Chapter: 2

Human Rights: Universalism and Cultural Relativism

This chapter mainly looks into the evolution of the concept and processes of human rights across cultures. The prominence of the present hegemonic system, based on institutional arrangement comprising of nation states is a major point of discussion. As a prelude to this discussion, the present study provides a detailed commentary on the evolution of the two major streams of thought in human rights: universalism and cultural relativism. Universalism stresses the relevance and advantages of the universal doctrines in the modern liberal democratic period. The first part of this chapter will discuss the origins of discussions in the Western world on human rights and the formation of the universality of human rights doctrines. The next part will discuss the cultural relativistic arguments on human rights. This discussion can explore the comprehensive understandings on the human rights trends of recent times.

The Universal Declaration of Human Rights (UDHR 1948) has created a new notion about human rights all over the world. It is commonly argued that the basic elements of liberal, democratic and western perspectives of rights and its notions and values are evolved from the tradition of western enlightenment philosophy. However, the fundamental questions remain very significant. Why do human beings assert their rights? Where from these rights emanate? As Donnelly elaborates, “they are equal rights, because we are all equally human beings. They are also inalienable rights, because no matter how inhumanely we act or are treated we cannot become other than human beings” (Donnelly 1999: 612). In a different manner Michael Freeman links the concept of rights to and the standards of rightness. For
him, “something is ‘right’ if it conforms to a standard of rightness” (Freeman 2003: 5). However, he emphasizes that each society has specific notions of the standard of rights. Scholars like Donnelly rely on the nature of virtue based on the Western philosophical stand. But for others, realization of human rights through assertion has emerged as political practice, which is well connected to the postcolonial politics. According to Dower, “The Declaration of Human Rights (1948), subsequent international Covenants (1966) and many other legal instruments are witness to the tendency in the modern world to express moral concerns on a global scale in the language of human rights” (Dower 1997: 86).

The rights provisions of the UDHR generated a moral perspective rather than a legal one (Chinkin 1998:107). In Dower’s view “human beings of the universe exist within the same moral realm, sphere, and domain” (Dower 1997: 87). The idea of the universal thus becomes significant, with its emphasis on dignity and the process of asserting the rights (Robinson 1998: 72). It is important to consider here the Preamble of the UDHR which states that:

> Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world (UDHR 1948).

It may be argued that codification of rights through institutional practices of Universalism provided a new turn in the discourse on human rights. This also has led to evolution of an international process collectively maintained by the assembly of state parties. As detailed by Ann F. Bayefsky, the process has acquired a larger dimension, through establishment of various specialized institutions:
The international community has established an ideal standard of human rights protection formally laid out in the international law of human rights, which extends from the anti-slavery measures in the nineteenth century to the most recent statute establishing the International Criminal Court. Between ninety-five and 191 countries have become signatories to the main legal instruments comprising the international human rights regime, where both the breadth and depth of formal participation has expanded since the 1948 UN Declaration (Bayefsky 2001).

However, it has to be maintained that the quest for international arrangement did exist before the realization of a hegemonic system, formulated through processes since UDHR. Penna and Campbell observe that it was not only the developments of post War world, but also the consequences of the many centuries long slavery, apartheid, war, mass destructions, killing of millions, genocide, etc. developed an unending human sorrow persuading to think a permanent international body for protecting human rights (Penna & Campbell 1998: 7). The formation of ‘League of Nations’ after the World War I, with focus on avoiding another horrific world war was annulled by the horrific World War II. However, it is interesting to note that World War II became a reason for the foundation of a strong international body among nations to decrease the violence against humanity (Darraj 2010: 15). It has to be noted that confronting abusive state power, through invoking their own commitments in terms of guarantees of human rights, and thereby protecting human rights of citizens was a major achievement in the international human rights system. To quote Hoffman,
in the second half of the twentieth century did human rights develop into a political and legal vocabulary for confronting abuses of disciplinary state power (Hoffman 2011: 2).

Emergence of universal declaration of human rights as a common standard of achievements for all people and for all nations in the world, as we know, has been contested by people of non-Western cultural backgrounds in specific regions. Cultural groups of Islamic and Asian peoples are confronting with the universal criteria of human rights and they claim to possess the long legacies of traditions in protecting rights. According to Ignatieff, the cultural challenges arise against universal form of human rights are mainly from three distinctiveness sources: Islam, West itself and East Asia (Ignatieff 2001: 102). The criticism against the universality is an independent process, and is not homogenous in nature, with different sources offering different magnitude of criticism, against Western Enlightenment philosophy of Liberalism.

Islam, Confucianism, Hinduism and Buddhism had long traditions and legacy in community life and developed their own discourses on social order, jurisprudence and legal framework within their social system. In the case of Islam, practicing jurisprudence and cultural life dates back to many centuries, especially since Prophet Muhammad. However, according to Waltz, these cultural relativist positions in either Islam or any other culture were totally negated by the Western hegemonic mind and their universal common standard of social values which revolve around the Western philosophical background (Waltz 2002: 437).

**Human Rights: Evolution of the Idea in the West**

The idea of “Human Rights” is a modern concept. It declares that every individual has right to legitimate claims in his or her own society for certain
freedoms and benefits (Henkin 1989: 10). The meaning of the word “Human Rights” is given in the Oxford Dictionary as, “one of the basic rights that everyone has to be treated fairly and not in a cruel way, especially by their government”. This concept of “rights” has been codified in the UDHR document. The Universal Declaration of Human Rights, as we have seen earlier, evolved from Enlightenment thought in the context of various inhuman practices and wars. It was a period marked with different interpretations of moral values and natural justice. The confrontation of liberal thinking and the church scholasticism on issues of natural justice and moral values of the West was a major aspect in this connection. According to Rommen (1998):

The Father of the Early Church made use of the Stoic natural law, finding in its principles “seeds of the Word” to proclaim the Christian doctrine of the personal Creator-God as the Author of the eternal law as well as the natural moral law which is promulgated in the voice of conscience and in reason (Rommen 1998: 31)

It may be argued that hermeneutics of Human Rights is derived from the Western enlightenment philosophical tradition. While Human right as an idea was discussed within different conceptual frameworks, human rights assertions through the political liberation movements; like the United States Declaration of Independence in 1776 remain crucial, as noted by Sen, where conditions of inalienability and self evident nature comes prominent. It is “self evident” that everyone is “endowed by their Creator with certain inalienable rights” and thirteen years later in 1789 the
French Declaration of “the rights of man” asserted that “men are born and remain free and equal in rights (Sen 2004: 316)

In early times, human rights norms were situated in ‘natural rights’ and are derived from ‘natural laws’ (Perry 2007: 21). Natural law doctrines have roots in traditions of Greek and Roman philosophy. Later, Thomas Aquinas’s natural law philosophy placed God in a central position of all the various things. However, natural right continued as a hub for further developments, as explained by Griffin, “the term ‘natural right’, in our modern sense, though it first appeared in the late Middle Ages, did not itself gain wide use until the seventeenth and eighteenth centuries” (Griffin 2008: 9). Macintyre views that the ancient Greeks had no proper language of rights. According to him, “The Aristotelian theory may have been suited to a society in which there was a recognized class of superior citizens, whose judgment on moral issues would be accepted without question” (Macintyre 2006: 19). It may be stated that, Aristotle initiated political discourse on focusing on the obligations of the state in dealing with attainment of Human Rights. Russel’s commentary given below, on Aristotle’s views emphasising the state will help us to understand this further.

In order of time, the family comes first; it is built on the two fundamental relations of man and woman, master and slave, both of which are natural. Several families combined make a village, several villages, a state. .....what each thing is when
fully developed we call its ‘nature’, and human society, fully
developed, is a “state” and the whole is prior to the part
(Russell 1946: 197).

For Aristotle, “Slavery is expedient and right, but the slave should be
naturally inferior to the master” (Russell 1946: 197). To quote Russell
further on Aristotle:

...for without law man is the worst of animals, and law
depends for its existence on the state. The state is not a mere
society for exchange and the prevention of crime: The end of
the state is the good life, and the state is the union of families
and villages in a perfect and self-sufficing life, by which we
mean a happy and honourable life (Russell 1946: 197).

Aristotle believed that constitutions could assign rights to citizens, right to
property and to participation in public affairs. When these rights were
violated, the laws determined compensation or punishment (Russell 1948:
200). Similar to this view, Michael Freeman (2002) refers to the relations of
Roman law and the classical Greek thoughts in the case of rights. Tuck offers
an addition to this saying that “Roman law had no conception of subjective
rights: the Latin word *ius* referred to objective right (Tuck: 1979). Whether
*ius* was objective or subjective, it was *legal* and not natural” (ibid). The
natural law ideology is believed to have started with the Dutch scholar Hugo
Grotius (1583- 1645), known as the Father of Natural Law. A commentary
on his contributions by Rommen is helpful in understanding his concepts. To quote Rommen:

Grotius did not profess the implied complete autonomy of human reason as the sole and not merely the proximate source of the natural law, and he likewise regarded Holy Scripture as a principle of knowledge on an equal footing with reason (Rommen 1998: 63).

Rommen further adds that:

Grotius was a rationalist. He believed it possible to derive by strict logic a suitable system of rational law having force that would be great enough to bind the will: a body of law with detailed prescriptions covering debts and property, the family institution and inheritance. The Scholastics, on the other hand, considered only the general institutions themselves of marriage, property, and contract as belonging to natural law, not the particular prescriptions about marriage and the family, possession and the form of private ownership…(Rommen 1998: 63).

It was Hugo Grotius’s *The Law of War and Peace (1625)*, which delivered the new theory of natural law and his opinion contributed towards the 1648 Treaty of Westphalia, leading to creation of a system of independent states and a national sovereignty discourse.

“Rights of man” were once called “natural rights”, revealing how the notion of humankind’s rights is historically linked with natural law. Ideas around human rights developed along with broad notions of western ‘libertarianism’
and ‘democratic’ thoughts. In this context, it is important to note Kant’s political writings as explained by Geuss:

Nature gave man reason, and freedom of will based upon reason, and this in itself was a clear indication of nature’s intention as regards his endowments. For it showed that man was not meant to be guided by instinct or equipped and instructed by innate knowledge, on the contrary, he was meant to produce everything out of himself. Everything had to be entirely of his own making, the discovery of a suitable diet, of clothing, of external security and defence as well as all the pleasures that can make life agreeable, and even his insight and circumspection and the goodness of his will (Geuss 1989: 43).

The justification of “rights” is linked with the idea of justice and moral thoughts. The Stoic Philosophy is based on moral universalism. Stoic philosophy as premised on the universality of human nature and the power of reason argued that there exist universal laws of nature that can be discerned by reason. The spread of Roman Empire (27 B.C- 746 A.D) provided the vehicle for the dissemination of the “Universalizing doctrine of Stoic natural law and the new universal faith of Christianity” (Lloyd 1991: 78).

Roman law, Greek philosophy and Christian theology together constituted the “medieval scholastic doctrine of natural law” (Lloyd 1991: 78). It formed the basis of the theory of natural rights of Grotius, Hobbs and Locke in the 16th and 17th century. These ideas were the precursors to the Enlightenment thinking on human rights and law that was to follow. The idea of natural law assumes the existence of a natural moral code within which a set of objectively determined human goods can be identified. Access to these
human goods is regulated through the notion of natural rights. These rights are entitlements independent of any political processes and they are thus not necessarily constituted through the recognition by the state.

And that all men may be restrained from invading other’s rights and from doing hurt to one another, and the law of nature be observed, which the peace and preservation of all mankind, the execution of the law of nature is in that state, whereby everyone has a right to punish the transgressors of that law to such a degree as may hinder its violation. For the law of nature would, as all other laws that concern men in this world, be in vain if there were nobody that, in the state of nature, had a power to execute that law, and thereby preserve the innocent and restrain offenders (Locke 2002: 2).

