CHAPTER - 1

INTRODUCTION

The issue of human rights is of prime importance. There are sound reasons to discuss human rights along with considering the other critical world issues. Enlarging human rights and fundamental freedom for more people on this earth depends in part upon successful management of other global problems by the world community. Moreover, the status of human rights throughout the world is a yardstick for how well other critical issues are managed. The extent to which people enjoy human rights and fundamental freedoms is related directly to the policies and actions of national governments which in the eyes of most of the world, exist to serve the needs of their constituents. Governments rise or fall, albeit slowly at times, according to the way they meet vital human needs and enable their citizens to live with dignity. Ideologies and philosophies gain or lose adherents according to how they relate to actual or perceived human needs. Economic systems remain viable only so long as people believe they are well served. Religions remain relevant only as they respond to human concerns. Human rights and fundamental freedoms are the cornerstone of civilization, the alpha and omega of humanity's quest for a better existence.¹

The development of human rights began in Greece, around the year 300 B.C. Philosophers then began to take an interest in the relationship that existed between the society, the state religion and the individuals that made up the city state. A group of people known as the stoics were the first people to emerge and discuss their perception of the world and the role or place of man. They claimed that human beings were the masters of their own destiny: a person's destiny did not depend on the Gods. Stoics: (Greek) group of scholars; member of a school
of philosophy founded by Zeno (308 B.C.) that all relations, properties are given by unchanging laws and a wise man should be indifferent to the external world and to passion or emotion. The contributions of Plato, a philosopher, laid the foundation for the concept of a universal and eternal set of laws derived from and based on the dignity of the individual human being.

The sophists later on developed the notion of a natural law. They claimed that there were two sets of laws; natural laws and man made laws. Natural laws were eternal and unchangeable and applied to the whole world. Man made laws were valid if only they agreed with the natural laws. Sophists: - A group of teachers who can give clever, spacious reasoning. Christian philosophers like St. Thomas Aquinas furthered the notion of natural law. Natural laws were the laws set out in the ten commandments and certain other laws of Moses; they are the laws of God. Man made laws are the laws made by men for their good governance. By the 17th and 18th century a group of people known as the Rationalists provided for what was to become the doctrine of individual rights. Rationalists based their thought on reason and logic but to them natural laws were not subject to the will of God or laws as laid down by religious teachings. These thoughts were further developed in the doctrine of social contract. The doctrine of social contract was based on the relationship between the state and its subjects.

The concept of human rights is rooted in the most ancient values and religions of our heritage and incorporated into the eminent philosophies and political doctrines of the world. To examine the main foundations of the international recognition and protection of human rights, it is essential to enquire into the relation between, on the one hand, the conceptions of the law of nature and the natural rights of men, and on the other hand, the effective acknowledgement
of these rights by international law. In fact, the concept of human rights has been evolved from the concept of natural rights which in turn were derived from Natural Law. The concept of human rights has been evolved from the concept of natural rights which in turn were derived from Natural Law. There had long been a tendency to set up Natural Law as a body of principles superior to positive law. The law of nature, even when conceived as an expression of more ethical postulates, has had an inarticulate but effective impact in the interpretation of positive law. For providing a clear picture, the development of human rights and their recognition and protection on international level can be divided into different periods. These include:

(a) **Natural Law and Natural Rights in Ancient Times**

Historically, the idea of Natural Rights is very old. In the classical literature of Ancient Greece from the 5th century B.C. we come across a striking expression of the belief in the power exercise by the God in a human society based on law. According to Ancient Greece writers, the God establish a law which stand above the obligations and prohibitions imposed by the rulers of the community. In Roman Law a distinction was made between national law and the law which is actually common to all nations. Thus Natural Law was regarded as that law which the nature has herself established. According to Marcus Jullius Cicero, the great Roman Jurist, there is one eternal and immutable law, which will apply to all people at all times and which emanates from the God, is Natural Law. From man's essential nature, which is reason and which shares with God, Cicero deduced not only a common law, but also a common share of justice.

Despite the scarcity of information on Ancient Indian history, scholars have expressed the view that there was a rich jurisprudence in ancient India. That jurisprudence provided an adequate framework for the regulation of the behaviour of ordinary persons as well as the sovereign, the king. Two norms, viz Dharma
and Danda, which were necessarily influenced by the theological texts of Vedic Aryans, contained several features of a regulatory mechanism for religious practices. The king had the authority to implement this system and the law under it. But he himself was bound to follow the law, the norms laid down by religious codes and commentaries. Torture and inhuman treatment of prisoners were prohibited under Ashoka's administration. This indicates the traces of natural law and natural rights in ancient India.

(b) **Natural Law and Natural Rights in Middle Ages**

The concept of Natural Law was elaborated during the middle ages in the works of Christian theologians, in the form of a belief in a law of God, and above all human laws. St. Augustine carried out the principle further and said that a law which violated justice was in principle invalid. St. Thomas Aquinas also noted the importance of Natural Law and defined this concept as 'the participation in the eternal law of the mind of a rational creature'. The state is subject to that higher law which determines the relation of the individual to the state. He further stated that the justification of the state is in its service to the individual; a king who is unfaithful to his duty forfeits his claim to obedience. This idea led to the establishment of doctrine of natural rights and by the end of middle ages the concept of natural rights of man became well established. All this led to the formation of right to revolt against a tyrannical ruler. According to Jean Bodin, Tyrannical Monarch is one who violates the freedom of his subjects, 'Trampling the laws of Nature beneath his feet'.

In middle ages, number of acts were enacted to show the superiority of Natural Law and Natural rights. The principle of the Habeas Corpus Acts latent in the 39th clause of Magna Carta was acknowledged already in 1188 by Alfonso
IX at the Certes of Leon. The great Charter of the Liberties of England or the Magna Carta of 1215 was imposed on king John by the Prelates, Earls and Barons of his realm after his defeat by the king of France in 1214. The Golden Bull issued in 1222 by king Andrew II of Hungary is couched in language strikingly reminiscent of that used in Magna Carta. So is the law of general privileges granted in 1283 by Peter III of Aragonet. 8

(c) Natural Law and Natural Rights in 17th and 18th Century

Teaching of Machiavelli which dominated politicians and jurists of 16th century, set in a wave against Natural Law. But soon after two factors combined to revive and strengthen the idea of natural rights of man. First factor was religious tolerance which brought forth the insistence on the natural rights of freedom of conscience and religious belief. Second factor which helped to keep alive the idea of natural rights was the theory of social contract, which of course, started in the middle ages but became more predominant by the beginning of the 18th century. The very notion of the social contract, implied the existence of rights which the individual possessed before entering organised society. The contributions of Hugo Grotius, Vattel, Pufendor and Wolff in the development of the concept of natural rights are commendable. In addition to these two factors, there were other factors which emphasised the vitality of the natural freedom of man as the basis of his claim to be ruled by law and not by arbitrary whims of man; the insistence in the course of the puritan revolution, on natural rights in support of political freedom, social equality and universal suffrage, the place which Blackstone assigned to the natural rights of man are some of the examples of the factors which gave force to the doctrine of natural rights in 16th century. The Virginian Declaration of Rights of 1776; other similar constitutional enactments;
in the same year, the constitutions of Newyork and of New Georgia of 1777; and that of Massachussets of 1780; the Declaration of Independence of 1776; and the Bill of Rights in the form of the first ten Amendmentes to the constitution of America; the Declaration of the Rights of Man and of the citizen adopted in 1789 by the French National Assembly and prefixed to the Constitution of 1793, and 1795, all these expressly acknowledged the inherent rights of man. In all these enactments, the formal incorporation of the inherent human rights and the possibility of their consequent protection not only against the tyranny of Kings but also against the intolerance of democratic majorities was a new idea. This was a first attempt to derive human rights from natural rights.

