CHAPTER TWO

HISTORICAL OVERVIEW OF THE GLOBAL

HUMAN RIGHTS MOVEMENT

2.1 Introductory

The expression ‘Human Rights’ is relatively new, having come into everyday parlance only since the World War II and the founding of the United Nations in 1945. However, the idea of human rights is not new and it existed in all civilizations known to the world in one form or the other. These rights were called the natural rights or rights of men or duties of the king by different philosophers but the aim of all those were the same, that is, to protect and provide certain basic rights. Although the ancients did not use the term “human rights”, ancient human rights go back to a right to dignity and fellowship as a rational being along with all other such beings.¹

The process of emancipation from medieval theology and feudalism took place during the period of Reformation and Renaissance in three stages. First, was the rise of Protestantism; second, were views of Locke and Montesquieu; and third was the belief in popular sovereignty and democracy.² Moreover the achievement of human rights by shrinking circles of exclusion nationally and globally occurred not mainly because of ethical clarification and moral reflection, but as a result of stones thrown by critics and initiatives by and on behalf of the victims. The spread of the rights has depended almost completely on the dedicated work

of the non violent social and political movements that have challenged the established orders of power and privilege all over the world. It is probably quite unrealistic to credit any one culture, religion, or region of the world with the origins of human rights. Moreover as a leading expert has put it, an attempt to do so would be ‘politically charged’. It inevitably risks privileging ‘a particular world view’ of human rights; it might be viewed as ‘a way either to defend a specific status quo or value system against possible challenges’. It must be understood that there are many different threads to the human rights idea as it exists today, and it is invidious to locate any one specific thread as the beginning.

However, in this chapter a modest attempt has been made to trace the history of human rights from the ancient civilizations across the world covering Babylon, Greco-Roman period, Middle ages and then coming down to The Magna Carta (1215); The Petition of Rights (1628), The Habeas Corpus Act (1679); The Bill of Rights (1689); The American Revolution (1775-1783), which is said to have inaugurated the era of the declaration of fundamental rights; The French Revolution (1789) to the formation of the League of Nations and the United Nations after the First and the Second World Wars respectively. An attempt has also been made in this chapter to cover up post Second World War development of the human rights movement at the international level. The researcher has also endeavored to emphasize on the phenomenon of Cold War and its impact on the human rights movement and have tried to suggest alternatives, keeping in view the present challenges, to consolidate the human rights movement at the international level in the present chapter.

As already mentioned in the beginning of the chapter that there is a need to understand that the early ideas about human rights did not originate exclusively in one location like the west or even with any particular form of government like liberal democracy, but were shared throughout the ages by visionaries from many intellectually rich cultures in many lands who

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expressed themselves in different ways. Although it is necessary to guard against the shallow and unhistorical view that all societies somehow have always subscribed to the same basic beliefs and values, it is also essential to recognize that the moral worth of each person is a belief that no single civilization, or people or nation or geographical area or even country can claim as uniquely its own. The issue of human rights addresses age old and universal questions about the relationship between individuals and their larger society and thus is one that has been raised across time, across places and across cultures. Indeed, as one insightful authority writes, “the struggle for human rights is as old as the world history itself”, because it concerns the need to protect the individual against the abuse of power by the monarch, the tyrant or the state. What the west did provide, however, was not a monopoly of ideas on the subject but rather much greater opportunities for visions such as these to receive fuller consideration, articulation, public declaration and eventual implementation.⁵

Given that human dignity and the fulfillment of human need are at the core of human rights, one could easily say that human rights began somewhere along the Tigris and Euphrates rivers, where human civilization purportedly began. The first time one person acted decently toward another human in distress that acted dutifully in ways that fulfilled human need and dignity, human rights began. Many cultures did not codify such obligations in texts, but this section arbitrarily begins with the Code of Hammurabi (1995-1750BC), which is a representative long-established ethical and legal system.⁶

King Hammurabi of Babylon proclaimed the necessity to honor principles of justice and thus created one of the earliest legal codes to govern behavior. “Let the oppressed man”, he said, “come into the presence of my statue” to seek equal protection under the law. Precepts from the Ancient Egypt sought to address explicitly issues of social justice and help for the weak by injunctions to “comfort the afflicted . . . Refrain from unjust punishment. Kill not . . . Make no distinction between the son of a man of importance and one of humble origin. One pharaoh instructed his viziers to “make sure that all is done according to the law, that custom is observed and the right of each man respected.”⁷ Early Sanskrit writings from the Indian sub-

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⁷ ibid., p. 11.
continent specifically spoke of the responsibility of rulers for the welfare of the people and have been discussed in detail in the next chapter.

2.2 Human Rights During the Greco-Roman Period

The Greek historian Herodotus also stressed upon *isonomia* (i.e. equality before the law); *isotimia* (equal respect for all); and *isogoria* (freedom of speech). The playwright Sophocles (469-406 BC) in *Antigone* gave tribute to the virtues of civil disobedience to an unjust political authority. The Stoics founded by Zeno of Citium (c. 300 BC) also stressed equality, universality of all human beings and moderation. In Greek mythology notions of hospitality and benevolence to strangers and beggars are strong. The right to protection from political abuse in Greek mythology appears scant. If Aristotle and other Greek philosophers suggest advances in the idea of human rights, these advances appear in the realm of, civil and political rights.

Despite this Hellenistic emphasis on equality, justice and universality, women had very few rights. Slavery was widespread. There were probably more slaves than freeman in the ancient Greece. Even more troubling however than this rift between ideal and practice is, for instance, Aristotle’s acceptance of individuals who “are by nature slaves, and it is better for them as for all inferiors that they should be under the rule of a master”. “The slave is a living tool, just as a tool is an inanimate object. The concept of natural law owes much of its origin to Greek thought, due in large part to Aristotle’s notion of slavery as a “natural” state. Owning slaves therefore was legal because it was natural. Similarly *Antigone*’s act of civil disobedience was in order to conform to natural law.8

After Rome conquered Greece and most of the Mediterranean world, the Romans appeared to have incorporated and built upon much of the Greek culture. Consequently, notions of equality, justice and virtue expounded upon by Aristotle and apparently adopted by Stoics, continued to flourish. Stoicism became the religion of the educated classes. The Stoics then placed much emphasis upon equality. The concept of Brotherhood-of-Man became central to

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the thinking of later stoics. According to Cicero, a convert to Stoicism, “Nature unites man with man and joins them in bonds of speech and common life”.

Despite these notions, the problem of slavery persisted in Rome.\(^9\) Whereas slavery in Rome was “non-ethically” or “non-racially” based and was a “misfortune that could happen to everyone”. The slaves could work as doctors, business agents for their masters, artists, gladiators or craftsmen. The problem, however was that the slave was still a “thing” who “remained for the Roman . . . . corporeal property whose value could be measured in monetary terms”.\(^10\) The Institutes of Justinian made explicit that the principles of law were to live honestly, to hurt no one, and to give everyone their due while observing that “Justice is an unswerving and perpetual determination to acknowledge all men’s rights. With this in mind, Roman jurists continued to develop a remarkable body of laws known as jus gentium, or law of nations. They claimed that this law derived from nature rather than the state, and therefore established certain universal duties and rights that extended to all human beings as members of the world community as a whole.\(^11\)

Thus we see, that the Greek and Roman literature, in sum, suggest strong affinities with the notions of equality, justice and brotherhood of man as defined in the Universal Declaration of Human Rights. Although this literature is cognizant of the need to protect the individual from the abuse of the political authority, it does not appear to seriously entertain the notion of providing for those in need. Certainly, the circumstances of certain groups, such as slaves, stand in stark contrast to any of these lofty promises.\(^12\) For centuries most of these philosophical theories of natural law-just like those of religious doctrine-focused on universal responsibilities and duties rather than what are now described as rights. However, the modifications of theories and then the transformation of theory into practice, as we shall see constantly, always have been tied to particular political, economic, social and intellectual upheavals throughout history.\(^13\)

