CHAPTER -5
CONCEPT OF HUMAN RIGHTS IN HINDUISM
Hinduism is perhaps the oldest of all the living religions. It has neither any definite date of its origin nor has it any definite founder associated with it. It is called Sanatana Dharma, a religion coming down to people through eternity. It is thus a unique religion in one very important sense. Nearly every religion of the world is associated with a definite personality claimed to be its first originator or founder and has a definite text which is regarded as its basic religious text. But Hinduism has none. It can more be regarded as a spontaneous growth assisted at various stages of civilization from various sides rather than a creation or construction of somebody. As Sir Charles Eliot remarks in this connection, “Hinduism has not been made, but has grown. It is jungle, not a building.” Similarly, K. M. Sen makes the following observation in his book Hinduism, “Hinduism is more like a tree that has grown gradually than like a building that has been erected by some great architect as some definite point in time. It contains within itself the influences of many cultures and the body of Hindu thought thus offers as much variety as the Indian nation itself.”1 The names of a host of sages and saints are of course associated with Hinduism, but none can claim to be its founder; they have all simply contributed to its growth in their own specific ways.

Hinduism is among the oldest and most multifaceted of spiritual traditions. It can best be defined as a way of life based on the teachings of ancient wisdom texts, such as the Vedas and the Upanishads. Beyond this, however, the religion is difficult to define, chiefly because the word “Hinduism” does not refer to one particular religion but, rather, is a catchphrase for a group of religions, all with origins in India. These religions share certain underlying teachings, and for this reason they are all placed under the Hindu umbrella. The essential core of these religious traditions is properly referred to as Sanatana Dharma, which roughly translates as “eternal religion,” and the words “Hindu” and “Hinduism” are foreign, not indigenous to India itself.2
The Hindu tradition is best understood when compared to a fruit tree, with its roots represented by the Vedas, the Upanishads and other ancient scriptures. The large trunk of the tree is comparable to the spiritual experiences of numerous sages and saints, whose insights are honored as much as those of the sacred texts and, indeed, grow out of these texts. The branches are analogous to the religious traditions that sprout from these roots and its trunk. These are the specific religions that, together, are called Hinduism. Of all such religions the most prominent are Vaishnavism, which refers to the worship of Vishnu (the Supreme God), Shaivism, the veneration of Shiva (God when He manifests for the purpose of universal destruction), and Shaktism, reverence for the Goddess (the Mother of the universe). There are many smaller branches as well, symbolizing various sects and subsects found in India. The fruits of this tree are the realizations one gets by practicing the various forms of Hindu religion; the topmost fruit is liberation which begins with release from material conditioning and culminates in love of God.

Interestingly, Hinduism accommodates a good number of theological perspectives—with its various religions espousing monotheism, polytheism, pantheism, and so on, in diverse ways- and absorbs the perspectives of other religions as well. It is thus characterized by a rich variety of ideas and practices that cannot be confined by one particular doctrine. In fact, it is more defined by what a person does than by what he or she thinks. Hinduism is cultural, not doctrinal, taking its inspiration from the many traditions of its ancestors as opposed to any one teaching. It is so diverse in its underlying premises and practical manifestations that it has been called a living encyclopedia of religions.

Only the foundational texts of India, the Vedas, along with their attendant Brahmana, Aranyaka and Upanishadic literature are considered direct revelation from God. The original four books—the Rig Veda, the Sama Veda, the Yajur Veda and the Atharva Veda—are basically a series of prayers to the
divine, incorporating complex rituals and elaborate fire sacrifices that are the stuff of legend. Here in this earliest stratum of Indic literature, divinity appears in the form of terrestrial, celestial and atmospheric deities, individual representations of the Supreme Spirit for specific sacrificial purposes. Many of these sacrifices are replicated today, although in a much abbreviated form and only during special ceremonies. The archaic texts known as the Vedas have largely been replaced by a corpus of secondary literature and these make up the texts of modern Hinduism.

THE UPANISHADS

The Upanishads are 108 separate texts appended to the Vedas and described as their philosophical elaboration. These works are considered part of the Vedas proper. Despite the many Upanishadic texts known to tradition only about 13 are currently popular or commonly referred to. In these works one finds a bridge, of sorts, from the vast impersonalism of the Vedas to the religions we now identify as Hinduism. Indeed, even though specific deities are mentioned in the earliest of Vedic texts, the overall tenor of its spiritual message lacks the personalistic theism of later Hindu tradition.

The word Upanishad means “to come and sit down near me.” Indicating that the texts are properly understood by sitting at the feet of a teacher (guru) and learning submissively. All Upanishadas focus on the truth underlying Vedic knowledge—the vast reality at the heart of all ritual and sacrifice, the core of spiritual wisdom. Important aphorisms associated with the Upanishads are Tat tvam asi “You are That” (i.e., Brahman) and “I am Brahman (aham brahmasmi)” Naturally, those with a monistic leaning have interpreted these aphorisms as indicating oneness with God. The theistic traditions, however, have explained them in different ways. The Sanskrit texts allow for that. For example, “You are That” “can simply mean “you are spirit,” which does not necessarily indicate identity with God. Similarly, “I am Brahman” can be understood in a similar way. Indeed Vaishnavas, or devotees of Vishnu, go
through great pains to distinguish between Brahman and “Para”-Brahman, or spirit and the “Supreme” spirit.

THE MAHABHARATA

The Mahabharata comprises some 110,000 Sanskrit couplets-seven times the length of the Ilied and the Odyssey combined of nearly three times the size of the Judeo-Christian Bible. As an epic of immense proportions, both in terms of length and content, it has become the basis of Indian myth, religion, and philosophical thought. It is within the pages of the Mahabharata (1.57.74), in fact, that we first read of a work that sees itself on the level of the Vedas; it proclaims itself “the Fifth Veda.” Hence, he wrote the Mahabharata, a mammoth work that, as it is said, includes just about everything. As the text it opines: “If it is not found within these pages, it does not exist.”

The substance of the basic story, however, revolves around the furious quarrel between the Pandavas and the Kauravas, two groups of cousin who were nurtured from their earliest years in the chivalrous Kshatriya caste-meaning that they were trained as warriors, administrators, and protectors of the innocent. The quarrel between these two groups escalated into a full-scale civil war, involving gods, yogis (higher beings with magical powers), sages and royalty. The war was known as the battle between dharma and adharma, good and bad, just and unjust.

THE BHAGAVAD GITA

Although widely published as a book unto itself, the Bhagavad Gita originally appeared as an episode in the Sixth Section of the Mahabharata. It consists of 700 verses in 18 chapters and is often referred to as the Gitopanishad. In other words, it follows the literary style and philosophical conclusions of the earlier Upanishads, the esoteric books of knowledge appended to the Vedas.
Gita means “song,” and bhagavad refers to “God, the possessor (vat) of all opulence (bhaga).” The Bhagavad Gita, therefore, is “The Song of the All Opulent One, “embodying the essential teachings of Lord Krishna.

The dialogue moves through a series of questions and answers that brings Arjuna along with subsequent readers, to an understanding of certain fundamental metaphysical concepts. These include the distinction between the body and the soul or between matter and spirit: the logic of reincarnation: the principle of non-attached action, of how to work dispassionately and for a higher purpose; the virtues and mechanics of various forms of discipline and meditation (yoga): and the place of knowledge (gyana) and devotion (bhakti) in pursuit of the spirit. Krishna explains the modes of nature-goodness, passion, and ignorance—and how these qualities impact on people’s lives. He also explains the nature of God and the purpose of existence. Ultimately, Krishna teaches Arjuna that perfection lies not in renunciation of the world, but rather in disciplined action, performed without attachment to results. He urges Arjuna to fight, but with a sense of love and spiritual purpose.

THE RAMAYANA

The other great Sanskrit epic, the Ramayan—“the story of Rama” also an incarnation of Vishnu, the Over soul of the Universe—is about 24,000 verses, which makes it roughly a quarter the length of the Mahabharata. It is said to originate in a previous age, about 2 million years ago, although scholars, naturally, give it a much later date. The sage Valmiki was the first to present it in written form, but it is a story that existed long before he committed it to writing. There are many retellings that came after Valmiki’s version as well, and, in fact, most Hindus know these other, regional versions, for they appear in vernacular languages, whereas Valmiki’s is in Sanskrit, an archaic tongue known mainly by the intellectual elite.

The Ramayana is often relished for its sheer beauty: As examples, one needs look no further than its Sanskrit poetry, its provocative setting, and its
profound dialogue. The beauty is also evident in the sense of morals and ethics found in its pages, in the ideals it encourages in its readers, and in the wide canopy of emotions it brings to the fore. Most of all the inspirational personalities depicted in its pages are the highest peaks in the Ramayana’s overwhelming beauty.

