was the first initiative to work for the human rights protection internationally.

### **III. INTERNATIONAL HUMAN RIGHTS LAW**

The some of the very important documents of the International Human Rights Laws are the following:

- The Universal Declaration of Human Rights (UDHR) is the landmark agreement in the human rights movement.
- A historic treaty namely International Covenant on Economic, Social and Cultural Rights (ICESCR) came into force in the year of 1976.
- For people's civil and political rights the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol entered into force in the year 1976. The Second Optional Protocol was adopted in the year 1989.

- The historic Convention on the Prevention and Punishment of the Crime of Genocide was adopted in the year 1948.
- Another treaty the International Convention on the Elimination of All Forms of Racial Discrimination (1965) was adopted in the year 1965.
- For women's rights the Convention on the Elimination of All Forms of Discrimination against Women was adopted in the year 1979.
- For the Child rights the Convention on the Rights of the Child was adopted in 1989.
- In the year 2006 the Convention on the Rights of Persons with Disabilities was adopted.

### **Human Rights Council**

The Human Rights Council, the first organ of Human rights protection of the UN was established on 15 March 2006 by the General Assembly. This council came into existence replacing the 60-year-old United Nations Commission on Human Rights as the key UN intergovernmental body responsible to work for human rights. The most innovative initiative of the Human Rights Council has been the Universal Periodic Review. This new mechanism involves a periodic review of the human rights records of all of the 193 United Nations member states once every four years. It is binding for all of the member states.

### **United Nations High Commissioner for Human Rights**

The United Nations High Commissioner for Human Rights exercises principal responsibility for the Human rights activities of the United Nations. The High Commissioner is the sole authority to respond to any kind of violations of human rights in any part of the world and to undertake preventive action.

The United Nations body which performs the functioning for the Human Rights issues in any part of the world is the Office of the High Commissioner for Human Rights (OHCHR). It works as the coordinating body of the secretariat for the Human Rights Council, the treaty bodies and other UN human rights organs.

## **IV. HUMAN RIGHT LAW IN THE UNITED KINGDOM**

The Human rights in the United Kingdom guarantees the provisions of fundamental rights in the law of the constitution for every person in the country. An integral component of the UK constitution, human rights has been derived from the common law, from the statutes like the Magna Carta of 1215, the historic Bill of Rights 1689 and the United Kingdom Human Rights Act 1998. It has also evolved features from the membership of the Council of Europe, and from the other international laws. It is true that the Codification of human rights is a recent

development in the UK. In this nation now the main source of jurisprudence is the Human Rights incorporated the historic European Convention on Human Rights into the domestic litigation of UK.

While in India the Human Rights Act came into force on 8<sup>th</sup> January of 1994, there the Human Rights Act became operative in the UK in October 2000. Each article of the Human Rights act deals with a different right which have been incorporated from the ECHR. This is commonly known as ‘the Convention Rights’. The Human Rights Act commonly known as HRA in England was passed in the year 1998 by the first Blair government. This act protects, promotes the human rights of the British citizen. In addition to the HRA, the common law and other statutes passed by the Parliament of United Kingdom also play an important role in protecting the individual rights by imposing important legal constraints on the public authorities of the government. The Equality Act 2010, as an instance, prevents any public authority who discriminates on the basis of race, sex, disability and other grounds of equal treatment of the citizens. However, these extra sources of legal rights protection play an important supporting role in comparison to the HRA.

The place of both the HRA and European Convention of Human Rights within the UK’s legal system thus remains hospitable debate, as does the status of human rights values more generally. Consensus on the question as to how human rights should best be protected within the framework of the British constitution is yet to be formulated. And while the scope of legal rights protection in the United Kingdom is a bit stronger but the scope of HRA is very much limited. The Socio-economic rights are in particular poorly covered. The international human rights law has very limited impact on United Kingdom’s law or policy matter. This act was adopted to give more effect to rights and freedoms that was guaranteed under the European convention on human rights.

