THE CONCEPT OF HUMAN RIGHT
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3.1- Basic concept of human right:-

Human rights are necessary for the society to maintain peace and security. Human rights are provide many ways like speaking, learning and for speech. Human rights language is an important and necessary to share history. The basic principal of human right is to live and let live if we through stone at others we are sure to feel jerk in your arm. The concept tells the most ancient specimen of written law called Hammurabi’s codes which established faire wages, protection of property and required charge to be proven at trial this basic principle peaceful coexistence is however, thrown over board by the self esteemed super cop of the world after the and of the cold war. Recently developing countries face the problems that are violation of human rights by various institutions and individuals having social, political and administrative authorities.

If we discussion on conservation of human right at conferences, seminars at various forms assumed the character of an academic fashion. The Indian constitution guaranteed certain fundamental human rights to the citizens as well non citizens, such right as right to life and right to equality and personal liberty and against exploitation which ensure protection against crime and humanity but not war crimes or grave branches of the Geneva conventions.

3.1. (1) - Human: -

Human being is a sensible person. He gets some rights by his virtue which is generally known as human rights. Human rights are being birth right in the entire individual human exclusively get these rights of there creed, caste, sex, religion and nationality. These rights are necessary for the individuals to enjoy their freedom and dignity and conductive to moral, physical, social and other spiritual welfare. All these rights necessary to setup themselves in suitable condition for moral and material uplift of the people.

Human rights some time used as fundamental rights, birth rights and natural rights. Today the large majority of the philosophers and legal scholars agree or support to these rights. They say that every person is entitling to some basic rights. Human rights are universal accepted in domestic and international plane. It is very difficult to give a particular definition for human rights. These rights are rights which
are person use anywhere and any time. All these rights on one can stopped or deprived without any judicial offered. Human rights are based on human needs as absolutely, some of these needs rudimentary for sheer health and physical survival.

The human rights can be detail and perceiver, these rights related with natural law and traditional concept. Human rights are these right.

3.1. (2) - Rights:-

‘In fact rights are those conditions of social life without that social life which no man can seek in general, to be himself at is best’ Laski. The societies considers a large number of peoples whose mutual relation would be conducted by certain well established rules of human conduct. If peoples does not accepted certain restraint and responsibility toward each other. Without it Social life not possible. The conditions and situation created by the states to make sure the securities of the individuals and properties are generally known as right. In other sense the some part of the opportunities provide by the states for the developments and expressions all the individuals personalities are known as right. It may be noted that the right is by no way selfish claim because the selfish interest of one may become injuries to others.

It become essential for the claims would be disintegrated desires, something which capables of universal applications are. The guiding factor is that individual will should be of common interest. Rights are claim of an individual recognized by the societies and the state rights are equal to claims. It is claimed of an individual, there every claims would not become the rights are required that claim may be disintegrated desires & some thing those are universal capable applicable. In simple words the claim should not be a subject interest but the claim should be disintegrated desire or should be common interested.

If we speak broadly, human rights may be respected do those crucial rights and in alienable rights which are key for life as person. Human rights are those rights which are controlled by every individual independent of his or her nationality, race, sex, religion and so on basically in light of the fact that he or she is person.

3.1.(3) Rights are reasons not Properties:-

It is true fact that every person claim his right but no one bother about his duties. Rights are only because it is not personal property to any one. Rights are only
reason to treat properly to persons by the society this is cultural difference. It is
difference between discredited and dated theory of natural right there are so many
other compelling and contemporary human rights theory.

If we believe human rights are property of person, it is an essential part of
human nature then any one can immediately conferred with sharp questions. That is
like where are these if human rights are actually properties of person then who one
should be able to display the human rights for all to see human rights are not material
things like houses, cars and ail painting. The human rights are immaterial things like
psychological, personality traits which in general are observe by behavior if we think
that human rights are property of person. The old theory of natural rights such as John
Locke English philosopher try to define human are natural note able to seen property
of persons. These old theory related to metaphysical natural right think liberty and life
they have rights we says in the same way that we have soul to being member of the
human rights needs familiar ground.

Old theory of natural rights is such as philosopher ‘John Locke’ tried to guide
or suggests that natural rights are human rights. Human rights are not personal
property of any person. In other words old theory related to metaphysical suggestion
of human nature that is related with human rights. Natural rights are right to think
about his life and liberty. The authors’ said that we have soul in the same way we
have right also the human rights directly related to territory. So on the basic of family
ground being the member of human community.

The term metaphysics literal means beyond physical and it related to human
physical evidence on the basis of observance and demonstrable experience that ether
it is totally useless or insufficient lease of claim the present of God. The fact of debit
insures major dispute is main issue. Something is scuttled by physical evidence point
out. On the presence of God or existence of God. Now the question arise that what the
role in faith of Religion after all these thinks define properly believe in some thing for
which is not have sufficient evidence. The existence of God can not disprove by the
lack of evidence against the Gods existence.

The condition gives the direction and indicates that the oldest person and the
view of human right are insane property of persons in actual position. It is not
providing as a metaphysical. it can not be disproved either they are threaten or relying
on it. It is start from right of beginning that the argue going an the settlement and
human rights also same situation there is also one universal agreement on the human
rights. Even we are not wanted to lose or reduce our rights. Our rights basic is so weak reflection metaphysician.

The simple and direct comment ion with soul and non visible party may make for the constitution. If these rights become failing then holly process of law became fail. Even the technology arises but all are failing to persuade dedicate and compel through out by the hard choice. Even in law and policy. The author Locke says that knowledge of natural justice right on hart and soul of the peoples.2 But we want more rest and become relax than it is not satisfied us fully with sweep proclamation.

The law always belongs with reasonable stativity. The scope of constitutional law is essential for modern state functions of the state is not related with international concept of natural rights.3 The again we have same problem with the old process of natural right. The theory of natural rights is issued also related and forfeiture. Maxim of us wants to share that condemned crime like lose and forfeit.

The liberty of human rights, they have with us even during the imprison meant. We think that when we do the crime and how the crime does and how we can justify the human rights during the imprisonment. According to natural law and provision established by the law on the basis of that right is property of every person.

It is necessary to being a human or people some authors related with the natural theories say that imprisonment is justice with persons. But other side Locke says that when anyone commits prime than How we make sure and save the humanity. If we are not stop it than they become like a lion and wolf or become as a animal.

