CHAPTER- 2

CONCEPT OF HUMAN RIGHTS IN VARIOUS LEGAL SYSTEMS

The sources of Human Rights may be traced to philosophical thoughts, spiritual insight and religious revelations in the shape of dharma, edicts of Ashoka inscribed on rock pillars, sermons and teachings of Christianity, concept of Din as distinguished from duniya, of Islam, and Taoism and Confucianism of China and so on. The Encyclopedia Britannica, tracing the origin of Human Rights thought, states:

The idea of the inalienable rights of the human beings is much older and, in fact, was known to poets, philosophers, and politicians in antiquity and in the middle ages.

Law and religion remained largely undifferentiated in the early period. The forms of law making and adjudication were permeated with religious ceremonies, and the priests played an important role in the administration of justice. The King, as the Supreme Judge, was believed to have been invested with his office and authority by the God himself. Divine duty prevailed over legal command in those
times. In later periods temporal winds began to blow.

(i) **NATURAL LAW**

Philosophers and Jurists did not leave Human Rights solely to theologians. In their search for a law which was higher than positive law, they developed the theory of natural law. A ‘transvaluation of values’ liberating human law from heavenly authority came to prevail. Natural law, which has nexus to human justice, sprouted in the west. Medieval Christian philosophers, such as Thomas Aquinas put great stress on natural law, which conferred certain immutable rights upon individuals. He viewed it, however, as part of the law of God. He recognized human law (Lax humane) as the dictate of reason and insisted that for a state mandate to have quality of law. It must conform to the postulate of reason. An unjust and unreasonable law of nature was unlawful and perversion of law. Theories of natural law, particularly as enunciated by Gratius and Pufendorf, detached natural law from religion, laying the groundwork for the secular, rationalistic version of modern natural law. According to Gratius, a natural characteristic of human being is the social impulse to live peacefully and in harmony with others. Whatever conformed to the nature of men and women as rational, social beings was right and just.
Whatever opposed, by disturbing social harmony was wrong and unjust.

(ii) NATURAL LAW THEORY AND NATURAL RIGHTS

Natural law theory led to natural rights theory - the theory most closely associated with modern Human Rights. The chief exponent of this theory was John Locke, who developed his philosophy within the framework of seventeenth century humanism and political activity. According to Locke, life, liberty and property were the inherent rights of human beings and government was obliged to protect the natural rights of its subjects. If the government neglected this obligation, it would forfeit its validity and office. It is significant that the Constitution of Virginia of 12\textsuperscript{th} June 1776 declared: that all men are by nature equally free and independent, and have certain inherent rights, of which when they enter into a State of Society. They cannot, by any compact deprive or divest the posterity; viz., the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety\textsuperscript{5}. John Adams, Thomas Paine, and Thomas Jefferson were convinced that there existed natural rights which could not be restrained or repealed by human laws. It was the function of the Courts to defend Human
Rights as recognized and sanctioned by the Constitution, against any violations by the legislature, was held not only by Wilson, but also by Hamilton and Jefferson. It can safely be stated that there is no country in the world where the idea of law of nature, understood as a safeguard of liberty and property against government encroachment gained a higher significance for the political and social development and moulding of political and legal institution. Natural rights theory makes an important contribution to Human Rights. It affords an appeal from the realities of naked power to a higher authority which is asserted for the protection of Human Rights.

(iii) ANCIENT HINDU LAW AND HUMAN RIGHTS:

The concept of Human Rights has been part of our fundamental philosophy from time immemorial which is evidenced by the declarations made in Vedas. The relevant declarations are

All had equal rights in articles of food and water. The yoke of the chariot of life is placed equally on the shoulders of all. All should live together with harmony supporting one another like the spokes of wheel of the chariot connecting its rim and hub. The Vedic provisions forcefully declare equality among human beings.
The central concept of Hindu Law dharma whose functional focus is social order. The message is that dharma was of the supreme value. It provided equality between kings and citizens, men and women. The cultural heritage of India, in the field of Jurisprudence has been praised and criticized but its basic principle is harmony and happiness and upholds social stability based on consensual view of the good and learned in the society.

Scope of dharma takes, in its vast sweep. Human Rights as well as Law, in the dharma dimension, appears as an ever-present part of perennial stream of the fundamental philosophy of life and action. The spectrum, and magnitude thought covered by dharma did protect Human Rights. This is the idea that underlies the United Nation Organization. It has uniformly characterized the philosophies that have been evolved in India. These have always been based on ahimsa and abhaya and on the recognition of the conformity and unity of all existence.

In this background, history holds up the sublime stature of the Buddha as a liberator of humans, humble or high. Siddhartha renounced his prisedom and became the Buddha. He taught the eight-fold path and his luminous leadership gained many followers.
including Great Emperor Asoka. The edicts of Asoka, inscribed in rock pillars, bear testimony to the noble rule's recognition of humanism, compassion for all creation and reverence for all life. These are the sources and strength of Human Rights, Asoka, for historians of Human Rights was a unique beacon light from this angle, Ahimsa or non-violence tolerance and mercy, humility and concern for living creature, arc the roots of Human Rights, These values were nobly nourished by another contemporary of Buddha.

Vardhamana Mahaveera, the founder of Jainisra strengthened the hold of humanitarianism and kindness on its followers, making ahinsa the highest liberating principle. True, the Hindu view, at a philosophical level of dharma, as mentioned earlier, also glorified humanity and divinity in living beings, with a cosmic vision, thus raising the level of consciousness of people to a higher note of advaita. But in practice, this punitive understanding and universal humanism suffered defeat and setback at the hierarchical rule of the four-fold caste frame inflexibly operated by the high born with obscurantist obduracy.

Rules dharma were meant to regulate the individual conduct, in such a way as to restrict the rights, liberty, interest and desires of an
individual as regards all matters to the extent necessary in the interest
of other individuals, i.e. the society and at the same time making it
obligatory for the society to safeguard and protect the individuals in
all respects through its social and political institution \(^8\).

We may conclude at this point that Human Rights are fairly
founded in dharma which by definition sustains and ensures the
progress and welfare of individuals and society.

(iv) WOMEN’S RIGHTS IN ISLAM

The saga of woman in society, like her role in the corridors of
history, is as old as time itself, for the hand that rocked the cradle
shaped the destiny of the human race and also the cartography of this
planet It is frail woman who moulded the nature and future of each
coming generation. It was she who raised Pharoahs. It was she who
raised Prophets. And she proved that she was not so frail after all her
significant role in society cannot be over-emphasized. The architect
of civilizations, the nucleus of the family, the protector of the house,
became the inspiration and strength of men on every front.

The nature of her relation with man became, in fact, the rock-
bottom of society in every age. Any degeneration in this relationship
sealed the eventual doom of the nation or community involved in it.
Free intermingling of the sexes, permissiveness, and sexual anarchy has always been a symbol of this degradation in man-woman relations. This degradation has ultimately and invariably resulted in the misuse and oppression of women. On the other hand, the world has witnessed the rise and progress of nations with a high morality rate which, in other words, is modesty and segregation, respect and security in man-woman relations. Any storm in this relationship upsets the entire balance of society, setting off a chain of unending vices and disorders.

