ORIGIN AND DEVELOPMENT
OF HUMAN RIGHTS
2.1 Introduction

In this chapter an attempt is made to analyse the origin and development of human rights which is of great importance today.

Man as a member of human society has some rights in order to survive as well as to make his life better. All human rights derive from the dignity and worth inherent in the human person and that the human person is the central subject of Human Rights and fundamental freedom. In simple terms, whatever adds to the dignified and free existence of a human being should be regarded as Human Right\(^1\). Evolution and crystallization of the concept took a long time. In recorded history and ancient scriptures, there have been references to basic Human Rights, though they were not referred to by that name. According to the Atharva Veda:

"Man is not an individual. He is a social organism. God loves him only, who serves other beings; men, cattle and other creatures. His glory lies in being a member of a big family. On the one hand, man is bound by blood, kinship, his parents, his wife, his children and on the other, he is linked with every individual of society whether near or far, it is given to man to link himself with those who could be his posterity. Man thus lives, works and
dies for society possessed of certain inalienable rights. Man is expected to develop his craft, sciences and technology, and lead society from poverty to prosperity, with a happy today and a happier tomorrow. Although most observers regard the formation of the United Nations and the promulgation of the Universal Declaration of Human Rights as the beginning of the modern struggle to protect human rights, one can trace the origin of human rights back to early philosophical and legal theories of the Natural Law, a law higher than the positive laws of states. According to these theories, individuals were entitled to certain immutable rights as human beings.

According to Fuller, natural law would embrace the following beliefs: "There is an ideal system of law dictated by God, by the nature of man, or by nature itself. This law is enacted by God; hence it is obeyed by all. It accepts the rights of all without any discrimination. Before God all are equal in dignity and rights. The uniqueness of natural law is so important. According to Grotius: "Natural law is so immutable that it cannot be disobeyed by god himself." Hence natural law is considered to be the supreme law of all other laws.

Modern jurisprudence conceives all rights as relative or as products of particular socio-economic orders prevailing in the nation. Rights are essential
for the decent living of man. Justice Home 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". This statement clearly reveals the fact that without certain conditions, we cannot live with dignity, rights pertaining certain controls over man and his behaviour towards the society. The idea of rights is indispensable to modern moral discussion and it is as old as the institution of human society. The idea of a right belonged to man. It is the main significance of this idea. It stands for the total progress of a man. The idea of Natural right derived from the idea of Natural law. The concept of human rights has been evolved from the concept of natural rights. The development of the idea of natural rights found its base in England. Though the development of human rights and their recognition and protection on international level can be divided into different periods.

### 2.2 Natural Law and Natural Rights in Ancient times

Historically the idea of natural rights is very old. It begins with the claim which everybody naturally makes. Each and every individual can enjoy their rights only when these are recognised and guaranteed by the law of the
land. Every individual has some natural, noticeable, fundamental, inherent, absolute and sacred rights by birth. According to Marcus Tullius 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 God is Natural Law”. Hence natural law is an ideal system of law dictated by nature of man or by nature itself.

2.3 Natural Law and Natural Rights in Middle Ages

The concept of Natural Law was elaborated during the middle ages and is found in the works of Christian Theologians. They followed, the belief that the Law of God, exists above all human laws. According to St.Thomas Aquinas, “Natural Law was the participation in the eternal law of the mind of a rational creature”. The state is subject to that law which determines the relation of the individual to the state. The justification of the state determines the service to the individual. A king who is unfaithful to his duty forfeits his claim to obedience. Hence 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.
2.4 Natural Law and Natural Rights in the 17th and 18th Centuries

The scientific and intellectual achievements of the 17th century, the discoveries of Galileo and Sir Issac Newton, the materialism of Thomas Hobbes, the Rationalism of Rene Descartes and Gottfried Dithelm Seibniz, the Pantheism of Benedict de Spinoza, the empiricism of Francis Bacon and John Locke, promoted a belief in natural law.

In the eighteenth century, the law of nature had begun to assert itself to protect the individual against the power of state. This culminated in the great general declarations of the rights of man in France in 1789, and in the United States Constitutional Amendment of 1791.

