SUMMARY

Human being is a living creature and in the same manner, humanity is a dynamic concept. But are united from within and cannot be separated. There is a universality about human rights which makes them a common concept for all mankind, regardless of historical, cultural, ideological, economic or other differences. No excuse or explanation can satisfy people if they are denied the basic rights of a decent life.

These are the rights of a man which are not given to him like a subsidy which can be taken away. These rights are inherent. Every human being, whether rich or poor, healthy or sick, able or disabled, belonging to this or that state, has a right to live under the shadow of human rights. Human Rights concept has evolved and developed gradually through ages in different parts and religions of the world so as to attain the present status.

This concept is founded on the ancient doctrine of natural rights based on natural rights. It was originally evolved in England when religious and organized church exercised considerable influence on the evolution of human rights in the days of the Magna Carta which King John accepted stating that the grant was made “through the inspiration of God, for the honour of God and the exaltation of the Holy Church.” The overreaching theme of Magna Carta was protection against arbitrary action by the King. Medieval Europe witnessed immense devaluation of common people due to prevalence of feudalism. Violation of Human Rights during this period in France and other European countries paved the way for a series of revolutions. In seventeenth-century England, the ‘immemorial rights of English men’ were successfully defended in the Petition of Rights (1628) and the Bill of Rights (1689). In American continent, the Charter of New Plymouth of 1620 expressed the principles of Human Rights. The State of Virginia proclaimed the first declaration of rights in 1776 followed by other States. The Declaration of Independence of America contains the affirmation of some essential rights. Then we came to have the famous French Declaration of the Rights of Man and of the Citizen in 1789 which had much impact on the rest of the World. It became a source of documentation and example to codify Human Rights in newly framed constitutions of the emerging nation states. This was followed by the Bill of Rights in America and incorporation of the French declaration in the Constitution, both in the year 1791.
The concept of Human Rights is not entirely western in origin nor is it a very modern concept. It is a crystallization of values which are the common heritage of mankind. In India, references occur as early as in The Rig Veda to the three civil liberties of Tana(body), Skridhi(dwelling house) and Jibasi(life). Ancient Indian society was a highly structured and well organized affair with fundamental rights and duties not only of individuals but also of classes, communities and castes clearly laid down. The concept of Dharma was precisely that of rule of law alongwith the supremacy of law. Long before the 2nd century B.C, we find mention of the law of nature, which even Kings had to obey. Also Kings were required to take a pledge never to be arbitrary and always to act according to “whatever law there is and whatever is dictated by ethics and not opposed to politics.” Principle of vasudheva kutumbkam propounded universal equality. Kautilya, the author of the celebrated political treatise Arthashastra, not only affirmed and elaborated the civil and legal rights, first formulated by Manu, but also added a number of economic rights. The Arthashastra in Book IV relating to suppression of criminals prescribes, of course, harsh measures. But there is side by side insistence on human considerations, concern for man, for weaker sections and care for fair play and due process. It also mentioned about that Chandragupta Maurya set free prisoners captured in war.

At the time when India gained independence, the concept of constitutionalism was not confined to the governance of state with political, diplomatic and police role. Rather State was looked upon as a powerful instrument for removing social injustices, elimination of artificial inequalities and ensuring social welfare of the people.

The guiding force of India’s constitution making was the objectives set during National Movement for independence with the emphasis on elimination of social and economic injustices and equality of law. The Indian constitution was drafted after the adoption of the universal Declaration Human Rights (1948) by United Nations, but it was adopted at a time when the deliberations for the Universal Deceleration were in air, so that the framers of the Indian Constitution were influenced by the concept of human rights, and they already guaranteed most of the human rights which later on came to be embodied in the international covenants on Civil and Political right and on Economic, Social and Cultural rights in 1966. In the Indian constitution, the justiciable human rights broadly speaking were included in part III, while the non-justiciable social and economical rights were set forth in part IV as the Directive Principles of State Policy.
India took a lead in this behalf and enacted Protection of Human Rights Act, 1993. This Act besides other provisions, provides for the creation of a National Human Right Commission. NHRC has performed commendable work for protection of Human Rights in the country and has by now acquired considerable reputation in the field. The chairman of the commission in his capacity as a judge of Supreme court or as Chief Justice of India, and so also to other members who have held high judicial offices as Chief Justice of the High Courts, have throughout their tenure, considered, expounded and enforced the fundamental rights and are, in their own way, expert in the fields. In deciding the matters referred by Supreme Court, National Human Rights Commissions is given a free hand and is not circumscribed by any conditions. Therefore the jurisdictions exercised by the National Human Right Commission in these matters is of a special nature not covered by enactments or law, and thus acts *sui generis*.

For effective enforcement of the human rights, based on statutory and constitutional provisions Criminal Justice System is a crucial component of the government and an important instrument of the State for preservation of peace in the society. The criminal justice system is really an old concept. It is concentrated more on the criminals and the methods of administering justice to them. It is a special kind of formalized social control. It is charged with the duty of maintaining order in accordance with law. Protection of the innocents and punishment of the offenders are the goals it attempts or endeavors to achieve. The purpose of criminal justice system in the society has something vital to do with the issue of what this given society expects to complete by dividing a conduct as criminal. Indeed the criminal justice system operates through certain criminal laws, rules, and regulations, which are meant to administer criminal justice in the country through its criminal justice system.

All criminal justice systems in democratic world have three separately organized parts;
- The police as law enforcement agency;
- The courts; which, serve to establish the guilt or innocence of the apprehended person and, if his guilt is established, pass sentence upon him as provided by the sanctity of the code violated; and
- The prison and correctional system. Each one of the components of the criminal justice system shares certain common goals. They collectively exist to
protect society, maintain law and order and prevent crime. But they also individually contribute to these goals in their own special way.