**(A) Salient Features of the Human Rights Act, 1998:**

1. The UK Human Rights Act 1998 ensures the fundamental rights and freedoms that each of the citizen of United Kingdom can avail.
2. This creates an obligation on the British courts to take case law from the European court of human rights into account. It refers to interpret the legislation in a way that is compatible with the convention on human rights.
3. It places an obligation on the public authorities, including the courts and tribunals and some private organisations who exercise public functions. It has to act in a way that is compatible with human rights.

4. It requires the courts to pay particular regard to the importance of the right to freedom of expression aiming to protect freedom of the press.
5. This also requires the courts to recognise the importance of the "freedom of thought, conscience and religion" whenever a case involves with a religious organisation.

### **(B) Main Provisions of the HRA, 1998**

The act HRA, 1998 incorporates into the British law the key elements of the European convention on human rights including. The important articles of the Convention Rights are as follows: <sup>3</sup>

- Article 2: Right to life
- Article 3: Prohibition of torture
- Article 4: Prohibition of slavery and forced labour
- Article 5: Right to liberty and security
- Article 6: Right to a fair trial
- Article 7: No punishment without law
- Article 8: Right to respect for private and family life
- Article 9: Freedom of thought, conscience and religion
- Article 10: Freedom of expression
- Article 11: Freedom of assembly and association
- Article 12: Right to marry
- Article 14: Prohibition of discrimination
- **Protocol No. 1**
  - Article 1 : Protection of property
  - Article 2 : Right to education
  - Article 3 : Right to free elections
- **Protocol No. 6**
  - Article 1 : Abolition of the death penalty
  - Article 2 : Death penalty in time of war

## **V. HUMAN RIGHTS LAW IN THE UNITED STATES OF AMERICA**

Thomas Jefferson in the year 1776 proposed a philosophy of human rights which is inherent to all or any people within the Declaration of Independence. He declared that, *“all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that*

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<sup>3</sup> *The Articles of the HRA, 1998*

*among these are Life, Liberty and the pursuit of Happiness.*” Historian Joseph J. Ellis hails this Declaration as the *“the most quoted statement of human rights in recorded history”*.

In 1945 after the World War, the members of the United Nations organization completed the drafting of its founding milestone text of the United Nations charter. At that time, USA played a significant role during this process. Even the Universal Declaration of Human Rights Drafting Committee was chaired by the former First Lady Eleanor Roosevelt. The US took played a significant role in the historic Nuremberg Military Tribunals which prosecuted the people for committing crimes against the humanity at large.

The Human rights in the United States of America comprise a series of rights which are legally protected by the Constitution of the United States. The constitution protects the Bill of Rights, the enactments in the state constitutions, the treaty and customary international law, the legislations enacted by the Congress and the state legislatures, and state referenda and the initiatives of the US citizen. The Federal Government of the US has, through a ratified constitution, guaranteed those unalienable rights to its citizens and to some extent even to the non-citizens also. These rights have developed over time through the constitutional amendments, newer legislations, and also judicial precedent. Within the territory of the United States, the federal courts have the jurisdiction over international human rights laws or the treaties.

When the new Constitution came into practice, the concerns about individual liberties and the concentration of power at the federal level of the states, gave rise to the amendment of the Constitution through the adoption of the International Bill of Rights, the first ten amendments to the Constitution of US.

There is a mixed reaction on the treatment of Human Rights issues by the US. Though it took some initiative during the 20<sup>th</sup> century, but the US like some of other countries has not ratified most of the important international human rights treaties or the conventions. The United Nations foreign policy cannot respect so many human rights issues as the domestic laws of the country fails to protect the rights of the citizens in respect of economic and social rights.

#### **(A) Withdrawal from the Human Rights System:**

Though the US at the initial phase took human rights issues seriously but later on stopped participating or accepting the international treaties or even in many cases they opposed the newly established human rights mechanism. Because during the period of Cold War the some of the crimes were committed by the US itself so it could not accept adverse criticism against



them. Besides in the US domestic level discriminatory laws prevailed till then, so they could not adopt so many international human rights conventions.

