



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## “Historical Aspects of Human Rights In India: An Analysis”

Dr. Gurdeep Kumar,

Assistant Professor,

Lala Hansraj Phutela College of Law, Sirsa.

**Abstract:** The history of human rights dates all the way back to the beginning of time. The modern concept of human rights has developed over thousands of years. Human rights have existed for as long as mankind has, despite the fact that the term seems to have only recently emerged. Since the dawn of time, when man first lived in groups like families, clans, tribes, towns, or nations, human rights have existed in some form or another. They still exist now in the shape of a self-governing global community. 13 Human rights are the culmination of universal human principles that date back thousands of years, not just to the West or even the modern world.

**Keywords:** War captives, inherent, innate, unalienable, fundamental, human rights history, Indian perspective,

**Introduction:** In his acclaimed and enduring book "Arthashastra," Kautilya defined and outlined the human rights of war prisoners. In the past, human rights were referred to as economic rights, political rights, personal rights, legal rights, natural rights or divine rights, and social rights. As a result, numerous terms are used to characterize people's rights, such as "inherent" and "natural" rights, "inalienable" rights, and "basic fundamental" rights.

"Human rights are twentieth-century terminology for what were formerly recognized as natural rights or, in more exciting language, man's rights," argues a well-known professor.

Greek stoicism, a pre-modern natural law concept in Ancient Greece and Rome, informed the concept of human rights. At the heart of today's human rights beliefs are Greek and Roman conceptions of divine justice and freedom. It spread more widely in the 18th century, during the so-called Age of Enlightenment, when trust in human reason grew and, of course, human affairs were refined. Both natural law and human reason were promoted by), Others include Montesquieu Voltaire, Jean Jacques Rousseau, and John Locke in France and England. Historical texts include the American Declaration of 1776 and the Pennsylvania Declaration of 1776 and the French Declaration (1789) represented the intellectual environment of the

contemporaneous socio-political events sparking the battle against governmental absolutism. According to respected human rights historian Maurice Cranston, these conflicts arose as a result of males asserting their rights that had been denied to them under absolute rule. Human rights have their roots in all of those uprisings. Henry David Thoreau was the first philosopher to use the term "human rights" in his thesis; civil disobedience, which inspired Tolstoy, Gandhi, and Martin Luther King to create and spread the concept of nonviolent protest to unjust government operations. 'Respect for one extends equally to the entire cosmos,' Mahatma Gandhi said. Because all humans are basically the same, "what is feasible for one is achievable for all."

Second World War tragedies led to the formation and acceptance of the contemporary international human rights movement. Proclamations by President Franklin D. Roosevelt and non-governmental organizations (NGOs) in the 1940s paved the way for a new era of human rights activism in the post-World War II era. It wasn't until 1945, when the United Nations was formed, that the scope of this campaign was broadened. The Universal Declaration of Human Rights (UDHR), which was established on December 10th, 1948, widely known as "Human Rights Day," was a key component of this post-war human rights framework. The English, American, and French revolutions all had a significant influence on the writing of this declaration. Social justice, liberty, and equality were established as the pillars of human rights in the post-war period. International treaties the term "human rights" was first used in documents including the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic, Social, and Cultural Rights (ICESCR), all of which were adopted by the UN in 1976.."

In the 1970s, Amnesty International was appointed as a permanent observer to the United Nations, drawing international attention to the human rights movement. A wide spectrum of governments throughout the world took note of its conclusions and declarations on fundamental human rights. To safeguard their most treasured rights, developing-country civil society groups and people united around the 1948 United Nations Declaration. Many civil society groups (such as Human Rights Watch and Amnesty International) have sprouted up across Asia, Africa, and Latin America to resist repressive governments and fundamental human rights such as the right to life and freedom of expression. It's time to accept that Amnesty International and its sister organizations inspired civil rights movements throughout the world. Amnesty International received the Nobel Peace Prize for its efforts to uphold human rights.

To put it another way, it became evident from this historical perspective that man's struggle for rights has been ongoing from the beginning of time. Human rights were primordial in ancient times, growing in the Middle Ages, and completely matured in the twentieth century thanks to the formation of the United Nations.

