CHAPTER - 2

Historical Evolution of Human Rights/Personal Liberty both from National and International perspective.
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1. DEFINITION OF HUMAN RIGHTS:

Generally speaking human rights are considered to be those minimal rights which a person enjoys against the state and other public authorities by virtue of his being a member of the human family, irrespective of any other consideration.

According to section 2(d) of the Protection of Human Rights Act, 1993 human rights means and includes all rights relating to life liberty, equality and dignity of the individual, as guaranteed by the Constitution and those rights incorporated in International covenants enforceable by the Courts in India. Therefore, by the enactment of the Protection of Human Rights Act 1993 in India human rights covers all the fundamental rights embodied in our constitution both with regard to individual rights in Part III and collective rights in Part IV.

(a) Human Rights and its Evolution

We are all acquainted more or less with the term 'Human Rights' For the last few decades the questions of human rights has stirred
the people of the world to a great extent and have awakened all the people in the universe with great hopes and aspirations." All the people are free by birth and their rights and dignity are equal." – this principle having been kept in mind the entire mankind have been moving together for the protection of their fundamental rights.

All the thoughts in respect of human rights, human welfare and human dignity have undergone significant changes with evaluation of the states system and international co-operation between the states. If we review the history of the human civilisation as a whole then it becomes clear to us that the different powerful groups at different times in different countries remained active for retaining their advantageous position yet the whole human civilisation had been in favour of human rights and have fought for the protection of human rights. The ancient human civilisation worked for human welfare and for his progress.

For example it may be said that the history of Ancient Indian civilisation had been most active for the improvement of mankind. They considered the whole universe as one an undivided family and it existed for people. And they aspired for peace and welfare for the whole mankind which was never cherished as a subject matter of international law or international activism.
The principal thoughts of the Indian during the age had been that all human beings are equal and they are all brothers.” And for this protection of human dignity the movement for protection of human rights throughout the world started. Although thoughts and aspiration originated for the protection of human rights with the introduction of the modern state system but in fact the history and struggle for the maintenance and protection of human rights commenced in the literal sense from the post second world war period.

It may be mentioned in this context that the memories of extensive and catastrophic destruction of men and women particularly the cruel fascist aggressive activities during the second world war inspired people throughout the universe for taking positive action in giving recognition to human rights and for such a task to undertake a universal action programme which is to be agreed upon by all human beings. As a result the united nations was set up in 1945 for promoting the principles of peace and friendship and fraternity throughout the world and specific mention of firm resolve for protection of human rights and human dignity have found a place in its charter.

The preamble of the U.N. Charter indicates that the principal purpose or the cardinal objective of the united nations is to protect the succeeding generations from the scourge of war, and to
pronounce and reiterate the faith and belief in the fundamental freedoms/rights human dignity and human values and equal rights of men and women throughout the world. According to the United Nations charter the purpose of the united Nations is intended to increase respect to human rights, gender, language, religion impartialy and further to enhance and to extend respect the fundamental freedoms and as such to promote international co-operation. And the activities of the united nations in the said direction resulted in the issuance of universal declaration of human rights by the United Nations in 1948.

This historic declaration has opened up a new vista/horizon before the people of the universe and as a result of which more than one hundred independent and sovereign states took their birth after removing the shackles of colonialism and imperialism during the fifties and sixties of the last century.

Later this particular universal declaration of human rights was considered to be the main column for formulating international human rights law. Today there exists more than eighty instruments in respect of matters involving international human rights and which have been accepted and adopted for complete development of a man's full personality and for fulfilment of various fundamental freedoms of human beings. Now the protection and maintenance of human rights
has become a challenge for the whole mankind. The progress in protection, maintenance and advancement of human rights by a state is being considered as the principal criteria of accountability of states towards the maintenance of democratic values in the world.

The significance of the term "human rights" comprehends those rights which were acquired by a human being by birth. It further connotes those fundamental freedoms which accompany a human being and without which no human being can live as a man in the human society.

