CHAPTER - 1

INTRODUCTION

The history of civilization shows that the concept of the dignity of man and human rights has always been considered the most critical dimension of the organized life of groups and societies. The people of the world can be genuinely proud of their faith and achievements and the contributions which they have made to the moral, spiritual, social and political welfare of mankind.

There are certain beliefs and ideas which have given birth to human rights. So from the ancient period the human rights have been changing from time to time according to the needs and set up of time. Although there were differences in races, sex, language and colour, yet everyone has a responsibility to protect the rights of other persons.

According to the western concept of Human Rights it is believed that the concept of basic Human Rights is the outcome of the Magna Carta of Britain. But no one was aware of the fact that this Magna Carta contained some of the principles which we call today Human Rights. Even until the seventeenth century no one knew that the trial by
The first documentary use of the expression "Human Rights" is found in the Charter of the United Nations, which was adopted after the Second World War at San Francisco on 25-6-1945 and was later ratified by the majority of its signatories in October that year. The preamble to the Charter declared its object "to reaffirm faith in
fundamental human rights." The Universal Declaration of Human Rights adopted by the General Assembly on 10th December 1948 recognized the inherent dignity and the equal and inalienable rights of all members of the human family. The declaration has evolved minimum international standards in avoidance of torture or other forms of degrading treatment and punishment as well. However, any interference or limitation set upon the rights of man in any society must, according to internationally accepted legal standards, be based on such principles as "the principle of liberty, the principle of rule of law, the principle of equality and non discrimination against the measures of the society, the principle of non-retroactivity of criminal law, the principle of proportionality as well as the principle of non violating a vested right."  

The established fact is that India has traversed a long way in respect of glorifying the ideal of Human Rights without losing its link with the past. The quest for equilibrium, harmony, knowledge and truth inspired the ancient Indian minds. About 5000 years ago, ancient Indian philosophers and thinkers expounded a theory of higher moral law embodying certain values of universal validity like Dharma (righteousness), Artha (wealth), Kama (desires) and Moksha (salvation)—a view to establishing harmonious social order by striking a balance.

between the spiritual and material aspects of life. Hence, the human rights jurisprudence has always occupied the prime place in India's rich legacy of historical tradition and culture.

India has recognized human rights since independence in 1947. India is a signatory of almost all the major international Instruments relating to Human Rights. The constitutional commitment to the protection and promotion of human rights finds reflection in the Preamble and various other provisions relating to fundamental rights, Directive Principles of State Policy and Fundamental Duties. In fact, India's freedom struggle, apart from winning freedom for India, had an impact on the promotion of human rights throughout the world and these ideals and values of the freedom struggle were ultimately enshrined in the Constitution. The Preamble to the Indian Constitution sets out the aim to secure for all its citizens justice - social, economic and political, liberty of expression of thoughts, belief, faith and worship, equality of status and of opportunity and to promote among them fraternity, assuring dignity of the individual and the unity of the nation. The Indian Constitution provides fundamental rights under Article 12 to Article 36. Directive principle under Article 37 to 51 is also another example.

But in spite of all these high hopes and ideals these are seen in the newspapers news about the violation of Human Rights all over the world.
There is no security of life at all. In practice, human life and human dignity have been disregarded throughout history and continue to be disregarded today. The root cause of these violations is that people are not aware of their rights. In India after 50 years of independence more than 40% of the total population are poor and are living below the poverty line and under these circumstances people will give first preference to their stomach as well as shelter. In such a situation there can neither be human freedom nor respect for human dignity. They have not even the knowledge about human rights. This lack of awareness is only because of the lack of human rights education in spite of having the legal avenues to mitigate sufferings caused by their violation. The reason for remaining below the poverty line can be attributed to lack of education which leads to the lack of awareness. When citizens are in deplorable ignorance and squalor, when they do not know how they themselves can make the best use of the opportunities, the talk of fundamental rights or Human Rights becomes meaningless for them. Even the framers of the Constitution were aware that more than seventy percent of the people of India were illiterate for whom human dignity and respect for human rights would have no meaning unless they were educated and with that hope Articles 41 and 45 were incorporated in Part IV of the Constitution.