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2.3 Human Rights During the Middle Ages

The Middle Ages began after the downfall of the Rome in 476 B.C. With the fall of this universal Roman Empire, the direct control of the central government was weakened. Local government became the norm and the local lord was the important administrative figure. Historians such as Ebenstein attribute much of Rome’s decline to its “unwillingness or inability to solve the social conflicts born of poverty, slavery and serfdom”. The codes on positive rights and the justification of slavery on natural grounds during the Greeco-Roman period, seem to have had a direct impact upon the fall of Rome. This suggests a need for social acknowledgements of more humane notions of rights, such as stated in the Universal Declaration.\(^\text{14}\)

The concept of natural law also came of age during the middle ages. The belief in natural law based on rational reasoning was strengthened by Abelard and Thomas Aquinas. Natural law gives supremacy to law made by God, and if this law is violated, justice fails to be delivered. Even the state stands subject to such law; justification of State lies in its service to the individual. This is the Doctrine of Natural Rights.\(^\text{15}\) Due to supremacy of sovereignty, the start of middle ages was not conducive to development of human rights. However, near the end of middle ages, liberal political principles resulted in the growth of human rights.\(^\text{16}\) The most influential precursors to the Universal Declaration during the Middle Ages were the thinkers St. Augustine (354-430), St. Thomas Aquinas (1225-1274), and John of Salisbury (1120-1180). Augustine’s classic work, *City of God*, laid the foundation for the inclusion of solidarity rights into the Universal Declaration. It notes, for instance, that people who take over a ship are called pirates. However, if they take over a fleet, they are admirals. A case in point is the slaughter of millions of Indigenous People; presidents and governments do not “occupy,” but rather “manage” the lands that were actually stolen. It is not wonder that is an outcry for self-determination today.\(^\text{17}\)

Similarly, Thomas Aquinas’s *Summa Theologica* reiterated the principle of human dignity. He also added the “power of man . . . to participate intellectually and actively in the rational order of the universe”. In fact, through reason, humans can comprehend the “divine” nature of things, an indispensable expression of the dignity of the human person. John of Salisbury again emphasized the common good, comparing to the body: “The eyes and tongue . . . claimed by judges . . . soldiers correspond to the hands . . . husbandmen correspond to the feet”.\(^{18}\)

### 2.3.1 The Magna Carta, 1215

Though ancient texts and literatures are filled with numerous instances of human rights, in its true sense, in the political realm, the concept gained maximum legitimacy from the famous charter of human freedom i.e. the Magna Carta (1215). The Charter not only made clear provision to deny the King any authority to interfere in civil rights, it is also made the church free from governmental interference. Besides, the Charter allowed citizens rights over property, widow rights to remarry and property, due process of law and equality before law. In short, the Magna Carta became the most powerful instrument of human freedom and a signpost for future struggle for human rights.\(^{19}\)

### 2.3.2 The Petition of Rights, 1628

Later on further upheavals in England resulted in the Petition of Rights of 1628 reasserting the right to be free from arbitrary arrest and imprisonment. More than forty years of English civil war, revolution and turmoil complete with the beheading of a king and rise of a parliamentary dictator, produced a number of significant developments. One of these was the rise of democratic movement known as the “levellers” whose programme of action entitled “Agreement of the People” called for guarantees of the “native rights” of all to life, property, and election of their representatives, freedom of religion, and freedom from conscription.\(^{20}\)

\(^{18}\) *ibid.*, p. 57.


2.3.6  *The Bill of Rights, 1689*

In 1679, Parliament passed the *Habeas Corpus Act* establishing the right to be protected against arbitrary detention and then the 1689 Bill of Rights, a monumental landmark in the history of civil and political human rights. Its specific provisions speak forcefully about limited monarchy, security of life and property, representative government and free elections, freedom of speech, religious toleration, trial by jury, and prohibition against cruel and unusual punishments—all in the name of “ancient” and “undoubted rights” and all designed to protect people “from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights and liberties.”

Thus we see that the Magna Carta is often cited as one of the earliest documents upholding ‘human rights’ in crude forms. This opinion, however, has been contradicted. Davidson says:

While Magna Carta (1215) is often erroneously seen as the origins of the liberties of the English citizens, it was in reality, simply a compromise on the distribution of powers between King John and his nobles, the language of which later assumed the wider significance, which is attributed to it today. It was not until the Bill of Rights (1689) that rules directed towards the protection of individuals rights or liberties emerged. However, even this development must be seen in context. The Bill of Rights, which is described in its long title as ‘An Act Declaring the Rights and liberties of the subjects and setting the Succession of the Crown’, was the outcome of the seventeenth century struggle of Parliament against the arbitrary rule of the Stuart monarchs.

In Marxist analysis, the Glorious revolution of 1688 and the Bill of Rights which institutionalized it, was a bourgeois revolution; it simply confirmed the ascendancy of the gentry and merchant class over the monarchy. There are some elements of truth in the above observations. However, the important fact that lies in the Magna Carta is that it was for the first time the absolute power of monarch was curtailed. The earlier unbridled right of the monarch was also questioned which further paved the way for the democratic governance.

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Hence, the historical importance of the Magna Carta could not be belittled by the historians of human rights.\(^{22}\)

### 2.4 The Modern Conception of Natural Law Bearing Human Rights

It was primarily for the seventeenth and eighteenth centuries, however to elaborate upon this modernist conception of natural law as plying natural rights. In other words, natural law was conceived as overriding law expressing a higher justice than was embodied in manmade law. Grotius asserted that “natural law is so immutable that it cannot be disobeyed even by God himself”.\(^{23}\) H.L.A Hart in his *magnum opus Concept of Law* points out that there are certain fundamental rules that are absolutely necessary if human beings are to live together. Holmes J. referring to natural law stated that it “is a purely inductive statement of certain minimum conditions we cannot do without if the life is to be descent”. New interpretation to Bible was given which meant all human beings were equal and had got the equal right and they did not need to talk to an interpreter for talking to god etc.

The scientific and intellectual achievements of the seventeenth century, the discoveries of Galileo and Isaac Newton, the materialism of Thomas Hobbes, the pantheism of Benedict de Spinoza, the empiricism of Francis Bacon and John Locke encouraged a belief in natural law and universal order, and during the 18\(^{\text{th}}\) century, the so called age of Enlightenment, a growing confidence in the human reason and in the perfectibility of human affairs led to its more comprehensive expression. Relating to the Glorious Revolution of 1688, John Locke broadly discussed that certain rights are apparently available to a person as a human being only, because they existed in a state of nature before humankind entered civil society and the main rights of those were the right to life, liberty and property; that upon entering civil society, humankind surrendered to the state only the right to enforce these natural rights, not the rights themselves; and that the state’s failure to secure these natural rights gives rise to right to responsible, popular revolution.\(^{24}\)

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2.4.1 The Social Contract Theory

The Social Contract theory was another cause which survived the conception of human rights and pressed its power for the development of it. In the 18th century, the protagonists of social contract theory, mainly Rousseau undertook to explain that state of nature emerged as a political society due to separate acts of individuals, whereby they undertook with one another to set up a government which would be responsible for the promotion of their common interests. Montesquieu’s contribution remains best known for his thoughts on the structures of government and his emphasis on the separation of powers. The essence of their thinking was to place a new importance on the intrinsic value of man in the society. There was further emphasis on the idea that everyone was born with certain natural rights which no authority could take away. Thus, these writers revitalized the concept of natural rights and put forward certain dynamic contents which greatly influenced the American and French Revolutions.