The investigating agency i.e. police is an important organ of the criminal administration of justice. It is the first pillar of the criminal administration of Criminal Justice which has more responsibility upon its shoulders to protect the society from crime. The Indian criminal justice system provides huge power to the police; therefore, there is more chance to violate the Human Rights and legal Rights conferred by the various statutes. But there is remarkable position of the safeguards in the Criminal statute passed or amended by the Legislature. There are many provisions in the Constitution, CrPC, IPC, Indian Evidence Act and the Police Act etc., which tends to protect the people from the excess use of power by the police. Punishing of delinquent officers along with systemic police reforms to change the character of and functioning of the police in accordance with the imperatives of policing in a democratic society. Mallimath committee recommendations and Soli Sorabjee committee's Model Police Act, 2006 are some of the efforts in this direction. Therefore, we find no hesitation to say that the Indian Criminal Administration of Justice provides several protections to an aggrieved person and also protects Human Rights during the investigation.

In Indian Criminal Justice system, the Courts have vast discretionary power. But several enactments such as Probation of Offender Act, Juvenile (Care and Protection) Act and Plea Bargaining are added in the code of criminal procedure by amendments have been in acted to provide protection to the human rights under criminal justice delivery system, which appears very protective for Human Rights to some extents. Courts particularly the apex Court in last two decades has moved forward with speed in protecting human rights especially of weak, marginalized and deprived sections of society. It has evolved a new kind of prison jurisprudence and has come forward to protect interests of bonded, underpaid and exploited labourers along with green jurisprudence and right of education. Thus it has come to the aid of not only the first generation rights but also social and economic rights.

Correction is the third and final phase of the Criminal Justice Administration. Beginning with law enforcement as the case- finding phase, the courts determine by trial under due process of law and correctional attempts to rehabilitate the neutralized and deviant behaviour of adult criminals and juvenile delinquents. The successes and failures of the criminal justice system are measured in the field of corrections. The
productivity of the entire criminal justice system is judged by the productivity of corrections.

The modern criminal jurisprudence has recognized that no one is a born criminal and many crimes are the product of socio-economic conditions and compulsions. In India, not much work has been done for hardened criminals, although considerable stress has been laid on bringing about reform of younger offenders, not guilty of very serious offences and of preventing their association with habitual and incorrigible offenders, who have taken to crime as a profession for their existence, on whom reformative theory of punishment has absolutely no impact. The modern reformative theory of criminal justice system makes a psycho-analytical study of the social background and economic status of the criminal and takes punishment as a means to a social end and the emphasis is that punishment is not an end in itself, but as a means to an end. Reform the criminal and not punish him is the consensus of the opinion of the modern criminologists all over the world.

Administration of criminal justice is provided by a wide range of legislative measures of diverse kinds. But in recent time judiciary, particularly at the appellate level, has played a vital role in giving creative interpretations leading to broadening and evolving new concepts of criminal justice system. Such judicial role is a marked feature of judicial process, particularly, emanating from the Supreme Court. In this way is would be useful to refer to certain judicial enunciations that go in to make the character of contemporary criminals justice administration. Such enunciations relate to certain vital impacts on the processes of criminal justice administration in India.

In fact, principle of fair criminal trial plays a pivotal role both in constitutional law and criminal law and criminal procedure. A few rights which are mentioned in the Constitution of India, e.g. (a) protection against ex-post facto laws, (b) protection against double jeopardy, (c) privilege against self-incrimination (d) production of the accused before the magistrate within 24 hours of his arrest, (e) obligation on the police to inform as soon as possible an arrested person the grounds of his arrest, and (f) the right of an arrested person to take the help of a lawyer for his defense, specifically deal with criminal justice and enjoy the fair criminal procedure. They all emphasis on the rule of law and individual liberty. A fair criminal trial not only deals with the rights of accused, but also ensures the social security, social values, human dignity and personal liberty which are enshrined in the constitution of India and other international documents, like, Universal Declaration of Human Rights 1948 which says:
“Everyone is entitled in full equality to a fair And public hearing by any independent and impartial tribunal in the determination of his Rights and obligations and of any criminal charge against him.”

In broad terms, the fairness in criminal case must be applied in all stages of a criminal proceeding, from commencement of investigation by police up to end of implementation of judgments.

Keeping this whole discussion in mind, it can be stated that we have made efforts in protection of human rights through safeguards provided under Indian Constitution in form of fundamental rights and directive principals of state policies along with judiciary's role in promoting and protecting Human Rights in country, whenever the situation arose. Judiciary is under an obligation more than any other branches of governance to protect and promote human rights and it must ensure that these rights are easily accessible particularly to the poor and marginalized and should not remains the preserve of only rich and mighty.

It is suggested that knowledge and awareness of human rights is most important for a democratic country. Accused should be made aware of the human rights available to them under the international human rights instruments as well as under the national laws. Government should take necessary steps in this direction by giving wide publicity especially through vernacular languages besides English and Hindi.

Both the print and electronic media owe the responsibility and the duty towards the society, in controlling the crime effectively and do justice with their ‘social institution’ role. Non -governmental organizations have made a contribution to the long and the strenuous process of translation of constitutional promises into realities on the ground. They represent the interface between the government and the common people. These NGOs can play an important role in disseminating the human rights knowledge to the remote and rural areas. The various political parties, activists, human rights organizations etc. should come forward to make accused aware of human rights.