MANUSMRITI

Most Hindus have never actually studied the “Laws Code of Manu” (alternatively called Manu-smriti, Manu-samhita, and so on), but it informs most of their day-to-day activities. They tend to learn it haphazardly, through weekly sermons at the temple, parental admonitions, or stray proverbs heard at school. Nonetheless, this work is the most celebrated and honored text outside India’s usual corpus of sacred literature. It is considered a “legal” text, with more commentaries than any other book of its kind, and there are many.

As the book opens, a group of sages approaches Manu and ask about duty and law, hoping he will instruct them. He does. He tells them about the creation of the world and its original purpose. Naturally, in due course, he describes the four social classes-intellectuals, warriors, merchants, and workers- and then tells his student, Bhrigu, to explain the rest. As Bhrigu does so, the book goes through the specific duties of each class, along with their expected rituals, marriage customs, food preferences, judicial procedures, forms of taxation, and punishments for various crimes. Unlike earlier texts of this kind, it places undo emphasis on the warrior caste, with an outline of kingly duties, statecraft and law, perhaps hoping to rectify the growing rift between the intellectuals and administrators of the period.

ADDITIONAL HINDU TEXTS

Many other texts are used in the study of Hinduism. Of particular importance are a group of works known as Pancharatra, Agama, and Tantra. These three constitute a category of literature used by Vaishnavas (devotees of
God in the form of *Vishnu*), *Shaivites* (devotees of *Shiva*, or God for the purpose of universal destruction) and *Shaktas* (those who revere the Goddess), respectively, although sometimes the words are used interchangeably. They are ritual texts in that they explicate exact procedure for worshiping the divine, although they are not generally philosophical or theological in nature. Rather, they are “how to” manuals for day-to-day activity in relation to God. In some cases, they include esoteric ideas about the spiritual dimension of reality and underlying information about God or the mysteries of the universe.

**BRANCHES**

_Hinduism_ is a conglomerate of numerous religious traditions, so there is no central trunk from which branches grow. That being said, the *Vedic* tradition, complete with its earliest literature, known as the four *Vedas*, and the secondary literature, such as the epics and the puranas, might be considered the root; thus all traditions growing out of this foundation could be seen as branches of _Hinduism_. Thus, India’s many “Hindu” religions are, in a sense, branches. This begins with the large, overarching traditions—*Vaishnavism*, the worship of god in the form of *Vishnu* or any of His many incarnations and expansions; *Shaivism*, the worship of *Shiva*, Lord of destruction; and *Shaktism*, the veneration of the Goddess, known as *Kali, Durga, Uma* and so on. Other branches are found in the many minor religious traditions in India.

**VAISHNAVISM**

Widely considered the most significant _Hindu_ tradition today—certainly in terms of numbers and arguably in terms of complexity—_Vaishnavism_ is a monotheistic tradition that centres on the worship of _Vishnu_, the “Over soul” of the universe. _Vishnu_ exists in numerous forms, such as Krishna and Rama and for this reason, the religion is often viewed as polytheistic; the various forms of _Vishnu_ are mistakenly seen as many different gods. Nonetheless, a close study reveals that his plentiful manifestations are like so many facts on a
precious gem; it is one gem, no matter how many facets it might have. In general, the Hindu conception of divinity is multifaceted, and Vaishnavism is no exception: The Divine is a diamond of innumerable facets; two very large and bright facets are Vishnu and Shiva, while the others represent all the gods that were ever worshipped. Some facets seem larger, brighter and better polished than others, but in fact the devotee… worships the whole diamond, which is in reality perfect.”

This is not to say that all the gods are equal, or that they partake of the same level of divinity. Indeed, the Vedic literature goes to great pains to reveal a hierarchy of divine beings, and although from one level of perception, these gods are one, they are also many. This is a truth found in the earliest of Vedic aphorisms.

In the material world, Vishnu manifests in an infinity of forms, but his 10 most famous incarnations are:
1. The Divine Fish, Matsya, who saved the world from a deluge recorded in ancient Vedic texts.
2. The Divine Tortoise, Kurma, who offered his back as the pivot on which Mt. Mandara rested. Here, gods and demons both churned various valuable objects from the ocean of mild, a famous story from the Vedic literature.
3. The Boar, Varaha, like Matsya, rescued the earth from a flood, raising it from watery depths o his tusk, for otherwise it would have been completely submerged.
4. The Man-Lion, Narasimha, came to earth to deliver the world from a demon, who had obtained from the gods a boon stating that he would be slain neither by a god, human, nor animal. Narasimha was not any of these for he was a combination of all of them.
5. The Dwarf, Vamana, was Vishnu in the form of a dwarf. Here he was confronted with a demon king who had conquered the universe. On behalf of human kind, he begged from the demon for as much land as he could cover in three steps. His request was granted, but much to the demon king’s surprise,
Vamana traversed the universe in these three steps, winning the world back for those who are righteous.

6. **Rama** with the axe, **Parashurama**, was **Vishnu** in the form of a hero. Here he destroyed the warrior class of men, who were exploiting others with their power.

7. **Ramachandra**, the great hero of the **Hindu** odyssey, the **Ramayana**, taught, by his own example, the true meanings of fidelity, love and duty.

8. **Krishna**, the playful lord of **Vraja**, is often viewed as the most perfect incarnation of **Vishnu**, and even as the source of all incarnations. He displays his charming **lila**, or divine actions, to allure humanity back to the transcendental realm.

9. **Buddha**, the founder of **Buddhism**, is seen as an incarnation of **Vishnu** as well, although his primary accomplishment according to **Vaishnava** texts is that he bewilders those inclined to atheism. By doing so, say the **Vaishnava** sages, He gradually gets them to abandon harmful habits (such as meat eating) and to once again adopt **Vedic** teaching in earnest.

10. **Kalki** is the form of **Vishnu** who comes at the end of the present age, in about 427,000 years. At that time, all devotees will already be reunited with **Vishnu** in his heavenly kingdom. The remaining souls, whose lives, according to **Hindu** texts, are unfortunate, shortened and riddled with disease, will be mercifully slain by **Vishnu** so that they might be reborn in the next **Satya Age**, a pious time when the world is once again created a new.

**SHAIVISM**

Shaivism, or the worship of **Lord Shiva** ("the Auspicious One"), is another prominent branch of **Hinduism**. Although **Shiva** is seen in the Vaishnava tradition as both an alternate manifestation of **Vishnu** in charge of universal destruction and as **Vishnu**’s greatest devotee, Shaivites see him as God, without any qualifying afterthought. The worshipers of **Shiva** tend to
give Vishnu a lower seat, or, at best, consider him an aspect of their cherished Deity.

Shiva, like Vishnu, can be found in the earliest portions of the Vedic literature, Here, he is known as Rudra (the “Howler”), and, again like Vishnu, he appears as one of many gods, or as one aspect of the overarching “Brahman,” the spiritual essence of the universe. In the Vedas, he is god of the storms, accompanied by the Maruts, or the gods of destruction. These images of storm and destruction anticipate his later Hindu role as the demigod in charge of universal devastation.

Shiva usually manifests in his own form; he does not come as multifarious incarnations (avatars). This is a distinction reserved for Vishnu. The reasons for this distinction are many, although it can be explained in terms of the essential nature of each deity. Vishnu is known for his benevolence, and so he incarnates to help the fallen souls of the material world. Shiva, on the other hand; is the unattached yogi. He is uninterested as to whether or not one worships him. He has his own concerns, his own agenda.

THE MAJOR SCHOOLS OF SHAIVISM

Major theological branches of Shaivism include the Pashupatas, Shaiva Siddhanta, Vira Shaivism, and Kashmir Shaivism, among others. The Pashupatas are generally considered the earliest sect of Shaivism, founded by Shiva himself, although the group was not a formalized tradition until well into the Common Era. This branch was largely an ascetic lineage established for monks and their most important scripture, known as the Pashupata Sutra, was written by a sage named Lakulisha (ca. 100-200 C.E.). Lakulisha’s commentator, Kaundinya, authored an explanatory text called the PanchArtha Bhashya (400-600 C.E.). These are the two main scriptures studied by practitioners today.
SHAKTISM

The third major branch of modern Hinduism consists of worship of the Goddess, the divine feminine force of the universe, a religious sensibility that goes back to Vedic times and even earlier-giving is a history of at least 5,000 years. Most major forms of Hinduism, in fact, recognize both “male and “female” dimensions of the Supreme, the only distinction being one of emphasis. In Vaishnavism and Shaivism, the Goddess is comparable to kinetic energy, in contradistinction to potential energy, which is found in the prominent deities, Vishnu and Shiva. In other words, the Goddess is seen as the burning power of fire, whereas Vishnu and Shiva are seen as fire itself. God is the energetic source, whereas the Goddess is the energy that flows from that source. In one sense, the energy and the energetic are one in another, they are quite different.