**(B) Re-engaging with the international Human Rights System:**

The US changed its stance gradually in regard to the international human rights treaties. During the period 1960 and 1970s the US renewed its commitment to several human rights treaties but in a different way. They signed most of the treaties but they did not ratify it in their national level legislation. Till date the US has not ratified the treaties like the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)

But after some decades during the 1980s or the 1990s the US ratified some of the treaties like Convention on the Prevention and Punishment of the Crime of Genocide in 1987, and the ICCPR in 1992. Though they ratified the ICCPR but they did not ratify any of the two optional protocols to their domestic law. Moreover, they ratified the ICERD in 1994 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1994. During this period, they again became more active than earlier.

**(C) The US has not ratified the following major international treaties**

This covenant is one of the most important treaties in international level. It mandates the govt. to promote and protect the rights like health, education, social protection and the adequate standard of living for the citizens of the country. While this treaty has been ratified by more than 150 countries but thought the president of US Carter signed this treaty but it is yet to be ratified in the US domestic law.

The Convention on the Elimination of All Forms of Discrimination against Women, 1979: One of the most important, all-encompassing and detailed international agreement that is meant for ensuring the rights of the women, CEDAW has been ratified by 185 nations of the world. Even today the US has not ratified it in its national legal framework though the president Carter signed CEDAW in 1980.

**(D) The Convention on the Rights of the Child 1989**

The aim of this international treaty is to save the children from the physical and mental abuse and hazardous work. It also aims at providing the children free primary education compulsorily. This significant treaty has been ratified by 193 countries and it has been the most widely adopted conventions. The US president Bill Clinton signed the treaty in 1995 but the US has

not ratified this convention too. Only two countries including the US are left to ratify it which is quite astonishing. It proves that how the US looks at the Human Rights issue.

#### **(E) The Rome Statute of the International Criminal Court 1998**

This historic treaty conducts the trials of those individuals who are accused of genocide, war crimes and committing the crimes against humanity when there is no other alternative way of providing justice. So far 143 nations have signed the ICC including the US. The US president George Bush signed this treaty in 2002 but at the same time he has stated that the US is not bound to abide by the provisions of the statute through its signature and thereby they will not ratify it in their own legislation.

#### **(F) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their families 1990**

The purpose of this treaty was to protect the migrant workers and their families of the different nations from abuse and inhumane treatment in the countries where they work in hazardous conditions. It is very unfortunate no industrialized country including the highly developed US which receives migrant workers to a large extent has signed the treaty.

#### **(G) The Convention on the Rights of Persons with Disabilities 2006**

This is the first convention taken place internationally that addresses the human rights of the persons with disabilities. The president of US, Barak Obama signed the treaty, but the US has maintained its tradition of not signing the treaty yet.

#### **(H) The International Convention for the Protection of All Persons from Enforced Disappearance 2006**

In present day scenario the crime of enforced disappearance is gradually on the rise. It has gone to that extent that every moment the number of enforced disappearances is increasing. To put this to an end the United Nations has evolved this treaty to affirm that enforced disappearance constitute a crime against humanity when it is practiced in a widespread and systematic manner. The United State has not ratified this convention too.

## **VI. HUMAN RIGHTS LAW IN CANADA**

#### **(A) The Canadian Bill of Rights (1960)**

Canada has been a strong voice of Human Rights since the beginning. The issues of Human rights in Canada have come under increasing people's attention and legal protection since the World War II. Previously there was hardly legal protections for human rights. The incidents

that led up to World War II including the genocidal practices of the brutal Nazi govt. of Germany, had a major impact on the protection of human rights in Canada. The then Prime Minister of Canada, Diefenbaker firstly introduced the Canadian Bill of Rights in 1960. And this is considered to be the precursor of the Canadian Charter of Rights and Freedoms working presently. This federal statute of the govt. guarantees, binding on the federal government, to protect a couple of right like freedom of speech, freedom of religion, equality rights, the right to life, liberty and security of the person, and property rights and so many. It also guarantees significant protections for individuals who are charged with criminal offences. Canada is a signatory since the adoption of the international treaties like

- The Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic Social and Cultural Rights (ICESCR)

The Canadian Parliament adopted the Canadian Human Rights Act in 1977. It was more than three decades after the creation of the first standalone human rights laws working in Canada. The Canadian Human Rights Act ensures the equality of opportunity of the people. The act prohibits discrimination on the basis of race, age, sex etc. The Act formed two human rights bodies: I. the Canadian Human Rights Commission and, through a 1985 amendment, II. the Human Rights Tribunal Panel. This Tribunal Panel later on became the Canadian Human Rights Tribunal in the year 1998. The decisions of both of the Commission and the Tribunal can be appealed before the Federal Court of Canada. Where the Charter of Rights and Freedoms provided Canadians with a number of rights, there the Canadian Human Rights Act guarantees only the equality rights. This too governs only the federal jurisdictions. Each of the province and territory in Canada has its own human rights legislation to practice.