He is saying that nothing is wrong when we sand the criminal in a jail and detained it. It is universal true that no one lives without rule and regulation as so long.

Crime start by the society and we can not live with criminal human being. The most power full and important conclusion we take from hear that reject the assuming that human rights use as a property.

It is only being for fabric own our being the cuffing idea that rights are property in other view we can say that it is a natural property. Right never describe there nature and never describe there behaviors. The rights are providing the way to

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2- John Locke, Cambridge University Press, 1988. First published in 1688 Chapter-IInd, Section 8 to16

3- Locke, “Second chapter”, Section 8 to16
treat a human with a special way process. The theory maintains that law is the source from which legal process and personality be fallow.

What ever we may think the law should do but main ten that legal personality can be secured other wise he complies with the condition followed by the legal order. The right to associate is different from the grant of legal personality to associate as exit the law may be prohibit all association for any per pose. The law may give wide liberty to the association for full feel the purpose of law, but other refuse legal personality to some group and not for other groups.

3.1.4-Trumps:-

Many advocates agree that right does not exist at the same time. It is not so old process and claim it is established and justify to provide sufficient reason behind it. It is a power full claim.

The term right directly related with same act some one do the act and another get right. It means not give easily. So mah\u00e9ny right become supporter and become agree with the Ronald decoration famous that rights one use as a trumps. Just like a cared game.

Because the trump card be at the all other cards. Hear the term right to claim is a trump the claim of rights defeat to the other social values as the economic growth and the promotion of artistic and happiness of the majority. The claim of rights thought and thinking is very power full it is better reason some time we need more protection and attention we deserve more it. Than other more social aims. The right stands as a majority of political in our area for the strong claim of rights give more respect to them. And provide stand red claim.

The human rights respect is more important and it is become necessary for government to be considered. It is accepted as world wide. The respect of human rights is like a admission amount for the political status. It is strong touch pebbles for the legitimacy with the respect of rules. Some time it is declared as a absolutism about the rights.

It is the belief and faith about it that rights are trumps but if we know more about it than it is always trump with cretin conditions they cane achieve their social goals and aims.

Some time it is beat as a compensation for social attention to protection and social interest. It is more important to know that this is not actual position of dworkins. the actual situation is that when the rights are trump than other things become equal. If other things are not equal except certain special circumstance. If we hold social goal it is great claim and attention. Consider a case related to national emergency like a farming, war etc. we can think little bit.

3. 2- Salmond’s Analysis:-

The popular theory regarding the nature of legal right is also known as the interest theory of law. According to this a legally perfect interest. The interest theory mainly propounded by German jurist hiring. The jurist gives more emphasis on the principles of will in the legal right. He accepts that the base of legal rights is interest not will. The main purpose of this theory and law to protected the interest of persons and reduce the conflict and misunderstanding between the individuals and their interest. But the Salmond critic this theory on the basis of incomplete since it is makes the over look on the element of the state.

The legal right not only protected by the state but it is also recognized by the state legally. It is set on example of substantiate view. This theory protected the interest of individual an protected to him to quadruped in the criminal offence. But quadruped not reason for the said possesses a legal rights and not treated with cruelty as a mere to moral rights.

Another author gray also supports the view of salmond about the legal rights. He says that interest theory only half and partly true. He says that interest theory not protected the interest of legal rights itself. But it is main purpose to extend the interest protection. Again he says that legal right means the power by which person make to other to refrain or do certain act by implied legal duties by the others through the law agency. The agency means state.

The Dr. Allen also defines the theory of legal rights. According to him the theory it self not legally guaranteed the power and interest itself but it is only granted

to power to realize the interest. In a sound theory carry both the elements equally for provide the legal rights if we total speaks about the legal rights. They say that state is not separated from the individual. In actual position all rights are separately but this view rejected from the reality in the modern concept of the state.

Now the state becomes welfare state. The Salmond give the five essential elements for the legal rights:-

1- Inherence persons:-

He says that this is called the subject of the right because rights are vested in the persons always. No one can separate the right send individuals. Here without person there are no legal rights. Without it who served it. The owner of rights never certain, it is always definitely even a unborn child also have the possession own the legal rights. Whether he is born alive or not. In the same way rights are always served by the society. if the society take part and have interested than right become in determine or valid.

2- Incidence of persons:-

The legal rights are become valid only when we impose the duty on the other person and that person perform co-relative duty. He is a person bound by the duty, so he is describe as the subject of the duty.

3- The contents for the rights:-

The person is failed to perform his act to whom the obligatory duty bound in favor of the person. That is cold for the content of rights.

4- The subject matters for the rights:-

The subject matter means the act with whom related and in other words the thinge on which the right is exist and impose. It is always called the subject of those matters of rights. The Holland argues on this theory he say there are some rights have no object. He gives an example on this that is related to master and servant relation ship. He says that hear X is the servant of Y than here by is the inherence person and reasonable service provide by the X but hear object of the right is totally missing because hear is no material things to constitute the things. Salmond says that how the Holland look the subject in this much narrow sense. According to the Salmond says -

7- The Slmond theory jurisprudents.
that the example of the Holland speak about the knowledge, skill and strength etc. the person bound bu the duty.

5-Titles for the rights:-

All legal rights have a title in certain facts and issue which are depend on the reason. The rights have become vested in his owners. At last we can calculate that without person no purpose of legal rights. To whom perform the act and duties.

3.3 Right, Entitlement and Claim:-

Human rights are rooted in ancient times. The philosophy meaning of rights means natural law and rights. A few philosophers of roman and greek are consider the idea of natural rights according to jurist Ulpian natural law means nature and state assure or human beings. It is common that entitlement and claim are related to each other. Claim is a sign that same person ought to be live in certain way. Every claim implies the existence of certain co-relative duty since it has not concept part from duty. Claim implies correlative duty; claim denotes that some other person is required to conform to a pattern of conduct. Man has been living in a society that is change from a simple society to world at large macro society. For the development of man suitable conditions of society existence been guaranteed by the state so as to govern the relationship between persons. We consider the example unable to speak because she is sleep. This is main inability to speak or lack of rights still we claim on others even we do not shout.