2.4.2 The American Revolution (1775-1783)

During the American Revolution, which originated in the colonial revolt of 1763, the colonists backed up their claims with the concept of natural law and natural rights, and made

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27 Philosophers such as Baron de Montesquieu (*The Spirit of Laws*, 1748), Jean-Jacques Rousseau (*The Social Contract*, 1762), Voltaire (Philosophical Dictionary, 1769) and Immanuel Kant (On the Relatioship of Theory to Practice in Political Right, 1792) were the leading figures in a movement which was later called ‘The Enlightenment’. The essence of all these philosophers’ thinking was to place a new importance on the intrinsic value of man in the society. There was thus further emphasis on the idea that everyone was born with certain natural rights which no authority could take away. This thinking was the intellectual force behind the French Declaration of the Rights of Man and Citizen (1789), but of course its impact was felt far beyond France. Indeed it has been expressed that: “Natural rights were the cutting edge of the axe of rationalization that toppled many of the inherited medieval traditions of the eighteenth-century Europe. They were part of that general aspiration toward bringing peace and order to the world that led Immanuel Kant to think that royal dynasties were the cause of war, and that a world of republics would bring a peaceful era to mankind.” For further details see: Kenneth Minogue, “The History of the Idea of Human Rights.” In: Walter Lacqueur and Barry Rubin (eds.)(1989): *Human Rights Reader*, New York: New American Library.
use of Locke’s doctrine of the social contract to justify their rebellion. Thomas Jefferson’s famous words in the United States Declaration of Independence are ominous: “We hold these truths to be self evident that all men are created equal; that they are endowed with certain inalienable rights; that among there are life, liberty and pursuits of happiness.” Thus was inaugurated the era of the declaration of fundamental rights. Although the founding fathers based their case against the mother country on the rights of man, when they came to draft a constitution in 1787, no attempt was made to enshrine these in a Bill of Rights. It was only in 1791 that Ten Commandments to the constitution were passed by the congress which came to be known as the Bill of Rights, to be regarded as forming part of the constitution.28

The American Revolution set the stage for the possible transformation in America’s history. It was an event that threatened to stand traditional values on their head. It was a war fought in the name of equality and universal human rights, a war that challenged social hierarchy and ascribed status, and demanded essential rights for all its inhabitants.29 As already mentioned American founding fathers took very seriously Locke’s idea that one of the best ways to ensure that the state respects rights is to carve our checks and balances within the state itself. Government, if it is to be prevented from becoming tyrannical and rights violating, needs to be broken up into units that can limit each other’s power. Undoubtedly the Glorious Revolution sets some parliamentary limits on the Crown’s authority, and the Americans went even further in elaborating detailed division between the executive, legislative and judicial branches of the government. The very point of the American system, in many ways, is precisely to make governance quite difficult; rival institutions check each other’s designs and ambitions, thereby limiting any one of them can do. The result, the “founding fathers” reasoned should be a minimal government and maximal freedom for the people, while not hindering effective state action on issues which enjoy broad based popular consensus. These innovations were clear contribution to the important idea that institutional accountability is a necessary condition for a rights-respecting society.30

However even the ratification of the Constitution and its inauguration in the 1789 failed to complete the revolution and secure the republic, for it was no more than an institutional skeleton which needed muscles and a nervous system if the national union was to mature. George Washington’s policy as first President from 1789-1797 played a crucial role in giving substance and vigour to the newly created federal government by developing the machinery and procedures necessary to apply in practice the new Constituion’s principles. Besides dealing with day to day problems he laid down principles of organization and conduct for the executive, created a new level of effective authority partly above and partly parallel to that of the states, encouraged his subordinates to formulate programmes designed to strengthen national supremacy and achieved legitimacy for the regime by gaining public acceptance.\textsuperscript{31}

\textbf{2.4.3 The French Revolution (1789)}

The French Declaration was also inspired by the United States Declaration of Independence (though predates the Bill of Rights). It begins by stating that ‘Men are born and remain free and equal in rights’. The concept of liberty is defined in Article 4 - ‘Liberty consists in being able to do anything that does not harm others’. Other articles relate to the exercise of the rule of law, including fair trial processes (Article 6-10). Inevitably given the nature and origins of the French Revolutions, the right to free communications of ideas and opinions and right to manifest such opinions subject only to the limitations of established law and order are guaranteed (Article. 10-11) while matters of taxation are also addressed (Article 13-14). The declaration remains the cornerstone of the French Constitution and has considerably wider impact serving as a guide for the constitutions of other European and former colonial countries as well as the European Convention on Human Rights itself.\textsuperscript{32}

Overall, the French Revolution created dramatic precedents for human rights, civil and political as well as social and economic. Many of these accomplishments were limited, or


partially reversed, at different points during the revolution itself or in the years that followed. But the opening words of the declaration of 1789 have continued to ring across the centuries; “All men are born and remain free and equal in rights”.33

The French Declaration of Rights was an act of revolutionary power carried out in the name of the popular will. The revolutionary governments faced, of course, many practical problems that threatened the stability of the new order. However, the degeneration of revolution from the Declaration of the Rights of the Man to the reign of terror had theoretical as well as practical sources. In the face of serious practical challenges, the ideological mixture of individual natural rights, popular sovereignty and commitment to the public good was insufficient to protect any of these values.

The ideology of the French Revolution was expressed in egalitarian terms. The theoretical concept of equal rights had, however to be implemented in a society in which various forms of inequality existed. Yet in three respects the French revolution was more egalitarian than the American. During the Revolution economic and social rights such as those to work, education and social security were proclaimed. The question of the rights of the women was also raised, especially by Olympe de Gouges, who in 1791 published a Declaration of the Rights of the Women and the Citizen. The demand for human and civil rights for women was however, defeated in the National Assembly and Olympe de Gouges was guillotined in 1793. The idea of women’s rights was thus suppressed. The revolutionaries also abolished slavery, which soon restored.34

2.5 Internationalization of Human Rights

34 Michael Freeman (2011): Human Rights: An Interdisciplinary Approach, Cambridge: Polity Press, p. 30. Inspired by the French Revolution, English radicals adopted the concept of the Rights of the Man rather than appealing to historic rights, as they were seeking reforms for which there was no historical precedents. No one sought to universalize the significance of French Revolution more than Thomas Paine. The Rights of Man, he maintained, promised ‘a new era to the human race’. They were the rights that men had by virtue of their status as human beings.
The first international treaty concerning human rights was linked with the acceptance of freedom of religion\textsuperscript{35} and the abolition of slavery. Slavery had already been condemned by the Congress of Vienna in 1815 and a number of international treaties on abolition of slavery appeared in the second half of the nineteenth century.\textsuperscript{36} Another field of international cooperation was the elaboration of the laws of war.\textsuperscript{37} The creation of the International Committee of Red Cross contributed greatly to these developments. The twentieth century brought new and changing political contexts for human rights and transformed the philosophical and ideological debates about them. Industrialization, steam-powered ships, the railroad, and the growth of urban sites all produced new spatial opportunities for timely communication and the progress of human rights, first uniting workers and the bourgeoisie against royalists and the vestiges of feudalism, later uniting workers against the bourgeoisie in their fight against capitalist greed and the ill effects of industrialization, and finally bringing together women as they entered the work force and the public realm and fought to promote their rights. The very technologies that helped create manufacturing centres and expedite the circulation of commodities and capital also augmented the pace and scope of human rights struggle. The British ten hour workday limitation bill was in this respect critical, for it offered collective time for planning and conducting working class struggles. As the new form of oppression associated with early capitalism spread, enlarging the economic inequality between nations and individuals, workers’ calls for emancipation began to be formulated in terms of global economic equality.\textsuperscript{38}

The decades bridging the nineteenth and twentieth century’s saw new assaults upon human rights as well as new attempts to establish them. Another important event of the twentieth century was the establishment of the International Court of Justice, which is responsible for settling disputes between states, ad arbitramus judicial, and for giving advisory opinions on questions of law referred to it by authorized UN organs or agencies. The court has a consultative role in the promotion and protection of human rights and is tasked with the protection of human rights through the promotion and protection of human rights.