Thomas Hobbes (1588-1679) and John Locke (1632-1704), two important figures in 17th century English philosophy, explained that ‘human rights are specific and numerous’, not broad and abstract like “life, liberty and property” (Nickel 2007: 7). For Locke, a person has rights in a state of nature and this has links to citizenship and social contract with the government. Hobbes did not subscribe to a conceptual link between rights and democracy and was in favour of the limitation of democracy and the restraint on rights by the social contract. He reasserted the power of a sovereign authority over individuals to regulate the transfer of natural rights to citizens. According to Hobbes, without the social contract, societies will
remain in the “state of nature”. Hobbes argued for a social contract that centralized power within a sovereign body:

A commonwealth is said to be instituted when a multitude of men do agree, and covenant, everyone with everyone, that to whatsoever man, or assembly of men, shall be given by the major part the right to present the person of them all, that is to say, to be their representative; everyone, as well he that voted for it as he that voted against it, shall authorize all the actions and judgments of that man, or assembly of men, in the same manner as if they were his own, to the end to live peaceably amongst themselves, and be protected against other men. From this institution of a Commonwealth are derived all the rights and faculties of him, or them, on whom the sovereign power is conferred by the consent of the people assembled (Hobbes 1651: 107).

According to Locke, government by consent of the governed is morally mandatory. Despite these differences, both Hobbes and Locke viewed rights as possessed by individuals. Unlike Hobbes and Locke, Rousseau (1712-1778) viewed the social contract and thus rights not in individual but in collective terms. It is noted that in the aftermath of the political struggles against absolutism in England, France and America, the doctrine of natural law shaped the first ‘modern’ construction of human rights. They were articulated through the Bills of Rights following the Glorious Revolution in England in 1688; the French Declaration of Rights of Man and Citizen in
1789 following the French Revolution; and the American Declaration of Independence of 1779.

Thomas Paine (1737-1809) says that rights and liberties were the essence of a person’s humanity and inevitably required the presence of a government:

Government ought to be a thing always in full maturity. It ought to be so constructed as to be superior to all the accidents to which individual man is subject; and, therefore, hereditary succession, by being subject to them all, is the most irregular and imperfect of all the systems of government (Paine 1779: 71).

Paine further says:

Nothing can appear more contradictory than the principles on which the old governments began, and the condition to which society, civilization and commerce are capable of carrying mankind. Government, in the old system, is an assumption of power, for the aggrandizement of itself; in the new, a delegation of power for the common benefit of society. The former supports itself by keeping up a system of war; the latter promotes a system of peace, as the true means of enriching a nation. The one encourages national prejudices; the other promotes universal society, as the means of universal commerce. The one measures its prosperity, by the quantity of revenue it extorts; the other proves its excellence, by the small quantity of taxes it requires (Paine 1779: 71).
According to Freeman, the philosophical and theoretical basis for rights enunciation required a different kind of justification. This justification was found in Kant’s (1724-1805) *Philosophy of Moral Reasoning* which tried “…to show that reason could justify a set of ethical and political principles based on the obligation to respect the dignity of other persons as rational and autonomous moral agents” (Freeman 2002: 24). Further, according to Fagan, “Kant assumed the existence of a universal community of rational human beings capable of developing their own moral principles. Human rights can thus be philosophically justified by appeal to the authority of reason and such reason allows human beings to act in accordance with a maxim which all rational individuals are bound to accept.” (Fagan 2003: 5).

**UTILITARIAN NOTIONS OF RIGHTS**

In the words of Lloyd, Enlightenment and scientific changes produced “two important principles related to the philosophical justification of human rights emerged. First, a clear demarcation between the laws of the physical universe and the norms of human conduct was instituted. Second, the principles of utility gained popular acceptance” (Lloyd 1991: 95-98). According to Shapiro, “in classical consumerist terms, Jeremy Bentham’s (1748-1832) principle of ‘utility’ refers to the usefulness of a product or a commodity. Within this framework, laws are gauged by their applicability and their utility to lesser pain and increase pleasure. Utility thus refers to those process and activities that serve to increase human happiness” (Shapiro 2003: 18-19). Ward notes that political actions must demonstrate a utility value before they can be justified. Likewise, laws can only be justified “if they add to the sum
of human happiness, which can be calculated in terms of the greatest happiness of the greatest number” (Ward 2004: 91). According to Shultz, “Bentham was convinced that the utilitarian constitution and application of the law could contribute significantly to progress and societal transformation”. Bentham, James Mill and John Stuart Mill were the primary further exponents of utilitarianism and legal positivism. Utilitarianism rejects the notion of natural rights. Bentham criticised the notion of natural rights describing it as “simple nonsense, natural and imprescriptibly rights, rhetorical nonsense, nonsense upon stealth” (Schultz 2004: 44).

Dworkin refers to the “ruling theory” of law consisting of legal positivism and utilitarianism of Benthan in the following way:

The ruling theory has two parts, and insists on their independence. The first is a theory about what law is; in less dramatic language it is a theory about the necessary and sufficient conditions for the truth of a proposition of law. This is the theory of legal positivism, which holds that the truth of legal propositions consists in facts about the rules that have been adopted by specific social institutions, and in nothing else. The second is a theory about what the law ought to be, and how the familiar legal institutions ought to behave. This is the theory of Utilitarianism, which holds that law and its institutions should serve the general welfare, and nothing else. Both parts of the ruling theory derive from the philosophy of Jeremy Bentham (Dworkin 1978: vii).
Dworkin argues for a conceptual link between human rights and the liberal tradition and viewed legal positivism as an inadequate conceptual theory of law. Shapiro argues that despite Bentham’s rejection of the notion of human rights, J.S.Mill’s notion of the “harm principle” provided a way of synthesizing rights and utility (Shapiro 2003).

According to Blackman “The most widely entrenched contemporary version of legal positivism is represented by the work of H.L.A.Hart, who had adhered to the separability thesis (separation of law and morals) and the master rule of recognition” (Blackman 1988: 151). He says that the rule of recognition asserts that the validity of a law is dependent on being recognized as a law within the practice of law itself.

Human rights attained significance in the twentieth century where codification and institutionalization of such principles happened. The liberal understanding of rights moved away from pure positivism In the modern state system of recent times, the people demanded constitution and legal framework and most of these constitutions accepted human rights provisions of the UDHR doctrines. But human rights are also sustained in the moral sense much more than as legal provisions.

Apart from the UDHR, regional documents such as the American Convention on Human Rights (1978), reflects the American Declaration in stating, in the preamble, that "the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality” (American Convention on Human Rights, Act of Sanjose, Costa Rica). Similarly, the African Charter on Human and Peoples
Rights (1986) says in the preamble that "fundamental human rights stem from the attributes of human beings".

THE UNITED NATIONS AND THE UDHR

The UN played a major role in institutionalizing human rights. The term “United Nations” was first used by Franklin D. Roosevelt as a way to refer to the Allied Nations that were engaged in war against the Axis powers of Germany, Japan, and Italy. The nations, including China, Great Britain, the United States, and the Soviet Union, as well as many others, signed the Declaration by United Nations on January 1, 1942, in a common agenda for victory in war over their enemies and to ensure the rights such as life, liberty, independence and religious freedom, and to preserve human rights and justice. United Nations Conference on International Organization was attended by the representatives of fifty nations and of several nongovernmental organizations. During the conference, the nations drafted the United Nations Charter, which was ratified and signed by the members, leading to the official establishment of the United Nations in October 1945.

Article 1 of the charter, the four main purposes of the United Nation explained that:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends (United Nations Charter 1945).

Universal Declaration of Human Rights (UDHR) (1948) was the first international document to lay down rights to life as an international human rights goal for every nation. The rights provisions of the UDHR comprised of 30 Articles and they represent the core of various philosophical ideas. Article: 1 of the UDHR reads:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood (UDHR 1948).

The first 21 Articles talk about various freedoms. Article 2 states that

Everyone is entitled to all the rights and freedoms set forth in this declaration without distinction of any kind, such as race, sex, language, religion, political or other opinion, national or social origin, property, berth or other status (UDHR 1948)
Article 4 forbids slavery, servitude and the slave trade, which reads:

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

In the present day world, we are witnessing the experiences of modified nature of slavery, mostly related with migrant workers. The resemblances of the slave trade and slavery have been active in the many parts of the world. Article 5 reads:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Torture, inhuman treatment and unreasonable punishments are widely practiced in various countries. The governments are doing these inhuman activities to their citizens particularly women and minorities. But according to the directions of the UN, governments need to implement regulations for controlling and decreasing government tyrannies. Anyone arrested by the police has to be produced before the magistrate within the restricted time. But internationally it has been violating by the democratic nations and others, United States of America is operating punishment centres like Guantanamo for cruel punishments for captured people.

Article 7 of the UDHR reads:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination (UDHR 1948).
Article 11 reads:

Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Articles 6 to 12 deal with legal rights: Article 6 reads:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

These provisions are not controversial in general, although their particular applications may be, but the balance between legal rights on the one hand, and social and economic rights on the other has been criticized for being excessively influenced by the Western history of rights, because legal protections for private individuals against the state become important rather than as positive contributions to the life of dignity (Freeman 2002: 37).

Articles 13 declare a right of freedom of movement and residence. Article 14 says that: “everyone has the right to seek and to enjoy in other countries asylum from persecution”. However seeking asylum has become an internationally accepted norm. This was influenced by Nazi treatment of the Jews, but the right of asylum has become one of the most important and
controversial of human rights in recent times, as gross violations of other human rights have generated massive refugee flows, and many countries that claim to be champions of human rights are reluctant to defend the Article 14 human rights of foreigners.

Article 15 reads:

Everyone has the right to a nationality, and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16 reads:

Men and women of full age, without any limitation due to race, nationality, or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses.

Article 16 (3) asserts that:

The family is the natural and fundamental group unit of society and is entitled to the protection by society and the state.

This unusual example of a collective right in the declaration was understandable in the light of Nazi family policy. But families, like all collective bodies, can be supportive to violence against women and the abuse of children, so that Article 16 (3) is more problematic. Family is considered as the basic unit of the society and every citizen has a right to establish a family.
Article 17 of the UDHR states that “everyone has the right to own property alone and in association with others, and that no one shall be arbitrarily deprived of his property” (UDHR 1948). This article ensured the right to property of Individuals and group of individuals. Article 18 says that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance (UDHR 1948).

Similarly, Article 7, which proclaims equality before law, includes the right to equal protection against incitement to discrimination. This might conflict with Article 19, which says that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (UDHR 1948).

Article 20 reads: “Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association” (UDHR 1948).

Article 21 reads:

Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives. Everyone has the right of equal access to public service in his county. The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be by universal and equal
suffrage and shall be held by secret vote or by equivalent free voting (UDHR 1948).

These articles guarantee the rights to assemble and to associate; to participate in free elections and to stand for office. These articles express what are often referred to as “first generation” rights, or political and civil rights, and most have counterparts in the Bill of Rights of the American Constitution. What have been termed “second generation” rights begin to appear in Article 22, which speaks of a “right to social security” enjoyed by “everyone, as a member of society” and to “the economic, social and cultural rights indispensable for his dignity and free development of his personality.” although the “right to work” of Article 23 has, but only in the very limited sense that one may not be dismissed from state employment without “due-process of law.” Article 23 further provides right to “just and favorable” working conditions, “protection against unemployment,” “equal pay for equal work,” for “just and favorable remuneration,” and a right to join a trade union. Article 23 reads:

Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests (UDHR 1948).
Similarly, Article 25 is the right to an “adequate” standard of living, “including food, clothing, housing and medical and necessary social services” and Article 26’s right to free education.

Subsequently, a series of progressive thoughts for ensuring human rights has occurred following UDHR 1948. United Nations’ works on this sphere became more active and the critics on the international body in the realm of human rights made bridges to overcome the gaps. In 1966, two bills were prepared for fulfilling the Civil and political aspirations, and economic, social and cultural aspirations. Universal Declaration of Human Rights (UDHR) 1948, International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic Social and Cultural Rights (ICESCR) together known as the Bill of Human Rights. ICCPR and ICESCR were presented in 1966, but due to political and other reasons, it got passed only in 1976.

The process of setting international human rights standards and its codification is still developing and besides the UN member states, many international organizations, agencies, and nongovernmental organizations are also part of that for more than the last six decades. The first important step towards the international protection of human rights and fundamental freedoms is ratification of pertinent international treaties followed by implementation of the obligations by domestic legislation. Due to this, many states incorporated the UDHR values in their state constitutions.