**(B) The Canadian Human Rights Act has three main parts:**

- (I) The Proscribed Discrimination;
- (II) The Canadian Human Rights Commission; and
- (III) The Discriminatory Practices and General Provisions.

In spite of the wide scope of the provisions of rights, the Canadian Bill of Rights suffered from two major drawbacks. Firstly, since it is a statute of the federal Parliament of Canada, it was binding on the federal government only. The federal parliament of Canada does not have the constitutional supremacy to enact any law which bind the provincial govts. in reference to human rights. Secondly, following from the statutory nature of the Bill, the courts were

unwilling to use those provisions of the Bill because the basis for judicial review of the Canadian federal statutes. Following the doctrine of parliamentary supremacy, the courts took note of the fact that one Parliament cannot bind the next Parliaments.

The Controversial human rights issues in Canada have included number of rights. These are assisted suicide rights, patient rights, freedom of speech, freedom of religion, parents' rights, children's rights etc. Also, it includes the abortion rights vs rights of the unborn, minority rights, majority rights, rights of the disabled, aboriginal rights, tenant rights and economic, social and political rights of the people of Canada.

### **(C) The Domestic legal protection framework:**

The Human rights in Canada are today given legal protections by the twin mechanisms of constitutional entitlements and statutory human rights codes, both federal and provincial. The Canadian Charter of Rights and Freedoms is the basic component of the Constitution of Canada. The Charter guarantees political and equality rights and some of the fundamental freedoms like freedom of expression, freedom of assembly and freedom of religion etc. This charter is only applicable to the govt., and not to any of the private individuals, businesses or other kind of organizations. The Charter rights are enforced by legal actions within the criminal and civil courts, depending on the context when the Charter claim arises.

### **(D) Canada focuses efforts on the following key issues of human rights**

- **Helping women and girls around the world:** The issues of gender equality, the empowerment of women and girls, and the promotion and protection of their human rights are the key Canadian values, which Canada is committed to promote.
- **On the Children and youth:** The Children's rights are given a topmost concern. Its focuses include ending sexual exploitation, early and forced marriage, and protecting children in the armed conflict.
- **The Indigenous affairs:** Canada is involved in several initiatives to promote the rights of the indigenous people in Canada.
- **The Freedom of religion or belief:** The protection of the freedom of religion or belief is an important part of Canada's Human Rights issues.
- **The rights of LGBTI persons:** Canada is advocating for an end to laws that triggers violence, and discrimination against the lesbian, gay, bisexual, transgender and intersex of the country.

- **On the role of Human rights defenders:** The Govt. of Canada gives due recognition to the key role played by a group of individuals who put themselves at risk to protect and promote human rights and thereby strengthen the rule of law in the country.
- **On the Refugees:** Canada is one of the countries which proudly upholds its commitments, respects its obligations, and champions at home and abroad the human rights of people who are displaced, persecuted for any reason.
- **On the Persons with disabilities:** Canada is committed to support the rights of the persons with disabilities.
- **On the Climate change and human rights:** Canada also recognizes that the climate change is a collective global problem which has impacts on the economy, development, and security of the world.
- **On Pluralism and Diversity:** The Canadian policies are guided by the belief that economic prosperity, responsible governance and social well-being are all enhanced through building inclusive and pluralistic societies that respect diversity of cultures.
- **On Internet freedom:** Canada is committed to the principle of the same rights that people have both online and offline access.