Whereas certain Shakta or Goddess traditions also espouse this interrelationship of God and His energy His energy, most forms of modern Shaktism break away from this theology of dependence. That is to say, they do not recognize any need for a “male” counterpart. They disavow any requirement for a greater entity from which or from whom the Goddess arises. Rather, she exists as the Supreme Entity, without relation to anyone else, or, alternatively. She is seen as the Deity’s better half” in that she has superior status in terms of her godhood. Indeed, Shiva’s consort, known variously as Parvati, Durga, or Kali-or by a host of other names- is worshipped in most Shakta tradition as Supreme. She is, in fact, often depicted as trampling Shiva’s Divine body, showing her preeminent position in relation to the male deity.

BASIC FEATURES OF HINDUISM AS A RELIGION

As there are hardly any well-defined criteria of Hindu religion and one can be a Hindu by simply coming under the fold of one of the classes specified by the Varna dharma notwithstanding his other beliefs and practices, It is very
difficult to enumerate any such feature or features of Hinduism which may be characterized as basic in the sense that they are commonly and essentially shared by all Hindus. However, we have seen above that in spite of the differences of beliefs and practices, there are certain such features of Hinduism which bind its followers together, howsoever loose that bond may be. There are certain beliefs which a good majority of Hindus seems to hold and also there are certain practices which are moreover less common amongst the Hindus. Such beliefs and practices may form the basic features of Hinduism as a religion and they can be summarized as follows:

(1) Hinduism is a complex religion admitting of vast differences of beliefs and practices amongst its followers.
(2) It is polytheistic, monotheistic, monistic and atheistic—all at the same time.
(3) Belief in the authority of the Vedas and belongingness to one of the four varnas are more or less essential marks of anyone being a Hindu. Besides the Vedas, an average Hindu takes the Ramayana, the Mahabharata and the Bhagavadgita as revered sacred texts and so often repeats lines from them as a mark of sacred practice.
(4) Hinduism, whether it be theistic or atheistic, believes in an overall supremacy of the spiritual over the profane and the material. It is generally believed in it that behind and beneath the mundane world order, there is a spiritual order or realm which is the basic, the essential and the eternal.
(5) Quite in consonance with the above belief, Hinduism firmly believes that the essential nature of man is spiritual. The bodily aspect of man is only external and superficial. In his inner and essential being man is a soul. This soul in man is immortal. Nothing can destroy it. It survives man’s bodily death.
(6) In continuation of its belief in the immortality of soul, Hinduism believes in the transmigration of soul from one body to another. This is more popularly known as the doctrine of rebirth in Hinduism. The death of a body simply
means soul’s casting off that body in order to put on another one so as to begin a fresh worldly life.

(7) This transmigration of soul from one body to another is not, however, taken as something desirable in Hinduism. It is a sign of soul’s bondage which begets continued suffering. Liberation from this cycle of birth and rebirth is the real goal of man.15

(8) Action done with a sense of attachment (Kama) is the root cause of man’s continued involvement in the chain of birth and rebirth. Karma and Samsara therefore go hand in hand, and if one wants to be liberated from the chain of Samsara, he will have to be free from karmas, i.e. attached egoistic actions.

(9) Hinduism firmly believes that release from this cycle of birth and rebirth is possible and this release is called Moksha.

(10) Moksha is possible by adopting any of the three paths the path of knowledge, the path of disinterested or unattached actions and the path of devotion to God.16

(11) Moksha is life eternal in which soul becomes free from all worldly suffering and attains its original pure spiritual nature.

Besides these, there are a host of other beliefs and practices which an average Hindu seems to entertain and follow, but they are not very pervasive and most of them are only regional or locational in nature. We need not, therefore, mention them here.

HINDUISM AND HUMAN RIGHTS

Within Hinduism a different view to that in law is maintained towards the idea of human rights. There is more emphasis on the concept of human duties as opposed to human rights. This proposes a serious challenge to the claim that human rights are universal and are recognized in all major religious traditions in the world. In Hinduism, like Judaism, there is no word for ‘rights’.17 the
closest word to ‘rights’ is *adhikara*, which relates to the idea of ‘just claim’. However this concept is not used alone. It is used in the context where one has performed some act, or performed a duty.\(^\text{18}\) In Sanskrit this understanding relates to the central concept of *dharma*, the central doctrine of Hindu thought. This word is derived from the root *dhr* and means to uphold, sustain and nourish. It is a comprehensive term, which includes duty, morality, ritual, law, order and justice. For example, it can be used in a ritualistic context to mean the religious duties, or it can be used to mean the duties of the different castes (*varna-dharma*), or it can refer to those duties that are common to all irrespective of class.\(^\text{19}\) **Professor Kane** considers the conception of *dharma* as embracing the whole life of man.\(^\text{20}\) It is a mode of life or a code of conduct, which regulates a man’s work and activities as a member of society and as an individual. It is intended to bring about the gradual development of man and to enable him to reach the goal of human existence.\(^\text{21}\) The concept of *dharma* also refers to the structure of reality. It is the way in which the cosmos, the whole universe, or the balance in the cosmos is maintained. It holds together in a systematic manner the integrity and progression of life in the universe.\(^\text{22}\) **Hindu** thought starts with the cosmos and work its way in to the individual.\(^\text{23}\) At the human level, it involves self-regulation and social regulation. It is the duty of society and each individual to maintain this larger cosmic framework of which they are a part.\(^\text{24}\) As **Rama Jois** has said, since *dharma* regulates the mutual obligations of the individual and society, it is to be protected in the interest of both the individual and society.\(^\text{25}\) It is not to be destroyed if peaceful co-existence and prosperity is to remain. If this idea is looked at in the human rights context, since all humans are working towards maintaining the cosmos, i.e. they have a duty, it would appear that the concept of rights would not serve any purpose. Therefore, on a preliminary examination of **Hinduism** the concept of human rights is not relevant. However, a further analysis reveals a situation where the notion of right may be found.
The social structures and underlying social visions of human dignity in traditional India rests not on human rights but on social duties (*dharma*). Persons are seen first as bearers of duties, not rights, and whatever rights one does have rest on the discharge of duties. Some have argued that these duties are specified in terms of castes, which are defined solely in terms of birth. The caste system, which will be discussed further below, assumes that there are differences in the status and nature of human beings. This makes it necessary for people to be governed by different norms of behavior appropriate to their station in life. The universal application of a common set of rights for all people is not part of the cosmology. However, the caste system is merely a socially created institution as opposed to a religiously held principle and therefore the idea of a hierarchical structure of human beings may be overcome.

The main point to remember in this respect is that within Hinduism the focus is upon duties. Such duties include truthfulness and non-stealing. So, for example, the duty to tell the truth then means one would have the right to be told the truth. Sharma, in his text, has noted that the ability to practice these common duties is a special feature of being human, a sign of human worth and dignity. All humans are to be accorded dignity since they are equally working towards the goal of maintaining the cosmos, whether it is within the socially created caste duties or not. All Hindus are working to achieve spiritual liberation. In addition, human beings are said to be the best poised for salvation and therefore human worth can be signified as truly universal. Although the duty towards others is the fundamental underpinning of Hindu thought, examples within Hinduism exist of rights talk (or *adhikara* as Hindus use the term). The word *dharma* can be translated into a term meaning ‘rights’ when used in the context of a crisis (*apad-dharma*). For example, the concept of rights exists if one looks at the duties of the king (*raja-dharma*). It is the king’s duty to protect all and also assist in times of *apad-dharma*. However, there is no right for the subjects to be ruled over fairly or justly (just like the...
idea that a neighbor does not have a right to be loved within the Judeo-Christian tradition). As a result they cannot enforce their rights. However, the Mahabharata, a Hindu religious text, grants the people to ‘gird themselves up and kill a cruel king, who does not protect his subjects, who extracts taxes and simply robs them of their wealth.’\(^{34}\) There is a right (adhiyaka) to rebel against a king if he does not fulfil his duty to protect the people. This is a clear example of how the concept of human rights can be interpreted within the context of human duties.