Despite her lofty role in world affairs, women's status changed title with changing times and climes. Her misuse continued in all times in one form or another. She was termed Satan's agent or daughter by the Greeks, hell's door by the Christians, a soulless inhuman creature by the Romans, an impurity by the Church, a salable item by the Chinese, a shame to be buried by the Arabs, an evil omen to be burnt by the Indians. She could neither make a will nor take any decision regarding herself. She was hated, hurt, humiliated. If St. Bernard called her face 'the burning wind' and her voice 'the hissing of snakes', Gautam Buddha advised his disciples, on
his death-bed, not to see women. She was always looked upon as an evil temptress until she reached the twentieth century. Only to become a displaced, sexual toy giving everything for the illusory cry of 'liberation'. But liberation remained to be an illusion while she was torn from hearth and home, from womanhood and motherhood both. The misuse continued.\textsuperscript{9}

Man and woman are equal parts of humanity having equal dignity and social and religious status. Before the advent of Islam women were not treated as a human being with an independent identity of their own. They were deprived of almost all kinds of rights. Islam brought a complete change in the status of women and stopped discrimination against them. According to Islamic teachings the women should not be treated as entirely dependent on men, rather both have their own independent identity.\textsuperscript{10} The Holy Quran states:

"The one who does good deeds, whether man or woman, provided that the one is a believer, will enter the paradise and they will not be wronged in the least of their rightful reward.\textsuperscript{11}

The second caliph Umar Farooque\textsuperscript{(R)} described the position of Women before and after advent of Islam. He says:
"By God, in pre-Islamic period women had no position in our society and could claim no rights until Allah specified all her rights in the Holy Quran."\textsuperscript{12}

Upliftment of the status of women and granting them the right to lead a dignified life in the society can rightly be counted among the greatest contributions of Islam in the area of social reform.

**Right to Live**

Before the advent of Islam the Arabs held the women in abject contempt and considered them nothing more than chattel. The birth of a daughter was considered as a matter of disgrace and social stigma. In some cases even they went to the extent of burying them alive. The Holy Quran condemned this evil practice in the strongest terms. It says:

"When any one of them is given the good news of a daughter, his face grows dark after this news and he chocks with inward gloom. He hides himself from people became of this disgrace, asking himself whether he should suffer his daughter with disgrace or bury her alive, what an evil Judgment they have".\textsuperscript{13}

Female children were deprived of their very basic right to live.
Unfortunately this cruel practice was not confined to the dark ages of pre-Islamic Arabia, it is still being followed in the enlightened modern times. Using the advanced technology the gender of the foetus is determined and the foetus of the female child is killed in the mother's womb and the parents are not even charged for taking life of their daughters. In no way it could be said to be less heinous than the female infanticide prevalent in pre-Islamic Arabia. Islam has no patience with this kind of crime against humanity and condemns it in the strongest terms. The Holy Quran says:

"When the female infant buried alive is asked, for what crime she was killed".

Islam stopped this inhuman practice completely and put the women at the same footing as the men in the matters of human rights. Muslims were directed to take special interest in bringing up their female children and were assured great recompense for doing so. The Holy Prophet (PBUH) promised paradise as a reward for bringing up female child and said:

"Whoever takes care of his two girls till they attain maturity, he and I will come on the Day of Judgment like this. Saying he joined his fingers".

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A Muslim cannot aspire for a greater honour and reward.

**Rights to Freedom**

Freedom for which nations clashed, wars were waged, peace was sought and forsaken, is man's inner urge and call. It is the life-blood of society and also the real spirit of Islam, for Islam frees man from the domination of other men while linking his submission to none but the Creator. Who is to define the term 'Freedom' especially the freedom of women? The prevailing interpretation of freedom is that which has been imposed on society by a section of the men. And this definition of freedom is indeed bizarre. A small but significant instance reflects men's version of women's freedom. For decades now, men have been circulating the idea that breast-feeding is disastrous for a women's figure, health and activities, while the truth is that breast-feeding tones up the women's figure and health and protects the children from anaemia and underdevelopment. The result is that generations have been-deprived of breast-feeding and thrown onto malnutrition. Such is man's definition of women's freedom, a definition which tends to deprive her of her natural functions and natural rights of motherhood for the sake of keeping her available for exploitation by men outdoors. Men have said, and women have
accepted, that it is freedom for her to be removed from the home and be fitted into any of the many odd social spots as offices, factories, shops, banks, clubs, hotels, planes etc. Even in these places, she is fixed in a position that serves to beautify the atmosphere though at the cost of her honour and self-respect. Is that freedom or is it outright exploitation of woman? That is not freedom but it is men's version of freedom cold, ruthless, selfish, calculated. Such lopsided liberation of woman which began formally in the eighteenth century with the Women's Liberation Movement, snatched the baby from the women's arms and pulled her to the roads, to the shops, clubs and fields. Man's idea of women's freedom has reduced her to a sex symbol, nay, a virtual man, expected to work and hear hardships of the outer world like him and to become a man-woman combine.\(^{16}\)

Islam not only ensures that men respect a woman's honour but also that they become protectors of her honour and security. All Islamic laws act towards achieving a clean atmosphere that roots out all indignity towards women, erases the dirty currents of gossip-mongering, slandering, spying, and prevents discord in families and chaos in society. Islamic measures only free the human race from the burdens and shackles of immoral currents that destroy any and
everything they touch.

Political Rights

Woman, in the Islamic system, can involve herself in political activity although this involvement should not be to such an extent as to become detrimental to the performance of her basic duties of rearing and training the children and attending to the home and husband. She is equally entitled to exercise her franchise, to participate in the matter of society, to be involved in war to deal with refugees or war-escapees, etc. She can be part of the legislature and executive by involving herself in the consultative council of the Head of State, such a council being a marked feature of an Islamic State.\textsuperscript{17}

Right to Education

Islam lays great emphasis on the acquisition of knowledge and makes it necessary for every Muslim, man and woman, to seek knowledge. But in spite of this, education of Muslim women in particular is badly neglected today. Needless to say that women's education is essential to improve the living conditions of women and also for the revival of Muslim \textit{Ummah}. Education is not only a fundamental right of girls but also the pressing need of Muslim
Society today”. Giving due importance to education of girls the Holy Prophet Muhammad (PBUH) said:

”Whosoever brings up three daughters, Impart them good education, arrange their marriage and behave with them nicely, he shall be re-warded the paradise.”

This does not mean that the Prophet was not giving due importance to the education of male children. The reason behind this statement is quite simple. Educating a boy means education of only one person. While educating a female is in reality education of entire family, as children are nursed and brought up in the lap of women. An educated woman therefore, is the best security of the education of future generation.

**Right of Equality**

*Islamic Shariah considers both the spouses complementary to each other. Mutual respect, love and .affection and concern for the comfort of each other are the sure guarantees of a pleasant life. The Holy Quran says:*

"They are like garment to you and you are like garment to them”.
This is an extraordinarily portraiture to express the intimacy that exists between the husband and wife and their suitability for each as the garment fits the body and no room is left in between. The husband is the best protector of wife and wife is the best safeguard for the husband against the sin. Islam has assigned equal right and responsibility upon the spouse. The Holy Quran says:

"Wives have the same rights as the husbands have on them in accordance -with the generally known principles."

Right to Chastity of Women

The third important element in the Charter of Human Rights granted by Islam is that a woman's chastity must be respected and protected at all times, whether she belongs to one's own nation or to the nation of an enemy, whether we find her in a remote forest or in a conquered city, whether she is our co-religionist or belongs to some other religion or has no religion at all. A Muslim may not physically abuse her under any circumstances. All promiscuous relationships are forbidden to him, irrespective of the status or position of the woman or of whether she is a willing partner to the act.

The words of the Holy Qur'an in this respect are: "Do not
approach (the bounds) of adultery" (17:32). Heavy punishment has been prescribed for this crime, and no mitigating circumstances are indicated. Since the violation of the chastity of a woman is forbidden in Islam, a Muslim who perpetrates this crime cannot escape punishment whether he receives it in this world or in the Hereafter.

This concept of the sanctity of chastity and the protection of women can be found nowhere else except in Islam. The armies of the Western powers need the daughters of their own nations to satisfy their carnal appetites even in their own countries, and if they happen to occupy another country, the fate of its womenfolk can better be imagined than described\textsuperscript{21}.