(d) **Natural Rights and Doctrine of Humanitarian intervention in 19th century**

At the turn of the century after the French Revolution the doctrine of Natural Law was a doctrine of abstract and immutable principles and of eternal and inviolable human rights. In England Burke launched his attack against the assertion of the Natural Law doctrines. In Germany, reaction against the philosophy of Natural Law emerged with "Historical school" of jurisprudence. But we come across the occasions, in this century, on which the doctrine of 'humanitarian intervention' has been involved on behalf of nationals or inhabitants of foreign countries. Such, for example, was the intervention in 1827 by Great Britain, France and Russia on behalf of the Greek Revolutionaries, the numerous interventions protecting Turkish treatment of Armenians and other Christians, and the protests by the United States 1891 and 1905 against antisemitic outrages in Russia.

From the beginning of the 19th century, attention was directed more to the
rights of the individual than to the objective norms. But nation States have persistently claimed supreme authority over all persons within their respective territories. As a consequence, subject to permissible exceptions, relation between a nation state and its subjects according to traditional prescriptions are a matter of 'domestic' concern or law, not covered by rules of international law. Under this prescription, therefore an individual cannot claim international agreements, he has no locus standi before an international court for demanding redress of grievances against the violation of rights by his home state. It is pertinent to note here that inspite of the inadequacies of traditional international law, an increasing number of treaties were entered into the purpose of which was to protect the rights of certain classes of persons. These developments of 18th and 19th century led the culmination of the idea of human rights.

(e) **New attitude to the concept of Human Rights in 20th century**

Great importance has been attached in the 20th century to the human rights issue in the international arena, and tremendous efforts have been made through the formulation of new principles and procedures to transfer the protection of basic rights from the hands of nation states to an authoritative supranational organisation. The uncompromising acceptance of the principle that 'all men are born free and equal in dignity' has emerged as the most valid of all working hypothesis of human relations. By the end of first world war, apart from political and civil rights, developed the concept of economic, social and cultural rights. The idea that workers needed special safeguards was a beginning to take hold in many industrial countries. Labour unions were established and the right to collective bargaining wages were being increased; and working hours being reduced, and the idea that citizens had certain basic economic and social rights
had been recognised in constitutions and legislations of democratic states. Thus Human Rights are not new, and have a long history. History shows that people have been thinking about human rights for hundred of years. The roots of human rights can be found in most of the world’s religions and philosophies. Some cultures emphasise the human rights of the individual person and the others the rights of the group like clan, tribe or community. Insipce of the cultural difference that exists, there seems to be general agreement about certain basic values. These values include respect for human life and human dignity.

Because of the cultural diversity in different countries, it is sometimes difficult to formulate a set of rights accepted by all people as human rights. Therefore, to solve this problem and to protest against the terrible atrocities which had occurred during World War second, members from different nations representing all political systems and geographical areas of the United Nations met together to write the Universal Declaration of Human Rights. This declaration was adopted by United Nations General Assembly on 10th December, 1948. It includes civil and political, economic, social and cultural rights and fundamental freedoms to which every human being is entitled. As a statement of goals and principles, the Universal Declaration was a giant step. Although a declaration does not have the binding force of a treaty, the universal Declaration has acquired universal acceptability. Many newly independent countries have cited the declaration or included its provisions in their basic laws or constitutions and many human rights covenants, conventions, and treaties concluded since
The universal declaration of Human Rights

The universal declaration of Human Rights 1948 was adopted and proclaimed by the general assembly resolution 217-A(III) of the UNO on 10 December 1948.

The preamble of the declaration says that:
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. Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people. It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law. It is essential to promote the development of friendly relations between nations. The people of the United nations have in the charter reaffirmed their faith in fundamental human rights of men and women and have determined to promote social progress and better standards of life in larger freedom. Member states have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms. A common understanding of these rights and freedoms is of the greatest importance for the full realisation of this pledge.

Now, therefore, the General Assembly Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all people of all nations, to the end that every individual and every organ of society, keeping this
Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. The declaration of human rights contains thirty articles, each specifying certain aspects relating to human rights. It would be worth while here to mention each article in brief. Article First mentions that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood; according to article Second everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; article Three provides to everyone the right to life, liberty and security of person; article Fourth describes that one shall be hold in slavery or servitude slavery and the slave trade shall be prohibited in all their forms; article Fifth provides safety against torture and inhuman or degrading treatment or punishment; article Six gives everyone the right to recognition everywhere as a person before the law; article Seven mentions that all human beings 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; article Eight provides to everyone the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitutions or by law; article Nine gives the protection against the arbitrary arrest, detention or exile; article Tenth mentions that everyone is entitled in full equality to a fair
public hearing by an independent and impartial tribunal, in the determination of
his rights and obligations and of any criminal charge against him; article Eleventh
says that (i) everyone charged with a penal offence 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 defence. (ii) no one shall be held guilty of any
penal offence on account of any act or omission which did not constitute a penal
offence, 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 offence was committed; article Twelveth relates to the right of privacy
which says that no one shall be subjected to arbitrary interference with his privacy,
family, home or correspondence, nor to attacks upon his honour and reputation.
Everyone has the right to the protection of the law against such interference or
attacks: article Thirteenth provides to (i) everyone the right to freedom of movement
and residence within the borders of each state; and to (ii) everyone the right to
leave any country, including his own, and to return to his country; article Fourteenth
gives to (i) everyone the right to seek and to enjoy in other countries asylum from
persecution, and (ii) however, this right may not be invoked in the case of
persecution genuinely arising from non-political crimes or from acts contrary to
the purposes and principles of the United Nations; article Fifteenth contains the
right of nationality which says that: (i) everyone has the right to a nationality.
(ii) no one shall be arbitrarily deprived of his nationality nor denied the right to
change his nationality; article Sixteenth gives certain rights regarding matrimonial.
The article says that: (i) men and women of full age, without any limitation due to
race, nationality or religion, have the right to marry and to constitute a family.
They are entitled to equal rights as to marriage, during marriage and at its
dissolution (ii) marriage shall be entered into only with the free and full consent of the intending spouses. (iii) the family is the natural and fundamental group/unit of society and is entitled to protection by society and the state; article Seventeenth provides protection against the violation of property rights which says that (i) everyone has the right to own property alone as well as in association with others; (ii) no one shall be arbitrarily deprived of his property; article Eighteenth concerns with the right of a person's self which points out 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; similarly article Ninteenth mentions 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; article Twentieth says that (i) everyone has the right to freedom of peaceful assembly and association, and (ii) no one may be compelled to belong to an association; article Twentyfirst relates to the political rights of an individual which says that (i) everyone has the right to take part in the government of his country, directly or through freely chosen representatives, (ii) everyone has the right to equal access to public service in his country; article Twenty second provides a sense of social security and development to an individual. The article says that everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international cooperation and in accordance with the organisation and resources of each state, of the economic, social and cultural rights indispensable for his dignity and free development of his personality; article Twenty third relates to the right of work
which describes that: (i) everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment, (ii) everyone, without any discrimination, has the right to equal pay for equal work, (iii) everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection, and (iv) everyone has the right to form and to join trade unions for the protection of his interests; article Twenty fourth contains the provision regarding working conditions. The article says that: every one has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay; article Twenty fifth provides the right of standard of living and childhood care which says: (i) everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness disability, widowhood oldage or other lack of livelihood in circumstances beyond his/her control, and (ii) motherhood and childhood are entitled to special care and assistance to all children, whether born in or out of wedlock, shall enjoy the same social protection; article Twenty sixth provides the right of education to everybody. The article mentions that: (i) everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be generally available and higher education shall be equally accessible to all on the basis of merit, (ii) 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 limited nations for the maintenance of peace, and (iii) parents have a prior right to choose the kind of education that shall be given to their children; article Twenty seventh relates to the cultural and moral aspects of an individual. The article points out that: (i) everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits, and (ii) everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author; article Twenty eighth concerns with the right of realisation of the freedoms set forth in the declaration which says that: everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised; article Twenty ninth points out the duties and limitations of the freedoms of an individual. The article says that: (i) everyone has duties to the community in which alone the free and full development of his personality is possible, (ii) in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law, and (iii) these rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations; and article Thirtieth of the declaration says that: nothing in this declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