A person automatically and naturally acquires these fundamental freedoms by birth and these rights can not be snatched away by any one by force. Further all these rights are fashioned in such a manner which helps by all means for complete development of physical intellectual, moral, and spiritual faculties of human beings. Further according to U.N. Document on Human rights it is an admitted truth that human rights are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection.

In discussing the source of human rights it is admitted that religion has contributed to a great extent in the struggle for protection of human rights. But in fact, no particular religion has directly mentioned
the word human rights yet it must be acknowledged that it is religion which has highlighted the theory of human rights in men's actions.

Human Rights may be distinguished from fundamental rights by observing that fundamental rights comprehends those privileges which are essentially required by a person to live as a men in human society, and for which the state is promise bound to give protection and stability to such rights. Normally these fundamental freedoms of people are incorporated in a state constitution and on which the state cannot enforce restrictions save and except those which are considered as reasonable in legal parlance. If the state imposes impediments on such fundamental rights then people are entitled to move Supreme Court or High Courts for enforcement of fundamental rights. Therefore we may maintain that all fundamental rights are human rights. But it cannot but be admitted that all privileges of a human being cannot be enforced by the State. We know that the written constitution of a state constitutes the fundamental law of the land and only those human rights which are enforceable by the courts are only to be acknowledged as human rights. Therefore a reasoning arises that all fundamental rights are human rights but all human rights are not fundamental rights.
It may be mentioned here that those human rights which are acknowledged as fundamental rights are incorporated in Indian Constitution in Part-III (Article 12-35 of the Indian Constitution.)

The Hon'ble Supreme Court of India observed in Goloknath-Vs-State of Punjab¹ that Fundamental Rights are the modern name for what have been traditionally known as 'natural rights'.

We may now discuss the different theories upon which the maintenance and development of human rights are grounded.

(b) Natural law theory:

Natural law theory comprehends that law is a dictate of the reason. The Greek philosophers were the pioneers in propounding the natural law theory. Socrates and Aristotle the leading thinkers among the Greek Philosophers attached great importance to this theory. That human rights were considered as the natural rights of human being has been highlighted in the Greek drama ‘Antigone’. In the said drama Sophocles highlighted the importance and necessity of human rights in the following manner. The brother of Antigone revolted against king Creon and as a result the King killed the brother of Antigone, the rebel, and the King further issued a decree to the

1. (I. AIR 1967 SC 1643 )
effect that the rebel should not be buried. But the sister of the rebel defied the King's Decree and arranged a decent burial of her diseased brother. The King Creon became angry upon Antigone and she was placed under arrest. At the time of trial Antigone maintained in respect of her action that she did it in accordance with the principle of an "immutable unwritten laws of heaven which even the king could not override".

Another Greek philosopher Socrates also contributed to the natural law theory by observing that every person has an 'insight' and by applying this insight every person is capable of understanding the right or wrong of a subject matter.

The Greeks were succeeded by the Romans in-advancing the human civilisation and the Romans also contributed to the human rights laws by providing the principles of Jus Civile, Jus Gentium, and Jus Naturale. Romans contended the Jus naturale signified those principles which controlled the different aspects of human conduct, and that natural law was grounded on justice.

It may be mentioned in this context that natural law theory are entwined essentially with human rights and the ancient Greeks also attached much importance to natural law theory which comprehended (1) 'Isonomia' (All persons are equal in the eyes of law) (2) 'Isotimia'
(All persons are to be equally respected) and (3) ‘Isogoria (All persons are equally entitled to have freedom of opinion)- which are nothing but the manifestation of modern human rights jurisprudence.

**c) Theory of Positivism:**

Further contribution was made by the propagandists of the positivism theory or the theory of the authority of the state. The leading jurist in advocating the theory of positivism was Jeremy Bentham. He maintained that the natural law, natural rights, and such other terms were bereft of any values and that human rights did not come from nature but rather rights of the people were created by laws and the values of such laws were dependent upon its utility. Jurist Bentham also attached much importance to the term utility instead of natural rights. John Austin too further maintained that the political and civil freedoms which a person enjoys comes through law and that is conferred upon the people by a sovereign.