Apart from clamming the damages and injunction etc. the plaintiff may also ask for rendition of accounts by the defendants to show the profits earned by the defendant by unlawfully using the designs. The plaintiff may contend that the profit earned by the defendant would be the loss sustained by him which he could claim as damages.

3.3.1-Moral v/s Legal Rights:-

In the modern society is right cantered right are national organizing principle of it. A group of equal, self assertive, self interested, other wise unrelated and mutually an individual understanding civil morality is the dominant form of morality in the society. In a right based society the moral and political discourse gets assimilated to the juristic discourse moral rights are those rights, who has the right to

8-Critically analyses the kinds of legal right
9- P. Jones, Rights. New York, St. Martin’s, 1994, p -12-24
enjoy what and how best these can be secured. Moral rights are important source of international human rights.

Legal rights are those rights interest recognized and ported by state rules and justice it is an interest in respect of their duty and violation which is wrong. A man has wide interest but all of them are not recognized by law. Like duties and wrongs, rights are either moral or legal. Moral rights are or natural rights are an interest recognized and protected by rule of morality, if any one make violation of which would be moral wrong like parents interest to command respect from their children are their moral rights but if children violate these rights, it is a moral wrong. On the other side legal rights, interest recognized and protected by law, if any one violation of these rights then it come under legal wrong.

Every one has right to privacy in his house and if any person interferes with these rights, it would be a legal wrong. Professor Paton also agree with these necessary and essential condition for legal rights the professor Paton should be emphasize that it is enforceable by legal process of the state. He mentions three exceptions for general assumption – it is not necessary for the state that it always enforce all the legal rights. There may be some cases when it is not enforcing these rights, the state may relief the wrong by getting compensation paid by the injured party.

Here some rights which are imperfect by nature that are enforce or recognized by the state but not enforce by the state, like time barred debt the right of the creditor to recover the debit is include imperfect right because debit become legally irrecoverable after expire of particular time period for the limitation given by the law. If the debtor make payment of borrowed money to the creditor after limitation period, it would be recognized legally valid payment of debt and the debtor have no right to recover this amount from the creditor on the ground based and the creditor was not legally bound to pay the amount.

Some laws are not confer right of enforcement to the court because these enforcement is not possible though recognized law the international justice also not have power to enforce its decree under the international law. The U.S.A. Supreme Court held that the view that right is inherent power of human will rights are nothing but to get permission to exercise some natural powers and get certain conditions or situation to obtain protection.
Dr. Holland define that legal rights are different between right and mightily some one says that might is right it means that every right is creation of power and might. Right is totally different from might as per, right is capacity of ones complying others to do or forbear by means not our on power, but the power of third person or party. Legal rights are always vested in a person who may be different as the power of right. Person must be existence or determinate, unborn child has rights but not owner, whether he would be born alive or not rights owned by the society at large, it is valid right by the subject of right is indeterminate. The act which is binding on the persons in the favour of the person is entitled. It is called the content of rights some times, some act which is related to subject, that may be called subject matter of the right.

Some authors argue that certain rights have no objects. They give an example of master and servant relationship in this case the right or object is missing because here is no material things to constitute object of right. Every legal right has a title certain events or facts which are facts by reason of the right that are vested in it owner. The person bound by the correlative duty is persons in general, this kind of rights are avails against the world at large. The subject matter or object of the right is transfer by the formal owner which are acquired these rights.

Some other concepts also related to the legal right that is right and duties also correlated with each other. Some duties are absolute, that is those duties not have a corresponding right, if any one breach of any absolute duty is generally come under an offence for this wrong doer is punished. Self regarding duties related to that any persons can not commit suicide or consume liquor or drugs etc. some absolute duty towards in determinate person or public at large like not to commit nuisance and some duties to those are not towards for person such as duties, animals, God, birds etc. some duty towards the state or sovereign.

In other sense right and liberty also related to each other a person derive from the absence of legal duty it may be called liberty. Privilege or liberty denotes the absence of restraint. The persons liberty is consists his freedom to do or not to do any act as he like but he has no right or not have any liberty to interfere with the rights and liberty of others person has liberty to express his opinion freely and public affairs, but he is not free to damage or defame others. The legal rights related with power and subjection the power is define by man, if liberty get by one persons then other get alter duty. The rights, liabilities, duties or other legal relations, either for himself or for other persons. These rights are to make a will and power of sell vested in
particular person. The power also can be divided into parts private and public. Private Powers are those which are given to a particular person to exercise there on purpose and not provide for become an agent of the state. On other side public power are those which are given to a person as a agent or instrument of the state these are include in different forms of judicial, legislative and executive authorities. We can say that power is either ability to determine or carry the legal relation with other person or ability to determine on. The power which is use for other person is some time called authority, and the power use for our self or one self is called capacity. The relation between liability and power is subjected. The state has power to punish the offender it means the offender is subject to exercise of that power by the state.

The disability and immunity also concept of legal right. The correlation between the immunity and disability, just a power is a legal ability to change legal relation, and immunity is an exception from having legal relation charged by others. The right of sovereign is not providing in a foreign court, right in a strict sense, nor a power, nor liberty. The international agreement for the suppression of traffic in children an women, which traffic prohibited in children and women. But there are so many exception of such examples or isolated cases, there were no Endeavour to regulate human rights at national and international level after the establishment of united nation. If we speak generally international law did not connect or concern it self with human rights. The natural rights in its development closely related with the natural law. The theories played very important role in international level for the concept of natural rights. In the theories of natural law essentially exist in the nature of international certain the object of moral principles those are made or perceived by man.

3.3.2-General v/s Special Rights:-

Those rights applied or claim on the other person is know as general rights. General rights are claim on relevant social institution general right also known as moral rights. Special rights are applied against particular institutions and persons and special rights can claim under certain circumstance and with in particular time. Universal declaration provide under article 1 that all persons are born free and equal in honor or dignity and other rights they are settle with reason and conscience and act do for each other in a sprit of brother hood. Article 1 announce or declared that natural freedom and equality in dignity and all other rights of the human beings. Article 2 provides that every one is belonging to rights and freedoms set by the
universal declaration without any discrimination like race, sex, colour, language, political, religion and other opinion, social origin, national property birth are other status. If we move forward then no discrimination made on the premise of locale, political and universal status of the nation which an individual has a place. Whether it is identified with autonomous trust, non self representing or under any constraint of sway. If we think about this a remarkable thing about the universal declaration is that it is based on depended on the nations and member state of the united nation but to every individual?