The concept of human rights as seen in the Judeo-Christian tradition is by virtue of being created in God’s image and the state of grace that gives all human beings inherent worth. In human rights language this translates to certain basic rights. However, this is not to be understood as meaning there are no duties within this tradition. This can be seen from the fact that individuals are created to live in communion with others and have a duty to love their neighbors. The Hindu tradition focuses on the whole, that is, the cosmos, and individuals are seen within this cosmos to maintain it. They have duties which, if fulfilled, carry rights. Therefore, human rights are not inherent but rather to be worked towards by the fulfilment of duties. Furthermore, it has been seen how rights can be read into the concept of dharma, especially in times of apad-dharma. Therefore, the idea of rights is not totally redundant within Hindu thought. It is simply that Hindu thought places Article 29 of the UDHR prior to any other Article. This is the main difference between Western rights talk and principles within the Hindu tradition. The approach that international human rights law has taken places the fundamental idea of dignity in a rights-based context. It is submitted that this founding principle can be better recognized in a rights and duty based system. In this regard, a better recognition and interpretation should be given to the concept of duties as found in Article 29 of the UDHR.
Mahatma Gandhi expressed that ‘…all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world’.\(^{35}\) This would mean that all rights in the *Universal Declaration of Human Rights* would be correlated with duties.\(^{36}\) Some Indian scholars have taken the idea of duties further and have said that *Article 29* of the *UDHR* should be the guiding principle and all other Articles to be subordinated to this one.\(^{37}\) However, one submits that there needs to be a balanced approach in law, an approach whereby both rights and duties find a place. The concept of duty cannot stand alone without the correlative concept of rights, one can only have a binding obligation to do his duty when the other has a right upon him. In this context, if one looks at Hinduism’s focus on duties rather than rights, its character can be reformulated as follows: Hinduism tends to accord greater recognition to the rights that others have in relation to us as compared to the rights we have in relation to them.\(^{38}\) Concern for the common good enhances human rights by teaching those virtues that include respect for the human dignity of each and every person. So, for example, one would have a right to life but would also have a corresponding duty to protect life. Rather than focusing solely on ‘I have this right’ or ‘we have this right’ it is time to start thinking about one’s duties, ‘I have this duty’ or ‘we have this duty’. It is this kind of thinking which is stressed in both religious traditions, and it is this type of thinking which can contribute to the further development and promotion of human rights on a universal level.

*‘Amritasya Putrah Vayam’* - “We are all begotten of the immortal.”

This is how Hinduism introduces human beings.

“Every individual soul is potentially divine”, proclaimed Swami Vivekananda.
ETHICAL-SPIRITUAL IDENTITY OF HUMAN BEINGS

Hinduism doesn’t recognize human beings as mere material beings. Its understanding of human identity is more ethical-spiritual than material. That is why a sense of immortality and divinity is attributed to all human beings in Hindu classical thought.

“Consistent with the depth of Indian metaphysics, the human personality was also given a metaphysical interpretation. This is not unknown to the modern occidental philosophy. The concept of human personality in Kant’s philosophy of law is metaphysical entity but Kant was not able to reach the subtler unobserved element of personality, which was the basic theme of the concept of personality in Indian legal philosophy”39.

An invisible Atman - the soul - dwelling in each body as the quintessential identity of all creatures forms the basis for all discussion on the status of human beings in Hindu classical thought starting from the times of the Vedas, indisputably the ancient-most literature of the world.

It is on the principle that the soul that makes the body of all living organisms its abode is in fact an integral part of the Divine Whole – Paramaatman – that the Vedas declare unequivocally:

\[
Ajyesthaaso Akanisthaasa Yete
Sam Bhraataro Vaavrudhuh Soubhagaya^{40}
\]

‘No one is superior or inferior; all are brothers; all should strive for the interest of all and progress collectively’.

The RigVeda is the first of the four Vedas and is considered the essence of all knowledge – Jnana. In fact the Vedas emphasise the quintessential oneness of the entire creation.
“Let there be oneness in your resolutions, hearts and minds; let the
determination to live with mutual cooperation be firm in you all”.

It is worthwhile to mention here that it was much later and very recently
that the world had come up with the ideals of French Revolution or for that
matter the first Article of the Universal Declaration of Human Rights (1948)
that exhorts:

“All human beings are born free and equal in dignity and rights. They are
endowed with reason and conscience and should act towards one another in a
spirit of brotherhood”.

Three famous ideals that inspired the French Revolution i.e. Liberty,
Equality and Fraternity have subsequently found place in almost all the
democratic constitutions of the world including that of Bharat. Liberty and
Equality are the ideals that can be achieved through constitutional means. But
for achieving Fraternity we need something more than constitutional means.

“What does Fraternity mean?” Dr. B.R. Ambedkar, the Architect of
Bharat’s Constitution questioned, and went on to explain that “Fraternity means
a sense of common brotherhood of all Indians – of Indians being one people. It
is this principle that gives unity and solidarity to social life.”

Human dignity cannot be ensured merely through constitutional means. It
has to be embedded in the basic Sanskaras – the value system of the society.
The ancient sages of Bharat have thus visualized the grand idea of the oneness
of Atman and Paramaatman – and universal oneness of human beings based
on ‘Chetna’ – the collective consciousness. That the same Consciousness
pervades all creation is the greatest contribution of the *Hindu* classical thought to the wisdom of the world.

Upanishads are the fountainhead of *Hindu* philosophy which the great German philosopher *Schopenhauer* described as “the solace of my life”. *Vedic* and *Upanishadic* literature abounds in ideas that proclaim universal oneness and universal well-being. *Hinduism* is the essence of all that wisdom handed down to generations after generations. These ideas have shaped and guided the *Hindu* socio-religious life for centuries.

When one enters the *Parliament Building* in Delhi one comes face to face at the very entrance with a Sanskrit verse:

> Ayam Nijah Paroveti Ganana Laghu Chetasaam  
> Udaara Charitaanaam tu Vasudhaiva Kutumbakam

It says: “Small and narrow-minded people look at the reality in terms of ‘this is yours and this is mine’; for those of higher consciousness the whole world is a family”.

This ideal of *Vasudhaiva Kutumbakam* – the World as One Family – is unique in this age of Globalisation in the sense that while the ancient sages of Bharat have proclaimed that the whole humanity is like a big extended family, the modern-age pundits want us to believe that the whole world is, in fact, a huge market. While the *Hindus* stand for One World, the Globalisation stands for One Market. In reality what we are actually achieving is not Globalisation, but Mc Donaldisation.

While emphasizing on the fundamental unity of the *Atman* – consciousness, *Hinduism* does recognize that there exists diversity in God’s creation. This diversity is not seen by a *Hindu* as a misnomer. Neither does he set out to destroy this diversity in his quest for uniformity when he talks about
the innate oneness. Diversity in form and unity in spirit is what *Hinduism* stands for.

The secular ideals of Europe are nascent in front of the *Hindu* ideal of ‘*Sarva Dharma Samabhav*’ – ‘Equal Respect for all Religions’. Whereas the secular ideology stops at calling for ‘tolerance’ to the diversity, *Hinduism* goes much further. It doesn’t just tolerate; it accepts every religion. It transcends all barriers of religious bigotry and even celebrates diversity.

Some wrongly portray it as polytheism or pluralism. Pluralism means existence of parts that are not inter-connected. However the *Hindu* ideal of respect for and celebration of the diversity in the Creation stems from its core belief that whatever we see in the universe is nothing but the manifestation of the Supreme Reality only.

The *Chandogya Upanishad* describes it beautifully as: ‘*Sarvam Khalvidam Brahma*’43 – meaning ‘All that we see in this universe is *Brahman* (Supreme Consciousness) only’. The *Mundaka Upanishad* says that this Atman (Consciousness-existence - Bliss-absolute) has interpenetrated everything in the universe.

*Lord Krishna* refers to the omnipresence of the Divine in his discourse to Arjuna in the *Bhagawat Gita*.

‘*Mayi Sarvamidam Protam Sutre Manigana Iva*’ – ‘I have interpenetrated the universe like gems threaded together’.

In fact the *Narada Smriti*, one of the many constitutions *Hindus* have had during the course of their long history enjoins upon the king to protect non-believers too.

“For the sake of non-believers too

King, you must protect them.”

44
“The king should accord protection to compacts of associations of believers of *Vedas* (*Naigamas*) as also the non-believers (*Pashandis*) and others” (*Narada Smriti, Dharma Kosha*)

To put in a nutshell, the Hindu perceives global diversity as the Divine Game and sets out to preserve and enrich it rather than trying to establish a Global Standard Culture.

These are identified and recognised in Hindu religion from time immemorial as the basic conditions for peaceful and progressive life. These are the values included in the human rights subsequently incorporated in the *Universal Declaration of Human Rights* and also in various Fundamental Rights contained in *Part III of the Constitution of India*. Similarly, *Artha* (Economic Prosperity) and *Kama* (Pleasure of sensuous activities) of the ancient India although superseded and dominated by *dharma* were not entirely neglected or underestimated. It, of course, deals with worldly affairs and mundane activities of the mankind but were profoundly influenced by religious pursuits. *Dharma* was deeply intermingled with political, economic and social activities.