Despite the fact that it was not a legally binding instrument, the United Nations Charter expressed a vision that would be developed by numerous agencies and organizations in the years to come. In December 1948, the United Nations General Assembly approved the Universal Declaration of Human Rights as the first real step toward creating the myriad human rights. Covenanting Parties were expected to sign an International Bill of Rights that would bind them legally. It's vital to remember that the Universal Declaration was never meant to be a legally binding contract, and there were no procedures in place to enforce it. The United Nations General Assembly attempted to address this issue by establishing two Covenants on the Respect for Human Rights in December 1966:

- Civil and Political Rights Covenant.
- The Economic, Social, and Cultural Rights (ESCR) Covenant.

**Indian Perspective on Human Rights:** When we explore the idea of human rights from an Indian standpoint, we find that Indian political thinkers and philosophers are not unfamiliar with it. They have declared a willingness to defend all people's basic human rights and liberties from the beginning of the Vedic era. Human rights have their origins in the ancient Indian notions which controlled both the state's and the nation's administration and the lives of its citizens. The Sanatan Dharma idea, which established the foundation for contemporary human rights in ancient India, is almost two thousand years older than Western Christianity as a whole. It laid the framework for the same social structure in ancient Indian civilisation, which contained a moral code as well as obligations and duties. It was a far broader concept than religion had been in Western history. These pre-existing principles were used to provide detailed parameters for the King's guidance. He, like everyone else, had a responsibility to uphold the law. He was in charge of delivering justice in accordance with religious teachings, traditions, and written rules. Of course, he had to follow both religious and customary regulations, as well as those of his subjects. Human rights enforcement may have been in its infancy at the time. Dharmic writings like the Vedas and Vedanta under the Sanatan Dharamgenus, which enshrines "Truth is one" and "God resides in every human being," were the primary sources of the monarchs' guiding beliefs. There can be no genuine pleasure and a community can't keep together if one doesn't adhere to the principles of truth, self-control, acquiescence to one's own moral code of conduct, charity, non-violence, and persistence in virtue.

Religious prophets, on the other hand, made significant contributions to the individualization of human rights. The Jain founder, Mahavir, thought that human freedom was built on the Anekantavad truth, which created the concept of truth's relative plurality and the presence of several sides to the same tale. This attitude toward truth has a significant impact on both the personal and societal elements of existence.

During the time of Chandra Gupta Maurya, Kautilya wrote the laws of punishment in his Arthashastra. In Arthashastra, these principles were presented as the foundation of social existence. As a result of these principles, a number of laws were established to safeguard against illegal arrest and incarceration, as well as custodial murder and rape of women, as well as a corrupt judiciary. His reign, which was predated only by King Kalighat's, was highlighted by a number of initiatives aimed at ensuring equal rights, fraternity, and happiness for all of his subjects. Ashoka was the foremost promoter of civic liberty in ancient India.

The current form of human rights law was formed under British rule in India. In addition to battling against colonial powers' harsh and exploitative rule, the human rights movement attempted to reinstate the lost Dharma of India's famous past via improvements in the country's society. Britishers introduced religious discrimination into the Indian judicial system with Act 1827, which Raja Ram Mohan Roy, "the great social reformer of Modern India," rejected. According to the law, Christians, whether European or local, could not be tried by a Hindu or Muslim jury, and Christians could not be tried by either a Hindu or a Muslim juror. His forward-thinking views and important acts contributed considerably to the growth of Native American civil liberties at the time.

Human rights and dignity reforms began in Bengal and spread progressively throughout India. In Maharashtra, one of the founders of the Indian National Congress, Mahadev Govind Ranade, established the Indian Social Conference in 1887 to combat human rights violations in the Indian subcontinent. Ranade, like a genuine visionary, saw the interconnection and indivisibility of what are now considered two generations of human rights: civil and political rights and economic, social, and cultural (ESC) rights. According to him, there is no good social system when individuals are denied political rights, and they are not entitled to enjoy their political rights and advantages unless their social system is established on logic and justice.