**Development of Human Rights Concept in India**

It is interesting to note that the concept of Rights of Human beings are neither entirely western nor modern. Rigveda cites three civil rights, that of Tana(Prody).
Shridhi (Dwelling Place) and Jibhast (Life). Mahabharta tells about the importance of the freedoms of the individual in a state. Concept of Dharma, rights and duties of individuals, classes, communities and castes have been defined in our scriptures. Before second century B.C. Indian States could boast of elected kings. Arthasastra elaborates on civil and legal rights first formulated by Manu which also included economic rights. During Bhakti movement human dignity and equality found due respect in every section of the society. When British ruled India, resistance to foreign rule manifested in the form of demand for fundamental freedoms and civil and political rights for people. The Indian National Congress, which was in the vanguard of freedom struggle, took the lead in this matter.

The constitution of India Bill 1895 prepared by Indian National Congress, also known as 'Home Rule Document', talked about a constitution guaranteeing every one of the citizens basic human rights like freedom of expression, inviolability of one's own home, right to property, equality before law, etc. In August 1918, Indian National Congress demanded incorporation of Declaration of the rights of the people of India as British citizens. It demanded, inter alia, guarantees of equality before law, protection in respect of liberty, life and property, freedom of speech and press and right of association. In the Delhi session of December 1918, Indian National Congress included the principles of self Determination as one of the basic rights.

Constitution of the Irish free state 1921 included a list of fundamental rights. This has profound influence on the thinking of the Indian national Congress, which in 1925 finalised the draft of 'Common wealth of Indian Bill embodying a declaration of rights. Madras congress of the Indian National Congress in 1927 demanded incorporation of a declaration of fundamental rights in future
constitutional framework. A committee under Motilal Nehru was appointed reporting in 1928. The committee declared that the first concern of the people of India is to secure fundamental rights. It is interesting to note that the constitution of the Republic of India enacted in 1950 incorporated ten of the nineteen Rights enumerated in the Motilal Nehru Committee reports. Lahore Congress of 1930 declared freedom from foreign rules as a fundamental right. Karachi Congress passed a resolution in 1931 on 'fundamental rights and social change' in three parts.

(a) Fundamental Rights and Duties;
(b) Labour; and
(c) Economic and social programme. The Government of India act, 1935 - Sections 297-300 incorporated certain rights with built-in exceptions. Sapru Committee in 1945 stressed on the need for written code of Fundamental Rights. In the Constituent Assembly (1946), there was a demand for declaration of fundamental Rights. Promulgation of the constitution by the people of India in January 1950 is a watershed in the History of Development of the concept of Human Rights in India. The Preamble, Fundamental Rights and the Directive principles of State Policy together provide the basic Human rights for the people of India. Democratic socialism spelt out in the preamble and the directive principles is meant to provide the context in which the fulfilment of fundamental Rights has to be achieved. While fundamental rights stress on the existing rights, Directive Principles provide the dynamic movement towards the goal of providing Human Rights for all.

The Universal Declaration of Human rights was the first landmark in contemporary history in the development of the concept of human rights. The very fact that it was adopted by a big majority and without any direct opposition, shows that it
was a remarkable achievement on the front of Human Rights. One of the most important features of the Universal Declaration of Human Rights is that it not only gave content to the various human rights and fundamental freedoms, but also contained in it all the "three generations" of human rights, i.e., civil and political rights, and the collective rights. It also set forth in general terms, the admissible limitations. This means that if any state imposes any restrictions which are outside the scope of the declaration then that would amount to violation of the declaration of Human Rights. The omission of right to "protection of minorities" in the Declaration is a surprising one. The Universal Declaration of Human Rights was passed by a resolution of United Nations General Assembly and originally it was thought that it did not create any binding obligation on the states. But in our submission, it has become, over the years, not only a part of customary international law but also it has all the attributes of justice cogens. The Declaration has also influenced the drafting of various constitutions of the world and Indian constitution is one of them so much so that even the judges of the International Court of Justice have made the principles of Declaration as the basis for their opinion.

India is a parliamentary democracy with a free press, civilian controlled military, independent judiciary and active political and civic associations. Competitive elections produce regular changes of leadership at the national, state and local levels. The state governments have primary responsibility for maintaining law and order. However, the central government provides guidance and support through use of national paramilitary forces and in law, has ultimate responsibility for protecting the human rights.

Despite extensive constitutional and statutory safeguards, significant human
rights abuses persist throughout India. The abuses are aggravated by severe social tensions and the authorities lack of attempts to contain violent secessionist movements. Abuses are particularly acute in disturbed areas such as Jammu and Kashmir and North eastern regions where judicial system has broken down in the face of terrorist activities. As in past years, areas of abuses include: political killings, kidnappings and extortion by militants, torture, rape and deaths of suspects in police custody and other agents of government against women; infrequent prosecution, dowry deaths and widespread exploitation of indentured. The Indian society is full of paradoxes. On the one hand, foreigners come in hordes to our country in search of spiritual solace, on the other hand, Indians rank among the most corrupt people in the world. On the one hand, we are spending millions, say billions to send satellites to space to prove our scientific prowess; on the other hand, the state cannot provide almost half the population with the basic necessities of food, education, health and shelter. On the one hand, our scriptures put the women on a high pedestal. Where they are held in reverence there do the Gods reside, is an old Sanskrit adage. A society grows if the women grow, if they partake of the spirit of progress, for they are proverbial domestic legislators, they are the matrix of social life. On the other hand, according to the United Nations International Children Emergency Fund's latest international report, "The Progress of Nations 1997," more than 5000 dowry deaths occur every year in the country.

Free India in its first important legislative document—the constitution declares its faith in the equality of men and women as a precondition to ushering in a society where there would be justice, social, political and economic for all. However, more than 50 years after the solemn resolve to usher in a society where there would be equality for all and no one will be discriminated against, the
inequality between the sexes continues. The alarming increase in dowry deaths and the daily reported molestation of women, clearly indicate society's attitude toward women. The persistent decline in the sex ratio and the evidence of neglect of female infants to the point of letting them die is increasing the gap between profession and practice.