3.3.3 -Rights v/s Their Objects:-

The most fundamental disputes weather rights it is general or special. It has not been my purposes to deny that right is valuable nor even to show that right is not uniquely valuable item in our moral frameworks. Instead I have tried to examine critically that right is so distinctivelies valuables as to be moral indispensable. I have argue the most important feature those are peculiar to right is clearly individually, as closeled relative with others, as is usually though and that so many of the characters functioning for the rights principle would be fulfilled equal well by a combination of alternative moral principl. One of the features of rights is that right not capable us to distinguish between moral principles that can justly be enforced and controlled by them.

In the modern time major changes come in the concept of the human rights. According to modern concept regarding the individual as its primary bearer. In groups have rights but these belong to their members. Every individual human become stopper constitutes self contained unit centre of every individual is firmly located with himself every thing take out side the surface of his skin constitutes the external world natural world become material world of dead matter in which every thing become object of right. The human being is reducing collection of powers and capacities all of which would be alienated and object of right. Individual need to be defined barest possible manner.

The crucial situation arise that what is necessary for the identity of human being that is alienation and loss of control over it and they loss their humanity the right located his essential humanity on the control of will and choice which are essential for human dignity. The social back ground of individual and circumstances are not responsible for his action the individual stand alone by him self, stripped of
social relation, his background etc. some other says that will and choice of human being as his properties. When we define object and subject of right in this way some rights especially the right to life, property and liberty become more important. The right to life, property and liberty were all come under right to protection. In the 19 century economic and social rights were added in the list of rights. Today theory of modern concept gives more importance to rights like freedoms, liberties and economics but not give importance of positive social goods.

The first and the most important question arise that what is the object of rights? A number of human rights provide to individual to protect himself. Under the Indian constitution part III provides for rights. The main purpose of the right that something claimed the property right related to house, the right provide justified claim, house, for his entitlement, here the object for claim is house. To use right is like a railway ticket. It is personal right of every persons to get rail but it is the rail itself one main object. For getting human rights it is not sufficient to get only those rights which are written in illegal code, the majority of people do not aware about his rights.

The main value of rights, that the crate facilities and help the society to secure and enjoyment of the objects those are claimed by them. Generally rights are justified and high priority given to the minimal level of respectful treatment which is generally seen in human beings. Now the question arise that how we identify to these when we received it? It looks faire to say that rate the caliber and major treatment we receive from the society by which we secure our possession of thinks like opportunities, freedoms, opportunities and also connected with there objects. We know that we are human beings treats decently when we really posses, other wise secure access, enjoy these rights important objects. It would be noted that all these object are not only just objects in the society sense of the terms. The most encompass describe for the objects of rights, claim that are more benefited for the goods, protection, freedoms and get respect full treatment from all these things. We want deeply benefit from these things important for us.

3.3.4-Economic and Social Rights verses Political and Civil Rights :-

On the instruct concerning third advisory group, 16 december, 1966 general get together embraced to agreements. Global contract on monetary, social and social rights and other on political and social equality. These are key stone of the contracts of human rights. Under art.4, the contract made procurement for political and
common open crisis which debilitates life of the country. The article 53 of the covenant on political and civil rights are divided into 6 parts. In this part first, second and third related with various rights, enumerated and freedoms and other three parts are devoted with related to procedures for effective realization of these rights and along with final clauses. In the covenant article 1 related with the right of people to self determination expresses all people groups have right unreservedly to focus there political status and openly scrutinize there monetary, social and social improvement and for their on finishes. The article again expresses that for no situation individuals be denied its on method for subsistence

The global agreement on political and social equality manages versus or diverse conventional human rights and key opportunities, for example, the privilege to freedom and life, flexibility from brutal, torment. In human or debasing treatment, discipline, opportunity from slave exchange and subjugation, necessary work and bondage, right to security and liberty of person and freedom from arrest by arbitrary and detention, right to detent to be treated with humanity and with respect and opportunity from detainment on the ground of failure to satisfy contractual commitment, flexibility of habitation and development and right to live in any nation including his on, opportunity against ex post facto law, right to correspondence in the eyes of law, tribunals and courts, right to assurance of protection, home, family and correspondence, right to distinction as individual, soul and religion, opportunity of thought and opportunity of articulation. All these rights are gotten from characteristic nobility of human being. All individual from the human family and such are establishment of opportunity, peace and equity on the planet.

The agreement on political and social equality have recognized for the ideal free human beings for enjoy their political and civil freedom and freedom from want and fear may be archive it is necessary that suitable conditions should be created so that every one may appreciate his political and social liberties, well his financial, social and social rights. Hence in perspective remembering, their commitment under the united country to advance widespread regard and watch the human rights and the key flexibilities, the state parties additionally concur with these.
The general get together on 16dec,1966 embraced global contract on financial, social and social rights and it is come into force on 3rd January 1976. To carry out the general obligation under taken by the member states under the united nation to insure standard of living, conditions of economics and full employment and social development and progress, and social, health, solution of international economic and other related problems and international education and cultural cooperation, number of united nations organs are busy in the promotional activates for improving economic, cultural and social rights. commission on status of women, striving for implementing or applied for economic, cultural and social rights has been established. There are so many other specialized agencies of the united nation such as FAO,UNESCO, ILO and WHO are busy in the promotion of realization of economic, social and cultural rights with in their specialization in their acting field.11

The to life, security and freedom of individual have taken exceptionally significance put in the distinctive worldwide human rights instrument. All the major worldwide instruments like universal contract on political and common right, widespread revelation of human rights, the tradition on the counteractive action and discipline of the wrongdoing. The universal tradition with the right it like and freedom. The act of politically-sanctioned racial segregation and genocide manage the privilege to life and individual freedom, the act of genocide and considered as infringement if right to life and individual freedom the degree is wide for the privilege to life and freedom and it cover bit of kids and the individuals from racial gatherings.

The section third of the Indian constitution related with diverse basic rights. Article 21 arrangements with right to life and individual freedom it implies that no individual denied from his life and individual freedom with the exception of just those procurements created by the law and in the state is under an obligation to ensure of life and freedom of each person. This article rewritten in negative language it confers fundamental rights.