When your social structures are flawed, you can't have a healthy economic system. You can't prosper in the social, economic, and political arenas if your religious beliefs are rooted in the dirt. When the Universal Declaration of Human Rights was written in 1948, it finally expressed this interconnectedness as a natural law.

**Constitutional provisions and the Conventions:** On January 26, 1950, India's Constituent Assembly completed the country's first constitution, which was seen as a victory. Indians fought for independence, recognition, protection, and enforcement of human rights for almost a century, culminating in the formation of the Indian Republic's Fundamental Rights and Directive Principles of State Policy. At the same time as the international community was preparing its own Universal Declaration of Human Rights, the Indian Constitution enacted a nearly full list of human rights. The human rights sections of the Indian Constitution cover a wide variety of rights, including civil, political, economic, social, religious, and minority rights.

Mahatma Gandhi had already announced a political society in which there would be no distinction between rich and poor, where women would have the same rights as men, and where all Indians would be treated with dignity and justice on all fronts, including social, economic, and political, before the Second Round Table Conference, even before the constitution for a free India had been drafted.

The Preamble, Fundamental Rights, and Directive Principles of State Policy are crucial portions of the Constitution in terms of human rights. In practice, human rights are no longer only an abstract concept to be argued. According to research on Indian constitutional human rights, practically all international conventions, covenants, international agreements, including the 1966 International Covenants on Civil and Political Rights and the 1948 Universal Declaration of Human Rights, are included into the Indian

Constitution. The Covenant on Civil and Political Rights was ratified by India and the Covenant on Economic, Social, and Cultural Rights, the guarantees and protections of rights in the Indian Constitution must be in compliance with these Covenants. Part III of the Indian Constitution Several of the rights entrenched in the Covenants on Civil and Political Rights are acknowledged as justified, or enforceable basic rights, but the rights outlined in the Covenant on Economic, Social, and Cultural Rights are enshrined in the Directive Principles of State Policy and are not.

**Rights of the Citizen, Political Participation, and Individual Liberty:** Part III of the Indian Constitution preserves the rights entrenched as Fundamental Covenant on Civil and Political Rights: Rights. This encompasses equality rights, freedom from exploitation, religious freedom, constitutional remedies, cultural and educational rights.

It's worth noting that, in addition to a thorough list of fundamental rights, the creators of our country's constitution provided effective legal systems for enforcing those rights. Articles 32 and 226 of the Indian Constitution provide appropriate remedies for the enforcement of basic and other human rights through writs such as Habeas Corpus and Mandamus, Certiorari and Prohibition, and Quo Warrant to.

When a breach of the above-mentioned basic rights occurs, the Supreme Court as well as State High Courts uses their authority under the heading of "the right to Constitutional remedies." Thus, these articles are the first of their kind in the Indian Constitution and are the only ones of their kind anywhere else.

Bhagwati J. concluded in *Maneka Gandhi v. Union of India* that Article 21's assertion of "personal liberty" has the largest breadth and embraces a wide range of rights that contribute to human liberty and have been elevated to the level of distinct fundamental rights. "Personal liberty entails all of man's rights," the Supreme Court stated in *Unni Krishnan J.P. v State of Andhra Pradesh*. Article 21 is its co-extensive equivalent because to its vast scope and inclusion of both a substantive freedom of movement and a requirement that procedural safeguards honored in its deprivation. Similarly, in *S.R. Bommai v. Union of India*, the Supreme Court declared that the Preamble to the Constitution is an intrinsic component of it.

Because the Preamble protects personal liberty and dignity, the term "personal liberty" in Article 21 must be interpreted in this perspective. Both the Convention and the Constitution of the United States of America safeguard and promote fundamental rights. *Maneka Gandhi*, *Golak Nath*, and *Kesavananda Bharti* are three instances that must be included in any study of the Constitution's 63-year existence. The Indian judiciary was the first to establish the idea that the essential structure of the Constitution cannot be modified via amendments. The court has made a distinctive contribution to human rights defense in the United States.