In 1993, an International Conference on Human Rights was organized at Vienna. According to the Declaration and program of action planned the Vienna Conference, General Assembly of the United Nations established the office of the “United Nations High Commissioner for Human Rights”. UN High Commissioners office is playing the lead role in the world for maintaining and publishing reports regarding human rights practices in the each nation state. UN Human Rights Commission’s reports and observations and monitoring has been reducing the human rights violations internationally (Heyns & Frans 2001: 484).

In the practical sense, human rights are the active elements for the protection of the individual rights ensured through its various instruments. Thomas Pogge talks about the moral duty of the individuals:

The concept of human rights has certain central elements that any plausible understanding of human rights must incorporate. First, human rights express ultimate moral concerns: Persons have a moral duty to comply with national or international legal instruments (Pogge 2000: 46).
The undertaking by the United Nations to enact an international bill of human rights was completed in December 1976 with the acceptance by General Assembly of the International Covenant on Civil and Political Rights and International Covenant on Economic Social and Cultural Rights. On March 23, 1976, the United Nations passed the General Assembly resolution 2200A (XXI) and it has opened for signatures. Since the Universal Declaration may now be part of Customary International Law, and therefore binding upon all states in the international system, the chief interest in the covenants is that it contain enforcement procedures to ensure that states ratifying them fulfill their obligations. Both the Covenant and the optional protocol have only recently come into force; it is still rather early to predict how successful their complaint procedures will be in promoting the observance of human rights.

The Council of Europe, the Organization of American States, the League of Arab States, and the Organization of African Unity have all been influenced by the human rights revolution established by the United Nations Charter and the Universal Declaration of Human Rights. The following section will deal with these organizations.

**EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

The Council of Europe drafted the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950, and in 1953 the convention came into force (Mahoney 2007: 53). The council of the Europe was the early form of the European Union. In the post-War period, the European countries were well aware of the importance of regional cooperation. European countries made the regional cooperation in the same way in which the UN was formed. The preamble of the European Convention document says: “Considering that the aim of the Council of
Europe is achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realization of Human Rights and Fundamental Freedoms”. In the last paragraph of the preamble of declaration of the European Convention stressed the need to initiate the enforcement of the human rights values in Europe:

Being resolved, as the Governments of European countries which are like minded and have a common heritage of political traditions, ideals, freedom and rule of law, to take the first step for the collective enforcement of certain of the Rights stated in the Universal Declaration (European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950).

The two member states, the United Kingdom and Ireland, have incorporated the Convention into their domestic laws so that their own courts can apply it when an individual claims a violation of one of the rights it contains. An individual can petition to the ECHR but before that it has to be ensured that all available remedies in his/her home country have failed to deal the complaints.

An extraordinary feature of the Convention is its wide scope, which allows one state to petition the ECHR about the actions of another state. Though rarely used, this procedure was one of the main aims of the drafters, who, in the aftermath of World War II were conscious of the nature of the pre-war fascist regimes in Europe. European states ratifying the Convention solemnly promise in Article 1 to “secure to everyone within their jurisdiction the rights and freedoms” set forth therein. Under Article 24, a state party has the right to bring a complaint against another state party. Under Article 25 “any
person, non-government organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this convention” may lodge a petition, provided that the high contracting party concerned has accepted the right of individual petition.

European Convention on Human Rights is considered as one of the successful experiment in the transnational judicial protection of human rights in the world. Now it embraces every state in Europe except Belarus, with a combined population of nearly 800 million. The Convention consists of 66 Articles in five Sections and a series of protocols further defining and extending the authority of the Convention and the ECHR. However, it is the Preamble and Section 1, which consists of 11 substantive Articles protecting broadly defined rights, and seven procedural Articles ensuring the viability of the protections for the basic rights, which are of most interest. (The remaining four Sections of the Convention concern institutional matters.) The rights protected vary in theoretical nature, in broadness of definition and in detail. Its rights and freedoms include: the right to life, freedom from torture and slavery, the right to liberty and the security of the person, rights to a fair trial and other due process rights, and a set of more positive rights including freedom of assembly, freedom of speech, religious freedom and the right to family life. The rights are not expressed in absolute terms, and some Articles, both in the Convention itself and in its Protocols, contain a phrase permitting the right just defined to be disobeyed where necessary for national security or public interests. Article 15 expressly allows the rights to be put in abeyance during times of national emergency, but defines such steps very carefully.
In practice, the ECHR has been expansionist rather than restrictive in its interpretation of rights on most occasions, and has not seemed unduly worried by holding governments in breach of those rights. Nevertheless, the articles of the Convention are necessarily often vague, as the expression of values may vary considerably between member states according to their cultures and historical experience, and the ECHR has tried to allow for this without making the rights entirely relative. As intended, the Convention has developed naturally through both formal changes to its authority and also interpretation by the ECHR, and is steadily growing in importance. The recent extension of Council of Europe membership to Eastern European states, who themselves have recently recommitted to liberal legal values, can only enhance its status. Most important of all, the European Court of Justice has effectively incorporated the provisions of the Convention into European Union law, giving them added impact on those states who are members of both the Union and the Council. From its initiation, the Convention has had more practical effect than the UN Universal Declaration on Human Rights or the other regional conventions, largely due to the ECHR’s power to award damages to plaintiffs, as well as the need of member states to reform their legislation to retain membership of the Council when found in breach of the Convention. The Council of Europe emerged from the negotiations of the late 1940s primarily intended to promote four main goals, as has been observed by Greer:

to contribute to the prevention of another war between Western European states, to provide a statement of common values contrasting sharply with Soviet-style communism, to reinforce a sense of common identity and purpose should the Cold War turn “hot”, and to establish an early warning device by which a drift towards authoritarianism in any member state
could be detected, and dealt with by complaints to an independent trans-national judicial tribunal (Greer 2008: 681).

According to the European Court of Justice, they will deal the complaint against the states on human rights violation, but they will not deal any complaint of the individuals against the states. The entire idea of the Convention agreed that: “modus operandi should be complaints made to an independent judicial tribunal by states against each other, and not those made by individuals against governments” (Greer 2008: 682).

In the first three decades, the Convention and its declaration has largely ignored including victims of human rights abuse, lawyers, jurists, politicians, and social scientists. 800 individual complaints have received average by the Strasbourg institutions a year. The situations were tremendously changed in the mid 1980s the rate of complaints was increased. By the late 2000’s the they have risen to over 40,000 complaints a year (Greer 2008: 682).

European Convention for the Protection of Human Rights and Fundamental Freedoms has amended by protocol No.11, adopted on 1 November 1998. The European Commission of Human Rights was abolished, and the European Court of Justice became a full-time institution. It retained its original functions of delivering legally binding judgments on whether or not the convention had been violated, and of providing advisory opinions upon request to the Committee of Ministers, the council of Europe’s executive body (Greer 2008: 683).

The procedure under the Convention can be briefly summarized as follows: Complaints are received by the European Commission of Human Rights, the members of which sit in their personal capacity. After having determined the admissibility of a complaint, and after having established the facts, the Commission places itself at the disposal of the parties for a friendly
settlement. The complaint may then be referred to the European Court of Human Rights by the Commission or by a state party concerned, so long as the defendant state has accepted the jurisdiction of the Court there have a freedom for do either _ad hoc_ or by making a general declaration under Article 46 (Laqueur and Rubin 1990: 51).

**AMERICAN CONVENTION ON HUMAN RIGHTS**

An American Declaration on the Rights and Duties of Man was passed unanimously in 1948, an Inter-American Commission on Human Rights was established in 1959, and in 1969, an American Convention on Human Rights was drafted and this Convention, also known as the Pact of San Jose, was signed in 1969 and entered into force in 1978. The Inter-American Commission on Human Rights was created “to promote respect for human rights”. As with other regional human rights covenants inspired by the UN Universal Declaration of Human Rights, such as the European Convention on Human Rights, based on membership of the Council of Europe, and the 1981 African Charter on Human and People’s Rights, which is based on the Organization of African Unity, the American Convention is open to members of the Organization of American States (OAS). By 1992, it had been ratified by 23 states. It is more similar in content to the European Convention than to the African document, though like the African Charter, it largely lacks enforcement machinery. It has a judicial body, the Inter-American Court of Human Rights, formally established in 1979.

Furthermore, each signatory to the Convention can determine the extent to which the Court may apply the Convention to that country’s own domestic law. By the early 1990s only 12 of the states that ratified the Convention had taken further steps of accepting the Court’s jurisdiction; in contrast all signatories to the European Convention accept the jurisdiction of the
European Court of Human Rights. Consequently, the jurisdiction of the Court resembles the essentially voluntary nature of the jurisdiction of the International Court of Justice (ICJ), the major international law tribunal of the UN. The terms of the Convention are unusually specific. For example, in Article 4, the right to life is stated to extend ‘from the moment of conception’, and while this is not in itself surprising in a document drawn up inside a predominantly Roman Catholic culture, its specific nature is unique among human rights codes. Similarly, although Article 4 does not in itself outlaw the death penalty, it severely restricts it by banning the reintroduction of capital punishment where it has been abolished, forbidding its extension to any crimes for which it had not been the penalty when the member state signed the Convention, and setting minimum and maximum age limits for its use. (See also restrictions on death sentence.) Article 5 has several very precise rulings on pre-trial detention, including the demand for separate housing for remand prisoners and convicted prisoners, and even declares that the aim of imprisonment shall be ‘reform and social re-adaptation’. Article 7, while banning imprisonment for debt, nevertheless allows family courts to imprison for ‘non-fulfillment of duties of support’. Much of the precision, with the exception of those passages dealing with the right to life, is clearly affected by US constitutional practice. Much of the document is almost utopian in its logical comprehensiveness, and anyone defamed by a ‘legally regulated medium of communication’ has a right to have their reply published by the same medium. Usury is banned under Article 21’s right to property.

The general tone is noticeably less egalitarian than either the African Convention or much of the material in the UN’s various covenants and protocols. Several issues echo the US Constitution (and the French Declaration of the Rights of Man and of the Citizen), notably the right to
property: ‘No one shall be deprived of his property except on payment of just compensation, for reasons of public utility or social interest’. The overall result is a mixture of broad constitutional principles akin to the great 18th-century human rights codes and a degree of precision similar to the Canadian Charter of Rights and Freedoms, along with local concerns such as abortion and excessive reliance on capital punishment. At the same time very broad statements are made in support of the principle of socio-economic progress, without beginning to make the sort of positive rights claims found elsewhere.

AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS

The Charter was issued by the Organization of African Unity (OAU) in 1981, and came into force on 21 October 1986. It takes its emphases from the OAU’s own Charter, the United Nations Charter and the UN Universal Declaration of Human Rights. The African Charter is one of a series of regional human rights documents encouraged by the UN as part of a general strategy for enforcing human rights worldwide, the most effective of which is than the European Convention on Human Rights.

Although the very universality of the original UN Charter implies that human rights are generally valid, there is an acceptance that regional cultures may evaluate, and even partially define, such rights in different ways. The specific thrust of the Charter of the OAU is to bring its commitment to ‘eradicate all forms of colonialism from Africa’ to bear on the definition and support for human rights. Thus the enumeration of rights, though not very different in detail from what one would find in any classic listing, is set against a background which recognizes two points missing in, for example, the European Convention.

Some tension seems to be recognized between people’s rights and individual human rights. The Preamble recognizes that:
Fundamental human rights stem from the attributes of human beings, which justifies their international protection and on the other hand, that the reality and respect of people’s rights should necessarily guarantee human rights (ACHPR 1981).

The problem in drafting a document on human rights in the context of the OAU is the struggle between liberal democratic values and the massive political and economic problems of nation-building and socio-economic struggle for development. The language used is an attempt to bring together two very different traditions: the individualistic European-style promotion of traditional human rights as the very basis for a successful political system, and a radical perspective which sees such rights as the consequence of a functioning, just economic substructure. There is the additional problem that the individualistic European approach stems from the European context, whereas the whole emphasis of a body like the OAU is anti-colonialist, as the Preamble declares:

Historical tradition and values of African civilization which should inspire and characterize their reflection on the concept of human and people’s rights (Preamble ACHPR 1981).

Outside the Preamble there is less mention of specifically African issues, except for the emphatic statements on matters like the universal ban on slavery (Article 5), but there are still distinctive features. Chapter 1, entitled Human and People’s Rights, outlines a general statement of rights, amounting to a denunciation of oppression, apartheid and colonialism, but contains wording which would sit uneasily with the judges of the European Court of Human Rights.