\textsuperscript{35} The Treaty of Westphalia 1648, marked the ushering in of an international law of co-existence which ended Europe’s religious wars, and established the principle of sovereignty by which each prince was free to assert his own will within his territorial domain. In order for this system to work, a form of equality among states was necessary whereby each was to respect the sovereignty of the other, allowing each omnipotent state to exercise its full powers within the ambit of its jurisdiction, and likewise, therefore, to refrain from activities, such as intervention or the use of force that would encroach on the others’ domestic remit. For more details, see: Margot E. Salamon (2000): \textit{Global Responsibility for Human Rights}, Oxford: Oxford University Press, p. 22.

\textsuperscript{36} The Treaty of Washington 1862, documents of the conference in Brussels 1867 and 1890, and in Berlin 1885.

\textsuperscript{37} The Declaration of Paris 1856; The First Geneva Convention 1864; The Second Geneva Convention of 1906; and The Hague Conventions of 1899 and 1907 respectively.

century which has a far reaching implication for human rights is the October Revolution which took place in 1917. One of the important aspects of this revolution was the Declaration of the Rights of Working and Exploited People (1917). The Declaration consists of a number of decrees pertaining to peace and rights of the people of the then Union of Soviet Socialist Republic (USSR).39

The two world wars and the cold war which has followed the Second World War, the acquisition of weapons of mass destruction by the superpowers and the internal and external military adventures of many of the countries have made this world insufferable. The Treaty of Versailles which concluded at the end of the First World War itself contained the germs of the next war.40

2.6 The League of Nations (1919)

Since the end of the First World War, there has been a growing belief that governments alone cannot safeguard human rights, which require international guarantees. The Treaty of Versailles concluded after the First War gave an impetus to the movement towards the world organization. It established both the League of Nations mandate system and the International Labor Organization. The League of Nations was the machinery devised for the observance of peace on the political side and for international co-operation in several fields other than the political field. The League of Nations was in fact the first attempt at international organization aiming at preservation of world peace. Though the mandate of the League of Nations, the first universal intergovernmental organization created after the First World War, did not mention human rights, the League tried to undertake the protection of human rights through international means. However, its concerns were limited mainly to the establishment of certain conditions for the protection of minorities in a few countries.41 The establishment of the League of Nations received special impetus when President Woodrow Wilson announced his historic 14 Point Programme in January 1918. The covenant came into force on January 10, 1920 after obtaining the ratification of the requisite number of states.42

39 M.M. Rehman et.al. (2000), p. 16.
41 *ibid.*, June 2006, p. 83.
42 Gurjeet Singh and Dinesh Kumar (2005), p. 43.
The League of Nations covenant adopted in 1919 referred to “fair and humane treatment of labor”, to “just treatment” of “natives” in colonial territories, and to efforts to prevent trafficking in women and children. However, there was no elaborate rights statement—despite the fact that many countries individually had moved far along this path—and specific recommendations like a Japanese effort against racism were rejected (in case of Japan due to American and British opposition). Rights discussions advance during the League’s brief existence, particularly with more endorsement of women’s rights as well as attention to international labor standards, but the range remained both hesitant and limited. However, unfortunately the League of Nations has proved to be an ineffective organization to establish peace in the world and ultimately ended in failure.

It was the atrocities committed by the criminal Nazi dictatorship all over Europe which definitely paved the way for a new understanding of the relationship between the individual, the state and the international community. Never again could it be maintained that human beings were placed, by law, under the exclusive jurisdiction of their home state. It has been learnt during the horrendous years from 1933 to 1945 that a state apparatus can turn into a killing machine, disregarding its basic function to uphold and defend the human dignity of every member of the community under its power. The President of the United States and the

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44 The First World War was a humanitarian disaster, but it also advanced the causes of economic and social rights, the rights of women and minorities, and the right of national self-determination against imperialism. At the end of the war, the League of Nations was established, and addressed questions of justice in the colonies, minorities, workers’ rights, slavery, the rights of women and children and the plight of refugees. The covenant of the League made no mention of the Rights of the Man. Japan proposed a plan upholding the principle of racial equality but this was defeated on the initiative of the USA and the United Kingdom. However, the League of Nations turned out to be a practical failure. It took the horrors of Nazism to revive the concept of the Rights of Man as human rights. For more details, see: Michael Freeman (2011), p. 36.
British Prime Minister Franklin D. Roosevelt and Winston S. Churchill, expressed this in very simple words in the Atlantic Declaration of 14 August 1941.\textsuperscript{45}

\subsection*{2.7 The Atlantic Charter (1941)}

In the Atlantic Charter of 1941, President Franklin D. Roosevelt and Prime Minister Winston Churchill pledged to respect ‘the right of all people to choose the form of government under which they will live . . . . to see sovereign rights and self government restored to those who have been forcibly deprived of them’. Roosevelt’s emphasis on the ‘Four Freedoms’, that is, freedom of speech and expression, freedom of worship, freedom from want and freedom from fear and were incorporated into the Atlantic Charter in August 1941 and also foreshadowed the post war Universal Declaration of Human Rights and the decision, immediately after the war, to try German and Japanese leaders for war crimes and ‘crimes against humanity’ represented the first effort to determine responsibility for violating human rights.\textsuperscript{46}

\subsection*{2.8 The Dumbarton Oaks Conference (1944)}

In 1944, the Dumbarton Oaks Conversations took place between the then four super powers, that is, the Union of Soviet Socialist Republic (USSR), the United States of America (USA), the United Kingdom (UK), and China. This was the first concrete step towards the creation of a general international organization. As a result of these conversations, Dumbarton Oaks proposals were drafted which contemplated the establishment of an international organization under the title of ‘The United Nations’ which would, among other, things, “facilitate solutions of international economic, social, and other humanitarian problems and promote respect from human rights and fundamental freedoms.” These proposals formed the basis of


the work of the United Nations Conference on International Organization which opened in San Francisco on 25 April 1945.\textsuperscript{47}

\section*{2.9 The San Francisco Conference (1945)}

The San Francisco Conference added several new human rights clauses to the Dumbarton Oaks Proposals in its preparation of the final version of the UN Charter. The Charter of the United Nations was signed on 26 June 1945 in San Francisco, at the conclusion of the United Nations Conference on International Organization and came into force on 24 October 1945. The Statute of the International Court of Justice in an integral part of the UN Charter.\textsuperscript{48}

The idea of human rights emerged more stronger after the World War II. The extermination by Nazi Germany of over six million Jews, homosexuals and the persons with disabilities horrified the world. Trials were held in Nuremberg and Tokyo after the World War II and officials from the defeated countries were punished from committing war crimes, crimes against peace’, and ‘crimes against humanity’. With the drafting of the charter of United Nations, human rights achieved a central place on the world stage.\textsuperscript{49} The human rights provisions of the UN charter reflect the reaction of the international community to the horrors of the world and the regimes that unleashed it.\textsuperscript{50} The Charter elevated the human rights ideal by bringing it into the international arena, giving it prominence, and declaring it both an interest, and the basis for obligations, of the entire international community. In the words of Lauterpacht, the United Nations Charter provided a ‘landmark in the recognition of the status of the individual and his protection by international society.’\textsuperscript{51}

After the end of the Second World War, three intergovernmental organizations were established: the United Nations (1945), the Council of Europe (1949), and the Organization

\begin{itemize}
\item \textsuperscript{48} \textit{ibid.}, p. 16.
\item \textsuperscript{49} Gurjeet Singh and Dinesh Kumar (2005) p. 43.
\item \textsuperscript{50} Paramjit S Jaswal and Nishtha Jaswal (1996), p. 11.
\end{itemize}
of American States (1948). All the three organizations promulgated human rights and humanitarian legal standards and adopted treaties that established protection mechanisms. One of the UN’s first contributions was to provide auspices for formulating the basic normative structure of international human rights law.  