Prof. H.L.A. Hart also a follower of the positivism theory maintained a distinction between invalidity and morality while explaining the term law and its utility. And this particular aspect constitutes the difference between the positivist jurist and natural law jurist. And the positivist highlighted that a law to be valid must be enacted by an appropriate
legislative authority. Such a law remains valid, irrespective of its morality”.

(d) Marxist Theory

Besides the two theories explained above which constitutes the source of human rights law we may also mention another important theory in developing human rights jurisprudence. It is known as the Marxist Theory. The jurists who advocate Marxist Theory contended that individual rights cannot be differentiated from the rights of the society as a whole. They maintained that only by improvement of society or groups a man’s higher freedoms could be achieved.

According to the Marxists people rules over themselves and not through any representative or representative institution. The society and all its members will prepare arguments which would be transparent and automatically proved by natural reasoning and therefore such a situation will not lead to any conflicts. No rights will be needed to protect the society and the position of the members of the society. In other words, the legal system envisaged by the Marxists can be laid down by an observation that to Write the high point of Marxism is to recognise the cotextuality of human rights in terms of the materialistic conditions of society, its weakness is to be conceived of human rights chiefly in a materialistic frame”.
(e) Justice Based Theories:

"Yet, another theory that contributed to the development of human rights jurisprudence is to be located in the Theories based on Justice.

The leading exponents of such theory was John Rawl. According to his opinion justice is the first virtue of social institutions, and in order to understand human rights we are to give utmost importance to justice.

The principal purpose of justice is to establish human rights.

The Propagandists of the theories based on Justice further contended that the principles of justice are intended to highlight the means through which the social institutions will be conscious of their rights and duties.

The development of human rights jurisprudence was also given much support by the propagandists of the theories based on dignity. Among the Advocates of such theories Prof. Mc Dougal, Lasswell contributed much to highlight the theories based on dignity.

According to the adherents of this theory the utmost importance is to be given to social action and policy making for giving top position to human dignity. The Advocates of the theories based on dignity contended that such a world society should be established in which there would be fair distribution of the democratic values, complete
utilisation of its resources and the principle of the society should be the protection of human dignity.

It may also be argued in this context, that in the twenty-eth century the theories of positivism were on the decline and in its place the natural law theories gained prominence. Utmost faith is being attached to the natural law theories towards the development of human rights jurisprudence. A point must not be missed in this regard that the natural law theories are also being adjusted to the changes in times. The modern jurists basing their arguments on Kant and Hegel in respect of their contention of natural law theory furnished a lot of changes through arguments connected with the natural law theories. According to Stammler and Koheler, the natural law theories are capable of undergoing changes as required by changes in times, although the basic principle and the leading doctrine of this theory will remain unchanged.

It may now be argued that the states have althrough in order to establish their authority have tried to brand that the subjects involving individuals as absolutely internal matters, yet the states have understood after completing long journey that there were many areas, in respect of human welfare, having national and international perspective, can stay together. Further, the states have now
awakened to the fact that the states are capable to remove and fight the various impediments and problems that blocked human welfare programmes and as such international institutions could be used as instruments. Human welfare is bound to be expedited if the states take action in the desired directions of international co-operation.

It is an admitted fact, that inspite of historical advancement of human rights jurisprudence a situation cropped up towards the end of 1930's decade and upto the closing of the second world war which witnessed acts of utter disregard of and onslaught, upon human rights, dignity of men and human consciousness, In other words, a situation was created in which an absolute and naked misuse of state power, was brought into being for committing torture upon people owing to racial feelings. During those days, such governments were in power in Germany and Italy which did not show least respect to human rights.

The Nazi Government of Germany, under a blind feeling of Aryan Superiority swooped down upon the Jews and resorted to indiscriminate killing of the jews in a planned manner.