2.5 Natural Rights and Doctrine of Humanitarian Intervention in 19th century.

After the French Revolution the doctrine of natural law was a doctrine of abstract and immutable principles of eternal and inviolable human rights. In Germany, reactions against the philosophy of natural law emerges with 'historical School of Jurisprudence', but in India the doctrine of 'humanitarian intervention' has been involved on account of Nationals or inhabitants of
foreign countries\textsuperscript{11}. Humanitarian intervention is essential to protect Human Rights. ‘Humanitarian’ implies a ‘man with certain values’. Respect of Human Rights comes from adherence to higher values of life. Today there is a lot of tension, restlessness and misery all over the world, due to the lack of human values in everyday life. Hence it is essential to practice a value based life for the protection and promotion of Human Rights.

Efforts to abolish slavery and the slave trade also arose during the nineteenth century. Human rights concerns motivated the formation of the Red Cross to give relief to the wounded and other victims of armed conflicts. In addition, the late eighteenth and nineteenth centuries saw the codification of human rights guarantees in national constitutions. The term Human Rights was introduced in the United States Declaration of Independence in 1776 and the U.S. Constitution embodied a Bill of Rights. French Revolution gave birth to the Declaration of Rights of man and citizen in 1789. In 1929, Institute of International Law, New York, U.S.A., prepared a Declaration of Human Rights and Duties. In 1945, the Inter American Conference passed a resolution seeking establishment of an International Forum for the furtherance of Human Rights of mankind\textsuperscript{12}. 
The Charter of the United Nations Organisation in its preamble declared “We the people of the United Nations determine to reaffirm faith in the fundamental human rights, in the dignity and worth of human person, in the equal rights of men and women and of the Nations large and small”. The Charter also declared that the purpose of the United Nations is “To achieve international cooperation 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”. The United Nations also proclaimed the Universal Declaration of Human Rights in 1948.

The first documentary use of the expression human rights could be seen in the Charter of the United Nations which declared promotion and fostering of human rights as one of the basic goals of the United Nations. The harrowing experience of the Second World War gave rise to the conviction that effective international protection of human rights is one of the essential conditions of international peace and progress. The second world war, witnessed not only tremendous loss of lives and properties but ruthless degradation of human rights. At that hazardous moment the United Nations
which arose like a phoenix out of the ashes of the second world war put
utmost stress on promotion and fostering of human rights and basic freedom. For the protection and promotion of Human Rights, the United Nations have
made several attempts.

2.6 U.N. Charter

The United Nations Charter is the first multinational multilateral treaty
on human rights. Human rights are those rights which every human being
should enjoy. The provision in the Charter also place emphasis on equality
or non-discrimination which is clearly linked with the concept of universality.
Article 55 of the U.N. Charter provides:

"With a view to the creation of conditions of stability and well-
being which are necessary for peaceful and friendly relations among
nations based on respect for the principle of equal rights and self-
determination of peoples, the United Nations shall promote universal
respect for, and observance of, human rights and fundamental
freedom for all without distinction as to race, sex, language or
religion". 
2.7 International Bill of Human Rights

The charter of the United Nations does not further define the contents of human rights. In accordance with the principles of the charter, the competent organs of the United Nations strove to formulate an international bill of human rights and to define the scope and extent of the inherent rights of man. The international Bill of Human Rights comprises:

(a) Universal Declaration of Human Rights (1948),

(b) International Covenant on Economic, Social and Cultural Rights (1966),

(c) International Covenant on Civil and Political Rights (1966).

These international covenants and the optional protocol deals with almost all aspects of human rights.

2.7.1 Universal Declaration of Human Rights

The Universal Declaration was adopted by Resolution 217 (111) of the UN General Assembly. It was not intended to impose legal obligations on states, but rather to establish goals for states to work towards. It was a
“common standard of achievement for all people”. Thus, the operative part of the Resolution reads as follows:

Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and 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 UDHR was adopted by the General Assembly of the United Nations in Paris on December 10, 1948. Mrs. Eleanor Roosevelt, who chaired the session, expressed the hope that the Declaration would become the ‘Magna Carta’ of all mankind. The Universal Declaration of Human Rights is a milestone in the history of the human rights movement. Hence 10th December is observed as the World Human Rights Day every year. The Declaration consists of a Preamble and 30 Articles setting forth the basic human rights.
and fundamental freedom to which all men and women everywhere in the world are entitled without discrimination.