The various purposes of state administration or government was to ensure smooth functioning of *dharma* and economic and spiritual well-being of the individual. The king or Head of the State was mainly responsible for providing adequate facilities for material advancement and also to spiritual and ethical well-being of people. *Moksha* or salvation was the ultimate reality for the Indians and it aims at not only salvation from the birth but also from ignorance and poverty of all kinds. It was closely related to spiritual and religious pursuits of the people. *Dharma* also is not aloof from the well-being of the people. Rather all the individual regard 'Moksha' as the 'most' alluring spiritual well-being to be relished and the most valuable and ethical metaphysical wealth created through religious activities.
Thus dharma was taken as the ultimate reality and basic to all spiritual activities of Hindus. The material - attainment through Artha and Kama- two most important worldly pursuits were an integral part of dharma and the purpose of all these achievements was the realization of the ultimate end of life- Moksha. Individual was consider basic unit of the society and he has to be given all the facilities and conditions for attainment of excellence in all these directions.45

These facilities and conditions are the basic human rights. These are regarded as instrument for achieving objectives of Dharma, Artha, Kama and Moksha. These four cardinal values (Chaturbarg) constituted the ancient cultural heritage of Hindu. Although there were some contradictions and contentions to the basic value, these principles ultimately predominated the spiritual life of Hindus. Physical body was looked upon as scared duty. Chaturbarg or four types of principle viz., Dharma, Artha, Kama, Moksha ensure and promote a cluster of human rights like. Right to Happiness, Right to Equality, Right to Religion, Right to Protection, Right to Education, Right to Social Security, Right to Humane Treatment and Right to justice, etc. All these human rights are duty-based and the society cannot guarantee such rights without reciprocal, duties.

Many of the rights enumerated directly challenge the unequal privileges that are so fundamental to the traditional Hindu system of varnadharma, which, in practice, means the caste system. This is full further emphasized by beginning with the "Right to Equality" which includes equality before the law, equal protection of the law, non-discrimination by the state and equal access both to public places such as wells and roads and to private places serving the public such as shops and restaurant.46 Article 17 states that "untouchability" is abolished and its practice in any form is forbidden. One qualification of this section, moreover, stipulates that "nothing .... Shall prevent the state from making any special provision for the advancement of any socially or
educationally backward classes of citizens or for the scheduled caste and scheduled Tribe", those groups at the under and outer edges of traditional Hindu society. There is a provision against trafficking in human beings and forced labour in the section "Right against Exploitation", and the "Right to Freedom of Religion" is qualified to assure that the state may provide "for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all cases and section of Hindus."\(^{47}\) This provision is the recognition in the constitution of the demand by Gandhi and other Hindu reformers that Hindu temple be open to all Hindu, including those groups traditionally regarded out caste or untouchable.\(^{48}\)

Now we will take one obvious approach what rights are assumed from the listing of duties in the Hindu Dharma sastras. If we include special privileges for particular groups among rights, then there are many rights included in the discussion of duties. Most notable, of course, are the special privileges of the three "twice-born" or "noble" classes (varanas): Brahmins (priest and scholars), Ksatriyans (rulers and warriors) and Vaisyas (the Aryan commoners who became farmers and later merchants). With some exceptions there is a sharp hierarchical grading that applied not only to positive reward but also to punishment meted out by the ruler.\(^{49}\) The Brahmin is most rewarded and most lightly punished. It is worth nothing that in Western notion of rights goes back much further than the affirmation of equal rights. What is one's right is what is one's due, whether because of who one is by birth or because of what one has accomplished. It is one's fair share even if it is not an equal share. That notion of rights is certainly deeply embedded in the Hindu social system.\(^{50}\)

**RIGHT TO HAPPINESS**

Hinduism is the religion of bliss. It considers the Right of Happiness to be the highest fundamental right of all humans. The ultimate goal for Hinduism is material and spiritual well-being of the mankind. It is pertinent to mention here
that this all important Right of Happiness doesn’t find a place in the acclaimed Universal Charter of Human Rights.

The holy prayer of Hindus from time immemorial has been:

Sarvepi Sukhinah Santu
Sarve Santu Niramayah
Sarve Bhadrani Pashyantu
Ma Kaschid Dukhabhag Bhavet

Let all be happy
Let all be free from diseases
Let all see auspicious things
Let nobody suffer from grief

Another prayer that finds place in the Sikshavalli (Chapter on Education) in the Taittareya Upanishad is also very significant.

Om Sahanavavatu
Saha Nau Bhunaktu
Sahaviryaṃ Karavavahai
Tejaswi Navadhītamastu
Ma Vidmishamahai

Om shantih shantih shantih

May He protect us together
May He nourish us together
May we work together with greater energy
May our study be vigorous and effective
May we not hate each other
Let there be peace all over

It may be noted that all these prayers essentially talk about the material well-being and happiness of the entire mankind. In that sense the modern thinkers are not the first to think in terms of the welfare and happiness of the mankind. However the ‘Maximum Benefit to Maximum Number’ principle of
the modern economic thought was never accepted by the ancient Hindu seers. ‘Total Good of All Beings’ has been the life-ideal of Hinduism.

Another significant aspect of the Hindu view on Human Rights is its emphasis on duties. In fact Hinduism doesn’t support the idea of separation of Rights and Duties. Thus in Hindu discourse no Right is absolute. All the Rights bestowed upon a section enjoin upon another section corresponding Duties too. And for a Hindu the highest obligation is Karma – performance of his Duty.

For example, the Right to Happiness was prominently emphasized in the Artha Shastra of Chanakya. But it also enjoined upon the King the obligation to ensure that those Rights of all his subjects are protected.

\[
\text{Prajasukhe Sukham Rajnah Prajanam cha Hite Hitam}
\]
\[
\text{Naatmapriyam Hitam Rajnah Prajanaam tu Priyam Hitam}^{52}
\]

“In the happiness of the subjects lies the happiness of the King; in their welfare his welfare. The King shall not consider what pleases himself as good; whatever pleases his subjects is only good for him” (Artha Shastra)

\[
\text{In the Bhagwat Gita, Lord Krishna declares to Arjuna:}
\]
\[
\text{Dharmenaavirodhesu Kaamosmi Bharatarshabha}^{53}
\]

“I am those desires that are not against the dharma”

A very enlightening exchange took place during the Second World War between two stalwarts – Mahatma Gandhi and H.G. Wells on this question of Human Rights. Mahatma Gandhi steadfastly refused to accept the Rights discourse that was taking place in the 40s within the Western tradition. Eminent English writer H.G. Wells had drawn up a list of Human Rights. But Mahatma Gandhi told him that he would do better by drawing up a list of the duties of man.

“Begin with a Charter of Duties of Man… and I promise the Rights will follow as spring follows winter. I write from experience. As a young man I
began life by seeking to assert my Rights and I soon discovered that I had none not even over my wife. So I began by discovering performing my duty by my wife, my children, friends, companions and society and I find today that I have greater Rights, perhaps than any living man I know”\textsuperscript{54}.

As an essential prerequisite for the Right to Happiness, \textit{the Rig Veda} unequivocally declares that all human beings are equal. \textit{The Atharva Veda} goes further and talks about various Rights and obligations or Duties.

\begin{quote}
\textit{Samani Prapaa Saha Vonnabhagah}\\
\textit{Samane Yoktre Saha vo Yunajmi}\\
\textit{Aaraah Nabhimivaabhitah}\textsuperscript{55}
\end{quote}

“All have equal Rights to articles of food and water. The yoke of the chariot of life is placed equally on the shoulders of all. All should live together in harmony supporting one another like the spokes of a wheel of the chariot connecting its rim and hub”. (\textit{Atharva Veda – Samjnana Sukta})

In his important work ‘Happiness for All to Secure Social Harmony’, \textbf{Js Rama Jois} writes: ‘The \textit{Vedas} and \textit{Upanishads} were the primordial source of \textit{dharma}, a compendious term for all Human Rights and Duties, the observance of which was regarded as essential for securing peace and happiness to individuals and society. The Smritis and Puranas were collections of the rules of \textit{dharma} including Civil Rights and criminal liabilities (\textit{Vyavahara dharma}) as also \textit{Raja dharma (Constitutional Law)}. There were also several other authoritative works on \textit{Raja dharma}, the most important of them being the \textit{Kamandaka, Shukra Niti and Kautilya’s Artha Shastra}. All of them unanimously declare that the objective of the State was to secure happiness of all\textsuperscript{56}.
Bharat’s Constitution has Part – III containing details of the **Fundamental Rights** enjoyed by every citizen of the country. Commenting on this Part **Js. Bhagwati** said:

“These Fundamental Rights represent the basic values cherished by the people of this country since the **Vedic** times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent”\(^57\).