But the history of the Muslims, apart from individual lapses, has been free from this crime against womanhood. It has never happened that after the conquest of a foreign country the Muslim army has gone about raping the women of the conquered people, or, in their own country/the government has arranged to provide prostitutes for them. From the point of view of Islam, not only the woman but also the man possesses chastity. A man who perpetrates rape or adultery spoils not only the chastity of the woman, but his own as well.
Right to Justice

This is a very important and valuable right which Islam has given to man. The Holy Qur'an has laid down: "Do not let your hatred of a people incite you to aggression” (5:3). "And do not let ill-will towards any folk incite you so that you swerve from dealing justly. Be just: that is nearest to heedfulness" (5:8). Stressing this point the Qur'an again says: "You who believe stand steadfast before God as witness for (truth and) fair play" (4:135)

The point is thus made clear that Muslims have to be just not only to their friends but also their enemies. In other words, the justice to which Islam invites her followers is not limited to the citizens of one's own country, or the people of one's own tribe, nation or race, or the Muslim community as a whole; it is meant for all human beings.

For Example an important elements of judicial system derived from Hazrat Umar (Radi Allah Anhu). Which are succinctly given below:

A. Postulates of Justice

1. Consideration of the petition or giving patient hearing to the parties to the dispute.
2. After hearing the parties to the dispute a decision is a must.

3. Enforcement of the decision is necessary to settle the dispute.

4. Equal treatment to the rich and the poor, and the strong and the weak is regard to the accesses to "justice" is a cordinal principle.

B. Procedural aspect of Justice

1. The burden of proof upon the complainant.

2. To rebut the charges leveled against a person must be done by him under oath.

3. The sufficient opportunity for submitting proofs in support of the case should be given.

4. The review of decision was also provided in order to obtain truth and to give justice to the rightful and to eliminate miscourage of Justice and false hood.

5. If the Quran and the Sunnah do not provide anyguide in respect to matters in dispute. Hazrat Umar(Radi Allah Anhu) conferred a discretion upon the authority to decide the same after giving care full consideration to the same.

6. The discretion conferred upon the authority should be exercised with the frontier of the Quran and Sunnah and should not in
any way be exercised in contrary to them. This may be treated as to limit on the power given to the authorities.

C. Conduct and behaviour of judges

This brief letter of Hazrat Umar (Radi Allah Anhu) shows light of every aspect of the judicial administration. The last para of this letter prescribes the conduct and behaviour of judge or an arbitrator in dealing with the litigants or the victims.

(1) He instructed his officials not to show misbehaviour and ill treatment to litigants at the time of submitting their complaints, and petition for justice.

(2) He further instructed that the justice should be done in accordance with the Quran and the sunnah coupled with the righteousness and good intention.

The above mentioned principles were the basic foundation on which Hazrat Umar (Radi Allah Anhu) has built up the entire edifice of the judicial system of the new Islamic state.23

The Holy Prophet Said

"A man is guardian of his family and responsible for them, a wife is a guardian of her husband's house and she is responsible for
A companion of the Holy Prophet (PBUH) requested him as to what is the right of one's wife on her husband? The Prophet replied:

"Feed her as and when you feed yourself, cloth her as and when you clothe yourself, do not beat on her face, do not abuse (or curse) her and do not separate yourself from her except inside the house".

Similarly the husband should not hate his wives neither insult her nor cast doubt on her chastity on false and flimsy grounds. The Holy Prophet commanded:

"Fear Allah with regard to women, because you have taken them in the trust of Allah and made their private parts lawful with the word of Allah".

Right to Property

According to Islamic Shariah the property of spouses is separate and like husband the wife has also right to manage her property independently. Though the husband is responsible to bear the cost of his wife's subsistence, but he is not supposed to merge her property with his own. The Holy Quran says:

"The men shall have their due share according to what they
have earned and the women shall have their share according to what they have earned.\textsuperscript{27}

Islam fully acknowledges the right of independent ownership of a woman. She has full right to buy and sell the property or give it on contract.

The right of independent ownership of wife was not accepted even in English law till the late nineteenth century. According to the English common law:

"All real property which a wife held at the time of a marriage became a possession of her husband. He was entitled to the rent from the land and to any profit, which might be made from operating the estate during the joint life of the spouses. As time passed, the English courts devised means to forbid a husband's transferring real property without the consent of his wife, but he still retained the right to manage it and to receive the money which it produced. As to a wife's personal property, the husband's power was complete. He had the right to spend it as saw fit "\textsuperscript{28}

Islam does not forbid the women from taking up employment, but it certainly considers her role as the householder to be much more
important. However, if a family finds it hard to live on the husband's income alone and the wife is in need of employment, she may take a suitable job after consultation.

(v) **WOMEN’S RIGHTS IN CHRISTIANITY**

Women’s position in the Christianity, the period of classical antiquity has developed their status. That period was the period of sex polarist who believed that male and female one until essences something akin to different species.

Although the antique view devalued the female in relation to the male, there is the mirror image of this devaluation in what might be called reverse sex polarity, or hostility on the part of female to male with the latter devalued in the overall scheme of things. Within the world of sex polarity, one sex is necessarily "better than" or a "victim of the other. If one begins from the presumptions of sex polarity in either of its varieties, the only view of rights that is consistent with this ontological position is rights as adversarial, as a weapon one sex can, or should, use against the other.

Sex polarists come in a number of historical and contemporary varieties. Whatever the source of philosophical inspiration, the
outcome is an epistemological gulf men and women "think differently" that works to devalue one sex in relation to the other. Aristotle's dictum that women's rationality lacked the completeness and fullness of that of the male would be one example of this view.

The rigidity of some classical presumptions, including a rather common anthropological assumption that women and men were confined to entirely separate spheres on the basis of what their innate being enabled them to realize. Christianity defied this rigid separation of human beings by declaring that every human being is equal in God's eyes: "there is neither Jew nor Greek, male nor female, free nor slave", in. St. Paul's famous turn of phrase, "but all are one" in the new dispensation of Christ Jesus. The new Christian community included, or incorporated, two groups excluded from the classical city women and the poor. As Peter Brown argues, Christian women took on a public role in their own right in their relation to the poor and the sick. They founded shrines and poorhouses in their own names and were able to pick some of their own kin their special saint sand to go into the public world out of devotion to these self-chosen kin. God's grace was available to all. God's love, Christian Agape, very different from classical Eros, infused human life. "We must love one and
other," was a core Christian commandment. We are, argued Augustine, well advised to judge ourselves and others not by our own acquisitions, our power to compel, but by what it is we and they love. The new Christian community was available to any who had a hunger and thirst for righteousness. The Christian of God on pilgrimage on this earth is "set apart by a holy yearning," in Augustine's phrase, and that yearning includes hope lodged in the capacity of human beings to long for something different, to examine the nature of their relationship with their immediate environment, above all, to establish their identities by refusing to be engulfed in the unthinking habits of their fellows. The Christian, recognizes an intimate dependence on the life around him or her and is aware of the tenacity that bind us to the world- What is our "business within this common moral life", Augustine queried, and it is with this question that all evaluations of women and rights within Christian communities should be situated men and women are not enemies but friends, brothers and sisters in communion.

According to Hildegard, men and women mirror one another. Hildegard thus establishes, in Allen's view, "a horizontal basis for complementarities between women and men, that is, that they are
significantly different and simultaneously equal in dignity and worth."

Hildegard insists that men and women help to create one another; that each is so involved with each other that one of them is the work of the other. Without woman, man could not be called man; without man, woman could not be named woman. Neither of them could hence forth live without the other". This is fascinating in part because Hildegard would seem to be working, at Least tacitly, with an appreciation of human powers as plural, potentia rather than potestas. Potest as is a political construal of power as rule or dominion power "over" others.