The Declaration enumerated the basic postulates and principles of human rights in a most comprehensive manner. It was rooted in the conviction 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.

2.7.2 **International Covenant on Economic, Social and Cultural Rights**

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by the General Assembly on 16 December 1966. The covenant has a Preamble and 31 Articles divided into five parts. This covenant contains a longer and much more comprehensive list of economic, social and cultural rights than the Universal Declaration of Human Rights.

The Preamble to the covenant serves as an introduction to the articles which follow. The first paragraph of the Preamble is a statement of general principle that recognition of the inherent dignity and of equal and inalienable rights of all members of the human family is the foundation of freedom,
justice and peace in the world\textsuperscript{20}. This clause has been taken from the first paragraph of the Preamble to the Universal Declaration of Human Rights.

The second paragraph of the Preamble to the covenant recognizes the origin of human rights by stating that they derive from the inherent dignity of the human person\textsuperscript{21}.

The third paragraph of the Preamble recognizes that in accordance with the Universal Declaration of Human Rights, the ideal of free human being enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights\textsuperscript{22}. This paragraph of the Preamble underlines the importance of not only economic, social and cultural rights but also of civil and political rights.

In the fourth paragraph of the Preamble, it is said that the states are reminded of obligation under the charter of the United Nations to promote universal respect for, and observance of human rights and freedoms\textsuperscript{23}.

Finally, each individual has duties to other individuals and to the community to which he belongs and it is considered the responsibility of
each individual to strive for the promotion and observance of the rights recognised in the present covenant.

2.7.3 International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly on 16th December 1966.

The covenant has a Preamble and 53 Articles divided into six parts. This covenant contains a longer and much more comprehensive list of civil and political rights than the Universal Declaration of Human Rights. All the civil and political rights enshrined in the charter have been drafted with specificity. The Preamble and articles 1, 3 and 5 of the Covenant on Civil and Political Rights are almost identical with the Preamble and articles 1, 3 and 5 of the International Covenant on Economic, Social and Cultural Rights. In the third paragraph of the Preamble of the two covenants there is difference in emphasis usages. In the International Covenant on Civil and Political Rights, the third paragraph states that the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.
2.8 Gandhian Influence on the Universal Declaration of Human Rights

Gandhiji was not a participant in the sessions of the Human Rights Commission of the UN or in the General Assembly sessions. But by 1940, he had become an internationally well-known figure and the impact of his words and ideas was felt all over the world. His efforts and arguments to promote and defend human rights were widely known. Gandhiji was asked by Julian Huxley, the Director General of UNESCO to give his opinion concerning the project of Universal Declaration of Human Rights. He disclosed that he had learned one precious thing from his illiterate but wise mother, i.e. rights derived from duties well performed\(^\text{26}\). The right of one person invokes the obligation of others to recognize and respect it. Article 29 of the Universal Declaration refers to duties: Everyone has duties to the community in which alone the free and full development of his personality is possible\(^\text{27}\). There were different types of humanism that influenced the commission on Human Rights. Gandhiji stood for the ideal of brotherhood and sisterhood of all humanity. His life was spent to carry on the mission of human brotherhood, based on the equality of all men and women as God's children. The first article of the Universal Declaration reflects exactly what
Gandhiji stood and wanted for: "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". This statement clearly
reveals the influence of Gandhiji on Universal Declaration of Human Rights.

2.9 Attitude to the concept of Human Rights in 20\textsuperscript{th} century

Human rights is a 20\textsuperscript{th} century name for what has been traditionally
known as natural rights or rights of man. By the wake of 20\textsuperscript{th} century, the
concept of Human Rights has got new dimension both at the international
and national levels. One of the main reasons is the Nuremberg Trial after
the second world war of Nazi war criminals and the atrocities committed
against the Jews. This persuaded the United Nations to convene ‘Genocide
Conventions’ and pass resolutions against crime against humanity. All the
members of the United Nations accepted that resolution and India is also a
signatory to it. Ordinary and deprived people, women and excluded groups,
and other sections of society, exploited for centuries have now been awakened
and are demanding their rights as human beings. The weaker sections of
society suffered a lot of hardships with regard to the denial of human rights.
This injustice caused the root of serious social and economic problems faced
by the Indian society too. The twentieth century had witnessed the two most devastating wars in human history. The period from 1914, when the first world war broke out, to 1945 when the second world war ended has been described as the age of catastrophe during the war against fascism, that the conceptualization and articulation of human rights in their present meaning took place.