**Review of Literature:**

Studies on women's lot and behaviour started in 1960's with the advent of feminist movement in USA, with a premise that there prevails a gender discrimination and women's lot in the society is not what it should be. In India we started using the term more frequently after the International Women's year, i.e., 1975.

The review of existing literature on the emerging status and role of Indian woman has necessarily to start with her place in the freedom movement. There are few studies of women's role in the national movement or of the implication social or political of their momentous entry into the public sphere. Important works on the national movement mostly failed to examine the significance of women's participation in the struggle. Studies published between 1968 and 1988 do touch upon various aspects and dimensions of women's participation in the national struggle for freedom. There are some factual accounts. Some historians have noted the emancipatory effects of such participation. Women's role in revolutionary terrorism has also been described and women have been occasionally discussed as a political nuisance. Some account of contemporaries, who participated in the movement refer to the strength and broad base acquired by it as a whole through women's participation. However, it is important to note that in general, studies on women in the words of modern Indian historians prior
to 1975 relate to women of elite sections of society. The lives and conditions of
the large majority of women, or their response to changing historical forces have
consistently been unexplored and thus marginalised in history. We know little
about the lives, the beliefs or the social background of the mass of women who
entered the movement in different regions, as virtually no work has been done in
the area, except in the last few years. Most of the accounts of women's role in the
national movement are descriptive. They did not examine the reasons or the
implications of this spontaneous upsurge of political activity by women of all
classes. The dominance of elite perspective is best demonstrated by the efforts of
most historians to link women participation in national struggles ignoring the
large number of women from the peasantry and the working class including,
prostitutes, who took part in various struggles directly, or the thousands of
housewives, mostly mothers and wives, who provided indirect support by
shouldering family responsibilities when their men went to jail or got killed. It is
surprising that the socio-economic impact of colonialism on women's lives and
beliefs, turning them into sources of radical inspiration for the youth of East Bengal,
recorded by a British administrator as early as 1907, and repeatedly mentioned by
Gandhi, has received so little attention from scholars so far. Thus the studies up to
1975 on women and Indian nationalism can therefore be described as non-
comprehensive, cursory in nature, and generally a "hostory from above."

The development of women's studies in the post 1975 period, however,
added other dimensions to this explanation. The theory of 'sanskiritisation'-
explaining a long established pattern of social behaviour among upwardly mobile
social group-offered a handy framework for the social status of a family being
linked to 'non-worker' status of women, or their 'withdrawl' from the labour force
among families or groups (caste, community, class) seeking higher status within the social hierarchy. A more outspoken point of view came from a senior demographer, who in his days as a development administrator, had lost a battle to include better economic opportunities for women within the Community Development Programme that 'fuzzy' definitions and silence on the value of women's work was part of a deliberate effort to "Keep women subjugated economically, socially and politically."24 While examining the inter relationship between nineteenth century social reform movement the debate on women's education, and the emergence of a new family ideology among the educated urban middle class, Karlekar found the dominant social ideology of the British middle class of the victorian period. Interestingly propagators of the ideology took little cognizance of not only the reality of roles played by the majority of women but even the "voices from within" of women in their own homes whom they were seeking to educate and transform.25

There are several distinct point of view that seek to explain the impact of the growth of nationalism in the latter part of the nineteenth century on the situation of women and the debate on women's status. Natrajan argued that reform issues, and particularly the women's issue, lost their appeal and fervour by being subsumed within nationalism.26 A similar view was put forward by Ghulam Murshid who places the debates on the women's issue in the early nineteenth century as modernising attempts in response to the generation of western liberal ideas. Sumit Sarkar has argued that there was no autonomous struggle by women themselves to change relations within or outside the family. According to Sarkar, the early attempts at reform were not so much the outcome of western liberal or rationalist values, but more an expression of some "accute problems of
interpersonal adjustments within the family among western-educated families.\textsuperscript{27} Accepting much of Sarkar's critique of the liberal content of the early reformers ideology, Partha Chatterjee argues that the relative unimportance of the women's question in the last decades of the nineteenth century is not to be explained by the fact that it had been censored out of the reform agenda or overtaken by the more pressing and emotive issues of political struggle. In his view nationalism resolved the women's question in complete accordance with its preferred goals.\textsuperscript{28} Chatterjee discovers the ideological framework within which nationalism resolved the women's question. It was a dichotomous framework between the material and the spiritual world. Applied to day to day living, this dichotomy separated social space into the home and the world. The home in its essence must remain unaffected by the profane activities of the material world and woman is its representation.\textsuperscript{29} The absence of any serious examination of the political significance of the acceptance of equality as a basic principle of the Indian Political System also suggests a critical lacuna in academic assessment. Why has this radical departure from the inherited social system been treated so cursarily, even dismissively, by scholars?\textsuperscript{30} A member of the Committee on the status of women in India has argued that this gap in critical analysis has strengthened a dominant tendency among the intelligentsia to view gender equality as the culmination of the nineteenth century social reform movements which threw up women's status as a major issue for debate and change.\textsuperscript{31}

It is interesting to note that while early twentieth century historians and analysts were effusive in acknowledging the contribution of the reform movements in improving women's status, some of the contemporary analysts of the movements keep silent on the issue, not even mentioning why the status of women acquired
such a centre stage focus in all the reform debates. Especially when the critiques are set within the context of the discourses on modernisation, nationalism or revivalism, this extraordinary omission appears to be doubly curious. Inderjeet Kaur has found that a new concept of womanhood is gradually emerging in India which is at odds with the traditional concept of the Hindu woman as a devout wife confined to the home. They are passing through a transitional stage, neither wholly traditional nor fully modern.\textsuperscript{32} According to Geeta Balachandran, government action for women's emancipation or equality can be neither effective nor adequate unless women themselves become more aware of their rights and responsibilities.\textsuperscript{33} However, we can find references in some articles and studies made on the status of women on political grounds, though very few scholars have tried to enquire into the political position of women and their participation in political affairs in a society.

According to Milbraith, it is a tradition in almost all societies that politics is mainly an affair of men and that women should fall in line with them politically. Men tend to be more psychologically involved in politics than women.\textsuperscript{34} Marjorie Lasing points out that women as compared to men are less politically efficacious, less politically interested, have less political information and are less likely to participate in politics.\textsuperscript{35} Herbert Tingsten has made a statistical study of electoral behaviour and party attitude of women and compares them with the men. He finds that women nowhere make use of their vote to the same extent as the men do.\textsuperscript{36} Angus Campbell found the average American women to be lower in political efficacy, lower in political involvement and less in political concept formation than the average male.\textsuperscript{37} However, Susan Welch found in Canada that the sex affects only participation in protest and campaign activities, where men
participate slightly more than women. No sex differences were noted in voting or communal activities. Henry Chafe finds discrimination against women deeply rooted in the structure of society, in the roles women play and in a sexual division of labour which restricted females primarily to the domestic sphere of life. W.S.G. Kohn in his analysis shows that window syndrome is relatively strong in Britain and America but interestingly less in Germany, Australia and Switzerland. According to Marcia Lee, lack of female participation in politics stems from three factors, namely, children at home, fear of sex discrimination, and perceptions of women that certain things are not proper to do.