In his recent "World Day of Peace" message, John Paul II offered reflections on "Women: Teachers of Peace," His starting point was clear: "If, from the very beginning, girls are looked down upon or regarded as inferior, their sense of dignity will be gravely impaired and their healthy development inevitably compromised. Discrimination in childhood will have lifelong effects and will prevent women from fully taking part in the life of society." The ground here laid is a clear ontology of human dignity that yields strong conclusions against invidious comparison and the male use associated with discrimination (the old sex polarity position). This is a
position that is at once old and new. It goes back to trinitarian understanding of a commune of separate yet one persons; it is more Augustinian than Thomistic in this sense. Male and female are from the beginning embodied beings who display the marks of "solitude" and "an inscrutable divine communion of persons\textsuperscript{29}".

2. **EVOLUTION OF HUMAN RIGHTS**

The idea of "rights" and "duties" of citizens is as old as the concept of state. One may find their origin in ancient Greek Political system and in Roman law in Europe, Confucian System in China, the code of Hamurabi, the Islamic political system in the world and the "Panchayat" system in India. To have a better understanding on the concept of rights it is essential to look at their history.

It can also be said that the idea of rights is as old as human species. As man is a social being and cannot live outside society (as he/she is not self-sufficient for their needs), the problem of rights arose involving man's relations with other individuals in a society, and his relations with state of government. Through these relationships man implicitly explicitly evolved certain norms of social behavior, which got crystallized, over century’s struggles, into what we called today as human rights.\textsuperscript{30}
Although it is true that some scholars trace the idea of human rights in ancient civilizations in religious doctrines, the terms human rights become part of political (and common) usage only after the Second World War, thanks to the efforts of the United Nations. However, majority of the scholars trace the origin of the rights in Magna Carta, the English Bill of Rights, (1689), the American (1776) and French Declaration of Rights (1789) and the Soviet Charter of rights. These bills of rights followed the great revolutions that took place in those countries. In fact, each revolution and bill of rights contributed towards the development of human rights.

(i) **Domestic Origins of Human Rights**

The Glorious (English) Revolution, the American, French and Russian (communist) revolution represents the domestic origins of the idea of human rights. Although they took place within the national contexts/borders, they had great influence on the struggles for human rights elsewhere. Besides, many internationals developments have taken place during the last three centuries that made human rights truly a universal phenomenon. At the movement a brief survey of these major national and international developments may be provided as under.
(ii) **Magna Carta and the Glorious Revolution**

As the British monarchs enjoyed absolute powers of governance in medieval times and their rules were characterized by arbitrary exercise of those powers, the nobility and clergy resented this with an objective to create a political space and rights for themselves. The nobility began asserting their identity and significance in the political system. This assertion by nobility can be clearly seen in the singing of Magna Carta and Glorious Revolution of 1688.

In 1215 King John of England was forced to sign Magna Carta, a document erroneously called as the first instrument of the liberties of English citizens. In reality, it was merely a compromise on the distribution of powers between the King and his nobles. It gave certain concessions (not rights, as we understand them today) to clergy, landlords and nobles and consequently restricted the powers of the king to the extent those concessions were concerned.

In the seventeenth-century England there were conflicts and tensions between Parliament and the King over the latter's arbitrary rules. These struggles led to the "Glorious Revolution" of 1688. This revolution is also known as Bloodless Revolution. James II was forced to abdicate the throne. Fearing for his life the King fled the country.
Paving the way for the accession to the throne of William (of Orange) III and Mary II (The King's daughter who sided with the Parliament in this struggle) following the revolution, the Parliament passed the Bill of Rights in 1689. The Bill imposed restrictions on the powers of the King. It declared illegal the claimed suspending and dispensing powers of the crown. It prohibited the levying of taxes or the maintenance of standing army in peacetime by the Crown without Parliamentary consent. The Bill provided that "excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted". It further provided that "jurors ought to be duly impaneled and returned" and that "all grants and promises of fines and for features of particular persons before conviction are illegal and void"

Karl Marx and Fredrick Engels, in their Communist Manifesto, criticized the 1688 event as bourgeois revolution. According to them it simply confirmed the ascending of the gentry and merchant over the monarchy. In fact, the Bill represented a constitutional settlement, which protected the sectional interests of one group. However, some British historians saw the Bill as the triumph of liberty over deformation and the protection of English (women had little say in the
matter) from absolutist and arbitrary government. Moreover, it should be noted that the Glorious Revolution provided a precedent that rulers could be removed by popular will if, they failed to observe the requirements of constitutional legitimacy.

(iii) The American Revolution and Declaration of Rights\textsuperscript{31}

The American Declaration of Independence (1776) and the Virginia Declaration of Rights (1776) are two significant developments which explain domestic origin on the concept of rights in U.S.A. Being dissatisfied over the levels of taxation and the lack of representation in the British Parliament, the American waged a war to liberate their contract from the colonial rule of Great Britain. The founding Fathers of America was greatly influenced by the experience of the Glorious Revolution of England and the social contrary and natural rights theories of Locke and the French Philosopher who inspired French revolution. The American Declaration of Independence, which was drafted by Thomas Jafferson, contains numerous ideas of human rights, such as:

That all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and pursuit of Happiness -that to secure these rights,
Governments are instituted among Men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it.

However, it should be noted that this document contained high sounding ideals of the protection of life, liberty & pursuit of happiness, they were clearly inadequate as a catalogue of individual rights, which the state was obliged to protect. The Virginia Declaration of Rights, which was drafted by George Mason, included specific liberties that were to protected from state interference. These included freedom of the press, the free exercise of religion and the obligation that no person should be deprived of their liberty except by the law of the land or the judgment of their peers. The Virginia Declaration had a great influence on the drafters of U.S. constitution. These minimum rights were included in the constitution (1787). Subsequently in (1791) a Bill of Rights containing a list of guaranteed rights, was included in the constitution, through a number of constitutional amendments. Following are the more well known amendments. The first amendment provides freedom of religion, freedom of the press, freedom of expression and the right of
assembly. The Fourth amendment provides protection of individuals against unreasonable search and seizure; and the Fifth, establishes the rule against self-incrimination and the right to due process of law. The Thirteenth amendment, adopted after the civil war, abolishes the practice of slavery. It is worth noting that no rights have ever been removed or abridged by the congress.

(iv) The French Revolution and the Declaration of Rights of Man and Citizen (1789)

While the American declarations of Independence and Rights sought to end the colonial rule of establishing the notions of popular sovereignty and self-determination, the French revolution sought to demolish the old, absolutist monarchy and to establish a new democratic government. The French revolution was inspired by philosophers like Montesquieu, Rousseau and Voltier. After the revolution the National Assembly of France adopted (on 26 August 1789) the Declaration of Rights of Man and Citizen. This Declaration was couched in a language that reflected a clear libertarian philosophy. It introduced three novel concepts on Political Science Liberty, Equality and Fraternity. It was truly international in its appeal and inspired revolutionary and democratic movements in
almost every country of Europe and Central and South America and
later, in Asia and Africa. The following rights of man and the citizen
have been recognized among others, in the French Declaration.

(i) Men are born and remain free and equal in rights,

(ii) The aim of all political association is to preserve the natural
rights of man. These rights are liberty, property, security and
resistance to oppression.

(iii) Sovereignty rests essentially in the nation,

(iv) Liberty consists in the ability to do whatever does not harm
another; hence the exercise of the natural rights of each man
has no limits except those which assure to other members of
society the enjoyment of the same rights. Law can only
determine these limits.

(v) No man may be indicated, arrested or detained except in cases
determined by law.

(vi) All men should be presumed innocent until judged guilty,

(vii) No one may be disturbed for his opinion, even in religion,
provided that their manifestation does not trouble public order
as established by law.

(viii) Free communication of thought and opinion is one of the most
precious rights of man. Every citizen may therefore speak, write, and print freely, on his own responsibility,

(ix) Taxes can be levied only with the consent of all citizens,

(x) Society has right to hold accountable every public agent of administration.

(xi) Property being a sacred right no one may be deprived of it except for an obvious requirement of public necessity, certified by law, and then on condition of a just compensation in advance.