2.10 Human Rights in the 21st Century

Throughout the centuries millions of people have been forcibly displaced from their country and community by armed conflict, internal strife and systematic violations of human rights. Plight of people forcibly displaced whether within the borders or across them, has recently become a major focus of international concern. Forced migration involving refugees and internally displaced is among the most serious and complicated issue before the international community. Worldwide, the number of people displaced within their own countries exceeds the number of those who have crossed international borders and become refugees. This was because of the lack of basic necessities of life particularly food, clothing and shelter. And more over the other essential requirements of life such as medical care, healthy
environment, peace are essential to lead a civilized life of mankind. The essential requirements of life are to be known as Human Rights. It is fundamental and without them we cannot live as human beings. Human Rights are based on mankind's increasing demand for a decent civilized life in which the inherent dignity of each human being will receive respect and protection.

According to Western political and philosophical thinking human rights are innate in individuals and are an intrinsic factor in the quality of human persons. The words of president Jefferson, "Inherent and inalienable rights of man". Hence the rights that are required for the full and complete development of human personality. Without rights, the development of human personality is an impossible thing. Respect for human rights is essential for the existence of peace and security in the society. The continuing armed conflicts, civil wars have resulted not only in flagrant violations of human rights but also killing of innocent people including women and children and more over, a lot of people become refugees and displaced within their own home land. Many people in different parts of the world live in absolute poverty, unemployment, hunger, disease and shelterlessness. Food, clothing
environment, peace are essential to lead a civilized life of mankind. The essential requirements of life are to be known as *Human Rights*. It is fundamental and without them we cannot live as human beings. Human Rights are based on mankind's increasing demand for a decent civilized life in which the inherent dignity of each human being will receive respect and protection.

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and shelter are considered as fundamental human rights. Without that the human existence is not possible. The right to life is the most fundamental and basic human right. With the end of the world wars and the beginning of the process of decolonization, the international community laid the foundation for the promotion and protection of human rights by proclaiming the Universal Declaration of Human Rights. It recognizes the inherent dignity and the equal and inalienable rights of all members of the human family. And moreover, the General Assembly of the United Nations enshrined the right to life in Article 3 of the Universal Declaration of Human Rights, which states that everyone has the right to life, liberty and security of person. Rights may be justified as being inalienable, transcendental, and absolute. Without them a man cannot realise his self or contribute to the good of the society in which he lives. 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.
2.11 Human Rights in India

The concept of human rights is not a new concept in Indian context. The ancient text Rig Veda cites three civil rights, that of Tana (Body), Skridhi ( Dwelling place) and Jobhari (Life). The Mahabharata tells about the importance of the freedom of the individual (civil liberties) in a state. The Arthasastra elaborates on civil and legal rights first formulated by Manu which also included economic rights. When the British ruled India, resistance to foreign rule manifested in the form of demand for fundamental freedom, civil and political rights for the people. The promulgation of the constitution by the people of India in January 1950 is a watershed in the concept of Human Rights in India. The preamble, fundamental rights and the directive principles of state policy together provides the basic Human Rights for the people of India.

2.12 Gandhiji's Influence on Fundamental Rights in the Indian Constitution

The fundamental rights are guaranteed in part III of the Indian constitution. The declaration of fundamental rights in the Constitution serves as reminder to the government in power that certain liberties and freedom
essential for all the people and assured to them by the fundamental law of
the land. The first explicit demand for fundamental rights appeared in the
constitution of India Bill, 1895. This Bill guaranteed to every one of her
citizens freedom of expression, inviolability of ones house, equality before
the law and in regard to admission to public offices, right to present claims,
petitions and complaints and right to personal liberty. The fundamental
rights are guaranteed in Part III of the Indian Constitution consisting of articles
12 to 35.