Situation came to such a pass that the Jews even after killing were not given a decent burial.
Resultingly, the allied powers after the completion of the second world war started the job of identifying the guilty persons who were responsible for such cruel and inhuman onslaught upon human rights. The International Military war Crimes Tribunal were set up in Nuren Berg in Germany and in Tokio in Japan for trying such criminals against humanity. The tribunals stated above adjudicated in respect of crimes against humanity, and awarded punishment in favour of such criminals.

The adjudicatory activities of such Tribunals were pregnant with multifarious significance. In the first instance, it was proved that howsoever powerful a government might be such government could be brought to a court for adjudication by international forums for commission of wide spread onslaught on human rights and man's dignity. Secondly, it should also be partially admitted that Human rights law could be established even by winning a war.

In fact, the modern human rights jurisprudence is a result of international activism undertaken from the days of completion of second world war.

But necessity for formulating such human rights law was felt by the thinkers from the days of naked violation of human rights by the Nazi regime of Germany and which continued upto the second world war. People could not forget the horrible activities of aggression of the
fascist regimes which witnessed cruel and terrible catastrophic devastation of humanity at the behest of the Nazi Govt. People were inspired to undertake a corporate programme at international level to stop and prevent such inhuman activities and its recurrence in future.

(g) Four Freedoms

It may merit our attention, in this context, that from the days of 1941 the then president of the U.S.A. Franklin De Roosevelt has been trying for recognition of human rights and its establishment at international level and accordingly he published his thoughts before the public. He highlighted its necessity and utility through different lecture sessions. In his famous lecture sessions captioned 'Four Freedom' he summoned the people of the world to establish a universe in which every individual will enjoy 'Four Freedoms' which were essentially required by a person to live the life of a man. This Four Freedoms were (1) Freedom of speech and expression. (2) Freedom of every person to worship God in his own way, (3) Freedom from want, (4) Freedom from fear.

Besides, another important point should be noted in this context that the allied powers gave out a promise during the days of the
second world war addressing the world population that they intended to bring in a situation in which a peace will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want. In other words, what the allied powers have done that is in justification of the war, were meant for fulfilling the aspirations of mankind (that the war was to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands)

The second world war ended in 1945 and on 24th October, 1945 the United Nations was formed and its charter pronounced that maintenance of International peace and security, preparation of environment of economic and social development and respect for human dignity and human rights all of which are entwined with one another.

Further, the charter contended that without maintenance of respect to human rights neither economic development or political freedoms nor social upliftment is possible.

Apart from what has been stated above the charter also highlighted that "No true and genuine peace can be achieved without respect for human rights."

Now it is crystal clear that the establishment of the United Nations created a new horizon in the struggle for international human rights
and it is an admitted fact that in a literal sense united nations, rendered great contribution towards the formulation of the concept of modern human rights jurisprudence and other allied matters.

It may now be argued that the modern human rights movement has received its proper shape and form through the establishment of United Nations Organisation. In the charter of the United Nations many provisions have been incorporated for giving protection to international human rights and for this purpose responsibility is to be shouldered by the Economic and Social Council branch of the United Nations Organisation and under its supervision. The sacrosanct document of universal declaration of human rights came into being 10th December, 1948. This document in the very first instance highlights the cardinal point of human rights - All persons are free by birth and are entitled to equal rights and dignity. In other words these rights are such privileges which a person received from his very birth and are congenital in nature, and cannot be taken away by any person or authority. Which is called human rights today is nothing but the written form of all rights taken together. In the modern world all these human rights are recognised and protected by laws and its acknowledgement and recognition has been achieved by legislation both at national and at international level. Further, it may also be mentioned that another milestone in the progress of human
rights is to be found in the creation of the post of human rights High Commissioner in the United nations in 1994, whose duties would be (i) to probe the complaints of violation of human rights throughout the world, (ii) to co-unite and supervise all the activities involving human rights development and its protection.