(v) Bolshevik Revolution (1917) and Social Dimension of Rights

It is gratifying to note that the revolution in soviet Russia introduced as socio-economic dimension to the concept of rights, which were neglected in the events and documents of English, American and French revolutions. While the three revolutions emphasize the first generation (Civil and political/negative rights), the October revolution of Russia popularized socio-economic rights such as the right to work, security, protection of the family, right to adequate standard of living, right to education, health and right to join trade unions. These are second generation or positive rights.
Thus it should be acknowledge that each of these declarations, events and revolutions, discussed have made important contributions in advancing and sharing of human rights. However being product of their times and specific circumstances, they lacked the totality of concept and were narrow in their scope and application. For instance Magna Carta yielded concessions of rights only to the Fenela lords and to the common little man of R.K. Laxman's everyday cartoon in The Times of India, though it did set limitations to arbitrary rule and laid the foundation for the rule of law. The American Declaration and Bill of rights were applicable only to those who constituted what was abbreviated as WASP (White Anglo-Saxon and Protestant). Slaves did not have right in USA until slavery was abolished in 1864. Similarly, the French Declaration was not applicable to non-citizens and it did not give specific rights to. Moreover western state like UK and France did not extend the motion of rights. The "subject" people in their colonies where the people were suffering without a paper framework of human rights.

The major international development took place during the last three centuries have attempted to the idea of human rights truly a universal concept. Let us look these developments.
(vi) Humanitarian Intervention (HI)

The doctrine of HI has been expounded by many international lawyers including Hugo Grotius (in the 17th century). This doctrine recognizes as lawful the use of force by one or more states to stop the maltreatment by a state of its own nationals when that conduct was so brutal and large scale as "to shock the conscience of the community of nations". Though the principle of HI was frequently misused in the past and often served as a pretext for the occupation or invasion of weaker countries, it was the first to gave expression to the propositions that there were some limits to the freedom states enjoyed under international law in dealing with their own nationals. Contemporary arguments about the rights of international organizations or groups of states to use force if necessary to put an end to massive violations of human rights have been justified by reference to this doctrine. For instance India invoked it in 1971 while it intervened in East Pakistan to resolve the crisis of Bangladesh. It may be recalled here that the concept of HI was invoked by a number of great Powers during the 19th Century to prevent of Ottoman Empire from persecuting minorities in the middle East and the Balkans. But some
scholars questioned the soundness of this argument as far as unilateral military action by individual states is concerned.

(vii) **International Humanitarian Law (IHL)**

IHL can be defined as "the human rights component of the law of war", Modern humanitarian law predates the development of international human rights standards. It began in the second half of the 19th century, specifically with the formation of the International Committee of the Red Cross (ICRC) in 1863. The Red Cross Movement arose out of the work of Henri Dunant, A Swiss humanitarian, who at the *battle of solfarino* in 1859, organized emergency aid services. The ICRC advocated the conclusion of international conventions making certain humanitarian rules applicable in the conduct of war. These initiatives produced the Geneva Convention of 1864, which was designed to protect medical personnel and hospital installations. It also provided that “wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for. In 1899 the Hague convention No. III was adopted which established comparable humanitarian rules applicable to naval warfare. From time to time the laws contained in these treaties have been revised and modernized. Much of that law is
codified in the four Geneva conventions of 1949 and the two 1977 additional protocols to these conventions.

These four Geneva conventions (on the laws of war) aim to protect the sick and wounded members of the armed forces, prisoners of war (POW) and civilian populations. For instance, the Geneva Convention on POW requires that prisoners be treated "humanely" and that they not be subjected to physical or mental torture to secure from them information of any kind. It prohibits "measures of reprisal against POW" and provides that all POW be treated alike by the detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinion. The fourth Geneva Convention, which seeks to protect civilian populations, establishes a massive code of conduct for the occupying power. It prohibits "not only murder, torture, corporal punishment, mutilation of a protected person, but also any other measures of brutality whether applied by civilian or military agents." It outlaws the taking of hostages, collective punishment and reprisals as well as “individual or mass forcible transfers" of protected persons or their deportations to the territory of the Occupying Power.

Due to these International revolutions justifying the Rights of
Men & Citizens along with social dimension of Rights, new national and international development took place. In our own Indian context, what development took place is a question of desirability to discuss at length.

So, traditionally International law was defined as the law governing relations between nation states exclusively. That implied that only "states" and not the "individuals" who were subjects of international law. With the creation of international organizations like the League of Nations (LON) and the United Nations (UN) the nature of international law has dramatically changed. The LON instituted Mandates and Minorities systems besides adopting a convention on the abolition of slavery. The UN and ILO (International Labour Organization) adopted nearly 100 and 150 instruments respectively on different aspects of human rights. These developments have made the individual a subject of international law and relations and as a result the traditional definition of international law has become no longer valid today. Moreover the growth of certain international legal doctrines such as "humanitarian Intervention" and "International humanitarian law" have brought the protection of human rights on the agenda of international politics and law. With these developments the
(viii) **Genesis of the Protection of Human Right Act -1993**

The Lok Sabha on December 18, 1993 passed the protection of Human Rights Bill which provides for setting up a National Human Right Commission, similar Commission in the States and Human Rights Courts to meet the growing concern for human rights in India and abroad, The Bill passed unanimously was brought forward to replace the presidential ordinance promulgated on Sept - 29th, 1993 for similar objectives commission has started functioning.

Home Minister S.B. Chavan in his reply to the said Bill that with the setting up of the Human Right Commission, India, would silence the countries which sought internationalise issues of alleged human rights violation of Human Rights by the Armed Forces Personal especially in Jammu and Kashmir, Mr. Chavan affirmed that the Government's objective was to prevent by excesses committed by them. \(^{34}\)

To facilitate its functioning the NHRC will have its own nucleus of investigating staff besides power to seek the assistance of Central agencies and those in the states while inquiring into specific
complaints of human rights violations relating to life, liberty, equality and dignity of an individual as guaranteed by the constitutional or embodied in international covenants and enforceable by the courts in the country.

The NHRC shall enjoy the power of a civil court and its proceedings shall be deemed judicial. The NHRC, can approach the Supreme Court or the High Courts for grant of immediate interim relief of the victims or members of his or her family.

In respect of the armed as well as the para-military forces, the NHRC either on the its own or on receipt of a petition may seek a report from the Central Govt. and make its recommendations to that Government. The commission would, if necessary publish interim reports, Annual reports alongwith the action taken by the Government shall be land by the Central Government before each House of Parliament.\textsuperscript{35}

A human rights commission to justify its reason and should satisfy the dual test of credibility and effectiveness and that mainly depends upon its composition and the extent of its powers. Some anomalies in the earlier Bill which was talked in parliament on the last day of the budget session (May 1993) have been removed.\textsuperscript{36}
One improvement however, concerns the composition of the commission as the commission will now consist of a former Chief Justice of the Supreme Court as Chairperson, and eight other members including sitting or former judge of the Supreme court.

A Chief Justice of a High Court and Chairpersons of various statutory National Commission Viz. National Commission for women, the commission for scheduled castes/tribes and Minorities Commission. These features may be definitely treated a welcome improvement upon the earlier Bill.