Traditional rights to freedom of assembly(Article 11) and freedom of movement(Article 12) allow rather greater scope for state interference,
because protection of ‘ethics’ and ‘morality’ constitute allowable reasons for such intervention. These may be more significant than the similar expression of a group right in Article 12 which forbids ‘mass expulsion’, defined as an expulsion ‘aimed at national, racial, ethnic or religious groups’. This protection represents simply the recognition of events in recent African history, and does not prohibit something that would be allowed under some other regional code. The African Charter enshrines a principle which diverges from traditional human rights theory is the recognition, in Article 10, of ‘the obligation of solidarity’.

The promotion and protection of morals and traditional values recognized by the community shall be the duty of the state (Preamble ACHPR 1948).

The theme occurs over and again; family life is valued, as in other rights codes, but here especially because the family is ‘the custodian of morals and traditional values recognized by the community’ (Preamble ACHPR 1948). The most distinctive feature of the Charter is its second chapter in the main substantive part, headed ‘Duties’. They include the duty ‘to maintain relations aimed at promoting…mutual respect and tolerance’; ‘to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need’; ‘to preserve and strengthen positive African cultural values…to contribute to the…moral well-being of society’.

The single biggest difference between the African Charter and the European Convention is that the former has no effective enforcement mechanism. Provision was made for an African Commission on Human and People’s Rights, which was established in 1987; and states may refer the actions of other states to the Commission. However, the most that the Commission may do is to make a report after attempting to get the parties to ‘the
communication’ to reconcile. It is hardly surprising that individual-based enforcement machinery like the European Court of Human Rights does not exist, given that it does not exist for the Universal Declaration of Human Rights itself.

**UNIVERSALITY OF HUMAN RIGHTS**

The arguments on universality of human rights became more active after UDHR, even though universal principles have been invoked in the discourses of rights traditionally. Louis Henkin explain the nature of universality of human rights thus:

Debate about the universality of human rights requires definition of "human rights" and even of “universality.” The idea of human rights is related but not equivalent to justice, the good, and democracy. Strictly, the conception is that every individual has legitimate claims upon his or her society for defined freedoms and benefits; an authoritative catalogue of rights is set forth in the Universal Declaration of Human Rights…. The rights of the Universal Declaration are politically and legally universal, having been accepted by virtually all states, incorporated into their own laws, and translated into international legal obligations. Assuring respect for rights in fact, however, will require the continued development of stable political societies and of the commitment to constitutionalism. Virtually all societies are also culturally receptive to those basic rights and human needs included in the Universal Declaration that reflect common contemporary moral intuitions. Other rights, however—notably, freedom of expression, religious and ethnic
equality, and the equality of women-continue to meet deep resistance (Henkin 1989: 10)

But the arguments of Andrew Fagan (2009) points out that claims of universal values of human rights do not necessarily imply universality. He says:

Moral universalism has taken many forms. One may distinguish initially between secular and religious forms of universalism, or doctrines which lay claim to the title of universality. Without, at this point, identifying any particular manifestations of each it should be clear that the differing basis and content of each militate against the conclusion that both must be correct. Not all doctrines which lay claim to being universally valid actually are so. The particular approach to moral universalism which has, until relatively recently, been prevalent within the human rights doctrine is a complex amalgam of different secular and religious values and ideals (Fagan 2009: 49).

Michel Perry articulated that beyond the discussion on universality, common criteria of human rights is essential for the world in the violent circumstances of conflict in the world. Different conflicts in different continents of the world witnessed millions of death, humiliations, genocide etc. Common standards for addressing conflict are required. Michael Perry narrates such conflicts:

The twentieth century ‘was the bloodiest in human existence,’...not only because of the total number of deaths attributed to wars – 109 million – but because of the fraction of the population killed by conflicts, more than 10 times more
than during the 16th century. The list of twentieth-century horrors, which plods on at mind-numbing length, includes much more than wars, however. As the century began, King Leopold II of Belgium was presiding over a holocaust in the Congo; it is estimated that between 1880 and 1920, as a result of a system of slave labor, the population of the Congo “dropped by approximately ten million people.” From 1915 to 1923, the Ottoman Turks, who were Muslim, committed genocide against the Armenian minority, who were Christian.

Not counting deaths inflicted in battle, Stalin was responsible for the deaths of more than 42 million people (1929–53); Mao, more than 37 million (1923–76); Hitler, more than 20 million (1933–45), including more than 10 million Slavs and about 5.5 million Jews. One need only mention these countries to recall some more recent atrocities: Cambodia (1975–79), Bosnia (1992–95), Rwanda (1994). Sadly, this recital only scratches the surface (Perry 2007: 3).

Michael Perry’s argument is stressing the essentiality of common platform for protecting the natural rights of the human beings. Bertrand G. Ramacharan (2008) explains that the universal human rights doctrines are not working universally, and at the same time, human rights violation is increasing:

The validity of the universality of human rights is not lessened by the fact that, in practice, human rights are violated in many parts of the world. But rights exist even if they are breached, and the challenge is to work for their implementation and protection (Ramacharan 2008: 54).
Authors like Osiantynski, Louis Henkin, Andrew Fagan, Micheal Perry, Bertrand G. Ramcharan and William Talboltt have different arguments on universality. Some authors have articulated strongly for the common norms required for human rights, but some authors like Ramcharan and Andrew Fagan do not support those universality arguments. Theoretical and empirical arguments are given while debating to claim that human rights values are universal. Common human rights values are supposed to ensure protection from the tyranny, inhuman treatment, genocide, and violations of rights, etc.

The Western hegemony or imperialistic arguments are strong in the human rights discourses; it was evident in the Vienna Human Rights World Conference of 1993. In the human rights discourses, such hegemony over the human rights regime is considered problematical by many authors. David R. Penna (1998) observes:

The modern crusade for human rights has been seen as having its foundation in Western (European and North American) political history and culture. The focus on Western human rights discourse results frequently in the dismissal of non-Western cultures, institutions, norms and history as anti-democratic and authoritarian, with little utility for building modern human rights institutions (Penna 1998: 7).

The generalization of the non-Western cultures may be projecting them as anti-democratic and authoritarian in nature. But this generalization is coming out from the views of the Western orientalists. They try to generalize that non-Western cultural spaces will be of a substandard and inferior nature. They are mostly focused on the West Asian region for articulating their arguments. The important debate in this context is that the Islamic countries do not follow the democratic values of the West, and they adhere to traditional Islamic state principles. Ann Elizabeth Mayor says:
Concepts related to human rights were spawned by trends during the Renaissance in Europe and by the associated growth of rationalist and humanistic thought, which led to an important turning point in Western intellectual history: the abandonment of the premodern doctrines of the duties of man and the adoption of the view that the rights of man should be central in political theory (Mayor 2013: 27).

According to Mayer, the European enlightenment thought prioritized the rights of man and it has become the core idea of political philosophy of the West (Mayor 2013). This tradition became the basis of the “intellectual groundwork for modern civil and political rights” (Evans 2005: 12). Tony Evans observed that post-World War II period was the important turning point in the case of human rights, as it has witnessed the ascendancy of the United States of America to the prominent position in the world political regime with its own consequences. Tony Evans explains that: “A section looks at the rise of human rights in the post-World War II order and, more particularly, the role of the United States in placing human rights on the global political agenda.” World War II ended with the horrific crime of the USA, dropping two nuclear bombs at two Japanese cities, Hiroshima and Nagasaki.

The cultural rights within the inter-state relations promulgated particular rights which are serious problematic issues, as the cultural identity is politically contested. Bryan Turner explains:

Cultural rights have become a crucial issue in contemporary politics. In an increasingly hybrid and multicultural global context, cultural identities are politically contested and hence
securing cultural rights is an important precondition for the enjoyment of other human rights. (Turner 2006: 45).

Cultural identities in a multicultural society, particularly in the diasporic conditions, are difficult to preserve. Bryan Turner (2006) explains:

These cultural rights, however, may bear an uncomfortable relationship to the various identities that an individual might have as a consequence of diverse memberships in local communities, nation-states, transnational social movements, or global religions. With globalization, such diasporic communities proliferate, and cultural rights become more uncertain and contested (Turner 2006: 45)

The Executive Board of American Anthropological Association (AAA) published a ‘Statement on Human Rights’ in 1947 before the UDHR declaration, while the discussion on the universal model of human rights discussion was at its peak. AAA statement discussed and forwarded the recommendations with a warning to possibilities of conflict that might emerge in the form of cultural relativism. They did not use the particular word “cultural relativism” but they used instead “different cultures”.

Declan O’Sullivan explains that the traditional human rights idea is closely related with a homogenous cultural Western tradition:

The rise of the concept of human rights, the thinking and influence behind the major documents that exist today, has been widely detailed throughout human rights literature. The documents and statements are primarily based on a liberal,
democratic, Western perspective and interpretation of priorities and rights lists, which have evolved from a Western tradition of human rights philosophy (O’Sullivan 2007: 22-23).

Many of the intellectuals have commented that the human rights declaration is a tradition of the Western liberal cultural values. In these circumstances the discourses on cultural tradition became prominent. The AAA statement reads:

The problem faced by the Commission on Human Rights of the United Nations in preparing its declaration on the rights of man must be approached from two points of view. The first, in terms of which the declaration ordinarily conceived, concerns the respect for the personality of the individual as such, and his right to its fullest development as a member of his society. In a world order, however, respect for the cultures of differing human groups is equally important (AAA: 1947, 539).

Other important relativistic notions were developed in Asian countries. Asian countries have raised an important question about “moral universalism”. The question of universality on morality is more serious in confrontations within multi-cultural spheres and relativistic discourses. There are differing manifestations of universal morality, such as religious and universal secular forms. The universality of moral doctrines is not only derived from the particular ground of a particular religion or Western cultural values but it is also adopted from other cultural values. Stephan Lawson notes:
Contemporary political studies have paid increasing attention to the idea of culture, and its centrality to a range of concerns in both the theory and practice of international relations in the post-Cold War era is now much more widely recognized. Some of the most obvious areas in which the normative dimension of cultural issues has recently acquired particular salience are those concerned with self-determination and ethnic nationalism, indigenous autonomy and the entitlements of minorities, the various categories of human rights, and the possibility of establishing democratic governance outside its supposed heartland “the West” (Lawson 1998: 251).

The above discussions show that the tradition of the human rights doctrines are derived from the Western liberal democratic values. However, different cultural traditions are confronting the values of UDHR, from the beginning of the declaration. Most of the nations all over the world signed the international document of UDHR and its subsequent developments of the civil, political and cultural rights that revolve through the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

Moral philosophical Western thought and its foundations were derived from the serious discourses on the idea of the dignity of humans and the morality of an individual. The main objective of human rights is to maintain the dignity of human life. Jeremy Bentham’s views that ‘a right is the child of law, from real laws come real rights’ (Cranston 1967: 44). The preamble of ‘Universal Declaration of Human Rights’ states that: “Whereas recognition
of the inherent dignity and of the equal and inalienable rights of all members of
the human family is the foundation of freedom, justice and peace in the
world” (UDHR 1948). Since 1948, the term “Human Rights” has created
bewilderment in the nation states. The primarily objectives of the UDHR is
to protect individuals from the tyrannies of their government. Jack Mahoney
(2007) explains: “in response to the increasing phenomenon of globalization,
human rights can apply as a universal ethical norm affecting all human
behavior in this new context” (Mahoney 2007: 166). Elizabeth M. Zechenter
argues with different ideas on the realm of globalization of human rights:

The modern system of international human rights treaties is
based on the concept of universalism which holds that there is
an underlying human unity which entitles all individuals,
regardless of their cultural or regional antecedents, to certain
basic minimal rights, known as human rights. The influence
of cultural relativism, multiculturalism, and postmodernism is
slowly undermining these ideals. Many agree that universal
human rights norms simply do not conform with the extreme
diversity of cultural and religious practices found around the
world and that universal rights should be modified to conform
with local cultural and religious norms (Zechenter 1997: 319)

Zechenter stressed the importance of the universality of human rights as well
as to accommodate feelings of the other cultures and other religious feelings.
But another author Anthony J. Langlois suggested that the consideration of
group cultures may influenced by their interests; he explains:
The idea of culture is both useful and dangerous for state elites because one of the ways in which people feel included or that they ‘belong’ is by identification with a particular culture. Authority figures can persuade, direct and manipulate individuals, and in the aggregate groups in to a certain social agenda-in the name of culture (Langlois 2001:26).