According to the Article 14 of the Indian Constitution, "The state
shall not deny to any person equality before the law or the equal protection
of the laws within the territory of India." It means that no man is above the
law of the land and that every person, whatever be his rank or status, is
subject to the ordinary law and amenable to the jurisdiction of the ordinary
tribunals. It prevents victimization - legislative and executive because for
Gandhiji, the major evil of the state is the repressive and coercive character.
Gandhiji’s satyagraha is a potential force to fight injustice and it provides
sanction to the principle of equality before law. For Gandhiji, it is not for the
state to enforce equality but for the individual to demand it through soul-
force. The core of fundamental rights lies in the sanction provided by Gandhiji in his technique of satyagraha. Hence the spirit of equality vociferated by Gandhiji pervades in Article 14. The Indian Constitution puts seal of legality on social equality for which Gandhiji fought relentlessly. According to article 15 (1) of the Constitution: “The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them”\textsuperscript{37}. Gandhiji believed that democracy can only exist and flourish amongst a society of equals\textsuperscript{38}. The special treatment meted out to women and children in Article 15 (1) and (2) reflects Gandhiji’s humanitarianism. Article 16 of the Constitution aims at providing equality of opportunity to all citizens in matters of public employment. Article 16 provides: “Equality of opportunity in matters of public employment”\textsuperscript{39}. Article 16 harps on the Gandhian tune of guaranteeing equality and is expected to be a bulwark against the discrimination on the basis of caste, community, and religion. Another great influence of Gandhiji is the application of the doctrine of the dignity of man to Indian life and this is provided by Article 17 of the Constitution. It says: “Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence
punishable in accordance with law". It guarantees social justice and dignity of man, the twin privileges which were denied to a vast section of Indian society for centuries together. Article 17 represents the Gandhian ideology of treating the untouchables at equal par with other classes. This article, therefore, is the state’s recognition of Gandhian doctrine of equality of all persons. Article 19 of the Constitution says:

(1) All citizens shall have the right:-

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(f) [Freedom to acquire, hold and dispose of property. This has been omitted by Constitution (Forty-fourth) Amendment Act, 1978 with effect from 20.06.1979]

(g) to practice any profession, or to carry on any occupation, trade or business.
The constituent assembly could not but infuse the Gandhian spirit into these articles. The Constitution lays down certain provisions to prevent exploitation of the weaker sections of the society who, compelled by crushing poverty, allowed themselves to be exploited by unscrupulous individuals or even by the state: It is in this respect that Gandhiji's influence on the framers of the Constitution becomes perceptible. The Constitution in Articles 23 and 24 puts an end to such exploitation by prohibiting traffic in human beings. Article 23 says; prohibition of traffic in human beings and forced labour:-

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the state from imposing compulsory service for public purposes, and in imposing such service the state shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24 says; "No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous
Children are the assets of the nation and this provision is in the interest of public health and safety of life of children.

Indian secularism is a great part of inheritance from Gandhiji. Everyone living in the state shall be entitled to propagate his or her religion without let or hindrance. Gandhi maintained that his Hinduism taught him to respect all religions. Though a religious man at heart, Gandhiji declared: "If I were a dictator, religion and state would be separate. I swear by my religion I would die for it. But it is my personal affair. The state has nothing to do with it." This implies a high degree of religious tolerance on the part of Gandhiji. The members of the constituent assembly drove close to Gandhiji in enacting Article 25 giving the right ‘freely to profess, practice, and propagate religion’. Article 25 provides: "Freedom of conscience and free profession, practice and propagation of religion." The prevention of exploitation of the weaker sections of the community envisaged through 23 and 24 exhibits Gandhiji’s passion for the welfare of the downtrodden. As a true secularist, Gandhiji maintained that the state cannot concern itself with religious education. Gandhiji was also opposed to state aid to religious bodies. Article 28 (1) and 30 (2) embody the Gandhian spirit in this respect.
Article 28 provides: "Freedom as to attendance at religious instruction or religious worship in certain educational institutions – (1) No religious instruction shall be provided in any educational institution wholly maintained out of state funds\(^4\). Article 30 (2) says: The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language\(^5\). The most significant influence of Gandhiji on Indian polity is in the realm of the enlargement of the concept of democracy. The constituent assembly translated Gandhiji’s concept of mass democracy into practice. The Indian Constitution not only provided for adult suffrage; it also ensured adequate representation for the depressed classes. Gandhiji’s dream of *Poorna Swaraj* became a reality in the Indian Constitution. Hence the influence of Gandhiji on fundamental rights of the Indian Constitution is very significant in many respects.