3.3.5-Negative v/s Positive Rights:-

Negative and positive right distinguished according to the nature of the correlative duty it carries with it in the case of a positive right, the person subject to the duty is bound to do some thing where as in case of negative right others are restrained from doing something. The positive right is a right to be positively benefited but a negative right is merely a right not to be harmed. A right to receive compensation or damages, or a creditors right to recover money from the debtors are example of positive rights as against this right of ownership is a negative right for imposes on others, negative duty of non interference with ones right ownership. A right to reputation is a negative right in the sense that it imposes a negative duty upon others not to interfere with it. A positive right corresponds to a positive duty where has negative right corresponds to a negative duty. The aims of positive right are provide positive benefit but negative right aims not to be harmed.

The positive right involves in a positive act and its entitles the owner of it to an alteration of the present position of his advantage. A positive right requires an active involvement of others. This right receives something more than what one already has. It has mediate and indirect relation to the object. Right to the money in ones debtors pocket is an illustration of positive rights. On the other hand negative right involves some kind of forbearance or not doing. This right seeks to maintain the present position of thins. The negative right requires only passive acquiescence of other persons. This rights seeks to retain what one already has. A negative right is immediately related to the object. The many is once own pocket is an example of a negative right.

Many authors attract in the past to claim negative rights that are related with political and civil rights. On the other hand positive rights related with economic and social right. We can say that boat right are affordable and reasonable and boat are costly and reasonable in demand for it’s aim and purpose. Political and civil rights are in really human rights in the present time. The all authors are not agree with the theories define related with negative and positive rights.

3.4-Rights Violation:-
Mostly our relations with human rights. It is become our duty to avoid violation of these human rights, in other wards we can say that human right is violated if any duty breach or fail to perform his act within a particular period, if we are fail to perform his duty without any reason. Then it becomes violation of rights. Yet human rights are point out to provide rudimentary protection and benefit, if we ignore the cause of its violation for performing his duties overriding and exceptional important of human rights are not absolute rights. These are many social and personal emergencies when the duties are related with human rights. Certain cases related with war and self defense.

In the day to day life however human right includes as a claim and inclination. Any person takes away object of any other human right that become for his liberty and security. If any person violation of human rights than such person may be punished and resisted those are prescribed by the law and punishment given by the legal system for the violation of these rights.

Those social institutions fail to provide the protection from the violation of human right. That may be national and international institutions may protect the human rights and the fundamentals right those are provide by the Indian constitution. The article 21 is vital for each native and for people in light of the fact that this is give the privilege to life and freedom and live with human respect. All these rights get to be for human life if an individual not live uninhibitedly than life get to be parallel a creature.

The article 21 give that each individual have right to move uninhibitedly to anyplace and if any one infringement of these privilege than exploited person individual have right to go any court for implementation these rights by article 21 the first run through this article suspended amid the crisis emerging in 1962. At the same time after the correction make in the sacred procurement in article 359 in 1978 get to be outright at this moment the procurement identified with life and freedom can not be suspended by the presidential request.

3.5-Definitions of Human Rights:-

People are sensible or shrewd persons. By their prudence human have creation basic and essential rights which are usually known as human rights. These rights are have a place with persons in light of there exceptionally presence and they get to be agent
with their introduction to the world. Human rights, began with conception there for inalienable all the people independent of their doctrine, cast, sex, religion and nationality. These rights are vital for all the persons in light of the fact that these are connected with there flexibilities and pride and prompting good, physical and social human rights are fundamental as they give suitable conditions to good and material up lift of the industrial. A few times human rights are allude to central rights, regular rights, bequests, fundamental rights. Today the majority of philosophers and scholars agree with that every indusial related with some basic rights. It is universal excepted that human rights are main principle in domestic and international field.

Human right is a generic term and it embraces civil rights it is related with social economic and cultural rights and civil liberties. It is very difficult to give particular definition for human rights. Because these rights, all people have by virtue of being a human. Human rights are those rights which belong to a person these rights are based on elementary human needs as imperatives some of these human needs are essential for sheer physical survival and health. Human rights can be perceived and enumerated human rights are associated with traditional concept of natural right or law. Human rights are necessary for all round development of the personality of the person in the society.

3.6 Human Rights Generation:-

(Louis B. Sohan has given three categories for human rights these are following 12)

(1) First Generation of Human Right,

(2) Second Generation of Human Right,

(3) Third Generation of Human Right,

3.6.1 First Generation of Human Rights:-

The different rights contained in the concession to the common and political rights are not new rights. These are the right that had grow in course of a long stretch.

12- B. Louis Sohn, 'The International Laws Protection of the Right of Individual Rather than State'
32.U.L.Rev.(1) 1982, Cited by: Dr. Chandra supra note 16 page-20

of the time following the time of the Greek city state and created as the Magna Carta the American affirmation of freedom and the French Declaration of the privilege of man and of the Citizen. Accordingly these rights consider since a long time ago settled human value and in that capacity are consolidated in the national agreement on political and civil rights the European agreement on inter American and African agreement on human rights. These rights reflect establishment on human values and norms. Such are related or incorporated to the national constitution of different states by international agreement for political & civil right. The Europeans agreement for individual right & African instrument.

These rights are related to different important national and international document, they describe over the wives of international association offered ascent to global standards and standard law of worldwide affiliation general application all the procurement of the assention identified with political and social liberties can be considered as a piece of law.

Under Indian constitution gives some social equality like – rights to love, rights to security, rights to free discourse, rights to freedom, rights to life etc. & give some political rights likewise like – right to vote, right to free race etc.

Civil rights are related to liberties to person. These are necessary for the person to live a dignified life. The nature of political and civil right may be different but both are co-related to each other. These rights are included in the first generation of human rights. Which are taken from the 17th and 18th century from reformative theories which are related to American, French and English revolutions. Political and civil rights are related to different countries these rights are representing different international communities.

3.6.2 Second Generation of Human Rights:-

The second generation of Human rights are covered by international agreement on social, economic and cultural rights for all these the main sources for the creation of political and civil rights the social, economic and cultural rights are originated from Russain revaluation 1917, and the peace conference of Paris 1919. The important of peace conference of Paris conference established for international
labour organization14 which give more importance or emphasis on the social justice. The organization says that peace can be making or established by social justice.15

If any nation fail to adopt all these human situations of labour then other nation that can take help from them for improve the condition of own country. The international labour origination develops many international treaties or agreement for successful development. For this development actual credit goes to the American president Roosevelt because he express his view and hop first time, for agency dealing or related with social and economic rights. The president Roosevelt in his message on 6\textsuperscript{th} January 1941 provide four essential freedoms that is freedom for worship of god to every person in his way, freedom of expression and speech, freedom from fear and freedom form wants. To which we look all these forward to found a new world.