So, the National Human Rights Commission has rendered a signal service for the cause of observance of Human Rights, especially in the field of Civil liberties, for example its work in the field of prevention of Custodial deaths, rape and Torture has been quite price worthy. Its direction to all District Magistrates and Superintendents of police to report to the Commission all incidents of Custodial death or rape within twenty-four hour has made a very salutary impact in preventing such incidents. Moreover, it is a sort of fore warning to the police officers that if they misuse their powers or commit excesses, they may be penalized for this. Besides this the commission has handled some cases to alleged custodial death in such
an effective manner that it has inspired the confidence of the people. However, it may be noted that even though the commission can neither render a decision like a court nor can its decisions be enforced like judgments yet it would not be correct to say that the National Human Rights Commission is a weak or impotent body. Headed by a former Chief Justice of India and consisting of Judges of Supreme Court and Chief Justice of High Courts, it's recommendation commands great respect. It is a statutory autonomous body and derives its power and authority from Act of parliament. The Central Govt. or State Govt. will have to think several times before deciding to avoid or refuse to implement the recommendations of such an august body. It also deserves mentions under section 18 (6) it is mandatory for the commission to punish its inquiry report together with the comments of the concerned Govt. or authority if any, and the action taken or proposed to be taken by the concerned Govt. or authority on the recommendations of the Govt. in a democratic country like ours can afford to resist or avoid such public opinion. Therefore, instead of being reducing or repulsive, the Government will be too willing to accept and implement the recommendations of the commissions.
Thus, it may be understood that despite several shortcomings and drawbacks in the Act, the commission in practice has proved to be an effective body for the observance of human rights in the country.

Within a short period, i.e. only a few years, it has performed creditable and price worthy works. It has rendered a single service for the observance of human rights especially in the field of custodial violence and death, false encounters by policemen abuse or misuse of powers by police officials, rape cases, review of Acts and Statutes such as Terrorist and Disruptive Activities (Prevention) Act 1987 (TADA). Most of the recommendations of the commission have so far been accepted. If some of its recommendations have not so far been accepted and acted upon the fault is not of the commission but lies somewhere else, i.e. with the concerned Government or authority. It is therefore desirable that the central or State Govt. should pay serious heed to the recommendation of commission and unless there are some very strong or cogent reasons for not accepting the recommendation, the Govt. should generally accept and promptly implement the recommendation of the commission.37

At last we may have an idea that with certain amendments in
the Act so as to remove the existing defects and shortcoming and streamlining the machinery of protection and observance of human rights, Protection of Human Rights Act 1993, can become an ideal Act for the protection of human rights in the Country.

3. ORIGIN AND DEVELOPMENT OF HUMAN RIGHTS

The original contributors to women's human rights were those who first taught women to read and thus to explore the world outside the home and immediate community. The idea of women's human rights is often cited as beginning in 1792 with Mary Wollstonecraft's book, Vindication of the Rights of Women, published in response to the promulgation of the natural rights-of-man theory. Historical research, however, has revealed a much longer gestation period, beginning at least in the early fifteenth century with the 1405 publication of Le livre de la cite des dames (The Book of the City of Ladies) by Christine de Pizan. This work stimulated what French feminists call the querelles des femmes (debate about women), which continues to the present.38

Because human life has so many facets, this long debate has been broad and wide-ranging. Much of the debate has involved the traditional demeaning of women. Over time, demeaning an individual
or group - a common, often subconscious, technique used by one
group seeking to maintain power over another - results in stereotyping
and the denial of recognition of that group's accomplishments or
contributions to society. As the demeaning becomes customary,
discrimination results, establishing a rationale for differential
treatment of groups and the individuals within the particular group.
With discrimination, the less powerful are deprived of their history,
their self-confidence, and eventually, their legal ability to function as
full citizens or members of the larger group. The great irony is that
ten women have been charged with - and have often found security in
maintaining customs and tradition, thus institutionalizing the
discrimination against them through the education and socialization
of children.

Breaking tradition, defying custom, and overcoming
discrimination require courage and leadership. Leaders bent on
effecting change must develop a new vision of the world, articulate
the problems of the status quo and a new theory of social and political
order, and, over time, mobilize a critical mass of supporters who
share the new vision and new articulation of the problems. For
women, taking leadership was a double-edged problem, a
contradiction in terms. For most women, especially before safe and
effective birth control was available, marriage, home and family were
their means of economic survival and social acceptance.39

The beginning of women's education began with literacy. As
literacy is rates increased, women began to articulate their view of the
world. Many wrote anonymously at first in order to have their work
accepted for publication. The Industrial Revolution and the
concomitant advances in science and technology contributed
immensely to women's emancipation. Not only did more women find
employment outside the home, travel and communication too became
easier and cheaper. A major breakthrough was the development of
safe, effective, and legal means of birth control. The fact that
distribution of birth control information and devices was illegal in
most countries until the early twentieth century, and that the term
"family planning" became a substitute for birth control, is additional
testimony to the dilemma Mill identified - men's belief that, for
women to engage in their natural vocation, that of bearing and raising
children and maintaining homes, they must be controlled by men.40

By the time the United Nations was formed in the mid-
twentieth century, internationally, critical masses of women had been
Chapter – 2

educated, were employed outside the home, and had obtained enough legal and social freedom to participate in public life, even at the international level.

Numerous international women's organizations had fifty years of experience behind them. As a result of lobbying by these organizations, and with support from female delegates, the phrase "equal rights of men and women" was inserted in the United Nations Charter. When the Universal Declaration of Human Rights (UDHR) was drafted, the word "everyone" rather than the male personal pronoun was used in most, but not all, of its articles. When the commission on Human Rights failed to recognize women's aspirations adequately, women delegates and the Non-Governmental Organizations (NGOs) supporting them were politically powerful and astute enough to obtain a freestanding Commission on the Status of Women. By 1979 the commission on the Status of Women, with the support of women delegates and NGOs and a new wave of feminism under way, had drafted and successfully lobbied the adoption of the convention on the Elimination of All Forms of Discrimination Against Women.41


(i) **Defining the Issues**

Christine de Pizan's *Le livre de la cite des dames* was published partially in response to Giovanni Boccaccio's work of 1361, *Concerning Famous Women*, which described exceptional women of history who had acquired "manly spirit" and other male attributes such as "keen intelligence, d and remarkable fortitude" and who dared to undertake difficult deeds. De Pizan argued for women's right to be educated, to be able to live and work independently, to participate in public life, and be masters of their own fate.

Four points are important about de Pizan and her work. The first is obvious but merits stating: she could not have written her book if she had been illiterate. Like many who followed her, she used the printed word and publication of her ideas to describe the situation of women. She not only contributed to the historical record, she analyzed life from a woman's perspective, basing her conclusions not only on her own life but also on the lives of her predecessors. The ability to gain and disseminate knowledge, to record history, and to express new ideas and life experiences in printed form is, as has been noted, a prerequisite for challenging social and political norms. De Pizan used her education and experiences as a basis for independent
thought, a process that Wollstonecraft would later argue was a necessity for girls.

Second, de Pizan directly challenged the confinement of women to the private sphere of home and family. She placed herself in the public sphere and demonstrated that women could provide for themselves economically, as many women, particularly widows, had done before her.

Third, de Pizan began a tradition of women writing for publication not only to express their ideas but to offer economic support for themselves and their families. Finally, she understood that history, whether oral or written, is a political tool used to maintain power, to reinforce the dominant culture, and to record actions that affect the public sphere.\textsuperscript{42}

De Pizan understood that denying a group its history and suppressing its record of leadership results in disempowerment of the group. She knew that the record of actions by those who challenge existing power structures is often deliberately suppressed and that, unless that group is successful and becomes a new political force, the history is lost. Especially in societies where literacy is low and women's organizations are apolitical, male-dominated history and
tradition maintain the existing social and political order. De Pizan and many of her successors have been omitted from recorded history, thus prolonging the struggle for women to achieve their human rights.43

(ii) The Drive for Education and Independence

Throughout the sixteenth and seventeenth centuries, increasing numbers of girls, primarily in royal and wealthy families, were educated. More and more women began writing for publication, although often anonymously for fear of being seen as "intruding" on the public sphere. During the seventeenth century numerous women writers argued for the education of girls and women citing the lack of education as a major cause of women's inferior status.44 In 1670, Aphra Behn, said to be the first Englishwoman to make her living by writing, had her play The forc'd Marriage, or the Jealous Bridegroom performed in London. While satirizing male behaviour, Behn argued in her play for women's education and responded to public criticism of her lack of Greek and Latin by noting that Shakespeare had not known the classical languages either. She was one of the first - and still too rare - feminists who used humor and public entertainment to make her point.45

During the eighteenth century, the Englishwoman Hannah
More and others throughout Europe not only argued for women's and girl's education pit also organized women to establish schools. Even the more conservative women argued that education of girls was important because it meant that they would be better wives and mothers.