Gabriele Dietrich points out that politico-legal framework in India is much favourable as far as women's opportunities are concerned. However, women's participation in the parliamentary process does not contribute significantly to improve the position of women in society. V.B. Singh says that women's underrepresentation is conspicuous in a situation when the nation does not discourage women seeking the highest position of political power. It forms part of the syndrome of exclusion from political power. Dayanand Kamath says that, "a woman premier was at the helm of India's affairs for almost two decades. Yet, in general, women's involvement in politics is still low key. According to Madhu Kishwar, one reason for the marginalisation of women is that the ruling elite has undermined the normal functioning of government and other public institutions. This has been determined for all citizens but especially so far disadvantaged groups like women. Women have relatively less ability to use money, muscle power and other forms of influence in the public sphere. Another important reason, why women cannot make it on their own in electoral politics is that electoral politics in India today is increasingly
relying on violence.\textsuperscript{45}

Thus most of the studies on women are oriented toward political participation. But there is no systematic study on Human rights in the context of woman and the violation of Human Rights. Hence the importance of the present study.

**Conceptual Setting**

One of the important contributions of the classical, medieval, modern and contemporary social and political thought to the culture and the civilizations of mankind can be traced in the reiteration of human rights. Struggle to preserve, protect and promote such rights has remained till this day in each generation of the people belonging to human society. The slaves fought for their rights against masters, the serfs against the feudal lords, the workers against the capitalists, the females against the males and so on. It is as a result of such struggles that the committed fighters could get something in the form of a great charter signed by the heads of the states or a great declaration made by their leaders to herald a new order. The case of human rights has now assumed a significance of its own because of the new realisation that they, in the words of Andrei Sakharov, like peace and welfare of the world, are indivisible. The matter though discussed at various international, multinational and regional meets has now come to have a concrete form of its own after the General Assembly of the United Nations adopted the Universal Declaration of Human Rights in 1948. Further developments in the same direction have made miracles in changing the minds and thoughts of the people who, like Plato and Aristotle, are engaged in search for a good life that is now termed as quality of life. It is well said, "The central characteristic of the twentieth century which so profoundly demarcates it ideologically from previous
centuries, is that a world in which obligations were taken for granted has been transformed to one in which rights are presumed to be in alienable.46

The most startling feature of the concept of human rights is that" they may be difficult to define but impossible to ignore ".47 The theorists and the ideologues, or the politicians and the statesmen, may quarrel about the forms of government or the principles of statecraft, they cannot repudiate the facts of torture, hunger, genocide, arbitrary detentions in concentration camps and the like. The colour of the skin of a people may be white or black, the level of mental make up of a people may be high or low, the way of life of a people may be modern or primitive to the core, the essential reality of all belonging to the species of human race cannot be dismissed by any stretch of imagination. Man as a member of the human society has some rights in order to survive as well as to make his life better. According to A.A.Sayeed," Human rights are, therefore, concerned with dignity of the individual - the level of self esteem that secures personal identity and promotes human community.48

The American Secretary of State( Cyrus Vance) in his address on Human Rights (1977) defined the case of human rights as having three essential features: "First, there is the right to be free from governmental violation of the integrity of the person. Such violations include torture, cruel, inhuman or degrading treatment or punishment, and arbitrary arrest or imprisonment. And they include denial of free public trial and invasion of the home. Second, there is the right to the fulfilment of such vital needs as food, shelter, health care and education. We recognise that the fulfilment of this right can be violated by government's action or inaction for example, through corrupt official processes which divert resources to an elite at the expense of the needy, or through indifference to the plight of the poor. Third,
there is the right to enjoy civil and political liberties." It would not be wrong to say that the doctrine of human rights is a reinterpretation of the classical doctrine of natural rights in as much as they express virtually all the requirements of practical reasonableness. And the principles of practical reasonableness are those which make possible the achievement of the end of the basic goods of human flourishing by connecting up nature and reasoning. These basic goods include life, knowledge, play, athletic experience, socialibility and religion. Human rights have a part in this account of human flourishing by providing the infrastructure by means of what it is achieved. And they can be accepted as part of natural law doctrine despite their rather unfortunate associations with fanatics, advertisers, and self interested persons for three reasons. They stress equality and make of justice a prominent political issue. They are anticonsequentialist by their insistence that moral worth is to be judged not by the effect of an action, but by whether or not, it would be right to do in the first place according to certain ends that must be respected. And they provide together a check list of the aspects of human flourishing.

But in this context, the advocates of human rights doctrine may be divided into two groups the minimalists and the maximalists. While the former (as HAL Hart) contend that human rights do embody minimum content of natural law, the later (as John finnis )contend that human rights cover a wider whole. Robert Nozick also belongs to the first category who takes the rights of the individuals to be so strong and far reaching as to what it may do, political theory is for him a question of the room left to society by the individuals. But as human rights cover the people of the world as a whole, they become a part of the world social process, the institutional expression of which is the institutional law of human rights. "And
if international law is in some degree an inter-cultural law as well, we may appeal to it as evidence for the existence of universal standards of human rights. 52

In a different sense, human rights are a species of moral rights; they are moral rights in which all persons are equal simply because they are human. To call them moral is to say that they are based upon or justifiable through a valid moral principle 53 Gewirth offers following reasons for basing human rights as the necessary conditions of human action. 54 These include:

1. These conditions are undeniably of supreme importance. They indicate at once why every actual or prospective agent must be concerned with human rights, and they also indicate why these rights must take precedence over all other practical criteria or requirements, including those that bear on objects or conditions of action that are of lesser stringency.

2. To tie human rights to the necessary conditions of action is to connect the rights directly with morality, since action is the common subject-matter of all moralities.

3. The necessary conditions of action have more specific and less disputable contents than may be attributed to the concepts like dignity and flourishing.

4. It serves to emphasise that the ultimate purpose of the rights is to secure for each person a certain fundamental moral status. All human rights, those of well being as well as of freedom, have as their aim that each person has rational autonomy in the sense of being a self controlling, self developing agent who can relate to other persons as a basis of mutual respect and cooperation in contrast to being a dependent, passive recipient of the agency of others.

5. It provides a way for giving a rigorous proof of justification that there are such rights. The proof proceeds by showing that every agent, on pain of
contradiction, must hold that he has rights to freedom and well being as the necessary conditions of his action.

6. The central and fundamental character of human rights does not mean that all such rights are absolute. But when a human right is overridden, it must be by another human right, especially when the latter's object is more necessary for action than the former's. Even when a right is overridden by considerations of the general welfare, the latter criterion, to be genuinely overriding, must be composed of the rights of individuals. The unique importance of human rights among moral concepts also does not mean that the concept of rights is a self-explanatory or self-justifying, for the rights are based on certain necessary goods as their objects. And the moral basis for the sequence for necessary goods to human rights also indicates a requirement about the necessary and equal distribution of these goods. A perfectly plausible definition of the term 'human rights' would be that they "are the rights that everyone has, and everyone equally by virtue of their humanity. They are grounded in our appeal to human nature." As such, their main implications and characteristic features may be enumerated as under:

1. It means, in the first place, that everybody has them. The subjects of human rights are not the members of this or that society, but of the community of human kind. There is no question about full membership in this community, for example, for children or the insane. And there is some doubt as to whether groups can count as members in the sense of themselves being subjects of human rights. But the basic justification for holding human rights is to belong to the human race.