2.10 The Adoption of the Universal Declaration of Human Rights and the International Bill of Human Rights

In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights, articulating the importance of rights that were placed at risk during the 1940s: the rights to life, liberty, and security of person; freedom of expression, peaceful assembly, association, religious belief, and movement; and protections from slavery, arbitrary arrest, imprisonment without fair trial, and invasion of privacy. The Universal Declaration also contains provisions for economic, social and cultural rights. The Declaration’s force, however, is unfortunately limited by very broad exclusions and the omission of monitoring and enforcement provisions.

Following adoption of the Universal Declaration, the UN Commission on Human Rights drafted the remaining of the International Bill of Human Rights, which contains the Covenant on Economic, Social and Cultural Rights, the Covenant on Civil and Political Rights, and an Optional Protocol to the Civil and Political Covenant. The three instruments were adopted by the General Assembly in 1966 and entered into force in 1976. The International Bill of Human Rights comprises the most authoritative and comprehensive prescription of human rights obligations that governments undertake in joining the UN.

The two Covenants distinguish between the implementation of civil and political rights on the one hand and economic, social and cultural rights on the other. Civil and political rights, such as freedom of expression and the right to be free from torture or arbitrary arrest are immediately enforceable. Economic, social and cultural rights are to be implemented “to the

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53 *ibid.*, p. 25.

maximum of available resources, with a view to achieve progressively the full realization of the rights . . . by all appropriate measures. In other words, governments that ratify the Covenants must immediately cease torturing their citizens and must stop any discrimination in regard to civil, political, economic, social and cultural rights, but they are not immediately required to feed, clothe, and house them. These latter obligations are generally to be accomplished progressively as resources permit.\textsuperscript{55}

In addition to the International Bill of Human Rights, the United Nations has drafted, promulgated, and now helps implement more than eighty human rights treaties, declarations, and other instruments dealing with genocide, racial discrimination, discrimination against women, religious intolerance, the rights of disabled persons, the right to development, and the rights of the child. The first was the Convention on Elimination of All Forms of Racial Discriminations (CERD) in 1965. This was followed by Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1984, the Convention against the Rights of the Child (CRC) in 1989, and the International Convention on the Protection of the Rights of All Migrant Workers (ICRMW) and Members of their Families in 1990. Each of these has been adopted by enough members of the United Nations to have entered into force as a binding international agreement among the ratifying countries.\textsuperscript{56} The United Nations has also established many political institutions, expert bodies, and other procedures to promote and protect human rights.

One early focus of the United Nations emphasized self-determination through the elimination of colonial domination of the developing world. The constitutions of most nations that have established since the formation of the UN include reference to the rights that are protected by the Universal Declaration of Human Rights and the remainder of the International Bill of Human Rights.\textsuperscript{57}

However, regional organizations had been more successful in protecting human rights than the UN because both the United States and the Soviet Union used charges of human rights

\textsuperscript{55} ibid., p. 26.
\textsuperscript{57} David Weissbrodt and Connie De La Vega (2007), p. 27.
violations as a political tool to discredit the other. Accordingly, the Council of Europe adopted the European Convention on Human Rights in 1950, which established the European Commission and Court of Human Rights. The Organization of American States adopted the American Convention on Human Rights in 1969 and established the Inter-American Commission and Court of Human Rights. In Africa, the Organization of African Unity has established the African Commission and Court of Human and Peoples’ Rights, charged with enforcing the African Charter on Human and Peoples’ Rights. The African System is the youngest of the regional mechanisms and follows its counterparts with the provision of similar procedures such as the inter-state and individual communication mechanism and the state reporting procedure.

The rationale for establishing regional courts was to move forward with the effective enforcement of human rights in line with the regional needs, experiences and legal traditions. Altogether, ninety four European, American and African States have submitted themselves to the jurisdiction of their respective regional human rights courts. While the existence of these courts, their successful handling of large number of cases make questionable the added value of yet another international human rights court, these same facts, together with decades of legal and practical lessons learned on adjudicating human rights, can also be used as an arguments in favor of replicating this exercise on the universal level.

Besides, bodies of the United Nations have repeatedly confirmed the importance of the Universal Declaration. Many declarations and resolutions call upon states to respect the standards set out in the Universal Declaration. In 1968, (for example), the First World Conference on Human Rights adopted the Proclamation of Teheran, in which the Universal Declaration proclaimed as stating a common understanding of the people of the world concerning the inalienable and inviolable rights of all members of the human family and constituting an obligation for the members of the international community.

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Of the several blind spots in the early development of the human rights movement, none is as striking as that movement’s failure to give to violations of women’s rights the attention, and in some respects the priority, that they require. It is not only that these problems adversely affect half of the world’s population. They affect everyone, for a deep change in women’s circumstances and possibilities produces change throughout social, economic, and political life. Even in a field where the human rights movement acted with vigor in setting standards, passing resolutions and at times imposing sanctions - for example, racial discrimination - it is often the case that progress in many countries has been measured or slight, and that problems of the most serious character not only survive but remain entrenched. Nonetheless, it is instructive to contrast the vigor of the movement in trying to ‘eliminate’ racial discrimination with its relative apathy until the last 15 years or so in responding to gender discrimination - and to explore why this is so. It recognizes ‘that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.’

Later on, the study of women’s rights also illustrated the increasing ambition, breadth and complexity of the human rights movement. We see a proliferation of instruments and institutions, world conferences and NGO initiatives, active proposals in many directions, and growing conflicts about premises and goals within the women’s movement itself. The feminist literature relevant to human rights assumptions, goals and strategies has moved adventurously in many directions, sometimes polar directions; its engagement with the human rights movement has enriched and deepened thought about the entire project. The complexity and different currents of advocacy and criticism, idealism and skepticism, views of sexuality and gender, and indeed views of equality are captured in an innovative and ambitious treaty, Convention for Elimination of All forms of Discrimination against Women.

Human Rights flourished in the final decades of the prior century, and it may be that the 1990s, despite some painful contradictions, will be remembered as “the golden age of human

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62 ibid., p. 175.
rights”. Even earlier the cold war rivalry was transcended in the course of organizing a worldwide anti apartheid campaign that received some of the credit for the generally peaceful transition in South Africa to a non-racist constitutional democracy. In the 1980s, especially protest movements in Eastern Europe emboldened by the human rights provisions of the 1975 Helsinki Accords weakened the hold of the oppressive Communist regimes on their citizenries and when the more accommodationist Gorbachev leadership took over in Moscow in 1980s, the stage was set for the unraveling of the Soviet Empire. Human Rights played an important part both in providing opposition groups with the sense of legitimacy, undermining the authority of oppressive regimes, and establishing supportive solidarity links between domestic activists and the robust Western peace movement. Also, in this period there were variety of challenges to political authoritarianism in Asia that stemmed from mass support for human rights and democracy claims, producing mixed results in countries such as the Phillipines, Thailand, Myanmar and China. Such developments often led to authoritarian backlashes, including the bloody massacre in Tiananmen Square in 1989, but the popular demand for forms of governance that respected fundamental rights had spread around the world. This meant lip service from elites, often reinforced by some reform measures, and expectations of more humane governance from the peoples of the world.\(^{63}\)

### 2.11 The Vienna Declaration and Programme of Action (1993)

After the Second World Conference on Human Rights which was held in Vienna in 1993, the Universal Declaration was declared as the source of inspiration and the basis of the United Nations in making advances in standard setting as contained in the existing international human rights instruments. \(^{64}\) The Vienna Declaration and Programme of Action clearly recognized the interrelationship and interdependence of civil and political rights and the social, economic, and cultural rights. This recognition is present in varying degrees in all the major human rights instruments. As we have already noted, the UDHR affirms the existence of the three generation of rights. The ICCPR also retains as its primary Article the right to self-determination, which is a collective right, the right of people. It also contains articles on equal protection of the law (Article 26), right to freedom of association (Article 22 (1)), right to life (Article 6(1)) and rights of minorities including their cultural rights (Article 27).