(h) Regional Systems

Besides, the three Existing Regional Systems for the protection of human rights (i) The European system (ii) The African System, (iii) The American System, are continuing their activities in their respective areas for maintenance and protection of human rights. And they are dedicated to proper and appropriate implementation of human rights. Apart from what has been stated above, it may also be laid down that the general Assembly of the United Nations accepted and adopted many reasonable resolutions and implemented the same for the purpose of expansion of human rights education throughout the world. In 1986, united nations general assembly recognized, the right to development as one of the items of human rights and pronounced that this right, cannot be abandoned. This concept of right to development as a human right was given further impetus in 1993 in World Human Rights Conference held in Vienna. This Vienna
Conference put much emphasis on undertaking a resolve for the purpose of adopting effective development polity at National level and for preparation of conducive economic environment and for balanced economic relationship at International level. Of the many instruments issued by the United Nations Organisation relating to the maintenance and advancement of human rights all over the world mention may be made of two such instruments which advances the human rights of women and children in particular.

(i) CEDAW

"On 18th December, 1979 a convention on the elimination of all forms of discrimination against women was adopted by the General Assembly of the United Nations and it became effective from 3rd September, 1981. Many countries of the world have since approved this particular pronouncement of the United Nations and enacted important legislation to implement the said resolution.

The principal purpose of this convention had been to remove all types of discrimination and inequalities against women and to firmly establish all the human rights of women:

In 1995 another conference was held at Beijing, China at the behest of the United Nations in respect of rights and privileges of women.
The Beijing declaration has called upon the countries of the world to become more active to give support to the different measures adopted by the Beijing declaration and to become more conscious about the dignity of women in society and to take measures for effective implementation of the different resolutions of the Beijing declaration.

It is important to note that the Government of India has since ratified all the human rights of women relating to CEDAW on 25th June, 1993 and has since remained active for effective implementation of the human rights described in CEDAW throughout India.

In accordance with CEDAW a very important legislation for protecting the sacred human rights of women in the form of personal liberty has since been passed by the Indian Parliament* (Prenatal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994.) to stop murder of a female foetus inside the womb because such action is in violation of dignity and personal liberty of women. Besides, following the CEDAW the Parliament has also passed another important legislation known as Information Technology Act, 2000 for controlling the obscene pictures of women through internet which is also another instance of control mechanism for violation of the dignity of the women through electronic media. Another important piece of legislation to safeguard the dignity of women in news media
is Indecent Representation of Women Act since passed by Parliament in 1986.

Next, the instrument which the United Nations issued regarding the care, protection, and advancement of children may merit our attention.

(j) CRC


It may also be mentioned here that in the light of the C.R.C. Parliament of India has passed Juvenile Justice (Care and Protection) Act, 2000 which takes care of the boys and girls in accordance with the nomenclature of the different categories of children in respect of their all types of human rights on the basis of (1) Child in need of care and protection and (2) Child in conflict with law.

The highlights of the new Act reflect that all persons below 18 years will be considered as children and the child is also entitled to speak out his own arguments and sentiments and also to seek shelter by appearing in person before a competent committee.
The C.R.C. therefore ought to be considered as the principal source and basis of the human rights of the child.

PERSONAL LIBERTY

History is the record of achievements of men. Such achievements become distinguished by the progress of civilization, in ancient times, human rights / personal liberty had little meaning to the people. As civilisation advanced people felt need of certain human values to be inculcated for betterment of human living in an organised state. In our attempt to trace the evolution of human rights/personal liberty we may have a glance at the history of England.

(i) In England

In the first triumph of Human Right in recorded history particularly in the Western World we find that the people of England exacted from King John in 1215 certain rights or privileges which is known as Magna Carta.

The Magna Carta provided that No man shall be taken or imprisoned, disseIZED or outlawed or exiled or in any way destroyed save by the lawful judgement of his peers or by the law of the land.

This is perhaps, the first mile stone in the History of Human Rights
in the Western World, in so far as, the acknowledged rights of the people for personal liberty against the ruler of the state is concerned. Subsequently, the progress of Human Rights & liberty is marked by other Legislative enactments issued by the King of England assuring the enjoyment of Human Rights in England, Foremost among them was the petition of rights of 1628. Again in 1642 the Civil war was fought for safeguarding the right to life and liberty.