2. Human Rights in India, Problems and Perspectives Edited by B. P. Singh Sehgal (Article written by Paramjit S. Jaswal, Nishtha Jaswal, both readers Faculty of Law, Punjab University, on Right to Education and Human Rights.)
dealing with directive principles of state policy. Yet after 50 years of the Constitution, we have not been able to fulfil the constitutional commitment.

The endeavour of the National Human Rights Commission has paved the way to some extent for bringing about mass awareness about the Human Rights. There is now a growing awareness in the Society about the Human Rights and the people want to seek redressal of various kinds of abuses including child-abuse and custodial death. The National Human Rights Commission has taken initiatives through seminar, workshop etc. to create awareness among the masses so that the fight against the violation of human rights grows into a people's movement because violation of human rights is a global phenomenon. The role of the National Human Rights Commission is appreciable. It is doing a wonderful job by entertaining complaints regarding violation of Human Rights in different parts of India. The role of the Assam Human Rights commission is also not an exception. To make human rights really meaningful to the society and to check human rights violations, the Human Rights Commission has a vital role to play. In 1998, the Assam Human Rights Commission had registered 1700 cases of which as many as 1500 were based on Suo-moto action based on various newspaper reports relating to custodial death, medical negligence, environmental pollution, drinking water quality, assault on journalists by police etc.
Although there is a democratically elected government in Assam the Human Rights violation cases in the State have been on the rise in the past few years. According to the Assam Human Rights Commission Sources, in 2001-2002 total Human Rights violation cases registered numbered 380 and it increased to 605 in 2002-2003, making it an appalling state of affairs in Assam. The workload on Assam Human Rights Commission is gradually increasing due to rise in Human Right violation cases.

Since March 19, 1996 after the foundation of Assam Human Rights Commission, it registered altogether 4336 cases, of which more than 3623 cases have already been disposed of. The Commission is still enquiring into the remaining 700 cases. According to the Assam Human Rights Commission sources, the number of Human Rights violation cases has been fluctuating; it was 471 in 1996-1997, 1430 in 1997-1998; 820 in 1998-1999; 456 in 1999-2000; 273 in 2000-2001. As on December 31st 2002, the total number of custodial death cases registered with Assam Human Rights Commission is 198. Similarly total cases registered against the police department stand at 264.  

Judiciary has also played a prominent role in implementing Human Rights in India which has been a great source of awareness of Human Rights. Because the talk of Human Rights and

declaring them as fundamental rights in the constitution are meaningless unless they can be enforced by an effective machinery. If there is no effective remedy against violation of Human rights, there is, in fact, no human right in the real sense.

Inspite of all these, violations of human rights are increasing day by day. Human life and human dignity have been disregarded. Although all nations in the world today have bills of rights, no two bills are identical in substance and subject matter. But implementation of those human rights is an extremely difficult issue. It needs a considerable amount of legal ingenuity and moral integrity on the part of those who are entrusted with this responsibility. Simply respecting the international covenants, the Indian Constitution, the National Human Rights Commission and the Human Rights Commission in the various states of the country is not enough. Because "it is an important matter in which the wronged is given redress against wrongs, the truthful is protected from the liar, the weak is helped against the strong, and the laws of justice are kept in force throughout the realm." So a responsive, sensitive, committed and dedicated machinery is required to make those rights functional. Unless these rights percolate to the last man in the country, they have no value.

But it is not possible to achieve the goal by any conventional method. The main theme of the hypothesis of this thesis is to bring a social change on a massive scale and the most powerful method available with us is education. The vast majority of our population is not aware of its problems and rights. No doubt, the first and foremost way to awaken the people is education, but giving awareness to this vast population through education is a gigantic task and can be undertaken only with the strong will and the dedication of the people of the country.