2. The objects of human rights, like those of plain rights, are of great importance. But just as rights may be said to override mere rights, the human rights to life may be judged to our rank in a situation where there is a contest between them, a right
under a particular civil law, say, to the use of land among trumps, it may be said, human rights are the coloured cards, and this is what is meant by reference to human rights as absolute rights. It does not mean that human rights are indivisible. It means only that they are, in general, of the greatest importance.

3. The exercise of human rights might have a more restricted range than that of civil rights. We referred earlier to claiming, asserting, demanding, enjoying, protecting and enforcing a right. In the case of human rights the assertive end of this spectrum is the most prominent. For very often human rights are appealed to when the claims they encompass are not locally acknowledged in positive law. \(^{37}\)

4. There is the question of the location of the duties that are correlative with human rights. In this regard it has been argued that there are universal human rights both in a strong and a weak sense. Rights in the strong sense are held against everybody else. Rights in a weak sense are held against a particular section of humanity. Everyone has a right to life against everyone else; there is general duty to respect it. But if everybody holds, say economic and social rights, it is against a particular government; duties are laid only on the responsible authorities. Thus, all basic human rights are said to have three correlative duties-duties to avoid depriving, duties to protect from deprivation, and duties to aid the deprived. According to circumstances, the duty bearers may be different and the particular duty varied by aid in a natural disaster, avoidance of deprivation in a monopolistic market. But basic rights trigger all these kinds of duty. \(^{58}\)

5. What is characteristic of the justification of human rights? It is not an appeal to this statute or that contract, for if the rights in question were written into the statutes or contracts, those provisions under municipal law would by themselves be a sufficient justification. The justification of human rights moves up one level
to global international law (e.g., International Covenant on civil and political Rights and International covenant on Economic, social and cultural rights.) so that the appeal is that standards internationally recognised should be met by domestic practice. And there is a level above these which is the ultimate justification of human rights. It is the level at which what is appealed to is not any kind of positive law, but is what ought by some rational calculation to prevail.  

There is a famous and celebrated maxim that liberty lives within restraints. As such, no right is absolutely immune from restrictions. It is equally true that the excess of restrictions cripples, even destroys, the scope of rights which cumulatively constitute the liberty of the individual. Thus, a pertinent question arises as to what restrictions should hedge a right or a set of rights. In the context of human rights a question arises as to how rights are to be protected in their positivised form as basic legal rights in the process of their identification, specification and concretisation through legal provisions is a crucial practicable problem. A plausible answer to such a query is that the restrictions must be of a reasonable nature and the issue of reasonableness must be decided by the courts. In this regard we may refer to the observations of the Turkish Constitutional Court which, in a number of cases has ruled that a limit is to be taken as an encroachment upon the core of rights when:  

(a) It makes the exercise of the right of freedom according to its purpose, extremely deficient or even impossible; (b) it binds a right to such conditions as to make it important; (c) it is explicitly prohibitive; (d) it is implicitly prohibitive; (e) it makes the use of right extremely difficult; (f) it hinders the realisation of its purpose; (g) it takes away its efficiency; (h) it makes benefiting from the right dependent on prior general licensing permission; (i) it is introduced by very vague
provisions open to a number of interpretations; (j) it removes a right generally; (k) it is so extensive that the exercise of the right becomes impossible directly or indirectly impeded; (l) it creates an unjustifiable inequality; (m) it is permanent; (n) it introduces qualifications above or beyond the legitimate ones, and; (o) it imposes obligations on an unqualified right.

It is however, remains to be seen that the difficulty in defining human rights arises from the fact that there is no single and simple conception of its real meaning. It has, in fact, varied from time to time, place to place, people to people. Even within the same society the perceptions vary from one level to another. The real meaning keeps on evolving with the changing times and under constantly shifting social and economic conditions. It makes a line of difference between human rights in general and particular rights of a particular people at a particular time and place. While the latter flow from the duties of particular people in particular situations, the former have their concern with all people irrespective of their place of birth and social position. However, the important point to be noted here is that what varies in different times and places is not the nature or content of the rights as such as it is the extent of their implementation in the midst of limitations of a diverse kind. "The foundational norm governing the concept of human rights is that of the respect for human personality and its absolute worth, regardless of colour, race, sex, religion or other considerations. These rights are essential for the adequate development of the human personality and for human happiness. Without getting involved in definitional variations, therefore, human rights may be said to be those fundamental rights to which every man or woman inhabiting any part of the world should be deemed entitled merely by virtue of having been
born a human being.\textsuperscript{69}

However, the dictionary meaning of the expression would be: (Human = pertaining to mankind, rights = according to truth and justice): dealing with mankind according to truth and justice.\textsuperscript{61} Whenever an attempt is made to define concepts in social sciences, one is confronted with problems. Observation of Paul H. Appleby is worth noting in this regard. He is of the view that in normal fashion the discussion would begin with some definitions. But definition in social sciences is generally difficult, and often the source of the misunderstanding one seeks to reduce. Definition is particularly difficult when it has to do with living, complex processes; when achieved, it is often so broad as to have little meaning.\textsuperscript{62}

Harold J. Laski observed, "Rights are those conditions of social life without which no man can seek in general, to be himself at his best," Prof. Hob House put it as, "Rights are what we expect from others and others from us and all genuine rights are condition of social welfare. Rights every one may claim are partly those which are necessary for fulfilment of the functions that society expects from him. They are conditioned by co-relatives to his social responsibilities."\textsuperscript{63} There are certain rights which "The law of nature" gives us as "Human Beings." For example right to life, right to freedom, right to marry and right to live with dignity etc. These rights are considered as "Human rights" because they are very essential for our growth as persons and to lead a dignified life. They are also important because they affect us in our day to day lives. Some people consider human rights as "generally accepted principles of fairness and justice". Human rights have also been defined as "Universal moral rights that belong equally to all people because they are human beings."

According to Boutors Boutors Ghali, United Nations Ex. Secretary General,
"The human rights are not the lowest common denominator among all nations, but rather the irreducible human element; in other words, the quintessential values through which we affirm together that we are a single human community."  

V.R. Krishna Iyer has described, "Human rights and fundamental freedoms as indivisible. But the full realisation of civil and political rights, and cultural rights; is impossible. This process of realisation calls for legal positivisation, not political polemics nor diplomatic clap trap but normative formulation. But what are human rights? I may discover that the religion of man is located in the vedas, Budhist Texts, Bible, the Quoran or the holy literature or other authentic teachers to uphold human divinity. Every human being is a divine being and is entitled to dignity, liberty, equality and other basic rights. We cannot understand or evaluate human rights divorced from historical and social context. Idle ideals and empty assertions cut no ice. The status of human rights takes us to the lifestyle of society.  

Prof. Hart in his concept of law points out that there are certain fundamental rules which are absolutely necessary if human beings are to live together. Justice Holme referring to natural law stated that it "is a purely inductive statement of certain minimum conditions we cannot do without if life is to be decent." Grotius, asserted that "natural law is so immutable that it cannot be disobeyed by God himself." Human Rights is a twentieth century name for what has been traditionally known as natural rights or fundamental rights of man. It is clear that Human Rights are universal, they belong to all people just because they are human beings. People are equally entitled to them.