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\(^{63}\) Richard Falk (2009), p. 5.

\(^{64}\) Peter R. Baehr (2002), p. 4.
Similarly, other international and regional human rights instruments reiterate the overlapping between social, economic, and cultural rights, and civil and political rights. Regional human rights treaties primarily represented by the ECHR, the American Convention on Human Rights and the African Charter on Human and Peoples’ Rights indulge in various ways to protect social, economic and cultural rights, while retaining a focus on civil and political rights.\textsuperscript{65}

Another important aspect of the conference was the office of the High Commissioner for Human Rights who has become a highly visible symbol and a catalyst. She/He is the global coordinator of the human rights activities of the United Nations and has been playing an important role in bringing human rights to the highest levels in the governments. The High Commissioner is able to facilitate and support the efforts of the other parts of the human rights movement, spearhead activities in areas needing special focus and be the voice of conscience in situations of international concern. The office of the High Commissioner for Human Rights (OHCHR) is now present in more than 40 countries and has a staff of approximately 800 persons. The country representation is in the form of offices with “full mandates”, technical cooperation offices or projects, regional offices or human rights components in UN peace missions.\textsuperscript{66}

2.12 Consolidation of the International Human Rights Movement

The International human rights movement is made up of men and women who gather information on rights, abuses, lawyers and others who advocate for the protection of rights, medical personnel who specialize in the treatment and care of victims, and the much larger number of persons who support these efforts financially and often by such means as circulating human rights information, writing letters, taking part in demonstrations, and forming joining and managing rights organizations. They are united by their commitment to promote fundamental human rights for all, everywhere.


In the period since the end of World War II those rights have been recognized in such international agreements as the Charter of the United Nations, Universal Declaration of Human Rights and in a host of Global and Regional treaties. There is a widespread agreement among those who identify themselves amongst the international human rights movement that the fundamental right to which they are committed includes a prohibition on the arbitrary or invidious deprivation of life or liberty; a prohibition on state interference with the right of all to express themselves freely and peaceably by speech, publication, assembly, or worship; the right of all to equal treatment and equal opportunity regardless of race, ethnicity, nationality, religion or gender and a prohibition on such cruelties as torture.\footnote{Aryeh Neier (2012): \textit{The International Human Rights Movement: A History}, New Jersey: Princeton University Press, p. 2.}

### 2.12.1 Human Rights Movement and the Information Technology Revolution

In recent times the major factor contributing to the consolidation of human rights movement has been the information revolution. As the most important present day means of protecting human rights is the investigation of abuses, the efficient and rapid dissemination of reports on those abuses is essential. The rise of today’s movement took place during a period in which there was rapid improvement in the ability to transfer information speedily and across borders. This has given the rights movement the ability to become aware of abuses as they take place and to respond instantly.\footnote{ibid., p. 6.} Not only that one Hollywood based NGO, the Political Film Society, has been giving annual awards to the directors of the films that raise consciousness about democracy, human rights and peaceful methods for resolving conflicts.\footnote{Michael Haas (2008): \textit{International Human Rights: A Comprehensive Introduction}, New York: Routledge, p. 95.}

The organized efforts to promote human rights have taken roots in most of the countries of the world. In many countries like Brazil, Russia, India and Nigeria local human rights organizations have been formed to tackle the issues such as police violence, the abuse of person in detention, and denial of the freedom of expression as well as other manifestations of official lawlessness. The extent to which the movement has matured in these regions, and the degree to which it has focused on matters that are universally recognized as the core
human rights concerns seem to refute the argument that human rights is a Western construct of limited application in other parts of the world.\textsuperscript{70}

2.12.2 \textit{Human Rights Movement and Non Governmental Organizations}

In present times the driving force behind the protection of human rights worldwide, today and for roughly the past thirty five years has been the non-governmental human rights movement. During the last two and a half centuries, citizens’ movements did play an important role in efforts to promote human rights, as during the development of the anti slavery movement in England in the eighteenth century and the rise of the feminist movement in the United States in nineteenth century. The contemporary human rights movement responds to the victories and defeats by shifting focus from time to time, but it shows signs that it will remain an enduring force in the world affairs. Although the government has also been playing a lead role in the adoption of treaties to protect rights, it is widely recognized that such recent international agreement as the 1997 Treaty to Ban Land Mines and the 1998 Rome treaty that established the International Criminal Court were direct consequences of campaigns by nongovernmental organizations. The government had to agree to these treaties, but the impetus for them came from citizen’s movements. The role of the nongovernmental movement is more important in exposing abuses of rights and in mobilizing efforts to secure remedies and redress.\textsuperscript{71}

NGOs are particularly active not only in presenting information to intergovernmental human rights organizations but also in providing immediate publicity to the serious problems, resulting in much speedier responses by the political arms of intergovernmental organizations as well as national governments. Many NGOs have internet websites with the up to date information on breaking news, solicit contributions and accept memberships.\textsuperscript{72} Many of the monitoring procedures only exist because of the determined lobbying and human rights expertise of the NGOs; much of the pressure for governmental implementation of the monitoring mechanisms remains in the hands of NGOs and many of the standards which the procedures monitor are also the results of NGOs initiatives and lobbying. It is impossible to

\textsuperscript{70} Aryeh Neier (2012), p. 6.
\textsuperscript{71} \textit{ibid.}, pp. 7-8.
\textsuperscript{72} Michael Has (2008), p. 93.
overestimate the importance of human rights NGOs local, regional, national or international. At the same time, it must not be forgotten that the responsibility for implementing human rights, and the ultimate power in relation to the promotion and protection of human rights, rests with the governments.\textsuperscript{73}

Most of the principal U.S based organizations concerned with human rights internationally—Helsinki Watch (which became the Human Rights Watch), the Lawyers Committee for International Human Rights (which became Human Rights First), the Committee to Protect Journalists, the International Human Rights Law Group (which became Global Rights), Physicians for Human Rights were formed in the late 1970s or at the beginning of the 1980s. Besides, there were much older bodies instead. The most important one was the Amnesty International, established in 1961, whose selection for the Peace Prize by the Nobel Committee in 1977 was a landmark in the recognition of today’s international human rights movement.

Going back even further a small U.S based group, The International League for Human Rights, was formed during the World War II at about a time that a commitment to promote human rights was being developed for the incorporation in the United Nations Charter. The roots of the International League goes back to an organization to promote rights established in France in the aftermath of the Dreyfus case of the 1890s and an international federation to protect rights, also in France and was launched in the early 1920s. Though subsequently eclipsed by other groups, the early participants in those organizations played an important role for a time as voices for human rights at the United nations and had an impact both on the norms that were established in a number of agreements on rights adopted by the world body and on the development of its machinery for addressing rights issues.\textsuperscript{74}

The organizations which operate internationally seek relations with the local human rights activists in the countries on which their work focuses. Though they may have little in common linguistically, culturally and politically, a great many of the millions of persons worldwide who consider themselves human rights activists feel a kinship and seek ties to


\textsuperscript{74} ibid., p. 8. For more details, see: Michael Hass (2008), pp. 93-95.
others within the movement. This helps them to overcome the often well founded fear of many activists in repressive countries that they themselves may suffer reprisals at the hands of abusive officials. Moreover the interdependence of domestic and global efforts to promote human rights in places where it is possible for local monitors to function has forged strong links between the various components of the movement worldwide and a powerful sense of identification with that movement.