**Human Rights and Directive Principles of State Policy:** In India, civil and political rights are highly recognized, while economic and social rights have gotten less attention. However, civic and political rights cannot be achieved until economic rights are enjoyed. According to P.N. Bhagwati, J., and people's realization of civil and political rights only when their economic and social rights are realized. Economic and civil rights are required to obtain civil and political rights. Unless and until this happens, civil and political rights will remain a pipe dream. The Indian Constitution's Directive Principles of State Policy

encompass the rights stated in the International Covenant on Economic and Social Rights. Even though the State is directed, it is intended to protect people's fundamental economic and social rights.

Part IV of the Constitution's non enforceable rights is mostly economic and social in nature. Because of this, Article 37 makes it plain that the State's obligation to apply them in establishing laws is not affected by their lack of judicial enforcement. In addition, the Supreme Court's creative jurisprudence has now interpreted and made enforceable several of these concepts in Article 21 (the right to life and personal liberty).

According to the Preamble of our Constitution, the objective is to establish a society that guarantees legislative and financial fairness, freedom of expression and opinion, equality of position and opportunity, brotherhood, and human dignity. Part III protects human rights and social and political goals contained in the Preamble by reasonable basic rights, which give this vision real expression. Economic and social rights, for example, that need government action are covered in the state policy directive concept. In interpreting these two portions of the Constitution, the human rights jurisprudence established over the previous six decades has been substantially influenced by the Universal Declaration of Human Rights of the United Nations of 1948 and also other worldwide human rights agreements, treaties, and conventions. A person can only live a civilized existence if they have certain basic rights and freedoms. Given its fragility and infancy, our Constitutional basis must not be eroded, and we must be constantly vigilant in defending our liberties and fundamental human rights. We must keep the fire of liberty blazing with all of our resources if the social, economic, and political institutions that our country's founding fathers planned are to be realized.

The international community produced two crucial and extraordinary statements to restore a person's dignity and protect him from harsh treatment while he is held. Declaration of Human Rights (UDHR), 1948 Other international instruments, such as the ones listed above, have been developed at various levels throughout the years to support and deepen the fundamental ideas outlined in these two texts. These are some of the most notable ones:

- The International Covenant on Civil and Political Rights was adopted in 1966.
- Basic Minimum Standards for the Treatment of Prisoners Adopted by the United Nations in 1955;
- Human Rights and Fundamental Freedoms (ECHR) • European Convention on Human Rights and Fundamental Freedoms
- The 1969 American Convention on Human Rights.
- The 1981 adoption of the African Charter on Human and Peoples' Rights.
- This convention was signed into law by the United Nations General Assembly in 1984 and has been in effect ever since.

**Conclusion:** The usefulness of law, logic, and social truth in realizing economic and social rights can be traced out within the human rights framework. Constitutional rights and human rights are synonymous words because of their regularizing focus on individually liberty and integrity, as well as their same theoretical approach to the state. Judicial communication, borrowing, comparable patterns of thinking, and transnational movements can all be used to connect international human rights and constitutional rights. According to this research, norm differences and democratic concerns are insufficient. As this chapter points out, there are various Private law issues that need to be investigated further in light of economic and social rights.

### References:

1. Radhanath Tripathy, "Understanding Human Rights", in Noorjahan Bava (ed.), Human Rights and Criminal Justice Administration in India, N. Delhi: Uppal Publishing House, (2000) P. 92.
2. Lalit Dadwal, (Position of Human Rights: An Indian Profile) Civil & Military Law Journal vol. 39 Oct-Dec. 2009. No. 4 at 221.
3. G.S. Bajwa, Human Rights in India: Implementation and violation, Anmol Publications, N. Delhi(1995) at p. 45.
4. D.D. Basu's Human Rights in Constitutional law, 3<sup>rd</sup> Edition 2008 p. 9.
5. Dr.Tapan Biswal, Human Rights Gender and Environment, Viva Books Private Ltd. N. Delhi 2006, p.185.
6. J. N. Pandey, Constitutional Law of India, Central Law Agency, Allahabad 41<sup>st</sup> Edition.2004 at Page,340