Man is apt to avoid unhappiness and seeks happiness. Hence, it is a natural right to be happy and without happiness life becomes dull and dreamy. It comprises all rights relating to self-fulfillment and satisfaction.

Individual being rational has to take decisions judiciously and discharges his/her responsibilities for achieving his pleasure and happiness. It is natural that every human activity has certain objectives which may be personal or otherwise and man performs his work as result of the impulse of his desire, or **Kama**.\(^58\)

The force behind every man's every action is his/her desire or **Kama** whether for getting good food or cloth or wealth and for other valuables i.e. **Artha** for securing comfort and pleasure.

The cause of unhappiness of human being was to be wrong or evil actions of their own or those of other human beings. The reckless desire of human beings to earn more wealth and more material pleasure gives rise to conflicts and controversies and clash of interest among individuals. To get rid of all these man-made miseries is an eternal issue confronting mankind. By that we can ensure the realization of right to happiness.

Centuries back **Manu** has rightly said, "There is no act of man which is free from desire."\(^59\) **Dharma** or righteous conduct ensures happiness among the people treading the path of **dharma**. The people are overpowered by sensual
desires, Passion and Greed Manu has, therefore, laid down tri-varga i.e. dharma Artha and Kama for promoting welfare and happiness among the people. The advocates of dharma observed that desires are to be regulated by the principle of dharma.60

Peace is the outcome of happiness and if peace is sought and found then naturally happiness is ensured. In Mahabharat also a stateless society was completed where, human rights were protected by others confirming to Dharma, Kautilya, in its Arthasastra incorporated Rajadharma emphasising the right to happiness of all individuals and the righteous duties of king.

The principle of dharma is inculcated in the hearts of every individual. The principle should also prevail in the modern democratic society which stands for the ideal "Sarve Bhavantu Sukhinah" (Let all people be happy). This doctrine also adopted in Constitution of India and has "been" reinforced through various Acts and Policy decisions of the modern Government.

RIGHT TO EQUALITY

When Dworkin said that the doctrine of equal human worth has its origin in ‘our’ religious heritage, it is most likely that he is referring to the Christian tradition. However, the fundamental concept of equality identified within the Judeo-Christian tradition may also be found in Hindu thought. Before a discussion of this it is important to recognize and address the misperceptions that much of society has of the socially constructed caste system. Caste is defined as a group of persons characterized by hereditary membership which ranks the different groups as relatively superior or inferior to one another.61 Four castes have been constructed, Brahmins, Ksatriyas, Vaisya and Sudras and can be translated as the priestly, warrior, agriculturalist and trading, and servicing classes respectively. In addition there were the untouchables who formed a separate group at the bottom, and with whom contact was considered polluting.62 Each of the groups is to have certain duties dependant on their birth.
Max Weber has written that Hinduism did not possess a universally valid ethic, for the religious and moral code (dharma) of each caste was different. Each caste had a dharma corresponding to its position on the caste scale. The failure to perform one’s caste duty would constitute a violation of dharma. Since this thinking draws a sharp moral distinction between human beings in different castes, it seems in stark contrast to the view in the Judeo-Christian tradition with its firm belief in the inherent equality and worth of all simply from being created in the divine image. As an example, upper caste Hindus frequently restricted temple entry so as to keep untouchables out of the temple. As a result of such inequality, many people from the lower castes have turned to alternative religions such as Christianity and Buddhism. This implies that all human beings are not seen as (inherently) equal. It is difficult to envision a universal principle of equality when Hindu thought maintains the caste system. The caste system is clearly in violation of international human rights law with its emphasis on the inherent equal worth of all human beings.

However, the idea of a ‘caste system’ as a hereditary aspect that lasts through generations is not expressly identified within the original religious texts. The caste system was an idea that was taken out of the religious context and expanded upon in a philosophical context, in particular in The Laws of Manu (or the Manusmriti which translates into the guidelines for man). The Manusmriti is a book which interprets the Vedic scriptures. Since each caste was created to serve a specific purpose or duty, it was an effective system to organise society, a division of labour. The ideas in original Vedic scriptures incorporate the principle of equality. This is demonstrated by a verse in Rigveda, where a poet exclaims, ‘I am a reciter of hymns, my father is a physician, and my mother grinds corn with stones.’ This means that one can be whatever he desires and is not restricted by his ‘caste’ as understood by many. Equality of all human beings was reiterated in the Vedic period, no one was superior or inferior, all were considered as equal ‘like the spokes of a wheel.
of the chariot connecting its rim and the hub’. In the early stage varna system was based on karma and guna, afterwards when it converted into caste system it is against human rights.

A deeper meaning of equality is found within the Hindu religion. This embraces the idea of harmony and fraternity among all human beings, the equality of all human souls.

According to Vedanta philosophy, the souls in every human being is the same, therefore, all human beings should be treated as such. This is because God is present in all that exists: ‘God covers all that moves in the Universe’. Hinduism believes in universal brotherhood and since God permeates every being, there is unity and equality in diversity: ‘A Seer is he who sees the immutable in the body of all mortals; and, realizing that the same being equally exists everywhere, he attains salvation as he does not slay others bringing death to his own self.’

The Right to Equality (Samanata) or samya is regarded as an important right without which happiness is not available. The discrimination led to inequality that resulted in discontent and miseries. Vedas preach dharma and a charter of equality incorporated in the Rigveda and also in the Atharvaveda. In the Rigveda, it has been rightly said, "No one is superior or inferior. All are brothers and all should strive for the interest of all and progress collectively". Similarly in Atharvaveda, it has been pointed out "All have equal rights in articles of food and water. Yoke of the chariot of life is placed equally on the shoulders of all. All should live together with harmony supporting one another like spokes of a wheel of the chariot connecting its ring and the hub." Hence Right of Equality of all human beings has been said and reiterated in so many hymns of the Vedas.

In Hindu system all individuals are regarded as the children of God and there should be no discrimination and disparity in the human society Regveda.
and *Atharvaveda* are vociferous about the equality of Man which is taken as an integral part of dharma. It is also interesting to see the *Article 1 of Universal Declaration of Human Rights 1948* in this context," All human beings are born free and equal in dignity and right. They are endowed with reason and conscience and should get Act towards one another in a spirit of brotherhood. It has also been reinforced in the *Article 7* of the same document, "All are equal before law and are entitled without any discrimination of equal protection of the law."

All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement of such discrimination. In explaining *Rajadharm*, *Manu* says, "Just as the mother Earth gives equal support to all the living beings so also king should give support to all without any discrimination."72 Hence it is emphasized that a king should give equal treatment to all the citizens in the same manner as a mother towards her children. *Article 14 of the Constitution of India* has also aptly says, "State shall not deny to any person equality before law or the equal protection of law within the territory of India."

**RIGHT TO EDUCATION**

Through ages education regarded as a means of equality and potential instrument for social change. An individual can improve to the maximum mainly through education. Therefore the *Vedas* laid stress on three pious obligation as *dharma* namely 'gratitude' in which every individual has an obligation to the source of all benefits received by him including his own existence.

The great Sanskrit poet *Bhartruhari* of the 1st century has rightly observed, "Education is the special manifestation of the man, education is the treasure which can be preserved with fear or less, education secure material pleasure, happiness and fame, education is the teacher of teacher: education is
the friend when one goes abroad education is God incarnate, education securers honor at the hand of the state not money. A man without education is equal to animal i,e. he can be truly called "vidya Bihinah Pashuh". Pantanjali highlighted four aspects of education with necessary duties to every individual:

1. acquire knowledge/education from parents and teachers
2. study and improve knowledge on your own,
3. impart value-based education to every individual and to your children as parents and to others as teachers,
4. use, that knowledge for the benefit of the family and the society through profession or avocation.

These four aspects of education have been emphasised not only for improving the knowledge but also for developing the society. Pantanjali also added that potential energy of an individual would be unfolded and could help an individual to lead a purpseful life. Importance of education thus cannot be overestimated and it has been rightly emphasised for development of the child. The Constitution of India provides Right to Education under Article 21 (A)

RIGHT TO RELIGION

All these parts of business are equally entitled to freedom to conscience and the right to freely profess, practice and propagate religion. Thus, secularism has been a significant place in our religion. But such religion is not neutrality but freedom to religious practices subject to Public Order and Peace.