Along with education, media can make people aware of the various schemes and programmes to improve their general living conditions and standards with the knowledge of their inborn rights, liberties and duties which are meant not only for them but for the society as a whole. The concern over human rights has taken on new dimensions in recent times. People are more aware of their rights and freedom now, than ever before. There is a general will to implement these rights and make them meaningful in daily life. There is a two-way relationship between the media and human rights; the media helps safeguard human rights and human rights help safeguard media in its effective functioning. By the word ‘Media’ is meant the printed media – newspapers, magazines etc the audio and audio-visual media – radio, television etc – and also other electronic media. One of the most challenging tasks before the media or any other means is to strike a
balance between the needs of law enforcement on the one hand and the protection of the citizens from oppression, justice and human rights violation at the hands of the law enforcement machinery, on the other.

An attempt has been made in this thesis to show the various roles of the judiciary and commissions in protecting the people from different types of atrocities which can make the general people aware of their rights. The general people should be made aware that if the human rights are outraged then the judiciary will stand in favour of the people whose rights are violated.

Judiciary and commissions are not sufficient means to make the general people aware. There are some people in remote places who are neither aware of modern laws nor of their own rights and cannot enjoy even the basic rights. Further, they do not get the advantage of literacy and education and do not even have any concept of the judiciary or commission. So it is very important to awaken the inner feelings of each and every people of every corner of the country by different means which are easily accessible to them. The first duty of those means is not to create awareness of human rights but to create some feelings in their mind. Those are, basically, honesty, justice, veracity, courage, politeness, forgiveness, patience, sympathy, virtues and vices which are highlighted in the thesis. After that, the people will feel about their existence and automatically they will feel for
the respect for human beings. Justice is a moral equipment which deters an individual from subjecting other human beings to his tyranny. It is a safeguard against arbitrary and unjust domination and gives men a sense of equity.

The people of Assam are very simple. Most of the people of the villages suffer from poverty due to the natural calamities specially due to flood. Poverty is the main cause of the ignorance of the people because in that condition people will think about their empty stomach as well as shelter. Discrimination continues to exist due to ignorance, prejudice and fallacious doctrines which try to justify inequality. Morning news-papers are always covered with infamies of violation of human rights in Assam. There are indiscriminate mass raids in thousands of villages. The nature of such a mass raid is too horrendous even to describe and such raids on villages are carried mainly on the basis of mere suspicion. Women folk are abused. Some are slapped, some hit with rifles and there are many cases of sexual molestation. At the time of Operation Rhino the people were humiliated and punished in various ways. During the time of interrogations of the villagers one after another, they were subjected to merciless beating with lathis, rifle-butts and whips; many were kicked, punched and trampled on. Inspite of these rigorous tortures levied on the people of remote places of Assam, they remained silent, for fear. Because they think that revolting against these sinful acts of the army and even
Government official would put them into greater depths of trouble, bringing about no fruitful result. But they are not aware that they have the right to fight against the army officials. There is no end to the indignities to which men have subjected their fellow beings. The history of civilization is littered with countless dehumanizing tactics used in different parts of the world, specially in India, and more specially in Assam to brutalize the existence of man on this earth.

The Indian Constitution provides the basic rights for human beings. But needless to mention that mere legal system cannot help people in this regard. It is the collective work of the people to protect human rights. Constitutional devise is not sufficient means for the protection of these rights. All the people, particularly the educated youth of today, can play a very important role in mobilizing the public opinion among the masses for the protection and promotion of human rights and fundamental rights which is possible by organizing frequently seminars, debates, workshops in the Schools, Colleges and Universities both in the urban and the rural areas.

So, at this critical juncture, this thesis wants to give a relief to the common people by making them aware of their existence and their own basic rights. The main hypothesis of this thesis is to provide some means to create mass awareness among the general people of Assam about their own rights so that they can enjoy their rights and
protect other rights as rational beings and enjoy the fruits of human rights to its full extent.

The thesis will be in 5 Chapters including the introductory Chapter. The other Chapters are –

2. Reflection of awareness in the development process of Human Rights.
3. Awareness of Human Rights through Judicial activism.
5. Conclusion and suggestion.