The Setting of present study

The present Haryana, a tiny state of 27,638 square miles, which came into existence on 1st November, 1966, was carved out of Punjab. The south east portion of the
Punjab, which is now known as Haryana, had came into the possession of the British much earlier than the rest of Punjab. The British East India Company had established itself in the Delhi territory including most of the present Haryana in 1803 itself after the Maratha's failure and their consequent withdraw to the south. It came to form part of the Delhi division under the Lt. Governorship of the North West province of Agra and Oudh. The dominant popular culture in Haryana is both caste and class based. It emerges closely associated with a specific dominant caste and yet is widely dispersed among different social groups that make up the social fabric of Haryana. This dominant popular culture thus often exases divisions and dissimilarities between the cultural formulations of different social groups. In this sense the popular culture of the region must be distinguishsed from popular culture as generally understood, i.e., necessarily associated with the Subaltern classes. The culture of this region which can be termed as 'peasant' culture emerges as simultaneously 'dominant' and 'popular' with layers of Subaltern cultures under its hegemonic fold. This dominant popular culture is also distinctly different from the high caste Brahmanical culture identified with the great tradition as found in certain other parts of India. The ritually higher caste of Brahmins can, infact be seen to follow the cultural practices and dominant customs of this region in preference to the Sanskritic cultural model. Yet this dominant popular culture does not work to the exclusion of other cultural strands, and encompasses both the ritually higher as well as the submerged lower castes in a dynamic and flexible relationship. We see many of their cultural practices operating independently, and frequently in direct contradiction of and opposition to the dominant popular culture.

The colonial administration and its attitude in pre independent India retained and reinforced the dominant social ethos of rural Haryana. This social etho was
permanently to colour and influence the subsequent changes brought about in India. In fact those fifty years of independence have put the rural women in an altogether different rural setting. The introduction of wide reaching agro economic changes have successfully catapulted this region from a backward subsistence level economy to becoming the second richest state in India. The present day Haryana region in Punjab roughly approximated to the Ambala division, minus its Simla district. The Ambala division also underwent a few territorial changes after independence. Now the state has nineteen Districts. Geographically, it surrounds the national capital on three sides and is hemmed in between Uttar Pradesh on the north and Rajasthan in the South.

This region in the Colonial period, remained one of the most backward and under developed regions of Punjab. The needs of imperialism gave low priority to any improvement of agriculture in this region. It was seen primarily as suited for the supply of draught animals to the rest of Punjab, as also in certain other parts of India. The determined efforts of the British to retain it as such are reflected in their irrigational policies, emphasis on low value food-cum-fodder crops, and in their attempts to curb the limited efforts made at substitution of fodder crops by other crops, which might adversely affect this region's cattle wealth. Animal husbandry emerged as a necessary supplement to this region's subsistence level economy. The perpetuation of this backward economy proved to be very helpful to imperial interests, as the impoverished tract became a major recruiting area for the British Indian Army. The exposure to the forces of modernisation, the process of westernisation, introduction of modern educational system, reform movement, role of caste associations and the constitutional reforms during the British Raj brought about a marginal change in Haryana's traditional culture. That change
influenced only a microscopic minority of urbanised educated people.

The population of the state as per 1991 census was 16,317,715 which was higher by 26-28 percent over the population of 1981. The density of population in Haryana as per 1991 census was 369. According to the size of population, the state was ranked at fifteenth place among the States and Union territories of India. Its population forms 1.93 per cent of the total population of India. The sex ratio of the state is 874. In the total population of Haryana, 8,705,379 were males and 7,612,336 were females. The population residing in rural areas of Haryana constituted 1,22,72,545 and that in urban areas 40,45,170. The literacy rate of the state as a whole as per 1991 census, was 55.33. Among males it was 67.85 and among females it was 40.94. As per the 1991 census, female population in Haryana stood at 46 per cent which is proportionately distributed between the rural and urban areas. Only one third of the total female population in the state is literate while in urban areas the position of literate women is 40 per cent, it is as low as only 31 per cent in case of rural females. The females population constitutes a woefully low of about 10 per cent of the total work force and about 12 per cent of the total cultivators. Almost 13 per cent of the agricultural labourers are women, and, most significant, 94 per cent of the marginal workers are female. The current sex ratio of Haryana's population is 865 females per thousand males while at all India level it is 929. The female literacy rate is merely 40.94 per cent with the literacy rate of scheduled caste women being only 25 per cent in comparison with the male literacy rate of 59.10 per cent. As per the statistics of 1991-92, 92.5 per cent boys receive primary education as compared to only 81.1 per cent girls get middle school education. The infant mortality rate for boys is 80 per 1000, while for girls it is as high as 102 per 1000. As per the 1991 statistics haryana has
4,259,446 full time male workers as compared to 4,58,880 women. These demographic indicators like accelerated decline in sex ratio, mortality and economic participation are disturbing. Since women have less access to education, employment and health facilities, their social position in Haryana is precarious and it is a cause for concern. The percentage of workers in the total population of the state was 30.83 during 1991. This ratio was 47.92 per cent among males and 11.29 per cent among females. The people of Haryana speak many dialects of western and Rajasthani Hindi. Although the official language of the state is Hindi, a few other dialects are also very popular here. The other languages which are spoken in the state are Punjabi and urdu. The people of Haryana profess many religions. Like the existence of various castes, the religions in Haryana are also many. The three most popular religions of the state are: Hindu, Sikh and Muslim. Ninety nine per cent of the total population is the follower of any of these religions. The other religions of the state are: Jainism, Budhism and Chirstian.

The per capita income of Haryana region in 1966-67 was Rs 343 which rose to Rs. 2370 in the year 1980-81. During 1989-90 it was Rs. 6026 at current prices and Rs. 3124 at the prices of 1980-81. The similar figures for India as a whole were Rs. 4252 and Rs. 2142 respectively. Haryana is primarily an agricultural state. About 80 percent of its people depend on agriculture for their livelihood. Foodgrains production had a quantum jump from 25.92 lakh tonnes in 1966 to 94.83 lakh tonnes in 1988-89. Today, Haryana is not only self-sufficient in foodgrains production but also among the top contributors of food grains to central pool which stands at 30-35 lakh tonnes. Like agriculture, the associated activity of animal Husbandry also is well developed in the state. Because of the suitable agro-climatic conditions some of the country's best breed, both milk and
draught variety, are found in the state. The state has a very sound industrial base. Small scale units have increased more than nineteen fold from 4,519 in 1966 to more than 86,100 in the year 1989-90. Haryana produces the largest numbers of tractors in the country. One unit of every four bicycles is manufactured here besides around one-third of country's production of sanitary wares. Panipat has earned the reputation of being the weavers city of India for its exquisite hand tufted woolen carpets and colourful handloom products. There are 400 large and medium scale units in the state. Greater emphasis is being laid on dispersal of industries in rural areas. Under the scheme, 34,488 units have been set up, manufacturing a wide range of products, employing 87,892 persons. Haryana is beneficiary of the multi purpose project on Sutlej and Beas where it shares benefits with Punjab and Rajasthan. Major irrigation projects are western Yamuna Canal, Bhakra Canal system and Gurgaon canal. The state has completed Jui and Siwani Lift irrigation schemes and Jawaharlal Nehru irrigation schemes, the biggest of its kind and Loharu lift irrigation scheme. Power generation and distribution systems have been augmented manifold. Consumption of power which was 17 lakh units a day in 1966 is now around 250 lakh units a day. 21 Number of grid sub-stations including polimounting sub-stations in the state have risen from 5,437 to 60,477. 24 In rural electrification Haryana has an impressive record of being the first state to have electrified all its villages. More than 4,376 villages already provided with street lights. In the year of formation of Haryana only 170 villages out of a total of 5,686 had access to safe drinking water. At present more than 5,600 villages have this facility round the year. 25 Haryana has 21,273 Kms. of motorable roads of which only 2000 Kms. are unmetalled. National Highways runs to 655 km. Rail routes
to Hawrah, Madras, Bombay, Agra, Ajmer, Ferozpur, Chandigarh and Jammu cross through the state. Delhi and Chandigarh airports on eastern and northern boundaries link the state with other major national and international stations. At present there are six civil aerodromes at Hisar, Karnal, Pinjore, Narnaul and Bhiwani with all weather pucca runway.