In the year 1689, another enactment was passed in England which was known as the bill of rights and it ensured the rights of the people. A landmark decision was given by the House of Lords in England in Liversidge -Vs- Anderson² and this decision was an important pronouncement on the issue of Personal Liberty. According to this decision, the Liberty of people of England is liberty as confined and controlled by Law, whether common law or statute. It is important to note in this context that England is governed in the main by common law and unwritten constitution. Notwithstanding such a system the march of Human Rights registered remarkable progress when the U.K.Human Rights Act was passed in England in 1998/2000 guaranteeing greater achievement of personal liberty.

2. (1942) A. C. 206
(ii) In France

In France, the French Revolution broke out in 1789. The people of France being tortured by the King resorted to the path of revolution for protecting the Human Rights and personal liberty of the French people. Liberty, Equality, and Fraternity became the watchword of the revolution. Subsequently the revolution triumphed. The Declaration of the rights of a Man and Citizen saw the light of the day. The French revolution was an epoch making event and its repercussion was felt also in other countries.

(iii) In the United States of America the people of that country were also greatly influenced by the French thinkers and were eager to remove the shackles of British hegemony and fought the war of independence against the Britishers for establishing an independent sovereign country in which the ideals of equality, liberty and dignity, will triumph over everything. The constitution of the United States was framed and therein the lofty ideals of Human Rights and personal liberty have been enshrined in golden letters. The American system of Government is remarkably distinguished by Human Rights ideal of due process of law which signifies fairness, reasonableness in all its actions vis a vis personal liberties of the countrymen.

It is interesting to note in this context that human rights of the people of the world have been trampled upon during the first world

(Amendment I to Amendment 14 of the U.S. Constitution)
war and the 2nd world war. In order to avoid such repetition of violation of human rights the League of Nations was set up after the end of the first world war. The idea was to bring into force a system that would protect and promote the Human Rights of the people of the world. But such efforts of the League of Nations were directed to prevent the onslaught of the majorities against the minorities. But such endeavour of the league of nations did not succeed in spite of the good wishes of the member states. After the completion of the second world war the United Nations Organisation was set up with the objective to save the mankind, from scourge of war and concomitant violation of Human Rights of the people. The member states of the United Nations also had serious thought to such issues and were eager to bring into force a charter that would protect and promote the Human Rights of the People of the world for fuller acknowledgement of personal liberties.


After great deliberation by the member states United Nation Organisation issued the famous universal declaration of Human Rights, dated December 10, 1948. This U.N. Declaration of Human Rights is a significant mile stone in the march of Human Rights in the civilized world guaranteeing the cherished personal liberties of all
human beings. The U.N. Declaration of Human Rights has 30 articles which saves, protects promotes and advances the Human Rights of the human beings. All the Member States who signed this declaration considered it as obligatory on their part to fully implement the provision of this charter and make it an adjunct to their respective legal system. We may now advert to the different types of Human Rights which have been taken care of by the United Nations in the universal declaration of Human Rights 1948. It may also be highlighted in this context that if human rights are to be considered as essential for physical, mental, moral and spiritual development of a person then U. N. declaration of 1948 goes a long way for achievement of such objectives.

All told there are 30 articles in the universal declaration of human rights, 1948. That every person is born free is upheld by Art-1.

Art-2 provides that there shall be no discrimination amongst human being.

Art 3. guarantees right to life, liberty and security to all individuals. Slavery in any form is prohibited by Art 4.

Art-5 lays down that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art-6 provides a right to recognition as a person everywhere before law. Art-7 guarantees to all persons equality before the law and equal procreation of the laws.
All individuals have also been endowed with effective remedial action from competent Courts in respect of acts of violence of human rights—Art 8.


Art-10 guarantees the right of fair and public hearing to all individuals by independent tribunal in respect of criminal charges etc. The presumption of innocence until proved guilty is also guaranteed for all individuals by Art-11.

Art-12 enjoins that there shall be no interference with the privacy of the individuals.