A few organizations that promote human rights internationally and are located in other parts of the world. The Commonwealth Human Rights Initiative is based in New Delhi, India. Currently the largest part of its work focuses on Commonwealth countries in South Asia particularly in India and in few Commonwealth countries in Africa including Ghana, Kenya, Uganda and Tanzania. CHRI's projects in India make up so large a part of its efforts that it could readily be described as Indian Human Rights group. Much of its work involved advocacy for reform of institutions, such as the police and the prisons. A major concern everywhere that CHRI operates has been adopting and implementing legislation on the right to information. In India, a particular focus for several years was on the 2002 riots in the state of Gujarat in which about two thousand Muslims were killed in communal violence that was justified and even prompted by the state’s political leaders and in trying to end impunity for those responsible for the murders.

2.13 New Threats and Challenges Before the International Human Rights Movement

At the close of the twentieth century human rights are still being trampled upon in numerous part of the world, economic and social rights were largely ignored in most of the countries of the world and protection national, regional or international was a scarce commodity notwithstanding the efforts of the Commission on Human Rights, the special procedures, the high commissioner for human rights, and the security council. Human rights problems were numerous stemming from poverty, conflicts, terrorism, inequality, poor governance, and atrocities committed by the government on their own subjects.

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75 ibid., p. 9.
76 ibid., p. 13.
77 ibid., p. 249.
It is precisely the contention that human rights are universal and may not be infringed upon by government that makes the concept of such rights so controversial and problematic in the world today. What is important to our discussion of human rights is that state sovereignty and its appurtenance, cultural exclusivity, are major impediments to a system of universal human rights. The idea that certain principles and institutions, such as participatory democracy, are simply, alien to particular people is encapsulated within the notion of “cultural relativism”. In theory cultural relativism is the reasonable idea that certain political, economic, social and cultural groups, and that the abrupt, artificial introduction of alien influences can be disruptive. In practice, however, cultural relativism is often employed by ruling elites as a pretext for opposing homegrown reform movements that threaten their power of status. The entrenchment of universal culture of human rights calls for the enthronement of human rights reasoning in dealing with new problems, issues, threats and new challenges. The knowledge and practice of human rights must be universalized by means of education and access to relevant information.\(^79\)

A globalizing world presents opportunities as well as difficulties for the universal realization of human rights. Global terrorism assaults human rights and at the same time requires strategies of response grounded in international human rights norms. The contemporary human rights movement faces host of challenges. It has been in the forefront of efforts in many countries to stop violations of civil liberties committed in the name of the so called “war on terror” and to prevent what were in many cases, hasty responses to a perceived emergency from turning into new norms for investigating and regulating the day to day activities of the citizens.\(^80\) The human rights movement, having become capable of exercising significant influence over public policy during the last ten or twelve years of the Cold War, confronted its most significant challenge after the terrorist attacks on New York and Washington DC, on September 11, 2001. The use of coercive measures up to and including torture against those suspected of involvement in terrorism, though discredited to a greater degree than other abuses, still has political support in United States. Certainly the human


\(^80\) *ibid.*, p. 20.
rights movement has made headway but the arguments continue. And with each new terrorist outrage- each attack whether failed or successful, whether in New York, Bali, Jakarta, Madrid or Mumbai - the human rights cause suffers a setback.

We see that movement today is made up of large number of organizations with more supporters, more resources, operating with more places and dealing with wider range of issues than ever before.  

In reality the human rights movement has often been at odds with democratically elected governments over such issues as minority rights, the abuse of the detainees and restrictions on the liberties of their critics. Some of those equating the promotion of democracy with the effort to secure human rights have argued that the deficiencies of democracies are self correcting, where as the shortcomings of other forms of government are less susceptible to change. Whether or not this is the case this is the experience of the international human rights movement that many significant human rights abuses are committed by the governments that are democratic. In contemporary times, Columbia, Peru, Isreal, Russsia and Srilanka could be cited as examples of countries in which the popular will, periodically expressed at the polls, has produced governments that have engaged in significant human rights abuses over a sustained period of time. India is the world’s largest democracy but it has committed substantial abuses in conflict areas such as Kashmir and the violation of rights against impoverished detainees in the criminal justice process are endemic. In countries in other parts of the world like Zimbabwe, Venezuela and Iran leaders such as Mugabe, Chavez, Ahmadinijad have come to power by democratic elections and subsequently perpetuated their rule by undemocratic means that included severe violation of rights. Documenting and denouncing such abuses internationally remains an important part of the effort to curb their violations.  

Societal problems such as HIV/ AIDS and the trafficking in human beings also presents new dramatic challenges. Developments in biomedicine, science and technology raise new issues requiring innovative policies and international norms. Relations between different philosophies, cultures, religions or beliefs across the globe often give rise to the tensions that

81 ibid., p. 22.
82 ibid., pp. 175-76.
need to be addressed. It is precisely on such issues that the newly established Human Rights Council must make reasoned contribution.\textsuperscript{83} Regional co-operation would need to be strengthened. In future the main focus of the United Nations human rights activities should be on bringing universal respect in fact for the norms that had been agreed upon in practice. The challenge of promoting respect for human rights was global. The goal of United Nations body must be to translate the wide commitment to human rights into an increasingly persuasive means to eliminate abuses wherever they occur.\textsuperscript{84}

Similarly Globalization poses a serious challenge to the human rights movement. It is not a simple but a very complex set of processes that operate at multiple levels—political, economic and cultural. It is useful, in this context, to analyze it from the basis of Richard Falk’s argument that there are two kinds of Globalization: globalization from above” and “globalization from below”. These two kinds of globalization are in a dialectical relationship and that from a left democratic progressive perspective the latter is not only preferable but desirable. Globalization from above is reflected in western countries and global financial institutions pressurizing countries in the South and former Eastern Bloc to democratize. Globalization from below is reflected in the virtual explosion, in all quarters of the Third World, of tenacious resistance against the onslaught of western culture: the struggles for cultural survival of the indigenous people, the critique and often rejection of western based notions of modernity and secularism; and the deconstruction of “given universals” that are a function of historical imperialism and colonialism.

Since the early nineties, there had been much academic discussion about whether globalization is “good”, or “bad”. Some scholars, notably legal scholars and political scientists think it obvious that globalization is detrimental to human rights. Peter Schwab and Admantia Pollis, for example, focus only on the negative aspects of globalization, stating, “Clearly globalization has had a deleterious effect on the entire complex of human rights”. Other scholars, economists in particular, argue implicitly that globalization can and often does have beneficial effects on human rights.\textsuperscript{85} As already well said Globalization is a compendium of ideas, practices, institutions, directions of change and ideologies. Some of

\textsuperscript{83} Bertie G. Ramcharan (2009), pp. 5-6.
\textsuperscript{84} ibid., p. 8.
these diminish rights, others promote them, and some do both simultaneously: for example, the internet and the new forms of technology more generally, which provide more opportunities for both freedom of expression and access to information and open new possibilities of networking; at the same time they greatly increase the influence of corporations and opportunities for hate speech, pornography and sexual trafficking. This makes it particularly hard to distinguish between the positive and negative consequences of globalization for rights. However, even though they are interconnected, it may be possible to distinguish the economic process of globalization from the more political and social processes. There is considerable tension between the economic and other processes in so far as rights and justice are concerned.\textsuperscript{86}

At the same time, we find that the economic globalization requires the recognition of multiple human rights duty holders. Human Rights are no longer affected only by the states, which has territorial control over the area where people live. Decisions by inter-governmental organizations, by economic or violent non state actors and by other states have far reaching consequences for the degree to which human rights are enjoyed in a particular part of the world. None of these other actors is, however, sufficiently accountable for the human rights impact of their actions \textit{vis-a-vis} people affected by their activities.\textsuperscript{87}

Most of the protestors do not oppose international trade, as is commonly held, but instead seek international regulations to secure the rights of the women, children, and labor to promote development and protect the environment.\textsuperscript{88} Economic Development Programs argued Nobel prize winning Indian Economist Amartya Sen should not require, “blood, sweat and tears” sacrifice by a population, but adopt a more congenial approach with respect for human freedom as their central tenet. Article 1 of the UN Declaration on Environment and Development, drafted at Rio de Janeiro (1992) encapsulates some of his concerns: “Human


\textsuperscript{88} Micheline R. Ishay (2004), p. 255.
beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.”