Adamantia Polis observes differently from other scholars on the developments of human rights discourse:

The most intense debate among human rights scholars in the past two decades has been the dichotomy between universalist and cultural relativists. Just as development or modernization theories presumed a “transition” from traditional to industrial society; it was frequently assumed by Universalists that non-Western cultures will gradually evolve so that the Universalist doctrine of human rights will prevail. Such a deterministic approach to Universality is bound to fail as it has in development theory. Cultural relativists in turn are frequently equally deterministic, assuming the fixity and exchangeability of traditional culture (Pollis 2002: 9).

Authors like David R. Penna & Patricia J. Campbell (1998) argued that the international human rights movement evolved from the struggles for rights as well as those against tyranny, discrimination, genocide and for citizenship:
The international human rights movement has been enriched by the history and culture of the struggles for human rights in Western societies; these struggles, against genocide, against tyranny, against discrimination, have provided important theoretical and symbolic settings for the global human rights struggle (Penna & Patricia 1998: 7).

According to Michael Freeman,

“The ‘universality’ of human rights is an ideological disguise for ‘cultural imperialism’. The tension between universality and difference in the concept of human rights was expressed in the Vienna Declaration, which affirmed the universality of human rights, but qualified this affirmation by insisting that ‘the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind (Freeman 2002: 102).

Mahoney, Zechenter, Langlois, Pollis, Penna, Campbell and Freeman evaluated the UN human rights norms as a universal criterion, which has not respected other cultural values. The Vienna declaration stress that human rights should be “Universal”. The proponents of human rights values originated from the Western European background from the standpoint of which were the struggles against discrimination, tyranny and genocide in Europe. But Freeman observed and criticized that ‘cultural imperialism’ is working behind the hegemonic structure of the human rights international institutions. James W. Nickel evaluated differently and emphasized the universality of the human rights, and he observed that human rights
enhanced more egalitarian sense recently: “Human Rights today are more egalitarian, less individualistic, and more internationally oriented. The egalitarianism of recent human rights documents is evident, first, in the great emphasis they place on equality before the law and protections against discrimination” (Nickel 2007:12). Nickel sees the progress of the human rights values particularly in the ‘equality before the law’ and ‘protection against discrimination’ ideas.

Globalization and human rights has recently generated serious discourses from different approaches. A. K. Ramakrishnan raises questions on the impact of globalization in the political and economic spheres. He observes that the global changes in favour of private profit has negative impact on human rights.

The era of globalization creates a dichotomous perception about human rights in many minds. As perceived by many, globalization brings with it economic development, values of liberty and a process of democratization in various quarters of the globe, as it is viewed as a liberal inclusionary process. A more realistic vision of globalization as a neoliberal phenomenon, which represents a new financial stage of international capitalism that undermines the state’s provider and civil roles of inclusion, which stresses on the predominance of non-state actors in politics and economy, and which hands over common properties and public resources for private profit, brings forth its exclusionary
character and the resultant possibilities of denial of rights (Ramakrishnan 2003: 1).

Michael Freeman evaluates that the neoliberal policies have weakened the governments and promote free markets globally, because the weak government is irresponsible to implement human rights doctrines. According to Freeman,

The concepts is multi-dimensional (economic, cultural, political, military, and social), but economic globalization has dominated recent debates, and this is closely associated with the ideology of neo-liberalism, which favors free markets and reduced governmental intervention in economic affairs. In this form, globalization weakens the international human rights regime insofar as that regime imposes obligations on states to implement human rights, including economic and social rights, and neo-liberalism is opposed to strong states (Freeman 2002: 153).

Ramakrishnan and Freeman write about the influence of globalization on human rights. Ramakrishnan is concerned about the exploitation by the private international economic power beyond the power of the sovereign government. Through this process, violation of human rights occur. Freeman in the same sense has argued about how the neo-liberal policies weaken the governments and how they contribute to the non-implementation of human rights.
Few concepts are as frequently invoked in contemporary political discussions as human rights. There is something deeply attractive in the idea that every person anywhere in the world, irrespective of citizenship or territorial legislation, has some basic rights, which others should respect. The moral appeal of human rights has been used for a variety of purposes, from resisting torture and arbitrary incarceration to demanding the end of hunger and of medical neglect (Sen 2004: 315).

Amartya Sen’s different point of view on the international system of human rights and guarantee for human rights in consideration of citizenship across national boundaries is stressing on the universal moral realm of human rights.

CULTURAL RELATIVISM

Since the discussion was inaugurated for a common universal standard of human rights values, the major discussion point was which value would be promoted. Some organizations and countries warned the United Nations Committee for preparing human rights document in a Western oriented manner. The dispute between Western and other cultural groups has shown its face at different occasions.

When the drafting work of the UDHR document began, many organizations, intellectuals and sovereign nations were concerned about the domination of the Western single cultural value orientation of the UDHR principles. Firstly, as noted earlier, this doubt was openly expressed by the American Anthropological Association which published a statement and included
recommendations and valuable suggestions submitted before the UN to avoid American monopoly of interests and to consider the values of other cultures.

In 1993, Vienna international conference of human rights declared that the UDHR principles are universal. This declaration has come out in the circumstances of the challenges against universal declaration emerged from the Islamic and Asian values defenders. The Islamic and Asian values considered as the prominent groups confronting with universalization of human rights, and this conflict became more more pronounced by the articulations of Samuel Huntington in his debate on “The Clashes of Civilizations” (1993). It is clearly raised in the bifurcated standpoints of arguments on human rights. Islamic and Asian values arguments were the two strong arguments against the Western tradition of human rights. The basic conflict was over “individual” centered and “Community” or “Group” centered human rights perspectives. The liberal democratic ideology emerged from the peculiar circumstances of the history of Europe. Perhaps Islamic or Asian cultures were in the lack of historical traditions that are similar to that of Europe, because they didn’t produce the revolutions against the tyranny of the governments. As the these revolutions may not have happened in these regions, it does not mean that the Asian society and Islamic society lived without sense of rights. Western philosophies have emphasised on the individual rights and freedom, at the same times other dominant cultures of Islam or Asian values believe in community rights.

As noted earlier, the Executive Board of American Anthropological Association (AAA) published a ‘Statement on Human Rights’ in 1947 before the UDHR declaration. The AAA statement discussed and forwarded the recommendations with warning to possibilities of conflict that may emerge in the form of cultural relativism. It analyzed the priority of individual rights and the linkages between individuals as part of groups:
There are two facets of the same problem, since it is a truism that groups are composed of individuals, and human beings do not function outside the societies of which they form a part. The problem is thus to formulate a statement of human rights that will do more than just phrase respect for the individual as an individual. It must also take into full account of the individual as a member of the social groups of which he is a part, whose sanctioned modes of life shape his behavior, and with those whose fate his own is thus inextricably bound (AAA 1947: 539).

This document raises the important question regarding how the rights norms are conceived with respect to the single criteria of Western Europe and America. The AAA document shared the crucial and vital questions regarding the monoculturalization: “How can the proposed declaration be applicable to all human beings, and not be a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America?” (AAA 1947: 539).

Asian countries have raised an important question about “Moral Universalism” and they are doubtful as to whether it is a myth or a reality. The question of Universality on morality is more serious in confrontations within multicultural spheres and relativistic discourses. There are differing manifestations of Universal Morality, such as religious and Universal secular forms. According to some authors arguments that the universality of moral doctrines is not only derived from the particular ground of any particular religion of the West and its cultural values but it is assimilated from various values of the world. Andrew Fagan (2009) expresses his opinion about the nature of the universal notion of Human Rights and from which background it has developed:
The particular approach to moral universalism which has, until relatively recently, been prevalent within the human rights doctrine is a complex amalgam of different secular and religious values and ideals (Fagan 2009).

Most of the Western intellectuals have created a particular notion about human rights and values that were revolved around the moral values of the West. The universal model of human rights created a homogeneous concept of individual moral rights. It means that the particular hegemony of the West was oriented in individual freedom and individual rights with moral principles.

Despite its internal complexity, this account of moral universalism can be characterized as emphasizing moral individualism at the expense of an alternative form of morality. It is also typically relatively unconcerned with the potentially constitutive properties of culture and society in the formation of ideals and values, including those which constitute its own outlook. In the perspective of ‘Cultural Relativism’, human rights discourses are subject to prominent arguments in the context of ‘Asian Values’ and traditions of ‘Islamic’ religious, cultural histories and civilizations. The “Cultural Relativism” emerged as a serious challenge from the region of Asia and is subject to the longstanding traditional conflicts between Western cultures and “Islamic” values. However, the common notion of human rights traditionally considered that the Western perspective has a rich background on human rights. Talbott explains about the Western tradition:

Before considering whether cultural relativism about human rights is true, it is important to mention that some of the empirical claims on which it is typically based are simply
false. It is sometimes suggested, for example, that human rights apply to Western societies, because Western societies have a tradition of respecting human rights. However, Western societies do not have a tradition of respecting human rights. Human rights are a relatively recent development (Talbott 2005: 40).

The American Anthropological Association has traced out the history of Western European and American revolutionary and liberal democratic traditions. They reveal how it was developed from the exploitation of colonial economic interests and the cultural demoralizing of other cultures. They state:

In the history of Western Europe and America, however, economic expansion, control armaments, and an evangelical religious tradition have translated the recognition of cultural differences into a summons to action. This has been emphasized by philosophical systems that have stressed absolutes in the realm of values and ends. Definitions of freedom, concepts of the nature of human rights, and the like, have thus been narrowly drawn. Alternatives have been decried, and suppressed where controls have been established over non-European peoples. The hard core of similarities between cultures has consistently been overlooked (AAA 1947: 540).
In the following part, the document of AAA explains and warns of the white man’s superiority complex and the tendency for exploitation everywhere in the world:

The consequences of this point of view have been disastrous for mankind. A doctrine of the “white man’s burden” has been employed to implement economic exploitation and to deny the right to control their own affairs to millions of peoples over the world, where the expansion of Europe and America has not meant the literal extermination of whole populations. Rationalized in terms of ascribing cultural inferiority to these peoples, or in conceptions of their backwardness in development of their “primitive mentality,” that justified their being held in the tutelage of their superiors, the history of the expansion of the Western world has been marked by demoralization of human personality and the disintegration of human rights among the peoples over whom hegemony has established (AAA 1947: 541).

As the globalized world grows increasingly inter-connected and inter-dependent, and as we progressively come to recognize and draw the ‘consequences of cultural complexity’ (Chokr 2006) that such a world entails and reveals, one could have expected to see a higher degree of ‘moral convergence’ between members of various cultures, or at least, a more substantial “overlapping consensus”(Rawls 1996).

The cultural relativist’s discussions in human rights have highlighted more aspects, such as “morality is relative to culture” or that “right and wrong vary
with cultural norms.” Similarly, on the other side the “cosmopolitan outlook” of Kant, and “moral universalism” have gained ground (Graham 1996, Harrison 1976). Instead of a common ground, universalism is seen in some circles as the threatening expression of Western hegemony and cultural imperialism. As a result, we have been witnessing in recent years repeated affirmations of cultural distinctiveness and national identity, and vehement celebrations of provincialism, parochialism, particularism, sectarianism, nationalism, and fundamentalisms of various kinds, religious and secular. “Cultural relativism” is written large in many such affirmations and celebrations.