### **Brown v. Canadian Armed Forces**

In Canada, in this 1989 women's rights case, three women successfully challenged the Canadian Armed Forces' policy that excluded women from certain roles, including combatting in the field. The women argued that the differential treatment between women and men constituted discrimination on the basis of sex which is unlawful. The women are very much eligible to serve in any role within the Canadian Armed Forces.

### **Haig v. Canada (Canadian Armed Forces)**

In this case in 1992, Captain Joshua Birch launched a human rights complaint after being discharged from the Canadian Forces for disclosing him as was gay. He strongly argued that the omission of sexual orientation from the Canadian Human Rights Act that constituted discrimination under the equality rights guarantee set out in section 15 of the Canadian Charter of Rights and Freedoms. To make a remedy on this issue, the Ontario Court of Appeal had read the term sexual orientation into the prescribed Canadian Human Rights Act. In 1996, the Canadian Parliament formally added sexual orientation as a protected ground in the said Act.

## **VII. HUMAN RIGHTS LAW IN INDIA**

India is considered to be the largest democratic country in the world. For being a democratic

country one among the main objectives of the nation is that the protection and promotion of the basic rights of the people. The Constitution of the country provides certain safeguards for the protection of human rights. At the same time, India is the signatory of the Universal Declaration of Human Rights that was adopted in the year 1948. And later on, India has ratified the two important covenants namely ICCPR and ICESCR. Being a party to the protection of Human rights of the international community, as a part of its commitment the central govt. of India made the legislation namely, the Protection of Human Rights Act, 1993, often referred to as PHRA. To ensure the effective implementation of the human rights Government of India has enacted the act. The act brought a major change in protection of human rights in the national sphere. Following the provisions of the act, the National Human Rights Commission was and, in many states, State Human Rights Commissions were established. These were the statutory bodies. The act defined the composition, the functions, powers of the commission. The act defines the role of the national and state human rights commissions clearly. It makes a provision for the establishment of the Human Rights Courts and the appointment of Special Public Prosecutor for the same in different levels of the state.

The Universal Declaration of Human Rights (UDHR) contains all kinds of civil, political, economic, social and cultural rights in its 30 articles. The Constitution of India confirms most of the human rights contained in the UDHR. The Part III of the Indian constitution in its list of fundamental rights contains civil and political rights. The Part IV of the Constitution talks about the economic, social and cultural rights as a directive principle of the state policy.

In the preamble the philosophy and objective of the Constitution of India is documented. It envisages the concept of justice of all kinds and liberty, equality and the protection of the dignity of an individual of the citizens of the country. To fulfill this objective, Part III of the constitution guarantees fundamental rights to people which are essential for the development of an individual personality. The list of the fundamental rights includes the right to equality, the right to freedom, the right to freedom of religion, the right against exploitation, cultural and educational rights and the right to have constitutional remedies. It is the imperative duty of both of the central as well as all state Govts. to provide adequate conditions to each individual to avail their rights.

The Indian constitution through Directive Principles of the State Policy enshrined in the Part IV of the Constitution, explains the duties on the govt. to work for the welfare of the people and protection of human rights of the people. These are the principles for the state that guide to make policies regarding distributive justice. This includes the right to work in just and human conditions of work, right to education, social security, for promotion of interest of weaker

section. This also mandates for the raising of the standard of nutrition and enhancing the standard of living and to improve public health in general. The protection and improvement of environment and ecology etc. so that each individual can enjoy the right to a cleaner and greener environment.

The provisions for the fundamental rights alone cannot fulfill the target of 'protection of dignity of an individual'. The free access of the rights is to be ensured. Therefore, the Article 32 of the constitution guarantees right to constitutional remedies. Through this right any citizen of India enjoys the right to move to Supreme Court to enforce his or her fundamental rights. The constitutional mandate of the judiciary is to act for the protection of human rights of the citizens. The Supreme Court and the High Courts of each state have been empowered to take required action to enforce these rights. Redressal mechanisms have been provided under Articles 32 and 226 of the constitution. An aggrieved person can straightly approach to the Supreme Court or High Court of the concerned state for the protection of his/her fundamental rights. Thus, redress of grievances and enjoyment of fundamental rights can be availed by the citizens. In these sorts of cases the Courts are empowered to issue appropriate order, directions and writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-Warranto and Certiorari. Thus, it is the Judiciary who is the ultimate guardian or the protector of the human rights of the people of the state. While it protects the rights enumerated in Constitution but also recognizes certain un-enumerated rights by interpreting and widening the scope of the fundamental rights. As a result, the people can enjoy both of the enumerated rights as well as the un-enumerated rights.