The political scenario in Haryana will baffle any observer who applied the logic which normally operates in a democratic polity. The democratic ethos is yet to strike roots in the state. An identity of its own, the presence of reform movements, orderly growth of towns, the emergence of a middle class elite, the flowering of language and literature, are a few factors which determine the social and political consciousness in a state. These factors have been largely absent in the Haryana. Instead, the social cleavages are very conspicuous in the state. It is of two kinds Jat versus Non-jats and the town versus the country side. In sum, the Haryana society has lost its cohesiveness and is riven with sharp dissensions. No government can remain stable for long once its legitimacy comes under question at the hands of a big chunk of the population. The social organism is highly fractured and disjoined. The rural urban divide in Haryana has assumed frightening proportions. There is an ugly face of casteism in the state. In fact, it is a jat versus non Jats in the state as a whole. According to D.R. Chaudhary, between the patriarch and the trader there is a third trend which stands for democratic polity. There is an urgent need to strengthen this trend to restore health to Haryana society. Individuals and groups are emerging in Haryana today for whom politics is not a dirty game, nor honesty an empty word. After the demise of the political culture represented by the patriarch, there has ensured a grim battle between the trader and the democrat.76

The introduction of democratic polity based on the principle of equality,
universal adult franchise, economic development through planning, rapid spread of educational facilities and the politicisation of masses have brought about some changes in the traditional culture of Haryana. The democratic values of equality, rational and scientific outlook, achievement orientation and other modern values have been injected into the traditional value system. But the change has been very slow and imperceptible. The traditional values continue to influence social behaviour. However, their hold has been weakened to some extent. The mixed neo-traditional value system has led to the following political consequences:

1. It has led to a mixed of neo-traditional political, culture, the hold of parochial loyalties is very strong.
2. It has reinforced an authoritarian outlook in the political elites and submissiveness in the masses.
3. There is lack of political articulation in the masses.
4. The levels of political awareness, political efficacy and political interest are very low.
5. There is a great gap between the rulers and the ruled.

**Focus of the Study**

The review of literature and concept of Human Rights as an immediate background, our focus here is directed to the study of women prisoners in the state of Haryana. It is clear from the foregoing discussion on the review of literature that very little work has been done on Human Rights, women prisoners have been mostly ignored. Despite the efforts of the central and state governments, women organisations; National Human Rights Commission and National Commission for women and other agencies to study the problems of women; no systematic efforts have so far been made to investigate human rights conditions of women prisoners. With the exception of a few occasional brochures, pamphlets and handouts, the political parties have also not given attention to the problem. When
one looks literature on Human Rights perspective in India, he would highly disappointed. There is absolutely no published work available on this subject. Even unpublished work is not available on the subject in the state of Haryana. The dearth of literature on Women prisoners in Haryana in human rights perspective, has prompted us to take up this study on women prisoners in the state of Haryana. Hence the importance of the present study is obvious.

**Main Focus of the Study**

In brief our focus here in the present study is to examine and analyse:

(a) Socio Economic background of women prisoners;
(b) Socio-economic rights of women prisoners;
(c) Environmental rights of women prisoners; and
(d) Civil and political rights of women prisoners.

**Methodology**

In Haryana there are two central jails. These are situated in Ambala and Hisar. There are twelve district jails in the state of Haryana. These are situated in Karnal, Kaithal, Kurukshetra, Panipat, Jind, Sonepat, Rohtak, Gurgaon, Rewari, Mohindergarh, Bhiwani and Sirsa. There are three subjaals. These are situated at Jagadhari, Ballabgarh and Palwal. There is only one Borstal Institute and Juvenile jail in the State of Haryana. This Jail is situated in Hisar. Central jail Ambala has women cell. There are women cells in District jails of Karnal, Rohtak, Gurgaon, Bhiwani and Sirsa. But some of these jails are not having women prisoners due to administrative reasons. Bhiwani and Sirsa jails were not having women prisoners. Matron of Women Cell of Bhiwani retired and women prisoners were transferred to Borstal Jail Hisar. Borstal Institute Hisar is unique institute in the state of Haryana for women prisoners. Both categories of women prisoners, convicted
and undertrials; were incarcerated there. At the time of investigation there were ninety convicted women prisoners in the institute. We took all convicted women for the study. Therefore no problem of sampling arised. We took ninety undertrials to pace the number with convicted by random method.

In term of scope, the study seeks to provide initial step towards the right of women prisoners in the state of Haryana. Selection of jail is justified because of a separate prison for ocation for our respondents for primary data collection. For the purpose of the collection of data both the primary and secondary sources of data were adopted. For primary sources of data responses of the respondents women prisoners were collected through interview. For secondary source of data books, journals and pamphlets were taken into accounts. Interview of respondents was conducted through structured as well as non-structured questionnaire. Questionnaire was having both types of question that is open ended and close ended. The questionnair employed for the present study consisted of several individual bloc. The information from respondents was taken on various aspects as: Socio-economic status of respondents; Socio-economic rights; Environmental rights of the respondents; and Civil and political rights of the respondents.

For proper understanding of the respondents the questionnaire was translated into Hindi and was pretested on few prison inmates and then final draft of the questionnaire was prepared. The respondents began in a slightly defensive and reticent vein especially undertrials. They gradually opened up once they felt assured of the investigators intensions and did not feel threatened in any way. In a majority of cases, the respondents broke down during the course of interview. However, inspite of this most of the respondents were coperative in the
investigation. Broadly speaking the study is exploratory in nature and the conclusions are tentative. The information thus collected, coded and tabulated has been given in tabular format in the preceding chapters.

**Plan of Chapterization**

The scheme of chapterisation is given below. The data and information collected for the study have been classified in six chapters including the concluding chapter.

Chapter one touches upon the importance of the study, review of literature, conceptual frame, the universe of study and the methodology.

Chapter two deals with the machinery setup for human rights at various levels. It describes the history of machinery and mechanism of human rights commission.

Chapter three examine the women prisoner's rights as human rights.

Chapter four describes the Socio-economic background of women prisoners.

Chapter five discusses the human rights of women prisoners.

Chapter six concludes the main findings of the study.

In the next chapter we have attempted to describe in brief the setting and evolution of the human rights machinery at various levels.
References

14. Articles 29(2) and 30 of the Universal Declaration of Human Rights


40. Gabriele Dietrich,"Personal is Political: Women and the Process of Politi-


47. Sayeed, Ibid, p. xi.


52. Ibid, p. 50.


54. Ibid, pp. 5-6.

55. Ibid, p. 10.

56. Ibid, pp. 10-11.


66. Ibid, P5.


68. British created the Ambala division of Punjab which included six districts i.e. Rohtak, Hisar, Gurgaon, Karnal, Ambala and Shimla.


70. Ibid, P64.


74. Ibid, P768-69.

75. Ibid, P769.