Cosmopolitanism and cultural chauvinism or nationalism are nowadays no longer opposites, it seems, but instead mutually reinforcing and defining of each other. It is based on a deeply problematic and controversial way of thinking; it can nevertheless readily serve personal, ideological and political purposes. According to Adamantia Pollis, human rights have challenged the prevailing views on to the universality of the Western liberal concept of individual human rights. Within each paradigm, there are variations with regard to the roots of rights, the priority of specific rights, and their very substance. Adamantia Pollis (1982) writes:

The most intense debate among human rights scholars in past two decades has been the dichotomy between Universalists and cultural relativists. Just as development or modernization theories persuaded a “transition” from traditional to industrial society, it was (and is) frequently assumed by Universalists that non-Western culture will gradually evolve so that the Universalists doctrine of human rights will prevail. Such a deterministic approach to universality is bound to fail as it has in development theory. Cultural relativists in turn are
frequently equally deterministic assuming the fixity and un-changeability of traditional culture. (Pollis 1982: 9)

There have no exception in the West; much of this scholarship has focused its attention on the Renaissance, for it is assumed that it was during the Renaissance that people developed a sense of their own individuality. In the words of the nineteenth-century cultural historian Jacob Burckhardt, while in the Middle Ages “man was conscious of himself only as a member of a race, people, party, family, or corporation-only through some general category,” (Burckhardt 1965: 81).

**DISCOURSES ON ASIAN VALUES**

Geographically Asia is a vast continent in the universe and multitudes of cultures thrive there. Fred Dallmayr (2002) observes about Asian Values:

The term “Asian Values” has been linked chiefly with Confucian teachings, with Buddhist and Taoist legacies being treated more like variations on, or internal reaction to, the former, still, to avoid oversimplification, some awareness of diversity should be maintained. More importantly, the term is sometimes invoked in a starkly provocative manner, with the result that “Asian Values” and human rights are pitted against each other as antithetical or incommensurable spheres. As previously indicated, however, this battle of relativism “Asian” values “Western” types of ethnocentrism is ultimately self-defeating : on the assumption of radical
antithesis, mutual critique became pointless (or else a means of strategic harassment) (Dallmayr 2002: 178).

As mentioned earlier, the World Conference on Human Rights in Vienna in June 1993 UDHR got great attention. The Vienna Conference declared that “right must be Universal”. It was not new, but this declaration got an attention in the new paradigm shift of the universal proponents like imperial power centrifuged in the US and their specific interests are the serious concern of the non-Western nations in the Vienna Conference. Noam Chomsky narrates what had happened in Vienna Conference: ‘A leading headline in the New York Times reads: ‘At Vienna Talks, US insist ‘right must be Universal’, Washington warned ‘that it would oppose any attempt to use religious and cultural traditions to weaken the concept of universal human rights’. The UDHR has the single standard of acceptance of behaviour created around the world. This standard of behavioor was declared to be applicable to all countries of the world (Chomsky 1998: 27).

At 1993 Vienna Conference on human rights, Asian leaders raised the question on ‘Cultural Imperialism’ of the Western Culture (Evans 1998: 18). The Asian leaders stressed on the question of sovereignty. Boyle writes on this;

Asian leaders rejected all ideas for legitimating humanitarian intervention, stressed the importance of national sovereignty and reaffirmed the principle of non-interference of domestic affairs….Asian leaders rejected the use of human rights as an
instrument of political and economical conditionals (Boyle 1995).

The controversy on cultural relativism with Asian values and Islam became serious part of these discourses.

By emphasizing the moral, social and cultural differences between Asian and Western countries, Asian leaders sought to promote an alternative vision of human rights that supported Asian economic interest. Furthermore, Asian leaders sought to avoid Western criticism of their current human rights practices (Anthony 1995).

Jau-hwa Chen argued that the Asian confrontation with the Western hegemony was over the human rights regime, because it is a Western phenomenon:

The “Asian values” debates are more than simply a reaction to the international human rights regime. Rather, they reflect the obstructed human rights discourses in Asia, assuming that human rights are a Western phenomenon, imported through colonialism, alien to Asian culture, so that the implementation of international standards of human rights was seen as imposing elements of Western culture onto Asian lands (Chen 2008: 41).

East Asia known as Asian tigers built strong economies, many under authoritarian or one party system. Various reasons may have been behind the economic prosperity of these countries, it may not be considered as the
parameter of the nature and political style of the governments in this region. The question of one party political style, authoritarianism, and dictatorship of the government have to be problematized in the “Cultural Relativistic” argument. Leena Avonius & Damien Kingsbury (2008) assume that Asian values’ confront with Western plural democracy and civil and political rights. Their arguments reads: “The logic of such claims was that such political style reflected cultural values that did not accord with Western ideals of plural democracy and civil and political rights” (Leena and Damien 2008).

**ASIAN VALUES AND THE HUMAN RIGHTS WORLD CONFERENCE 1993**

The Second World Conference on Human Rights was assembled according to the United Nations General Assembly (UNGA) Resolution 45/155 of 18 December 1990. The objective of the World Conference was “to review and assess the progress that had been made in the field of human rights, and to identify obstacles to further progress in this area and ways in which they could be overcome” (Boutros-Ghali 1995: 92). In the UNGA resolution 49/155 member states agreed that the World Conference should serve as a platform to debate the possibilities of improving and expanding the UN’s human rights instruments with a view on long term objectives, beyond that forum revisiting and evaluating the individual member states' domestic performances in the field of human rights.

As a part of the preparatory works of the Vienna Human Rights Conference, three regional intergovernmental meetings were planned. The regional meetings were organized by the governments of the Asian, Latin American and Caribbean, and African regions. The European, North American, Australian, and New Zealand governments declined to organize the regional
meetings. The preparatory committee was constituted for preparing the draft of the provisional agenda and a final document to be subsequently accepted to the world conference. Preparatory meetings constituted by the resolution of UNGA envisaged to expect the outcome of the two meetings preceded by the World Conference: The Jakarta Summit meeting of the Non-Aligned Movements (NAM) countries and the meeting of the non-governmental human rights and development organizations (NGO’s). The NGO’s assembled in San Jose, Bangok, Tunis, Washington, and Cairo. NGO’s world conference culminated as a preparatory meeting of the Second World meeting of the UNHR in Vienna.

In the preparatory phase of the World Conference, parallel activities of the non-governmental organizations were working for human rights protection and development; their effort was significant and they were gathering together from various parts of the world for formulating common understanding on values and goals, and required policies to implement national, regional, and global levels, and it was highly successful. At the same time, the meetings of intergovernmental level, the preparatory meetings, witnessed emergence of the world political controversy developed between the American government and the governments of the Asian nations.

The regional preparatory meeting was held at Bangkok on March- April 1993. During the conference, the governments of the Asia Pacific region has insisted that universality of the norms and principles are the base of Universal Declaration, it reads: “They stressed the need to give equal and balanced emphasis to the realization of the rights contained in the two covenants on social, economic, and cultural rights, and civil and political rights” (Bangkok Declaration1993: 2). Asian governments emphasized that to eliminate major obstacles in the field of human rights and to improve the
living conditions of the people are the major goals of impoverished regions of the world. Asian regional governments stressed that the world conference should take into account the particularities of regional and national economic and political realities, and they recommended that to consider the diversity of cultural, religious and historical backgrounds.

The international human rights have “within the context of a dynamic and evolving process of norm-setting.” They argued that this approach must be based on the mutual respect, cooperation and consensus among governments from different cultural, religious, and historical backgrounds, and socio-economic development levels, and not on confrontation and unilateral imposition of the incompatible values of one culture or nation on the other (Bangkok Declaration 1993: 2, 4).

In this process, they suggested that: “the international community should investigate ways and means of transforming the "neo-colonial" structure of the world economy. This structure, they argued that, perpetuates and widens the gap between the North and South, the rich and poor nations” (Bangkok Declaration 1993: 4, 5).

Asian governments criticized the American government and its allies for using existing norms, standards, institutions and mechanisms of international human rights law, existing practices of development assistances etc. in a discriminative manner, on the basis of ideological and financial preferences, with an eye on economic-military interests in the world politics rather than democratic and humanitarian concerns for enhancing social peace and justice around the world. In this context, they demanded that the Western governments observe the principles contained in the UN-Charter, recognize the sovereign equality, territorial integrity, and political independence of the member States from non-European historical and cultural backgrounds and
regions, and refrain from interfering in their internal affairs (Bangkok Declaration 1993: 2). The American government opposed such an assertion and defended its actions with strong universalistic position, declining to adopt the significances of national or regional particularities inserting, interpreting and implementing the global norms and standards of international human rights law. In this framework, the American government criticized arguments claiming the diversity of socio-cultural contexts, religious traditions, and historical backgrounds as pretexts allowing “vocal human rights abusers” to evade international scrutiny for poor human rights records and authoritarian political practices.

The American government opposed what it has interpreted to be an attempt to subordinate civil and political rights to economic, social and cultural rights, arguing that the realization of the goal of political democratization in the short-run is the most certain way to the realization of the goal of socio-economic development in the long run. Asian position got support from the other regions like Latin America and Africa. The American government found them to be deviations and it affirmed the universality position on human rights and fundamental freedoms.

As noted earlier, international human rights documents like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights are widely supported by the nations of the world. But in the subsequent developments of the first generation rights, such as International Covenants on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted in 1966 and entered into force in decade later, in 1976 when most of the nations were the signatories. In 1994, there were 122 states who are the signatories of the ICCPR and 124 states became members to the ICESCR.
The Vienna Conference ended with the unanimous adoption of the Vienna Declaration and Program of Action by the UN members. The Vienna Declaration gave expression to the following compromises reached between the Asian and American governments: a strong and repetitive endorsement of the universality, non-selectivity, and objectivity of all human rights and fundamental freedoms (Vienna Declaration 1993: 449), an affirmation of the indivisibility of civil, political, economic, social, and cultural rights (Vienna Declaration 1993, 450, 453), a recognition of the significance of cultural, religious, and historical particularities in setting and implementing the standards of international human rights law (Vienna Declaration 1993: 450), a recognition of the right to development as a universal human right (Vienna Declaration 1993: 450), and an expression of commitment to a model of democracy which guarantees to peoples freedom to participate in all aspects of their lives, determine their social, economic, and cultural systems, and pursue their social, economic, cultural and political development (Vienna Declaration 1993: 450).

Vienna Declaration and Program of Action inaugurated serious but controversial discussions between Asian governments and the American government. Since the disagreements on unresolved disputes has started with in the preparatory meetings of Vienna conference, this became evident when, in the aftermath of the Vienna Conference, the American government and the Asian governments staged the same controversy at various UN forums and exchanged the same arguments and counterarguments, criticisms and counter-criticisms, on the same issues. The UN member states adopted the compromise formulations of the Vienna Declaration unanimously. The non-governmental human rights and development organizations from the every region of the world tried to utilize maximum benefit from the Vienna conference. The Vienna discussion has not resolved the conflictual positions
on human rights, it has became a common place for discussing world politics and ‘Asian Challenge’ to the Western conceptions on rights have continued.

Controversy staged between the American government and the governments of the Asian region during the Vienna Conference is a fundamental incompatibility between the ethical political values by which the Asian societies live on the one hand, and the ideas, ideals, and aspirations associated with “human rights and democracy” that are intrinsic to the history and destiny of the ‘Western Civilization’ on the other. Samuel Huntington’s influential *Foreign Affairs* article, first published shortly after the Vienna Conference, and two years later it has published as a book, in the same title “The Clashes of Civilizations?” Huntington articulated how the Western cultural legacy and tradition was moulding the new world order. Huntington wrote:

> At a superficial level much of Western culture has indeed permeated the rest of the world. At a more basic level, however, Western concepts differ fundamentally from those prevalent in other civilizations. Western ideas of individualism, liberalism, constitutionalism, human rights, equality, liberty, the rule of law, democracy, free markets, the separation of church and state, often have little resonance in Islamic, Confucian, Japanese, Hindu, Buddhist, or Orthodox cultures. Western efforts to propagate such ideas produce instead a reaction against "human rights imperialism” and are affirmation of indigenous values, as can be seen in the support for religious fundamentalism by the younger generation in non-Western cultures. The very notion that there could be a "universal civilization" is a Western idea, directly at odds with the particularism of most Asian societies and their
emphasis on what distinguishes one people from another (Huntington 1993: 1-41).

In both academic and non-academic discussions on world politics, left-wing and liberal commentators often fail to take Huntington's generalizations about the Asian cultures seriously. Huntington’s generalization has created a bifurcation of this debate globally. Huntington’s arguments and hypothesis of the article clearly shows his assumptions:

It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great division among humankind and the dominating source of conflict will be cultural. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilizations. The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of future (Huntington 1993: 22).