(iii) Wollstonecraft and the Rights of Women

By 1792, when Wollstonecraft published A Vindication of the Rights of 'Women, she only reiterated what numerous women, and a few men, before her had already written. Wollstonecraft had previously written thoughts on the Education of Daughters (1787) as well as an autographical novel entitled Mary (1788) based on her own experiences as the daughter of a violent father and as a governess and teacher. In her thoughts on the Education of Daughters, Wollstonecraft urged that girls be fought to think and their curiosity stimulated, revolutionary ideas for her time. She also responded to Edmund Burke's Reflections on the French Revolution (1790) with her own pamphlet entitled Vindication of the Rights of Men (1791), in which she ridiculed his oversight of poverty in England, an issue that other female writers would discuss in the nineteenth century.

Another Wollstonecraft contribution was her emphasis on
women's health, promoting exercise of body and mind. Her predecessors made similar arguments for women's education, against the legal disabilities of marriage and against women's lack of participation in politics but only she argued that women should be more active physically and more knowledgeable about health, anatomy, and medicine. Her work was also a precursor to the discussion of violence against women.46

However, by the end of the eighteenth century, strong feminist arguments were being made on both sides of the Atlantic, although no major social or political women's organization existed to promote feminist views except that of education. Before organizing for political purposes, women articulated their experience and ideas through published writings and only gradually broke the tradition that good women did not address public audiences. A new political movement, the abolition of slavery, gave women experience in organizing and moved them into the political arena and onto public platforms.47

(iv) Contribution of 19th Century Women Writers

Denied direct access to the world of politics by custom it was unseemly for women to speak in public - and subordinate under law,
many English, French, and American women took to writing literature and political commentary as a means of intruding on the public sphere and, not incidentally, like de Pizan and Wollstonecraft, as a means of economic independence. During the nineteenth century, numerous women writers became noted literary figures, often using the novel to express political sentiments. According to Ellen Moers, these writers gave voice, directly and indirectly, to the feelings and aspirations of women. They pitted the conservative, traditional woman against the feminist through literature and indirectly encouraged feminist views in many of their readers. Like Wollstonecraft before them, they became spokeswomen for the underprivileged, whether slaves, factory workers, the poor or women.48

Among the late-eighteenth and nineteenth-century novels written by women concerning women's role in society, the best known are those of Jane Austen (1775-1817) and Charlotte Bronte (1816-1855). Fanny Burney 1752-1840) of England and Madam de Staël (1766-1871) of France were also notable popular writers who described the world from a woman's perspective. Perhaps an important, in terms of women's human rights, as the writings and
ideas of these noted women is the interaction between the writers and female activists. In today's parlance, this would be called networking across international borders."

(v) **Organizing Internationally**

Women's organizing was not limited to the United States, nor were women's suffrage leaders the only leaders organizing women for political action. Although the Women's Christian Temperance Union (WCTU) is remembered, often jokingly, for its crusade against the evils of alcohol, its primary emphasis, under the leadership of Frances Willard, was local political action in the name of motherhood and home. Willard's "do everything" policy for local Women's Christian Temperance Union units encouraged women to improve their communities. Many units established kindergartens, libraries, and other community institutions. This local activity brought new recruits to the suffrage movement. Later, Willard formed an international Women's Christian Temperance Union with units in other including Japan.49

In March 1888, forty years after the Seneca Falls meeting, an International Council of Women meeting, organized by Stanton and her friend and colleague, Susan B. Anthony, was held in Washington,
D.C. Anthony had been active in the temperance movement and proved herself to be the consummate organizer, while Stanton was a theoretical politician.

The International Council of Women meeting was co-sponsored by the Women’s Christian Temperance Union. In addition to delegates from England, France, Norway, Finland, Denmark, India and Canada, representatives from over fifty United States women's organizations attended. This meeting was not the first international organization of women; by 1888 an International Women's Rights Conference had been held in Paris, and the World Young Women's Christian Association (WYWCA) and the World Women's Christian Temperance Union had been formed. In the early part of the twentieth century, the International conference of Socialist Women was formed under the leadership of Zetkin. This group proposed what later became International Women's Day. Also in Russia, Alexandra Kollontai, who concentrated on organizing employed women, built upon and defined the feminist movement.50

Achieving that birthright required organizing internationally, women's suffrage, at the end of the nineteenth century and the beginning of the twentieth, like the violence against women issue at
the end of the twentieth century, became the most visible issue in the feminist movement

(vi) **The United Nations on the Status of Women**

By the time the United Nations was formed in 1945, women were deeply involved in the public sphere, primarily in nongovernmental organizations, but a number of countries had women among their delegations. The suffrage movement had been successful in thirty-one countries. Women's participation in the paid labour force during both world wars had been massive and never returned to prewar levels. Employed women in Europe and the United States had organized and were part of the international labour movement. The number of women's organizations had increased; these organizations advocated issues ranging from study and self-improvement to social welfare to suffrage, and many employed a variety of measures to draw attention to the causes. Women from many countries also had gained extensive experience in lobbying government officials locally, nationally, and even internationally. The International Federation of working Women (IFWW), for example, had lobbied the International Labour Organization and achieved adoption of the 1919 conventions on maternity protection and night
work for women.$^{51}$

The work of women's organizations internationally came to fruition with the establishment of the United Nations. The equal rights of men and women clause in the United Nations Charter established a legal basis for the International struggle to affirm women's human rights.

Although only eleven of the fifty-one nations represented in the 1946, United Nations General Assembly had women on their delegations, with the support of women's NGOs, women made their presence known. Early in 1946 Marie-Helene LeFaucheux of France introduced an agenda item on the participation of women in United Nations conferences, which was adopted, proposed establishing a status of women commission, but the proposal was strongly opposed by the United States delegate. Virginia Gildersheeve argued the United States position that such a commission would be discriminatory and that the human rights commission was able to with women's questions.

The purpose of the United Nations was to promote women's right in all fields of human endeavour. The object was to elevate the equal rights and human rights status of women, irrespective of
nationality, race, language, or religion, in order to achieve equality with men in all fields of human enterprise and to eliminate all discrimination against women in statutory law, legal maxims or rules, or in interpretations of customary law.\textsuperscript{52}

(vii) A Declaration on Eliminating Discrimination Against Women

Although the British Federation of Business and Professional Women had suggested to United Nations General Assembly President Speak in 1946 that a United Nations convention on discrimination against women would be in order, it was not until 1963 that the first, tentative steps toward such a convention were undertaken. In that year a series of events put a new focus on women in the United Nations. A General Assembly resolution was adopted, introduced by developing and Soviet-block countries, calling for the Commission on Status of Women to draft a declaration on eliminating discrimination against women. The resolution invited member states and appropriate non-governmental organizations" to submit comments and proposals on principles that might be included in such a declaration.

Also in 1963, a new United Nations Report on the World Social situation, dealing with housing, population, health, nutrition,
education, and social services - all traditional concerns of women - was before Economic and Social Council. The year also marked the fifteenth anniversary of the Universal Declaration of Human Rights and saw the Human Rights commission complete a series of regional seminars on the status of women in family law. In the same year the General Assembly adopted an Economic and Social Council resolution on women in development, which had originally been submitted by Chile and cosponsored by numerous other delegations. The resolution reflected the contents of the World Report and the new emphasis within the United Nations on development. The resolution called on all United Nations member states, specialized agencies, and nongovernmental organizations to appoint women "to bodies responsible for the preparation of national development plans" and drew attention to the importance of training women so as to enable them to participate fully in all phases of national development programs".