Art -13 Upholds the right of free movement, residence etc. The right of asylum is also guaranteed for all individuals by Art-14 Article - 15 upholds the right of nationality. The right of marriage and to found a family is guaranteed for all individuals by Art- 16.

Art-17 Upholds right to property.

The freedom of thought, expression and religion is guaranteed for all individuals by Art 18.

Art-19 Gives protection for right of opinion and expression for all individuals.

Art- 20 Upholds for all, freedom of assembly and association. All
individuals are endowed with the right of participation in Governments and Election on the doctrine of equal suffrage by Art-21.

Art -22 upholds for all the freedom to have social security. Art-23 spells out that the right to work/employment/equal pay/equal work is guaranteed.

Art-24 Upholds for all the right of rest and leisure.

By Art-25 the right of adequate standard of living for all is guaranteed.

Art-26 upholds the right to education for all individuals, The right to participate in the cultural life of the country is upheld by Art-27.

Every one has a right to have a social and international order in which the realization of all human rights may be made possible is guaranteed by Art-28.

Art-29 enjoins upon all individuals, duties to the community and also provides for imposition of limitations upon human rights by law in the interest of public order, morality and welfare of the state.

Art-30 Provides, that no right is available to any individual for destruction of human rights set forth in this declaration.

Subsequently after the pronouncement of the universal declaration of human rights two more important Covenants were issued by the United Nations for protecting and up holding the human rights of the
people for acknowledgement of full fledged personal liberties of the mankind.

1) International covenant on Civil and political Rights 1966.

2) International Covenant on economic social and cultural rights 1966.

The world body (U.N.) has been constantly trying to do so particularly when the requirements of the weaker sections of the humanity (women and children warrant such awakening). To ameliorate the lot of women throughout the world a Convention on Elimination of all forms of Discrimination Against women was held under the auspices of the U.N.O. (CEDAW) which goes a long way for protecting and upholding and advancing the human rights of the women. Besides the United Nations has also been careful enough to look after the human rights of the children throughout the world because complaints of child misuse and their abandonment have become numerous. As a result a convention on the rights of the child was held under auspices of the U.N.O. in 1989 (CRC). To advance the cause of human rights for better protection of personal liberties the world body has been always on its toes to grasp any opportunity to fulfil such objective and conferences are being held from time to time at the behest of the U.N. Right to development, right to gene protection
which are definitely a new type of classified human rights have since attracted attention of the U.N. and have been given additional protection. Of course the concept and nomenclature and classification of human rights vary from country to country and from time to time yet there has been an understanding that the basic human rights of all human beings across the world are more or less the same. (Right to Life, liberty, equality, property, and dignity). We may however classify the human right according to the following schedule.

(a) **First Generation Rights**: Right to freedom of thought, conscience, religion/rights against torture/slavery arbitrary determination/expulsion/Genoude (Civil and Political Rights).

(b) **Second generation Rights** It is more important than the Right to food, clothing and education (Economic Social and Cultural rights).

(c) **Third Generation Rights**: Right to development/Human Security/Peace/Self-determination and right of Women. (Solidarity Rights).

(d) **Fourth Generation Rights**; These rights are rights of indigenous people for rights sustaining life and those nurturing environment.

The International Instruments which have since acquired utmost importance till date in this field may be summed up as follows;
A) 1979 Convention on the Elimination of all forms of Discrimination against women.

B) 1986 Declaration on the Right to Development.

C) 1989 Convention on the Rights of the Child (CRC)

D) 1997 Declaration on the Human Genome, and Human Rights,

4. Indian perspective :

From times immemorial the concept of human rights and personal liberties has engrossed the attention of the thinkers and sages of this country (India). Ancient texts and scriptures bestows praises on human rights and their inculcation by the human beings.

Different ancient texts gives utmost importance to the physical body of the human being as the abode of god and also high lights the culture of human rights to be the principal virtue of the human race.

"In Gitasar—we come across this particular sloka which praises the worship of human body and its internecine existence.