In appraising the arguments advanced by the Asian governments during the Vienna Conference from a “philosophical perspective”, an Asian political theorist, Joseph Chan, makes similar generalizations about the Asian cultural traditions:

Asian societies in general seem to embrace a set of attitudes towards issues of values and morals which are different from that of the West. Many Asians do not value personal autonomy as highly as Western liberals do. In Asian political moralities, we can see a stronger emphasis on the stability, harmony and prosperity of society and a greater reverence for
traditions, elders and leaders. Asians in general also have a more conservative attitude towards sexual morality. Thus it is no surprise that the scope and limitation of human rights drawn by Asians would be different from those of the West, let alone the fact that Westerners can sometimes differ quite widely among themselves (Chan 1995:35).

These generalizations about the incompatible distinctiveness of the Asian political moralities usually inform a policy oriented assessment of the world political situation which have emergence of a new form of a “cold war” at the end of the twentieth century. This new form of a cold war the adherents of the incompatibility school argue, will be fought not between two uncompromising “ideologies”, but along the fault lines of cultural and religious traditions of the “West and the Rest”. Thus for example, the opening statement of Huntington’s above mentioned articles as follows:

World politics is entering a new phase, and intellectuals have not hesitated to proliferate visions of what it will be the end of history, the return of traditional rivalries between nation states, and the decline of the nation state from the conflicting pulls of tribalism and globalism, among others. Each of these visions catches aspects of the emerging reality. Yet they all miss a crucial, indeed a central, aspect of what global politics is likely to be in the coming years (Huntington 1993:22).

Again, Huntington is not an isolated Westerner who sees in the controversy between the Asian and American governments the beginning of a new, civilizational Cold War in which nothing less than the continuing relevance and vitality of the ideas and ideals associated with “human rights and democracy” will be at stake. An Asian foreign policy analyst, James T. H.
Tang, introducing a volume devoted to “Human Rights and International Relations in Asia-Pacific Region” in the aftermath of the Vienna Conference echoes Huntington’s interpretation and asks:

Western values appear to be set on a collision course with Asian traditions and economic priorities in the form of a ‘clash of civilizations.’ To what extent can different interpretations of human rights exist in the contemporary world? Have human rights differences between the industrialized North and the developing South replaced the East-West ideological confrontation as the major source of international conflict? Can the differences over human rights between East Asian countries and the West be resolved? (Tang 1995: 2).

Michael Freeman is an international human rights theorist who writes in this framework, in an article devoted to a discussion of the Asian challenge to universal human rights in the aftermath of the Vienna Conference, Freeman draws upon the survey research of David Hitchcok and interpretive analysis of Mahathir Mohammad. These authors present a catalogue of “distinctly Asian values” alleged to instigate the “Asian challenge” (Freeman 1996). These values include, in order of preference:

1) an orderly society 2) societal harmony; 3) the accountability of public officials; 4) openness to new ideas; 5) freedom of expression; 6) respect for authority. Freeman compares these values, with the corresponding values held by Americans: 1) Freedom of expression; 2) personal freedom; 3) the rights of the individual; 4) open debate; 5) thinking for
one-self; 6) the accountability of public officials (Freeman 1996: 355).

Freeman summarizes the conclusion he reaches norm this comparison as:

Almost all those values said to be “Asian” are similar to conservative Western values, and all the questions about the relations between human rights and other values that have been said to arise from the distinct nature of Asian cultures have been, and are still being, debated in the West (Freeman 1996: 352).

As it was the case with the authors of the incompatibility school, Freeman's emphasis on the commonalties between the political values held by Asians and Westerners is informed by a policy-oriented interpretation of the contemporary world political situation and a specific understanding of the “universality” of human rights that is intrinsic to or stemming from this situation. Michael Freeman says:

The claim that human rights are universal derives from the cosmopolitan point of view. According to this view the people of the contemporary world are sufficiently interdependent to require a common moral and legal order. Such an order does not require a uniform global culture, but common framework of minimum standards. Such a framework exists in the form of international law, including human rights law. The promotion of human rights has therefore become a common project of humankind (Freeman 1996: 363).

Again, underlying this assessment of the world political situation, we find a philosophical assumption, this time about the possibility of dialogue and
mutual learning between cultures. Freeman gives expression to this assumption in following words:

The debate about Asian and Western values is confusing, because cultures are not isolated and wholly distinct. They interact and learn from each other. The “mutual enrichment” school of "Asian values" acknowledges this better than the more confrontational approaches. There is now, consequently a cosmopolitan cultural network, which includes the values of human rights and democracy. Neither human rights, nor democracy is a recipe for cultural uniformity. They are not only consistent with, but often necessary for the protection of cultural diversity. Defenders of traditional cultures have more to fear from market forces than from human rights and democracy (Freeman 1996: 363).

Freeman is not alone in his optimism about the possibility of a meaningful intercultural dialogue between Westerners and Asians on human rights issues. Richard Falk is a well-known international lawyer, associated with the New York based “world orders models project” in an essay on the “cultural foundations for the protection of human rights,” Falk draws attention to the dangers of the estrangement that results from approaching the West vs. non-West controversy on human rights from the perspective of an abstract and uncompromising dichotomy between universalism vs. relativism (Falk 1992). In this context, Falk emphasizes:

Inter-mediating relevance for both international law (standards, procedures, implementation), and for cultural hermeneutics, above all seeking to reconcile cultural and global sources of authority by reference to reconcile for the
minimum decencies of individual and group existence. An emphasis on suffering and victimization provides indispensable guidance both in relation to gaps in international legal protection and to the task of distinguishing acceptable cultural orientations from unacceptable ones. Of course the whole undertaking is complicated and contingent as different observers and experts will often disagree. What is sought, and must be relied upon in the end, is a dialogue about appropriate behavioral standards in an atmosphere of growing toleration for divergence arising from varying cultural identities (Falk 1992: 46).

Neither Falk nor Freeman are isolated “Western liberals” who share the optimism that cultures can and indeed ought to communicate so that the “minimal decencies of individual and group existence” can have a decent chance of protection in the globally inter-connected and culturally diversified socio-political space of the late modern world. An-Na'im is well known for his research on the compatibility of the normative essentials of constitutional democracy with the Islamic tradition in general, and its divine law, Sharia in particular. An-Na‘im shares Falk's and Freeman's understanding that internal as well as cross-cultural dialogue is both possible and necessary in addressing the problems associated with the international protection of human rights in different socio-cultural contexts. Thus, in introducing an edited volume on “human rights in cross-cultural perspective”, An-Na‘im proposes to explore the possibilities:

Cultural reinterpretation and reconstruction through internal cultural discourse and cross cultural dialogue, as a means to enhancing the universal legitimacy of human rights. This approach does not assume that sufficient cultural support for
the full range of human rights is either already present or completely lacking in any given cultural tradition. Rather, more realistically, prevailing interpretations and perceptions of each cultural tradition can be expected to support some human rights, while disagreeing with or even completely rejecting other existing human rights ... There may therefore be room for changing a cultural position from within, through internal discourse about the fundamental values of the culture and the rationale for these values ... This public awareness can be achieved through intellectual and scholarly debate, artistic and literary expression of alternative views on those issues, and political and social action furthering those views .... Furthermore, since cultures are constantly changing and evolving internally, as well as through interaction with other cultures, it may be possible to influence the direction of that change and evolution from outside, through cross-cultural dialogue (An-Na'im 1992: 3-4).

An-Na'im's comments reveal that the cultural common ground and dialogue school, like the cultural incompatibility school, have adherents in both Western and non-Western societies. Again, whatever the political, philosophical and socio-anthropological merit of such an argument, the cultural common-ground and dialogue offers another possible interpretation and approach to the Western vs. Non-Western controversy about the universality of human rights.

According to Alatas, this confrontation between western universal norms they emphasized on political and civil rights but the realities are the disparity of Asian countries are mostly backward in its socio-economic-cultural and political conditions (Alatas 1993: 228). Alatas agreed with the basic qualities
and doctrines of the Universal Declaration of Human Rights (UDHR), because he wrote that:

> Indeed there should be no room for confrontations and bitterness, considering the basic principles of the universal validity of human rights and fundamental freedoms. The common obedience to the Universal Declaration of Human Rights, and commitments to the UN Charter, which granting the obligations on cooperate in promoting respect for human rights for all without distinction as to race, sex, language or religion (Alatas 1993: 228).

The theory of modern human rights, the first concepts is derived first from the Western Philosophy. The European political philosophers as Thomas Hobbs, John Locke, Montesquieu, Jean Jacques Rousseau, Cesar Beccartia and John Stuart Mill and many others various hypothesis and juridical construction of a “social contract” and the inherent “natural “ rights of the individuals are asserting the power of the government authority. These philosophies eventually gave birth to the modern state and the political rights of the citizen. Western philosophical ideas ignited the minds of the peoples of Asians, Latin Americans and Africans to struggle against the colonial rule of the Europe; they were also liberated with French Revolution and American Revolution. The realm of human rights, there has philosophical concepts, instruments and international agreements are the major components. The UN mission is to build bridge of relations between diversity of cultures, traditions, and social, economic and political systems in the world. According to the UN Charter have the solutions of conflict, the promotion of development, and observance of human rights which together compose to keep peace in the World.
The question on cultural diversity, universality of human rights, and international dialogue and cooperation among nations of the world was presented in a joint statement of the Asian non-governmental human rights and development organizations. This statement was drafted and approved by 240 representatives of more than 110 non-governmental organizations from about 26 countries who participated in the Asia Pacific region’s Bangkok preparatory meeting. Their joint statement reads:

Universality: We can learn from different cultures in a pluralistic perspective and draw lessons from the humanity of these cultures to deepen respect for human rights. There is emerging a new understanding of universalism, encompassing the richnesst and wisdom of Asia-Pacific cultures. Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which Boards protection to all of humanity including special group such as women, children, minorities and indigenous peoples, workers, refugees and displaced persons, the disabled and the elderly. While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights including women's rights must not be tolerated (Bangkok, NGO Declaration on Human Rights 1993: 5).

Peoples from different nations and different socio-cultural contexts needs to engage in a meaningful communication with one another to reach a common agreement on the conditions, norms, and values of their co-existence to share at the common socio-political time and space. Huntington published an essay in 1976, addressed the question: Can cultures communicate? He
answered that this question, on account of the deep emotional attachment one feels towards one’s cultural, religious, or ideological background, in the negative. There is a necessity to go beyond this limiting perspective. The expectation of a civilizational Cold War in contemporary world politics, or the assumption about the impossibility of a meaningful inter-cultural communication leading to a normative agreement on human rights issues, are merely of academic interest. Rather they reflect a present understanding among governmental policy and decision-makers about the nature of the political tension perceived to exist in the relations between Asian and Western countries. Kishore Mahbubani, who was the Deputy Secretary of foreign affairs of Singapore, expresses the following views:

In the face of growing evidence of social, economic, and occasionally moral deterioration of the fabric of Western societies, it would be increasingly difficult for a Westerner to convince Asians that the West has found universally valid prescriptions for social order and justice. Eventually, as East Asia becomes more fluent, discussion will also take place from a position of political parity. In anticipation of the inevitable, the West should stop lecturing Asians (Mahbubani 1992: 13).

**CULTURAL RELATIVISM AND ISLAM**

The post-War world developments created certain pressure on Muslim states for initiating some political reforms. These changes occurred in different ways, not in a uniform pattern. In the 1980’s and 1990’s, Islamic countries proudly accepted and recognized the certain International Human Rights Conventions. Most of the Islamic West Asian and North African countries
have ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Saudi Arabia was an exception as it has neither ratified nor signed any major international human rights convention. Westerners have used its advocacy of human rights as a tool for challenging the behaviour of non-Western societies. The globalization agenda is enormously entering into the Muslim world to transform the Islamic societies. But the radical differentiation between in ethical views of Islam and Western societies hold on in individual and community oriented approaches to human rights. Mahmood Monshipouri and Reza Motameni evaluated that Islamic ethical views moulded in a theological bases would determine the human duties and moral obligations in such societies:

An analysis of Islamic ethical views will help to better understand the various impacts that globalization has on the relevant of human rights thinking in the Muslim world. The normative and theological bases underpinning Islamic perspectives emphasize human duties and moral obligations (Monshipouri et.al. 1999: 719).