### 2.13 Definitions of Human Rights

Human rights and fundamental freedom allow us to develop fully and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are based on mankind’s
increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. In the language of United Nations Centre for human rights: “Human rights could be generally defined as those rights which are inherent in our nature and without which we cannot live as human beings”\(^1\). There are numerous definitions of human rights given by scholars according to their own conceptions.

**2.13.1 V.M.Tharkunde**

Shree. V.M.Tharkunde, an eminent judge has attributed about the human rights as follows:

“The term human rights, in its normal usage, comprises the rights of the individual in all spheres of social life. They are exercisable by the individual against those who possess political and economic power and also against harmful social customs as untouchability in India, racialism in South Africa and inequality of women in all parts of the world. The recognition of rights in individuals also marks the recognition of certain social obligations on them. Since individual freedom can be experienced only in a moral society, the rights and duties of the individual are necessarily inter connected. Freedom and morality are the two essential components of a healthy society”\(^2\).
Human rights are inviolable because they are not only vital for the development of human personality but also because without them men would be reduced to the level of animals. The denial of human rights and fundamental freedom not only is an individual and personal tragedy but also creates conditions of social and political unrest sowing the seeds of violence and conflict within and between societies and nations. If we want to act on the improvement of human rights, we must do our duty first. Without duty, we have no right. It is no use clamouring for human rights if we are not prepared to accept our human duties.

2.13.2 M.H.Beg

M.H.Beg, former Chief Justice of India has defined human rights as follows:

"Human rights imply justice, equality and freedom from arbitrary and discriminatory treatment: These cannot be subordinated to the interests of the rulers. No one can be rejected to coercion for holding particular religious beliefs. The doctrine of national sovereignty cannot justify violation of human rights."
2.13.3 Leonid F. Evmenov

Leonid F. Evmenov described about human rights as follows:

"Human rights should not only be declared but be codified in legislation. Not only codified in legislation but realized according to the norms of national legislation and international human rights acts – that is the only objective condition under which humanism of any social shade can be revealed, from Mahatma Gandhi’s ahimsa to Lenin’s Philanthropy".

2.13.4 H.R. Khanna

Justice H.R. Khanna has described about human rights as follows:

"It is in an ambience imbued with the sanctity of human rights that society is assured of the rule of law, an essential ingredient and a postulate of which is the existence of independent courts. It bears reiteration that equality before law and the equal protection of the laws are among the most vital human rights. it is basic to the effectiveness of these rights that the courts are independent. Independence of courts thus necessarily flows from the charter of human rights".
2.13.5 D.D. Raphoel

According to D.D. Raphoel, "What are human rights? In a general sense they denote the rights of humans. However, in more specific sense, human rights constitute those very rights which one has precisely because of being a human being. Pertinently the term human rights received wider acceptance in place of the rights of men in post-world war liberal terminology as it conveyed equal concern for the rights of both sexes. Moreover, the usage of the term 'human rights' also reveals their source: Humanity, Nature, being a person or human being." 56

2.13.6 Shridath S. Ramphal

Shree Shridath S. Ramphal, Secretary General of Common Wealth Nations has described human rights as: "We have come a long way since 1948; but we have a long way to go before we translate the commitments implicit in the Universal Declaration into performance. The record to date is far too deficient both within nations and between them; and it is also deficient at a much more personal level in terms of relations between individuals. Furthering human development is a process in which everyone
has a role to play: international organisations but perhaps most of all, people over the world. In the pecking order of decision making, people may seem the most lowly and ineffectual. In reality, it is people who represent our best hope for truly furthering human development and advancing the goal of the Universal Declaration.}

2.13.7 Fathima Beevi

Justice Fathima Beevi has observed about human rights as “The concept of human rights has assumed importance globally during the past few decades and has international significance as every country is subject to international scrutiny by the world body which indicts member states for violations, while there is increasingly widespread concern for universal respect and observance of human rights, gross violation of internationally recognised norms continue unabated in almost all parts of the world. The overall situation has been characterized by large scale breaches of civil and political rights, as well as economic, social and cultural rights.