Social, economic and cultural rights are necessary for human life. In the absence of these entire rights person become like to be endangered. Right to food, housing, clothing and particular stand red for living and freedom from hunger right to social security, right to work, right to mental and physical health and right to education etc. all these categories of rights.16

All these right also included or mention in the international agreement on social, economic and cultural rights. Some times all these rights called positive rights. There for all these rights opposite of first generation of political and civil rights. Social, economic and cultural rights are based on the concept of social equality. To understand of all these rights. Generally these rights are called the rights of second generation.

Here again clear the concept of freedom from want in his views, the real freedoms for the individuals would not existed without economically securities & independencies all the rights are another kind of right that may be enjoy by individual collect ally or tougher these right is called self determination or physical proctor. These are clear only general principles and not a specific rules. Any how they have begun to come of age. All human beings are equal in importance and inherent.

14. In the same place

15. The International Law, third Indian Reprint1971n.67 page-152 -Fenwick, Charles G

16. A.J.I.L.1941, 35 page 662 refered to in “Dr. U. Chandra’ supra note 16 page 21
3.6.3 Third Generation of Human Rights:-

It is also known as collective rights. According to B. Soha every individual are member of this unit or group like religion, family, social, trade, union etc. people, racial, state and nation all are professional union or association. The international law not recognize only by friendly or in alienable rights for the people. It is recognized by collective rights of the individuals. Those are part of larger society or community. In this both includes people and nation. The united nation recognized only two rights separately in convention there is close relation between these two rights all these easily adopted in developing countries. The political and civil rights are both categories are equally important of these rights when political and civil rights do not apply there is economic, social and cultural rights are not fully applied.

The relation between these two categories of rights applied by the or recognized by international human rights in 1968. These rights are declared finally by the authority fundamental freedom and human rights are provided individually. The political and civil rights are not enjoy fully without social, economic and cultural right. In 1977 the general assembly provided all human rights and fundamental freedoms. The general assembly provides these rights to the indivisible and inter depended and provide equal attention and Thought. The get together secures both rights that is political and social equality and social, financial and society rights. The determination expressed that political and social liberties are method for the monetary and social right of the people.

In 1993 the Vienna gathering again compel that there is the same between the two arrangements of rights. All human rights are indissoluble, general and entomb ward and co related. The global society or group treat human rights are generally and all inclusive reasonable and equivalent way and on the same route and with the same accentuation. This announcement to appear to be genuine rights and drive from innate poise of the individual and important for his full and free improvement. The third era of human rights alludes to the organization of fraternity. This classification of rights is best on the same.

17 Eleventh Annual Message to Congress, 11Jan, 1944 page 2881 cited by- Dr. U. Chandra, supra note 16 page 21
18 Dr. U. Chandra, supra note 16, page 21
19 Dinah Shelton and Thomas Buergenthal , Protecting Human Rights in the American Cases & Material 1995 page 11, refered to “Dr. U. Chandra” Ibid 21
3.7 The Indian Perspective on Human Rights:

The vastly literatures that have grown in the West around the concept of right is in itself an indicators that the concept bad to be defend and philosophical justifiable. In the long history of the Indian’s civilizitized the freedoms of thought and speech the freedoms of one's life in the lights of one's belief, the freedoms of associations, the freedoms of public debated between the contended philosophically school was take to the natural foundation of persons relationship. it was always taken for granted, and consequently there is hardly any literature on the idea of rights. When the word 'Adhikar' was used to convey a similar sense, it always had a much deeper meaning. However, the freedom of the individual in the western societies was secured alter a long and bitter struggle against the Church and the State; in India, those freedoms were seen as the very substance of human existence, therefore, in view of the fact that the West possesses rich literature to its defense and the same is absent in India, it would be wrong to conclude that the idea of freedom is chiefly a Western one.

The foundations of human rights may be established in two different frameworks of perceiving man and the world; one is that of the modern Western political thought and the philosophy of law and the other of 'Dharma' and it method that characterizes the journey of Indian civilization. Keeping this in view, the Western, philosophy had its own way of perceiving man, society and their relationship from which it deduced the foundation of human rights, but nevertheless, the Indian philosophy characterizes the foundation in the ancient conception of Dharma and Danda which regulated the governance of State and its citizens. The concept of Sanatan Dharma which laid down these foundations in ancient civilization is 2,000 years older than Western Christianity with a central theocratic doctrine. It laid down the foundation of a sane society in ancient Indian civilization encompassing a moral code, righteousness and responsibilities. It was certainly wider and broader than the concept of religion, a, used in the Western historiography.

20- Tenth Studies Sessions of the International Instituted for Humans Right 1979 refered to by Dinah Shelton and Thomas bergenthal in the same place, page.15 Lecture by Karel Vessak
21- Ibid.
22- Human rights Manual Department of remote Affirican and, Australian Trade Govt. Production Service, Canberra 1993 p.119
It was on the basis of those existing principles that detailed rules were laid down for the guidance of the king. It was his duty to uphold the law and he was as much subject to law as any other person (equal protection and equality before law can be deduced from that practice). One of his chief duties was administration of justice according to the laws of religious texts, local customs and usages and written cotes. It was obligatory for him to enforce not only the sacred laws of the existing tests but; also the customary laws (rights and clams) of the subject this was possibly the human rights enforcement situation in its embryonic stage. The guiding principles laid down for the kings were, however, taken mainly from the species of dharmic texts like the Vedas and the Vedanta under the genus Sanatan Dharma which enshrines "Truth is one" and "God resides in every human being". Besides Vedas, Upanishads, Mahabharata and Bhagavat Gita also furnished philosophic foundations for subsequent social developments, thereby enriching the doctrine of human rights. Upanishads, emphasizing the individual self and its truth say that "there is nothing higher than the person Mahabharata also emphasizes the point that "without ethical and moral principles, there is no true happiness and a society cannot hold together; the principles such as truth, self-control, asceticism, generosity, nonviolence, constancy in virtue should serve as the means of one's success".