For many like the Indian scholar Ramachandra Guha, deep ecology and development projects throughout the Third World are antithetical to environmental positions associated with egalitarian justice. “Commodities have grown, but nature has shrunk,” echoes his compatriot Vandana Shiva, whose concern is to halt the commodification of the natural world, which has particularly severe consequences for women, “the poorest among the poor . . . . because with nature, they are the primary sustainers of the society.”

Most developing countries aspire today not to avoid globalization, but to harness it in a way that reduces poverty while increasing national revenue. Indeed, most developing countries compete to attract foreign investment, offering tax incentives and reassurances that labor costs will be controlled. Human rights activists in these countries have so far welcomed foreign investments that create jobs, while repeatedly condemning the job cutting consequences of IMF stimulus packages. Western labor activists, on the other hand, object to the threats of capital flight to regions with cheap labor, a threat used to undermine their fight for higher wages and better working conditions. These conflicting interests have widened the gulf between the human rights priorities within the privileged and the poor states.

We must understand that it is not only the state but the responsibility of every person and every organ of the society to protect human rights and ensure their fulfillment. On 18 June 2007, the UN Human Rights Council adopted a resolution for the creation of a Universal Periodic Review which required every member state of the UN to be reviewed regularly for its compliance with human rights. This resolution makes clear that one of the appropriate legal source for questioning every state about its human rights record is the UDHR. Since the

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91 Micheline Ishay (0000), p. 262.
UPR began many states have been questioned about human rights for which they have no treaty obligations.\textsuperscript{92}

Since the adoption of UDHR six decade ago, a remarkable global human rights infrastructure has been put in place. What started as a ‘common standard of achievement for all peoples and all nations is now transformed into complex web of institutions tasked with promoting and protecting human rights and preventing human rights violations. The one institution which is conspicuously absent in this assemblage of human rights bodies is a World Court with the mandate to adjudicate human rights on a global scale. While human rights courts have been created in Europe, America and Africa, no such court exists as a part of the United Nations human rights system.\textsuperscript{93}

In the years after the Vienna World Conference on Human Rights in 1993, all the proposals made in the years after 1945 to create a comprehensive human rights infrastructure could finally be realized, with the exception of an International Human Rights Court. The UN High Commissioner for Human Rights now acts as a focal point for the UN’s human rights activities; the ICC can deliver judgments on genocide, war crimes and crimes against humanity; and the UN Security Council has become much more sensitive to human rights matters than the drafters of the charter would perhaps have imagined. The idea to establish International Court of Human Rights was once more floated around the time of the World Conference, but whatever little enthusiasm there may have been vanished in the years after, not least because of the anticipation which the imminent establishment of the ICC generated.\textsuperscript{94}

The International Human Rights Court\textsuperscript{95} remains the missing piece of the 1945 blue print and the potential duties of the court to monitor states’ compliance with human rights obligations


\textsuperscript{93} Gerd Oberleitner (2010), pp. 359-370, at p. 359.

\textsuperscript{94} \textit{ibid.}, p. 364.

\textsuperscript{95} The ICC is an entirely different kind of court from an International Human Rights Court. It establishes individual criminal responsibility and put an end to the impunity of dictators, \textit{genocidaires} and war
continue to be carried out by the UN treaty bodies and the UN Human Rights Council. Yet, neither the state reporting, inter-state and individual complaints procedure of the treaty bodies nor the complaints procedures, special procedures, and the newly created Universal Periodic Review of the Council can deliver results as a judicial procedure before an international court would.  

No doubt the difficulties in setting up of International Court of Human Rights are considerable. Such a new court will have to be anchored in the existing human rights framework in a way that is intellectually and practically attractive to the interested states and the human rights movement alike.

Human Rights remain an essentially political issue, and the kind of justice a court offers may not always respond to the need of the victims and societies affected by human rights violations. The International Court of Human Rights will be no exception in facing this kind of critique and having to respond to it. However just as the ICC is important not only as a legal institution but also as a symbolic herald of a new era, so could an international Human Rights Court (to begin with, the engaged debate over its establishment) open a new chapter for the UN and for the development of international human rights law generally into the future.

Richard Falk in his book *Achieving Human Rights* suggests of establishing a Global Parliament with the mandate to incorporate transnational and futurist non-state civil societal priorities. This Global Parliament should be capable of evolving into a law making institution, but its initial phase of operations would be to give the peoples of the world a direct “voice” at the global level, with a strong networking potential of benefit to the strengthening of global civil society and an institutional embodiment of populist concerns. As a thought experiment, the emergence of a global parliament seems in 2012 less unlikely than did the establishment of an International Criminal Court a decade before its establishment in 2002.

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97 *ibid.*, p. 370.
2.14 Conclusion

After going through the above discussion we have seen that the eighteenth century was the most skeptical period in the history of the world. There was something in the scientific attitude which turned the human mind ethic-neutral and to claim that moral values were not objective resulting in a process of dehumanization. After that the twentieth Century became the bloodiest century in consequence. The two world wars had a devastating effect on human tranquility. Men of Vision thought that there should be some philosophy to serve as a foundation for human behavior, either individual or collective, everywhere. This is how a Universal Bill of Rights recognizing an international standard for human behavior in society and polity came to be recognized in the form of UDHR, to give every human being by virtue alone of his birth in the human family, irrespective of one’s situational differences of caste, creed, race and language, certain irreducible minimal rights. These rights were not conferred by the Universal Declaration. These great rights of man were self-evident and were always recognized as universal and inalienable and not as ‘conferred rights’. The past 60 years have seen truly monumental achievements of the international community in the field of human rights. This development has led to more interest and more involvement from states in the human rights foray of the UN. A part of this increased involvement is based on genuine interest from states in consolidating and improving the system, while others seem to be driven by a wish to control and reverse some of the achievements. Human Rights is no longer a marginalized area that States can ignore or be indifferent. Moreover, the role played by the global media and the Internet disseminating human rights concerns beyond their territorial locus is highly desirable. Similarly Nongovernmental international organizations have also played a crucial role in the development of the League of Nations and the United Nations as well as in the adoption of the Universal Declaration of Human Rights. They have mushroomed in number and scope in recent years and have been playing an important role in creating human rights consciousness in the contemporary world, thereby influencing the human rights movement at the international and national level respectively.

We must realize that the struggle for human rights begin at home, not just in home country, that is, with in our own family and immediate neighborhood. Of course, our future as a species also depends on our farsightedness and sense of human solidarity when it comes to human rights. We need to feel the pain and urgency of abuse whether in Tibet or Gaza, as well as in our inner cities or in relation to lost farms and homes within our supposedly
wealthy country. We need to be mindful of the wellbeing of the future generations so that their life is not afflicted with disease, hardship and authoritarian rule. Unavoidably, the vocation of human rights advocacy cannot be separated from the pursuit of justice in all domains of human existence. Human rights are ultimately about the quality of world order as was acknowledged but ignored in Article 28 of the UDHR:

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.

It is late, but not too late, to take this unnoticed promise seriously.98

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