When the Commission on the Status of Women draft of a declaration came before ECOSOC's Third Committee, an article calling for the abolition of discriminatory customs and traditions and raising the issue of protection of women workers created a furor.
Some Third Committee legates had suggested women be protected from "arduous work". NGOs responded with vehemence that protecting women from arduous work was ridiculous because women worldwide did such work. Nursing, tea picking, care, and household work were arduous, they insisted, and customary family law simply reinforced women's subordinate status. By the end of their 1967 session, after some astute political maneuvering, the commission unanimously adopted its draft, and with the support of women delegates to Economic and Social Council's Third Committee an eleven-article Declaration was adopted by the General Assembly on 7 November 1967. It covered the issues women had been working on for centuries.

(viii) The World Women's Conferences

The 1975 International Women's Year Conference attracted five thousand representatives, from all branches of the new women's movement, to Mexico City and to the Non-Governmental Organization Tribune held in conjunction with the official United Nations Conference. In both the tribunal and the governmental conference reported by the world's media. Developing country representatives argued that development would bring equality; new
feminists from industrialized countries vehemently opposed that idea, citing innumerable areas of discrimination in their countries. The atmosphere in Mexico City appeared more tense it actually was, fed not only by the media but also by many male delegates who thought the whole idea of a world women's conference was unnecessary, but who used it to test the political waters on such questions as development, the New International Economic Order (NIECI), and the influence of colonialism on developing countries, many of them newly independent. Soviet and American delegates sparred over cold war issues in the plenary sessions, while in the drafting committee meetings for the World Plan of Action women came together around common interest.\textsuperscript{53}

A new international women's movement was in the making. In some countries the formation of in-country women's commissions or the "national machineries" that Sipila had encouraged followed a strong feminist approach. In others new, avowedly feminist NGOs were formed. In all countries the symbol adopted by Commission on the Status of Women for international Women's Year became visible. These events and the symbol served to bring women together at local and national levels around common concerns and to raise awareness
about sex discrimination and equality, as well as women's place in the
development process.

The World Plan of Action adopted at the Conference gave
credit in its introduction to the work of Commission on the Status of
Women and to the numerous women's rights conventions already
adopted. The plan noted that the promotion and protection of human
rights for all was one of the fundamental principles of the United
Nations Charter and that "history has attested to the active role which
women played in accelerating the material and spiritual progress of
peoples". It predicted that, "in our times, women's role will
increasingly emerge as a powerful revolutionary social force". An
overly optimistic fourteen-point list of five-year minimum goals was
set forth, including:

a. Marked increase in literacy and civic education of women.
b. Encouragement of a greater participation of women in policy-
making.
c. Increased provision for health education and services.
d. Provision for parity in the exercise of civil, social and political
   rights such as those pertaining to marriage, citizenship and
   commerce.
e. Recognition of the economic value of women's work in the home, domestic food production and marketing and voluntary activities.

f. The promotion of women's organizations.

g. The development of modern rural technology to help reduce the heavy work load of women.

h. The establishment of interdisciplinary and multisectoral machinery within the government for accelerating the achievement of equal opportunities for women and their full integration into national life.

By the mid-1970s foreign-aid donor nations had responded to the new International women's movement and United Nations development initiatives by establishing women-in-development (WID) offices. Ester Boserup’s landmark book, *Women in Economic Development*, published in 1969, had persuasively documented the role women played in agricultural production in developing nations. Although the expressed purpose of these programs was to assist the male-dominated donor agencies in integrating women as both beneficiaries and agents of economic development, the momentum of the new feminist movements in industrialized countries and the World
Women's Conferences influenced how WID funds were allocated. Data collection and income-generating projects was given high priority by most donors, but some, such as Swedish SIDA, supported the new women's bureaus in developing countries while other supported legal literacy and other projects devised by indigenous organizations.55

For the first time, as a result of WID studies, attention was directed to male-headed households, although the term "women who alone are responsible for families" was used, after considerable debate, because some legations insisted only men could head households.

Western industrialized countries argued that the cause of inequality was the division of labour between men and women justified by many on the basis of a woman's distinct child-bearing functions; developing countries argued that "mass poverty" resulting from colonialism and unjust and international economic relations was the cause, while the Soviet block argued that the predominant economic analyses of labour and capital (Capitalism, that is) ignored women's work as producers and reproducers. Consensus was reached that discrimination was the result, no matter what view of history was
taken. The Programme of Action stated that, while women were half
the population of the world, they performed two-thirds of the world’s
work while only receiving one-tenth of world income and owing less
than 1 percent of world property.

People throughout the world have always enjoyed certain type
of freedoms and liberties having roots in the values and religions of
the respective regions of our globe. This is true as well for the people
of India. On 10th of December 1948 when the Constitution of India
was in making the United Nations General Assembly, adopted the
Universal Declaration of Human Rights in 1948 which surely
influenced the framing of Indian constitution. Viewed from Indian
standpoint, Human Rights have been synthesized into an integrated
fabric by the preambles promises and various clauses of the
Constitution.

The Preamble to the Constitution of India aimed to protect and
promote the Human Rights of the people.

India's Constitution not only recognizes the basic Human
Rights, accepted/adopted by the internal agencies/authorities like
United Nations and international covenants, but has incorporated the
same in itself (constitution) by positivization. A glance at the
Fundamental Rights enshrined in Chapter III of Indian constitution reveals lots of similarities with the provisions of Universal Declaration of Human Rights, 1948.

In post-independent India, a number of laws have been enacted for the general advancement of Indian people particularly Indian women. Laws favouring women have been legislated to give them rights and privileges equal with men to eliminate discrimination against them and removing hindrances coming in their way of self realization and development. Among the enacted, many legislations with reference to women, few significant ones are Act on Women's Legal Rights, 1952; the suppression of Immoral Traffic in women and Childrens Act, 1954; the Special Marriage Act, 1954; the Hindu Marriage and Divorce Act, 1956; Dowry Prohibition Act, 1961; Indecent Representation of Women (Prohibition) Act, 1986; the Sati Prevention Act, 1987. Recently, the parliament enacted the Protection of Women from Domestic Violence Act, 2005 to provide for more effective protection of women from violence occurs within four wall of house. The constitution of India is in accordance with the trend of modern democratic thought, the idea being to preserve that which is an indispensable condition of a free society, which ensures equal
status to all not only between men, women and women, but also between men and women. So the constitution of India assures all among other thing dignity of individual.

Human rights are part and parcel of human dignity. Individual dignity cannot be measured by single factor. It is the combination of all aspects: moral, economic, social and political etc. of human life.

So it is summarised that the history of the drive for women's human rights indicates that only when women are literate, when they can articulate their view of life in publications and before audience, when they can organize and demand equality, when girls are educated and socialized to think of themselves as citizens as well as wives and mothers, and when men take more responsibility for care of children and the home, can women be full and equal citizens able to enjoy human rights.
REFERENCES


11. The Holy Quran, Al-Nisa, 124


13. The Holy Quran, Al-Nahal. 58-59

14. The Holy Quran Al-Shams.8-9

15. Muslim, Abwabul Birr.

16. Supra Note, pp.8-9

17. Ibid pp-82

18. Tirmaizi Abwabul Birre Walsilah.

19. The Holy Quran AI-Baqarah, 187

20. Ibid AI-Baqarah.

21. Supra Note 8

22. Supra Note 8-9


26. Muslim, *Kilabul, Nikah*


31. Supra note 1, at p.1.

32. Supra note 29, at p.5.


35. In the draft legislation as many as three of the five members was to be appointed among the serving secretaries of the Government.


38. Ibid.

39. Ibid.


42. Ibid.

43. Ibid.


45. Ibid.


47. Ibid.


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