Bhagavat gita being a part of Mahabharata preaches us to meet the obligations and duties of life, always keeping in view the spiritual background of human existence which is the manifestation of an ultimate and the infinite. It is evident that the subsequent scriptures emphasizing on the individual, and the guiding principles of his success, from the base from which the essence of the modern conception of human rights can be deduced.

However, even at the individual level, there were some significant contributions by the religious prophets with regard to the basis of human rights, Mahavir, the founder of Jainism said that the foundation of human freedom in its deepest sense, is truth known as Adhersed, which demonstrates the idea of the relative pluralism and many sides of truth. This attitude towards truth gives a profound implication for various aspects of human life personal and social. During Chandra Gupta Maurya’s regime kautilya in his Arthashastra, which depicted the political, social and economics codes of conduct, laid down certain principles of the law of punishment as the foundation of social existence. These principles then became the basis of the law against, inter alia, illegal arrests and detention, custodial death, ill
treatment of woman such as rape, inequality of gender, corrupt judicial system, etc. The legendary king Ashok in the post Kalinga regime had shown the seeds of a humanitarian society, which, in its operational concept was not sharply asymmetrical from Western version of a welfare state; the law of piety being its lei motif Asoka’s policy of tolerance bears a close resemblance to the concept of civil liberties. He desired, all human being would have security self security control, mind peace and joyousness inhuman treatment or torture of prisoners was prohibited in Ashoka’s administration.

Thus, the influence of ancient Indian Dharma with its universalistic and humanistic strains, the contribution of Hindu scriptures and noted scholars and kings, tends to underscore the historical reality that the concept of rights is neither gift from the West nor typical Western monopoly of wisdom; its origins are as much rooted in ancient Hindu civilization. This may explain its contemporary universal appeal which, of course has been facilitated in the era of the global domination of the West since the colonial era. What is being contested within this historical narration is the appropriation of the idea of human rights as an essentially Western contribution to human civilization, as Is often implicit in the Western discourse on this subject. This tends to underrate its truly universal heritage, and the possible contributions of other civilizations like that of India, described here, as the contemporary universal appeal of human rights. However, one cannot possibly ignore the violation of human rights in ancient India which mainly stems from the; then social "stratification. Social life was largely stratified into the four major divisions: the Brahmins (priestly class); the Kshatriyas (rulers and warriors class); the Baisyas (trading class); and the Sudras (labourer and unskilled workers other then agriculturists,). The rights and duties of the aforesaid classes were determined according to their assigned duty. According to Raimundo Panikar, the Indian framework of right: was' essentially derived from Swadharma, i.e., the Dharma inherent in every human being which maintains cohesion and strengthens reality. The Brahmins, due to their hegemony over the caste-system, denied the rights to the lower caste, the untouchables, and other deprived sections of the society, so there was violation of their right and dignity. But in general the ancient Indian society was peaceful within the moral codes of conduct of the society provided by religion which in due course of time hegemonies all sections of society within its rules of the game.
In the medieval period, however, the three basic elements of the ancient Indian tradition: universalism and humanism in its philosophical thought, the struggle against caste discrimination and religious tolerance received a fresh relevance and impetus from Islam following the Muslim conquest during the tenth century A.D. Emphasizing the greatness of this religion, Abdul Aziz says in Islam as in other religious traditions, human being troubled with the dignity of the human right, the level of self determination for the secure of personal promotes of human community and personal dignity. He further argues that it also established a social order designed to enlarge freedom, justice and opportunity for the perfectibility of human beings keeping an eye on the fully economies, political and social developments of society. However, the operational ramifications of the Islamic norms can be gleaned from the Mughal history of India. Though the Mughal government could be typically characterized as centralized despotism, its judicial administration contained all the basic elements of modern doctrine of due process of law, fair trial and independent judiciary 23. Akbar's (1526-1605) great regard for rights, justice and secularism could be cited as an example in this regard. In his religious policy Din-e- Ilahi (divine religion), he tried to preach the ideas of secularism (respect for all religions) and religious tolerance. Similarly, parallel to Akbar's exquisite religious reform policies, religious movements like Bhakti (Hindu) and Sufi (Islamic) made remarkable contributions towards eliminating the irreligious practices of the contemporary society. These movements tried to revive the ancient humanist tradition and preached the sacred principles of humanism and universalism denouncing the narrow sectarianism prevalent in both the religions - Hindu and Muslim. Further efforts were also made in the modern era by Britisher to break and politicise the amity of these two religions on the basis of their famous principle 'divide and rule' by bringing into practice certain measures like the introduction of English education, the merit system for recruitment and a system of discriminatory representation, and communal representation at a later stage. However, some Indian leaders being influenced by English education started a movement for Renaissance and Reformation. Raja Ram Mohan Roy, one of those loaders, demanded the abolition of Sati system, female infanticide, caste system and also initiated a movement for widow remarriage and female education. Mere, once -

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again the attention centered around the human being rather than god; which was somewhat a new approach to human reason and human dignity. Further, establishment of Brahmo Samaj (1828) and Arya Samaj (1875) lend support to this cause.

For the political freedom of India the formation of the Indian National Congress (1885) also gave a new vista for the came of human rights which was being violated by the British rule in India.

Influenced by the reformist movements in different parts of the world for the cause of freedom, the Nehru Report of 1928, the first commitment to civil liberties, and the Karachi Resolution of 1930, the most important commitment to individual and group rights, were prepared. These were included in the Constitution of free India.

To conclude, however, the Indian perception of human rights does not emanate from the theory of a priori or natural lights doctrine of the West, rather it has its own base in ancient Indian culture and civilisation. "The Indian vision of right amphasises not only the individual but also the total person, a person whose interdependent rights and duties are determined by his/her position within a hierarchical network of relationship"24 The impact of Islamic religion, renaissance and reforms movements, British colonialism and the nationalist ideology played an important role for the formation and practice in India for human rights. The Western and the Indian conceptions of rights also differ in their attitude towards the relationship between rights and duties unlike its Western counterpart, traditional Indian thought emphasizes the duty especially towards one group and society. Thus, the support for observance of rights and duties is conditioned by ancient tradition and belief.