The importance of freedom of religion, as stated in the UDHR, can be found within Hinduism. In Hinduism one can start with the concept of dharma. As explained in earlier chapters, dharma means, at the human level,
the order inherent in man, the ethical life.\textsuperscript{76} It is the duty of every individual to make out this order in order to bring about unity throughout the world. The Dharmic scheme gives freedom to every individual, to make out this order and this includes religious freedom. Through being free to practice religion, individuals would acquire mental, emotional and spiritual stability. They may reach spiritual liberation (\textit{Moksha}). This refers to the higher level of reality, man’s essential self.\textsuperscript{77} The material reality is looked upon as an illusion and the ultimate truth lies beyond it.\textsuperscript{78} The law of \textit{Karma} (action and reaction) means ones action in the previous life will bear an influence in one’s next life, the cycle of \textit{Samsara}, or reincarnation. The purpose of a human life is to reach the highest spiritual goal, that is, to escape from this cycle of material reality. The only way one can reach liberation from the cycle is for the individual to attain complete realization of the nature of the self, that is, identity with the Supreme Being.\textsuperscript{79} One must be free to experiment and discover the truth in order to find this identity. Therefore religious freedom is identified as an important aspect. The freedom to follow one’s own religion necessarily requires tolerance and respect for other religions. The nature of \textit{Hindu} religion is conducive to religious tolerance. \textit{Hinduism} recognizes that the goal of attaining realization with the nature of self can be reached through many paths. All traditions which help an individual to lift his soul to the Supreme Being are held up as worthy of adherence.\textsuperscript{80} \textbf{RadhaKrishnan} addressed this issue, stating that since different people realized God in different ways, all were recognised.\textsuperscript{81} All religions can be instruments of personal realization. The nature of this tolerance derives from the belief that the Supreme or Ultimate Reality is without name, form, personality or qualities.\textsuperscript{82} In the \textit{Rig Veda}, the most ancient of the Sanskrit scriptures,\textsuperscript{83} it is written ‘The real is one, the learned call it by various names …’ . Similar attitudes are also stated in the \textit{Bhagavad-Gita}, in particular in Chapter 4 it is stated ‘Whoever approaches me in whatever manner, I accept him. All paths men are struggling through lead unto Me.’\textsuperscript{84} \textit{Vedanta} philosophy further expounds on this tradition with its insistence upon the one absolute truth
expressed through manifold manifestations. The doctrine of having *ishta-devata* (chosen deity) invites individuals to select from a variety of Gods which satisfy their spiritual learning.

Hinduism can therefore be seen to provide for a theory of human rights in the context of religious freedom. Being free to practice religion and discover the truth in order to reach liberation is the primary reason. Furthermore, Hinduism is seen as promoting religious freedom through its liberal tolerant attitude towards other faiths. This conception of one absolute truth expressed through many ways is a prime example of the freedom of thought, conscience and religion under Hinduism

Irrespective of the degree of our belief in God religion has been playing an important role in human life since time immemorial. Hindus have our religious practices and rituals according to our family background or various other factors.

We differ in the modes of worshipping God and we address God in various names whether it is *Ishwar* or *Alaha*. Therefore, eminent sages and saints and sadhaks of Hindus have been emphasizing on the religious equality and harmony and Right to Religion has been recognized as an integral part of harmony, the above rule of *dharma* is very unique in Hindu religion. It required the State to give equal protection not only to believers of God but also to disbelievers of God.

The broad concept of religion ensures freedom of thought belief and faith in Hinduism. The *Article 18* of the *Universal Declaration of Human Rights* reads, "Everyone has the right to freedom of thought, conscience and religion." This Article includes freedom to change his religion or belief and freedom as that alone or in community with others and in public or private, manifest his religion or belief in teaching practice worship and observation. *The Constitution of India* has also recognized freedom to religion as one of
the fundamental rights. It is Article 21' which reads "freedom of conscience free profession practice and propagation of religion subject to public order and health and to other professions.

**RIGHT TO PROTECTION**

It is the basic responsibility of the state to ensure protection to its individuals from insecurity and oppression. The state has to see that all its citizens live happily in peace and tranquility. As already discussed in *Mahabharat, Rajdharma*, should emphasise such protection as an important responsibility of kind or the ruler. It has been said therein to punish wicked to protect Good; to enrich treasury by fair means; to be impartial in the litigation and to protect the kingdom-these are five *Yajnas* (selfless duties) to be performed by a king.

The paramount duty the state is to protect its people. It is the responsibility to protect helpless and deceased or diseased; to protect be life and personal liberty is equally important for enabling people for Leading a comfortable life and to live with dignity and happiness Thus, This *Hindu*’s ancient principle declared as one of the human rights and also included as a fundamental rights of the Indian constitution under Article 21.

**RIGHT TO HUMANE TREATMENT**

Human Treatment is pervasive and comprehensive if we will allow, equality, equity, happiness, and social security it is implied that we have to be humane and considerate. *Article 23(3)* of Human Rights Declaration says, "everyone who works has the right to just and favorable remuneration ensuring for himself and his family existence of worthy human dignity and supplemented it necessary, by other means of social protection." Similarly, an individual in custody or in prison deserve humane treatment.
In Ancient Hindu society and states the officer in charge of prison (Karagraha) should be aware of the basic right and ensure protection to the prisoners. Even any misconduct by them was described by Kautilya as punishable offence, who says, Superintendent of a jail is liable to be punished for his acts of omission and commissions as follows.  

(a) for putting a person in jail without disclosing the ground for his detention;  
(b) for subjecting prisoner to unjust torture;  
(c) for transporting the prisoner to any other place or deprive him of food and water;  
(d) for causing trouble to prisoner or receiving bribes them.  
(e) for beating the prisoner resulting in his death;  
(f) for having sexual intercourse with the wife of a thief or prisoner who is dead, and  
(g) for having sexual intercourse with an arrested woman in lock up.

It is also interesting to note that the wise Kautilya not only laid down these offences, but also gave punishment according to the degree or seriousness of the offences. At present such offences are found to be rampant in the society and there are frequent instances of violation of human rights by the police who are entrusted with the duty to enforce law and order.

Although the specific provision in the Constitution of India requiring production of a prisoner or an arrested person by the police before the Magistrate within 24 hours. Supreme Court of the India has declared that Human rights should be subject matter of Public Interest Litigation. Thus, the Hindu religion has proved itself more foresight ended in the matter of prisoner’s right from the ancient period.
RIGHT TO JUSTICE

According to Hindu religion it is the duty of the King or ruler to give/offer justice to the oppressed and those who are deprived. Rajdharma included this duty as a very pious of the king. Narada Muni has said that the king should try cases with great care, should decision according to the Law and should adhere to the opinion of the Chief Justice.90

The king was required to decide all such cases impartially and in accordance with the relevant laws. But such justice should be rendered speedily. Similarly, Katyayan has very aptly observed, "The king should not delay in examining the witnesses. A serious detect, namely, miscarriage of justice would result owing to delay in examination of witnesses".91 The king was to desist from greed and anger in deciding cases. It is therefore rightly said in Hindu mythology, "justice delayed is justice denied." Utmost care should be taken for examining the cases and giving final judgement from the view point of speed and impartiality.

We can find same Hindu doctrine in Article 10 of the Universal Declaration of Human Rights, which says, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any or all criminal charges against him." Hence, the speedy and 'objective disposal of litigation has been recognized as one of the basic human rights not only in the Universal Declaration but also in the Constitution of India and therefore various Acts have been legislated from time to time. Human Rights should be regarded as sacrosanct and maximum opportunity should be allowed in ensuring human rights to all citizens. The kind of protection has been eulogized and confirmed through multifarious Hindu epics.
Hindu scholar Mark Juergensmeyer begins an essay on "Dharma and the Rights of Untouchables" with the statement: "If by 'human rights' one means minority rights, then Hindu society can be said to have a human rights tradition, for it has always had a way of incorporating the poor and socially ostracized into the social whole." The caste system can be understood as a reflection of dharma or "the moral order" in Hindu society, which at its best maintains "reciprocal relationships of mutual economic and social benefit. Each group respects the rights and dignity of the others." Of course, as Juergensmeyer acknowledges, the reality has very often been otherwise.

On the other hand, Kana Mitra argues that traditional codes of conduct in the Hindu tradition are on their face contrary to human rights. Manu's dharma Sutra, which is considered authoritative in this regard, relates all rights to duties specified by caste, age, and sex. Traditional rights then are privileges of status and position. However, for twenty-five hundred years there have been rebellions within the Hindu tradition against its hierarchical order, and today many Hindus believe Manu's code needs revision.