The right to life, to an adequate standard of living, to freedom of expression, to protection from torture, arbitrary arrest and many of the
common standards of achievements for all people and all nations, are as far from realization now, as ever. The obligations set out in the course of international conventions and multilateral treaties for, the promotion and protection of human rights and accepted by most of the government are flouted by them with impurity.\(^58\)

2.13.8 R.N. Misra

Justice R.N. Misra, Former Chairperson of National Human Rights Commission of India, has observed as “It is an obligation which all of us have to perform. Man, wherever he lives, whatever religion he professes, whatever food he takes, is a member of one family. All of us must learn to love like a member of one family. The whole world is one family. One then we will be able to develop the culture of Human Rights. In the absence of human rights, societies, individuals and families are disintegrating in the modern era. It is a challenge to human process. We should all be prepared and united to face the challenge of the indiscipline. I, therefore, call upon you all whether you are in a company, industry, factory, university to face this challenge and help the Commission in meeting this challenge. Everyone must realize that what is prescribed by law is not for next man, or the man to follow, but for you”\(^59\).
2.13.9 V.R. Krishna Iyer

According to V.R.Krishna Iyer, “Human rights and fundamental freedoms are indivisible. The full realization of civil and political rights and cultural rights, is impossible. This process of realization calls for legal positivisation, not political polemics nor diplomatic clap-trap but normative formulation. But what are human rights? We may discover that the religion of man is located in the Vedas, Buddhist Texts, Bible, The Quran or the holy literature or other authentic teachers to upholds human divinity. Every human being is a divine being and has title to dignity, liberty, equality and other basic rights. we cannot understand or evaluate human rights divorced from the historical and social context. Idle ideals and empty assertions cut no ice. The status of human rights takes us to the lifestyle of a society. That is why the Indian constitutional approach is soaked in the social milieu and human conditions. India has a plural society and the concept of the human rights in such a society has a different and unique position”.

2.13.10 R.N.Bhagwati

Justice R.N.Bhagwati on Human Rights as fundamental rights are of great importance for individual freedom, but these fundamental rights are a very minimal set of rights and therefore, human rights, which are derived
from the inherent dignity of the human person and cover every aspect of life and not just a small number of preferred freedom against the state, have tremendous significance. For the large number of people in a developing country like India, who are only solution for making fundamental rights meaningful would be restructure the social and economic order so that they may be able to realize their economic rights. Human rights conference called by the United Nations General Assembly in 1968 declared that “since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible”61.

2.13.11 Gandhiji

Gandhiji always emphasized the need to think of one’s duties first and foremost and leave the rights to take care of themselves for he believed that rights followed upon the proper fulfilment of one’s duties and not vice versa62. It is Gandhiji’s studied opinion that the true source of right is the performance of duty. According to Gandhiji, “If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed we run after
rights, they will escape us like a will-o-the-wisp. The more we pursue them, the farther will they fly. If all people simply insist on rights and not duties, Gandhiji said, there would be utter confusion and chaos. But however, "If instead of insisting on rights every one does his duty, there will immediately be the rule of order established among mankind." Referring to the correlation between rights and duties Gandhiji says:

I venture to suggest that rights do not flow directly from duty well performed are not worth having. They will be usurpations sooner discarded the better. If you apply this simple and universal rule to employers and labourers, land lords and tenants, the princes and their subjects or the Hindus and the Muslims, you will find that the happiest relations can be established in all walks of life without creating disturbance in all dislocation of life and business which you see in India and in other parts of the world.

In the above, we have discussed about the nature and definitions of human rights. It is our duty to follow various scholars’ definitions of human rights and fundamental rights and bring the society into a peaceful and happy one.
2.14 Conclusion

The origin and development of human rights took a long time. The historical evolution of the idea of human rights was based on the idea of natural law. The natural law was the foundation of natural rights which has been based on God. Hence it is equally important and applicable to all human beings. The natural rights were later transformed into human rights. These rights are inherent and inalienable and available to all persons irrespective of race, colour, sex, language, religion, political or other opinion, natural or social origin, property, birth or other status. It is universally applicable to all persons. The Universal Declaration of Human Rights caused the universalisation of human rights to all persons of the world. Gandhiji’s influence on the Declaration is very significant with regard to the subject matter of the study. Moreover, the influence of Gandhiji’s ideas on the fundamental rights in the Indian Constitution reveals the relevance of Gandhiji’s ideas in the discourse of human rights of the contemporary world.
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