From the above analysis it can be derived that the Indian intellectual generally accept the view that rights are not over and above the State; rather they are gift from the State itself. To them rights of an individual must be balanced with the interest of the society as a whole. The good of each as they argue, must contribute to the good of all.

24 Ibid
During the struggle against colonial rule, Indian nationalist movement emphasized upon political right as a reaction against the repressive and exploitative character of the British rule; but the nationalist ideology also emphasized on social and economic rights, as evident from their inclusion in the Constitution of India formulated by the leaders of the national movement.

Even though the Indian nationalist leaders adopted the Western framework of political right, they rejected the Lockean theory of a priori or natural Rights. They considered rights as the gift from the State hence are not absolute and their enjoyment is conditioned by a number of factors-social, economic and political. The rights of different groups and society are counter-balanced by the rights of the State and its obligation to the weakest section of the society.

The economics, right of the people is limited only by considerations of economics development and national security, which take proceed cover the individual’s economic rights and consume a lion's share of the annual budget of the countries. This a so because Indian leader perhaps follow and practice the principle of ‘Nation before community’ or ‘society over the individuals’ ”When the low priority given to economics rights can be justified on the basis of theories of economics development and consider action of national security, in the final analysis, priorities are determined by the ideological commitment of the leadership which, in turn depends upon the distribution of political and economic power within the system. Hence, political and economic underdevelopment to a large extent, and not ideology, seems to be the greatest hurdle in the quest for the realization of human right in India.25

3.8 -The Indian Constitution and Human Rights:-

The Indian constitution come into force in, 1950 is an eloquent testimony of the nation's deep commitment to human rights. It proclaims basic human rights and fundamental freedoms and guarantees their enjoyment by all, irrespective of caste, color, sex or religion. It has also created legal institutions to enforce the fundamental rights comprising liberty, equality and social justice.26 Recognizing the existing -

26 Ibid.
realities that the social disparities might imp an full enjoyment of these rights by all, the Constitution of India was deliberately framed to provide positive discrimination and affirmative action in favors of those who could not exercise their human rights amended. There are also Constitutional safeguards to ensure effective representation of the social, & economical deprived section for the societies in the legislatures as well as public services. Since independence, India had sought to institutionalize its commitment of human rights by a deliberate choice of an open society and democratic polity based on universal adult suffrage, maintain the human dignity for the entire person, the rule of law and multi-party system.

India has been steadfast in its conviction that democracy is the best guarantor of human rights and it also provides an optimal political framework for development. Poor countries like India require a massive social and economic transformation to conquer the ancient scourge of poverty. Ignorance and injustice. But India believes that in order to be feasible, such basic changes have to be basically provided free & willing accept all the people provided by a democracy. The institutions which India fashioned to sustain as plural, multi-ethnic, multi-religious, multi-linguistic and a secular polity had the overreaching objective of consolidating the norms and principles of the our democracy.27

India has elected parliamentary institutions and conducts free and fair elections — local, State and Centre. It has built mechanisms for peaceful and orderly changes of government in response to popular will. These mechanisms have been tested time and again and have provided their effectiveness. The governmental mechanism such as police, security forces are also working to safeguard people's life, liberty and security. India's judiciary is independence which are the essential for the people's rights is also acting zealously at protect them. Public Interest Litigation (PIL), an additional system of the Indian Judiciary, has also been instituted for this cause.

A free and vibrant press, existence of various interest groups, strong public opinion, an assertive NGO community and above all Rule of Law fortify India's democratic system and its legal safeguards.28

27 Ibid.

28 Ibid
The India also a signature for the UD1IR & party to various, ‘international covenant’, conventions and treaties. Furthermore, greater accesses to the statesmen of various countries and international human rights agencies have been facilitated. It is to reaffirm the atmosphere of freedom and India's commitment to its own catalogue of rights.

Despite all these instrumentalities and institutional arrangements meant for the protection of human rights standards in our country, there have been large scale reports of violation of human rights in different parts of the country. These have been observed particularly at three different levels, i.e., individual, society and State.

In our country majority of the population live in rural areas. As they are poor and illiterate and are not aware of their basic rights, they are easily exploited by the better of people. So there have been large scale violations of their rights by money-lenders, landlords, petty politicians, tribal leaders, rural elites, etc. Child labor, bonded labour and migrant labour are some of the examples of this factor. At the societal level, we have also a different picture altogether. There are a number of cases of communal riots, caste conflicts, dowry deaths, social violence, and criminalization of politics and so on. These cases are apparent in certain states like Uttar Pradesh, Bihar, Rajasthan, Andhra Pradesh and Tamil Nadu.

The violation of human rights is a matter of great concern today as the State seems to be the worst kind of institution in violating human rights in terms of Army excess, custodial deaths and rape inhuman and degrading treatment of prisoners, atrocities by police and paramilitary forces and above all the existence of certain black laws like the Disturbed Areas (Special powers) Act, 1976, Police Act, 1949, Armed Force Act- 1958, disturbed Area (Special Courts) Act- 1976, Arms Act, 1959, etc. In addition to these, Maintenance of Internal securities Act, 1971, Essential Services Maintenance Art, 1981, Conservation for Foreign, Exchange & Prevention of Smuggling Activities Act- 1974 and National Security Act- 1980 are also some of the repressive laws of the government which very often violates the fundamental rights and freedom of the people. These are certainly a matter of sorrow and need to be checked.

In order to check these and other forms of violations arising out of numerous factors, the Government of India has also take measured steps in creating institutions and reforming laws with regard to safeguard the legitimate rights of the people in
general, the minorities, the dalits, the backwards, the women and children in particular. Establishment of separate institution likes the National Minorities Commission; the national Commissions for S. C. & S. T. the National Commissions for Women, etc, on similar causes are also welcome steps in this regard.

Apart from these governmental and non-governmental institutions meant to safeguard people's legitimate rights, the Government of India has constituted the National human Right Commissions for promotion and the protected of the individuals right. The Commission which came into existence on 12th October, 1993, is statutorily autonomous and has the authority to deal with the legal matters concerning the human rights cause. It has been endowed with the powers of investigation and recommendation to the respective agencies of the government whose task is to enforce its recommendations. Its annual reports are submitted to the parliament for scrutiny and comments under the watchful eyes of the media and the growing civil and democratic rights groups and other non government organization worked for human rights, the country and abroad.

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