Theological and moral nature of an individual obligation is clearly pronounced in the Cairo Declaration on Human Rights in Islam, in the section (b) of Article 1 reads:

Human beings are God's subjects, and the most loved by him are those who are most useful to the rest of His subjects, and
no one has superior over another except on the basis of piety and good deeds (CDHRI 1990).

For Muslims, Shari’a (Islamic law) is the main source of human rights, Section (a) of the Article 22 of the Cairo Declaration of Human Rights in Islam reads:

Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari’a (CDHRI 1990).

Section (b) of the same article also underscores the importance of defining the limits of freedoms within the framework of Shari’a:

Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari’a (CDHRI 1990).

Through these declarations of the human rights, the two important ventures were designed by the Islamic intellectuals. First was “Universal Islamic Declaration of Human Rights (UIDHR) in 1981, it was declared by the Islamic Council. The second venture was declared in 1990, it is known as “Cairo Declaration on Human Rights in Islam” (CDHRI). Both declarations have strongly proclaimed the Islamic world views on human rights. The Islamic declarations aim to present alternate ideological presentations regarding ethical viewpoints in the perspective of Islamic doctrines. It emphasise that a traditional as well as civilizational gamut of the ethical values regenerating through the declaration. It would be a strong critique on
the Western values oriented human rights norms. This assertion has been there in the preamble of the Cairo declaration, which reads:

Reaffirming the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a universal and well balanced civilization in which harmony is established between this life and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization (CDHRI 1990).

The preamble of the Cairo Declaration says that it is “Wishing to contribute the efforts of mankind to assert human rights, to protect man from exploitation and persecution and affirm his freedom and right to dignified life in accordance with the Islamic Shari’ah” (CDHRI 1990). The last part of the preamble explained what is believing in:

Believing that fundamental rights and universal freedom in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend than in whole or in part or violate or ignore. Then in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of his prophets to complete the preceding divine messages thereby making their observance an act of worship and their neglect or
violation an abominable sin, and accordingly every person is individually responsible- and the Ummah collectively responsible- for their safeguard (CDHRI 1990).

In the preamble of UIDHR document of also talked about age old human aspiration for a just world order. The desires of the unending human aspiration for freedom from fear, oppression, exploitation and deprivation, have been there, but they have not been fulfilled the human society.

Whereas the age old human aspiration for a just world order where in people live, develop and prosper in an environment free from fear, oppression, exploitation and deprivation remains largely unfulfilled (UIDHR 1981).

The preamble explained how the human society endowed with super abundant economic sustenance is being wasted or unfairly or unjustly withheld from the inhabitants of the earth.

Whereas the Divine Mercy unto mankind reflected in its having been endowed with super-abundant economic sustenance is being waste or unfairly or unjustly withheld from the inhabitants of the earth (UIDHR 1981).

Shari'a, considered as the base on divine revelation, rather than man-made law, provides it unchallengeable according to Muslims. Since the mid-twentieth century, however, the differences between classical Islamic law and the modern interpretations of Shari'a have intensified. According to Gudrun Karan explained the Islamic views on human rights:
Modern Islamic scholars see a clear association between universal human rights standards and Islamic ethical constructs. They argue that Muslims should distinguish between Western hegemonic rule and the universality of human rights. While embracing social change and “cultural modernity,” they defend a legitimate form of cultural relativity. Reformist Islamic groups have sought ways to legitimize full legal and political equality of religious minorities in Islamic terms. They have proclaimed the principle of “same rights, same duties” for non-Muslims, while confining legal equality to the “non-religious domains” (Kramer 1995).

According to the Islamic tradition, it is believed that all the source of knowledge derived from the God. The preamble of the UIDHR reads:

Allah has given mankind through His revelations in the Holy Quran and the Sunnah of His Blessed Prophet Mohammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships” (UIDHR 1981).

The UIDHR proclaimed that these rights cannot be diminished, curtailed or neglected by any institution, organization or individuals reads:

…by virtue of their divine source and sanction these rights can neither be curtailed abrogated nor disregarded by authorities, assemblies or other institutions nor can they be surrendered or alienated (UIDHR 1981).
Universal Islamic Declaration of Human Rights has entitled the rights provisions into 23 Articles. These rights provisions are divided in different context, and explanations are under the specific titles:


Article: I (a) explained that, under the title, right to life:

Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under the authority of the law (UIDHR 1981).

The important differentiation of the UIDHR and the UDHR could be observed from this first article of the Islamic human rights declaration. There
are UDHR provisions mainly focusing on the protection of individuals from the tyranny of the government. But the same time it has said about the sacredness of the human life, this is one of the examples in the nature of the UIDHR. Article: II (a), explains that, what will be the, Right to Freedom: “Man is born free. No inroads shall be made on his right to liberty except under the authority and in due process of Law” (UIDHR 1981). Here, again the sovereign power of the government over its citizens is explained. It means that no right for freedom of individuals is there in the Islamic sovereign nations beyond that the power of the nation. In the same article, second clause (b) explained that:

Every individual and every people has the inalienable right to freedom in all its forms—Physical, Cultural, Economic and Political— and shall be entitled to struggle by all available means against any infringement or abrogation of this right; and every oppressed individual or people has a legitimate claim to the support of other individuals and or peoples in such a struggle (UIDHR 1981).

Article: III (a), under the title: Right to equality and prohibition against impermissible discrimination, explains that: “All persons are equal before the law and are entitled to equal opportunities and protection of the law” (UIDHR 1981).

(b). “All persons shall be entitled to equal wage for equal work.”

(c). “No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language.”
Article: IV (a), under the titles: Right to Justice, explained that, reads: “Every person has the right to be treated in accordance with the Law, and only in accordance with the Law” (UIDHR 1981).

Section (b):

Every person has not only the rights but also the obligation to protest against injustice: to recourse to remedies provided by the law in respect of any unwarranted personal injury or loss; to self defense against any charges that are preferred against him and to obtain fair adjudication before an independent judicial tribunal in any dispute with public authorities or any other person (UIDHR 1981).

UIDHR have its own ideas to grant rights to their minority groups. It has entitled in the specific Article of the declaration in Article X (a), under the title of Rights of Minorities: “The Quranic principle ‘there is no compulsion in religion’ shall govern the religious rights of non-Muslim minorities.”

In the section (b), it is explained that: “In a Muslim country, religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic law or by their own laws.”

UIDHR guarantee the right to freedom of belief in religion, thought and speech in the Article XII (a) explained that:

Every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by the law. No one however is entitled to disseminate falsehood or to circulate reports which may outrage public decency or to indulge in slander innuendo or to cast defamatory aspirations on other persons (UIDHR 1981).
UIDHR prescribed the priorities of law for the Islamic nations. It is interesting that UIDHR was granting the freedom of a person for expressing his/her own thoughts and belief restricted within the limit of prescribed law of the Islamic nation.

XII (b): “Pursuit of knowledge and search after truth is not only a right but a duty of every Muslim.” The second clause of this article XII, conflicted with the first clause, in the first clause said about the restrictions of the thought and belief within the limit of the Islamic law and the second clause proclaimed that the search of knowledge is not only the right but also the duty of a Muslim. Article XIII under the title of ‘Right to Freedom of Religion, explained that: “Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.” This article grants freedom to religious beliefs of an individual.

Article XVI, under the title of Right to protection of property explains that: “No property may be expropriated except in the public interest and on payment of fair and adequate compensation.” But in the UDHR declaration of Article 17, it is explained in clause 1. “Everyone has the right to own property alone as well as in association with others”, clause 2 of the UDHR declared that, “No one shall be arbitrarily deprived of his property.” The significant difference with UDHR and UIDHR on the right to property is on the perspective of different notions. UIDHR do not guarantee right to property.

Article XVII, under the title of Status and Dignity of Workers, it explains that: “Islam honors work and the worker and enjoins Muslims not only to treat the worker justly but also generously. He is not only to be paid his earned wages promptly, but is also entitled to adequate rest and leisure.” This article is significant one, but what right has guaranteed in the UDHR is not
mentioned in this section. But in the UDHR doctrines entitled in the Article 23 reads clause 1: Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Clause 2: Everyone, without any discrimination, has the right to equal pay for equal work; Clause 3: Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection; Clause 4: Everyone has the right to form and to join trade unions for the protection of his interests.

Article XIX of the UDHR under the title of Right to found a family and related matters; Clause (a): “Every person is entitled to marry, to found a family and to bring up children in conformity with his religion, tradition and culture. Every spouse is entitled to such rights and privileges and carries such obligations as are stipulated by the law.” Clause (c): Every husband is obliged to maintain his wife, children according to his means. Clause (d): Every child has the right to be maintained and properly brought up by its parents, it being forbidden that children are made to work at an early age or that any burden is put on them which would arrest or harm their natural development. Clause (e) explains: “If parents are for some reason unable to discharge their obligations towards a child, it becomes the responsibility of the community to fulfill these obligations at public expense. Clause (f) explains: “Every person is entitled to material support, as well as care and protection from his family during his childhood, old age or incapacity. Parents are entitled to material support as well as care and protection from their children.” Clause (g) explains: “Motherhood is entitled to special respect, care and assistance on the part of the family and the public organs of the community.”
Article XX of the UIDHR under the title of Right of Married Women, it has explained that; “Every married woman is entitled to Clause (a): “Live in the house in which her husband lives.” Clause (b) explained that:

receive the means necessary for maintaining a standard of living which is not inferior to that of her spouse and in the event of divorce, receive during the statutory period of waiting means of maintenance commensurate with her husband’s resources, for herself as well as for the children she nurses or keeps, irrespective of her own financial status earnings or property that she may hold in her own right (UIDHR 1981).

Clause (c): “Seek and obtain dissolution of marriage in accordance with the terms of the law. This right is in addition to her right to seek divorce through the courts.”

Clause (d): “Inherit from her husband, her parents, her children and other relatives accordingly to the regard to any information that he may have obtained about her the disclosure of which could prove detrimental to her interest”. A similar responsibility rests upon her in respect of the law. Clause (e): “Strict confidentiality from her spouse on ex-spouse if divorced with spouse or ex-spouse.”

UIDHR guarantee the Right to Education, it has explained in the Article 26: Clause 1: Article XXI under the title of Right to education, clause (a) explains: “Every person is entitled to receive education in accordance with his natural capabilities.” Clause (b) explains: “Every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.”
But in the UDHR envisage that:

Everyone has the right to education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit (UDHR 1948).

In the next clause (2) explains that:

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace (UDHR 1948).

The clause (3) explains that: “Parents have a prior right to choose the kind of education that shall be given to their children.” The important differences and linkages between UDHR and UIDHR on the perspective on education considered as prominent point, UDHR declared that at least elementary education should be compulsory and free, but the higher education in the basis of merit. UIDHR considered as education shall be given to the children in the basis of their capabilities, but capabilities may be obtained in relative.

This chapter mainly examined the overall developments of human rights in the world there after the enactments of the Universal Declaration of Human Rights (UDHR) in 1948 by the United Nations General Assembly. The Human Rights thoughts are developed from the ancient period, in the closed observation we could find out that from the Greek, Hammurabi, Buddhism, Christianity etc. but it got a concrete frame works occurred since the
European Enlightenment liberal thoughts. The World War I and II, persuaded to think controlling and monitoring the violence against humanity and ensure peace and security of the individuals and the world.

The philosophical background of human rights was moulded by the Western Liberal thoughts, and it has been seen to be at odds with the acceptance of human rights in some specific regions and other cultural and civilization traditions. “Islam” and “Asian Values” were the prominent opponent groups that raised the questions regarding the values of Western Liberalism. This discourse has been known under the label of “Cultural Relativism”. The Islamic world responded on the UDHR, not only by expressing their alternative opinions on this subject but also declaring a parallel and alternative position. From the Islamic world different groups came to this mission and they published two prominent declarations, first one is known as “Universal Islamic Declaration of Human Rights” (UIDHR) 1981, and the other “Cairo Declaration of Human Rights in Islam” (CDHRI) 1990. These two documents are the best examples of the seriousness and magnitudes of the responses of the Islamic world. But the important point is that these documents from the Islamic world proclaimed that they have their own cosmopolitan views in the perspectives of Islam. We have witnessed the “Arab Spring” and “Wall Street Protest”; the spirit of Human Rights is continuously empowering the people for democracy, peace and security in the world.