Apart from the govt, or the judiciary the role of the Human Rights organisations, civil society and other non-government entities play a major role in protection of the human rights. The Non-Government Organisations in many cases are playing remarkable role in the society. These organizations identify and focuses the limitations of the government service and help in protection of the rights of the people. These NGOs are nonprofit making organisations working in their own capacity ranging from small groups to international organizations having branches in most of the countries all over the world.

### **Salient Features of Protection of Human Rights Act (PHRA)**

The Human Rights Act, PHRA has the following salient provisions to protect the people's basic rights and stop any kind of human rights violation.

1. The Protection of Human Rights Act, 1993, has the provision of forming the Human Rights Commissions on both, national and all states level.

2. The National Act lays down the different constituents and workings of the National Human Rights Commission (NHRC).
3. The act lays down the functions and powers of both of the national and state commissions.
4. The both of the national and state level commissions perform 10 functions like - to inquire, suo motu or on petition, the complaint of violation of human rights. The commission can take action against abetment or negligence in the prevention of any violation, by any public servant. To promote the awareness of the rights the study of the treaties and recommendations based on them and the spread of Human Rights literacy among the masses through following different ways are also the function of the commission. The commission has the duty to intervene in the proceedings that involves any allegation of human rights violation pending in a court. But in this case they have to take the approval of the said court. The commissions review the conditions of the prisoners in the jails of different states and recommends the state govt accordingly.
5. The act also defines the formation and constitution of human rights commission in different states of the country.
6. The Act describes in detail the mechanisms of establishment of Human Rights courts for providing speedy trials against offenses arising out of human rights violation.

### **VIII. A COMPARATIVE STUDY OF HUMAN RIGHTS AMONG THE COUNTRIES U.K, U.S.A, CANADA AND INDIA**

To make a short comparative study of the Human Rights practiced in the four countries under discussion it is easy to say that though some differences are there in implementation policy of Human Rights but in the main the basic civil, political, economic, cultural rights of the citizens have been guaranteed by them. One of the main reasons of it can be found it the basis of the clue of this lies in the international treaties. As all these four countries are signatory to the major conventions, covenants and other international treaties so most part of them have been incorporated in the constitution of the country. It is true while some of them have prohibited death penalty but India is yet to implement it in its human rights mechanism.

The three generations of rights have majorly been ensured by these states. In India there is a national Commission for protection of Human Rights along with its state commissions. In regard to US, UK and Canada also there is Human Rights Commission. The issue of the environment and sustainable development are looked upon as a serious matter of collective right of the people of the world. The very concept of national rights is gradually developing to



merge into international rights of the citizen of any country. The right to the stateless people or the refugee rights, right to seek asylum talk about the withering away of the national boundaries and speaks about the citizen of the world. Humanity is coming out of its prejudiced ideas of national boundaries. Thus, it can be summarized that when we talk about human rights then we about the rights of any human being from any part of the world. The UDHR, ICESCR, ICCPR, CEDAW etc. all are international laws of human rights across the world. It does not have any national boundary. Since after the second World War the concept of human rights have been given due importance both in national and international spheres.

The international commission on Human Rights acts upon any human rights violation across the world. And it must be admitted that the United Kingdom, United States of America, Canada and India all of them are contributing a lot in working of the international agencies. But at the same time, it will have to mentioned also even in these enlightened days of human rights, number of states sponsored human rights are being reported ti happen in these four nations. Civil society people are coming forward to protest and oppos these incidents and demanding the govt of the concerned countries to take proper steps to protect, promote and propagate human rights of the citizens of the country and a lot of Human Rights Organisations and NGOs are working in this field to save people's rights in various fields.