Manu uses the Sanskrit word adhikara to describe the notion of a just claim or right; however, only Brahmans have such rights. Thus, deriving a notion of human rights within the Hindu tradition requires turning to the general concept of duty, or dharma, which is central to the dharma Sutras. Mitra writes: "Dharma implies justice and propriety as does the word 'right' of the U.N. Declaration, although the connotation of a 'just claim' is not explicitly present." The revolts against traditional Hinduism reinterpret dharma. For instance, some bhakti groups assert:

All humans are equal as God's creation but are not the same; therefore, all should give and receive according to their own nature. These groups uphold the
idea of following one's own nature (svadharma) as advocated in the Bhagavad-Gita.\textsuperscript{95}

The various Vedanta groups within Hindu orthodoxy also hold that one should follow one's own nature to realize perennial truth. Mitra argues, "They uphold human rights on the basis of all human beings having the same essence."\textsuperscript{96} Humans may be potentially divine, but may not have realized this potentiality. Thus, while asserting essential nonduality, most Vedanta schools also embrace Manu's rules of conduct for life in this world.\textsuperscript{97}

In addition to these ancient reinterpretations of Hindu tradition, Western notions of individual rights have entered Indian society, initially through British law and education. There have been many efforts to combine modern notions of rights with Hindu notions of rights and duties. Rammohan Roy, founder of the Brahmo Samaj movement, advocated equality for all persons regardless of caste or sex, on the basis that all humans are God's creatures. Vivekananda, leader of the Ramakrishna movement, supported equality on the basis of Vedanta thought and thus did not, like Roy, reject Manu. "Rabindranath Tagore is another influential name in the human-rights movement."\textsuperscript{98}

John Carmen notes that the Indian Constitution guarantees more rights than the American Bill of Rights. The preamble speaks of securing "the dignity of the individual" and sections which follow it include: "Right to Equality," "Right to Freedom," Right against Exploitation," "Right to Freedom of Religion," "Cultural and Educational Rights," "Right to Property," and "Right to Constitutional Remedies."\textsuperscript{99} Clearly, many of these rights directly challenge the system of unequal privileges that is fundamental to the Hindu tradition of caste.

Carmen argues that although the Indian Constitution contains an impressive list of fundamental rights, "it does not ground them in anything,
whether in individual human nature, the requirements of human community, or the creative intention of God."¹⁰⁰ In short, "the constitution does not recognize the fundamental dharma affirmed by the Hindu tradition and sets no spiritual obligation for the state itself or for the people."¹⁰¹

In the face of persisting untouchability in India despite these efforts to eradicate it, reformers who turn again to the notion of dharma have found in the ancient Indian concept the basis for ideas that are quite similar to those of socially sensitive Westerners, and yet are rooted in the Indian religious tradition. In short, they have discovered dharmic reforms appropriate to the modern world.¹⁰²

For example, members of the Arya Samaj movement have argued that the original Vedic teachings are casteless and thus have fashioned "a notion of dharma based on universal, rather than caste-specific, obligations to social values."¹⁰³

Mitra writes that "Mahatma Gandhi is the epitome of the human-rights movement within traditional Hinduism," for his "fight for the rights of the untouchables was based on his ideas of human rights."¹⁰⁴ Gandhi considered himself an orthodox Hindu. He believed that whether God is understood in theistic or nontheistic terms, Hindu theology could not be used to justify the unequal treatment of human beings. As Mitra affirms: "Theistic Hinduism upholds human equality on the basis that all are God's creatures. Nontheistic Hinduism emphasizes the identity of the essence of all humans."¹⁰⁵

Gandhi included untouchables in his ashrams and movement. Yet, he accepted Manu's idea that rights and duties, one's dharma, are to be understood in terms of svadharma, one's natural situation in life. Mitra writes: The idea of svadharma, if not understood as a rigid code or law, can be a contribution in the field of human rights in its suggestion that differences be taken seriously. Manu offers suggestions in taking it in a non-rigid way. Dharma, he says, is
what "is followed by those learned of the Vedas and what is approved by the conscience of the virtuous who are exempt from hatred and inordinate affection." Tradition, conscience, and reason must all be consulted to determine the rights and duties of humans. Rights and duties of different people in different situations are different, but each human being deserves and should have equal consideration and concern.  

**Gandhi** was not advocating "individual rights" in the Western sense, but rather *dharma*: "an ethic of community, responsibility and loyalty."* Gandhi's emphasis on tradition and duty are clear. When asked what he thought of the proposed *Universal Declaration of Human Rights*, he replied:

"I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus, the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and of Woman and correlate every right to some corresponding duty to be first performed".*

His position, as always, was rooted in religious commitment rather than political expediency. However, he did speak of learning "to stand up for human dignity and rights," and even affirmed that everyone "has an equal right to the necessaries of life....." Therefore, we might say that Gandhi affirmed human rights in the context of his *Hindu* tradition:

If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed, we run after rights, they will escape us like a will o' the wisp.... The same teaching has been embodied by *Krishna* in the immortal words: "Action alone is thin. Leave thou the fruit severely alone." Action is duty, fruit is the right.**
While others have turned to the Bible or to the Qur'an to find justification for human rights, Gandhi turned within his own Hindu tradition to the sacred text of the Bhagavad-Gita.

Gandhi's legacy includes a multitude of movements for social change within India that emphasized swaraj or self-rule. "The Indian human rights movement grew out of this tradition of autonomous social organization and is linked to other social movements, many also of Gandhi inspiration, both through shared personnel and because the victims of human rights violations are often activists in those movements." Barnett concludes that, given the caste tradition and all the problems of Indian society, any success of human rights protection in India "is a strong argument for the potential universality of the movement."

Even from this brief sketchy out-line of traditional Hindu social structure it becomes amply clear that in this scheme (1) man is viewed primarily as a social being living in an ordered universe. (2) the true nature of this universe can be understood and explained only through a teleological framework. (3) man is born with some basic obligations towards this universe and every aspect of human activity must be directed to the realization of the ultimate goals of this teleological system. (4) to fulfill his obligations man needs certain privileges, facilities and things necessary to carry out his duties. These privileges and things are referred to as his rights. (5) from each set of dharma (duties) a corresponding set of rights emerges and is justified only as long as it becomes a means to discharge these duties.

In short, the whole system is based on a correlation between svabhava (one’s nature), svadharma (one’s duties) and svadhikara (ones’ rights). From one’s specific nature certain specific duties follow and these duties create certain rights. Obviously, due to the variability of svabhava, modalities of rights also vary, but this variability in the distribution of social, economic or
political rights, does not hamper the progress of society. Nor it is against the democratic spirit. On the contrary, it enhances the growth and stability of democratic society by providing special opportunities to each person to develop according to his own nature.\textsuperscript{113}

An interesting implication of this right-duty correlation is that it presents an example of the reciprocal derivation of 'ought' from 'is' and 'is' from 'ought'. From the nature of man follow his duties, that is, what he ought to do, but from this 'ought' follow his rights, that is, what he is supposed to possess as part of his nature.

It may be noted that this duty-based characterization of rights in no way diminishes their importance. Rather, it seems to add new dimensions to it. The strict duty-right correlation makes rights very specific, concrete and consequently more effective in the practical realm. They no more remain simply abstract principles capable of being variously interpreted or misinterpreted. They become concrete instruments of realizing the ultimate aims of human essence. Moreover, their derivation from moral obligation gives them significance of a 'value' and in a way makes them elements of ideal realm. Thus we see that the instrumentality of rights neither negates nor undermines their importance. On the contrary, it strengthens their theoretical plausibility and enhances their practical efficiency.

From the above discussion two major conclusions can be made. Firstly, religion can provide a theory of human rights and secondly, this foundation is not just limited to Western ideas. By placing two major religious traditions side by side, one finds that each of these forms its own pattern in which rights find a place. Within the Judeo-Christian tradition, the idea of human rights can be explained by the creation of life. All are created in God’s divine image and have one Father. Therefore all have inherent dignity. All are born equal and are free, responsible beings. Within Hinduism similar ideas of equality
and freedom can be identified. All are equal within their souls since God is present in all. All have an equal chance to be whatever they desire to be and are not restricted in any way by their caste. Similarly, all are free in order to attain the highest spiritual goal. If one looks at the foundation of human rights from a religious perspective it will become apparent that human rights do not simply have origins in Western thought. The idea of humans having rights can be explained by the Judeo-Christian tradition as well as Hinduism. This is a step towards developing awareness that it may become possible to talk of the religious foundation of human rights along a universal basis.

Through an examination of the religious theory of human rights another idea has emerged. This is the idea of duties. Human rights, by definition, talk of rights. These rights, as reflected in law, are based on individual interests and are placed prior to any social duties or obligations. Although aspects of rights may be identified within Hinduism, more emphasis is placed upon social duties. A similar line of thinking is also to be found in the Judeo-Christian tradition with its emphasis on duties towards others. In this context it is submitted that taking into account human duties can further enhance the concept of human rights. Maintaining a system whereby there are only rights is too self-centred. However, by adopting an interpretation which would include duties there would be respect not only for individual rights but also for the rights and dignity of every person. This would mean taking a broader interpretative approach than is currently maintained towards the meaning of human rights under international law. Such an approach would embrace not only inherent human rights but also certain basic inherent social duties.
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