"SWADEHE PUJAET DEVAM NANNYA DEHE KADACHANA SWADEHA PAYAM JNANTWA BHIKSHAM ATATI DURMATI" Almighty resides inside the physical body of all individuals. He who neglects the existence of the almighty within but searches for the God elsewhere he is none but the fool himself.
“EKAEBAHI BHUTATMA BHUTE BHUTE VYABASITHA
EKADHA BAHUDMA CHAIBA DRISHYATE JALACHANDRAVAT”
(Amritavindu Upanisad). One Universal soul Dwells in every being:
Though One, It is seen as many Like reflections, Of the moon in the Water."

The Kathapanisad too bestows praises upon the human body itself and its functioning as the dwelling house of the God -

“ATMANAM RATHI NAM BIDDHI,
SARIRAM RATHAM EBA TU
BUDDHIM TU SARATHIM BIDDHI
MANA PRAGRAHAM EBA CHA

The almighty himself being the Charioteer rides the Chariot which is nothing but the physical body itself of the human being wherein Buddhi (Wisdom) plays the role of the driver, mind plays the role of the reins and Indriyas (organs) are none but the horses themselves, fitted to the chariot.

We however, find in the culture of the people of Harappa and the Indus Valley (dated circa 2500-2000 B.C.) that the people enjoyed freedom of religion and worship of course no documents have yet come to light to support this contention.

With the advent of the Aryans the structure of the community underwent important changes. The fair skinned people were the Aryans
themselves while the dark skinned people were known as slaves who had no rights whatsoever; with the introduction of the caste system, rights and duties of the people depended upon the status of a person in the community.

Even in Kautilya's Arthasashtra we come across three kinds of rights-guaranteed to the citizens namely Civil Economic and Legal rights. With the rise of Buddhism and Jainism in India the system of rights (legal) however underwent serious changes because the Buddhist Gospel was more humane and liberal and it repudiated caste distinctions.

During the days of Ashoka the Great, most precious personal liberties, particularly right to equality, fraternity, liberty, and happiness gained momentum and people's human rights were more secured. During the Muslim period in Indian History autocracy, despotism and religious fanaticisms became the order of the day, people's rights depended upon the nature and disposition of the ruling monarch. Non-Muslims were not in a position to enjoy equal rights during the middle ages except in the case of a liberal ruler.

When the Muslim rulers of the country(India) were vanquished by the Britishers, British ascendancy gradually became paramount in India. The object of the British Raj was to strengthen the glory and
might of England and to perpetuate the British domination and exploitation of the people of India. In short, we find a policy of repression and suppression, a policy of divide and rule, as the criteria of Government. The British Rule however, came to an end in 1947 and with achievement of the independence onerous duties were imposed upon the leaders of free India to bring into force a Constitution which will be the repository of all human rights, personal liberties for all the Indian people.

After long deliberation in the Constituent Assembly a magnificent document known as the Constitution of India came into force on and from the 26th November, 1949.

And the dream of all Indians for the achievement of all types of human rights, personal liberties got materialized. Justice Krishna Aiyer observed from a humanitarian perspective that Indian Constitution became a National Charter pregnant with a social revolution and not a legal parchment barren of militant values to usher in a socialist secular democratic society which equally belongs to the masses including the Horizon Girizon millions hungering for a humane deal after feudal colonial history’s long night.

Akhil Bharatia Sosita Karinacharre Sangha, ('Indian Railway) -Vs- Union of India, AIR 1981SC298
In fact, Part-III and part-IV of Indian Constitution deals with human rights, personal liberties, individual human rights and also collective human rights. Individual duties which are compulsory in nature for the citizen of India have also been incorporated in Part-IV A.

An eminent jurist has described part-III and Part-IV of the Indian Constitution to be the very conscience of this magnificent document. It may be mentioned that this paramount document took care of different types of human rights, personal liberties in the Constitution itself at the time of its making.

Of course day after day new types of human rights in the form of personal liberties are being discovered by the Supreme Court for the betterment of the Indian people.