## IX. CONCLUSIONS

*“When it can be said by any country in the world, my poor are happy, neither ignorance nor distress is to be found among them, my jails are empty of prisoners, my streets of beggars, the aged are not in want, the taxes are not oppressive, the rational world is my friend because I am the friend of happiness. When these things can be said, then may that country boast its constitution and government. Independence is my happiness; the world is my country and my religion is to do good.”*

— *Thomas Paine, Rights of Man*<sup>4</sup>

The Human Rights and Constitutional Laws of the United Kingdom, United States of America, Canada and India in many points converge into one. To talk about Human Rights the fact is that all of these four countries are signatory to so many international conventions and treaties like Universal Declaration of Human Rights in 1948, International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights in the year 1966 along with its optional protocol gradually. Apart from these other so many treaties are

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<sup>4</sup> \*Thomas Pain was English born American political activist, Political theorist and Philosopher.

there where these countries are the members. So quite naturally since the basic source of incorporating the Human Rights are the same so there are so many similarities in Human Rights Laws adopted in the constitutional framework of the countries. But it is also to be mentioned that some rights like death penalty, right to commit suicide etc. these nations differ from each other. Apart from that in regard to the rights of the sustainable development along with right to a fresh environment has been agreed by all of these countries. In spite of having some differences but grossly all these four nations of my research are heading towards ensuring the basic human rights to its citizens. Thus, they are setting the example of a civilized nations.

And in regard to Constitutional laws of these four countries while many similarities are there among each other and at the same time they differ in many points too. As for example while India follows strict sense of separation of powers among its different organs of executive, Parliament and judiciary where as in regard to U.K, US and Canada does not follow it in strict sense of the term. Where Indian states enjoy some of the federal rights fully but in US and UK and Canada the provinces do not have that sort liberty. While US has a strong center India follows US in this respect. UK has the queen's or King's rule though parliament is the ultimate authority but in India there is no tradition of hereditary rule rather the chief of the executive too is elected by the representatives of the Member of the Parliaments and the Legislative assemblies. Canada, in many aspects follows the British constitution. Generally Fundamental rights play vital role in all these four countries. These rights are universally applied to all citizens of these countries without any discrimination. They are enforceable by courts and legislature subject to certain restrictions. Hence the right to constitutional remedies has been given in the constitutions of these countries. The supreme court of India was very powerful body in the initial stage of Indian constitution than the Supreme Court of Canada. So finally, the constitutional laws of these countries through its successive amendments have developed to a large extent to meet the needs and rights of the modern citizens.

## **X. SUGGESTIONS ON HUMAN RIGHTS LAWS OF THESE COUNTRIES**

The following suggestions are placed for the consideration of the betterment for both of the Human Rights and Constitutional Laws in these countries:

1. Though these countries have considered the environment rights in their respective constitutional framework but the issue of climate change and the sustainable development should be taken more seriously.
2. Death penalty should be abolished totally.

3. To stop growing human rights violations the Human Rights Commission should be more active and work independently. In many cases these commissions are becoming the rubber stamp of the ruling political party of the country.
4. The compensation mechanism in case of human rights violations should be more than now.
5. The rapid development of the technology is causing the human rights violations in newer field like cybercrime, or the right to privacy are under serious threat. The human rights commissions should develop newer measures to combat these phenomena.
6. Right to speech that encompasses the right to criticism of the govt too is considered as a sedition and the critic are put behind the bars arbitrarily. It's a new menace in all of these four countries. It has to be put to end ensuring the right to free speech along the freedom of the media having certain reasonable restrictions.
7. The issues like LGBT, statelessness, refugees, asylum seekers, euthanasia etc are the serious ones. These should be taken into consideration seriously by the human rights protection agencies in these countries.
8. The problem of racial issues like Black and white in USA, the religious minorities in India are still facing discriminatory treatment which is very much unlikely in these days. The Human Rights Commission can resolve these problems if they can work properly.
9. In regard to the smooth functioning on the human rights issues the United Nations Human Rights commission should be more prompt and communicate with the human rights agencies of these countries and take required measure to fight against any sort of human rights violation.
10. Last but not the least, it is expected to combat the human rights violations and to ensure the human rights for each of the citizen of these countries they can organise seminars, symposia through bilateral talks among them. Through this way further improvement can be achieved in this regard.

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