



HUMAN DIGNITY IN UNIVERSAL DECLARATION OF HUMAN RIGHTS-AN ANALYSIS

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Abstract:

Every human being is a rational being. He is accustomed to construct his own context by the process of interaction with animate and inanimate environment. This interaction is indispensable for survival as well as for the quest of knowledge. Every human being is a product of 'nature' and 'nurture'. The former is genetic materials and the latter denotes environmental situation which we live in. Because, genetic materials or genes can't remain in isolation, for their progress and proper inculcation they get engaged in interaction with their surroundings. Initially, the process of interaction continues by dint of reflexes, and these are called simple interaction followed by matured interaction. For the sake of matured interaction required for personality development and for better adjustment to the environment, everyone since birth has to had certain basic rights. The life of human beings sans certain critical rights is nothing but a mere animal life. It is due to this fact, the nature has blessed each of us with some critical rights right from our birth. Individuals by virtue of their being human possess certain basic and inalienable rights which are commonly known as human rights. These rights are inherent in all of the individual irrespective of their caste, creed, religion, sex and nationality. Human rights are essential for all the individuals as they are consonant with their freedom and dignity and are conducive to physical, moral, social and spiritual welfare. They are also necessary as they provide suitable conditions for the material and moral uplift of the people. Because of their immense significance to human beings; human rights are also referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights. In the history of human commonwealth, the concept of human rights got an unprecedented foundation immediately after World War II(1939-1945), especially when the UDHR was adopted in 1948 by the members of the International Society. The UDHR has opened a number of avenues to help all and sundry in realizing and

implementing their inner faculties by emasculating the scourges of armament races, war, aggression, illicit exercise of power hegemony internally and externally, border disputes amongst national actors and so on.

Key words: Human Rights, Dignity, Natural Law, Magna Carta, Rights, etc.

Methodology: The study attempted to visualized to find out what happened in the past regarding human rights and understand the present situation in the light of the past happenings. Thus, the study is 'Post-positivist' in nature as it believes in maxims that human consciousness, human beings can examine their own experiences of reality and describes them accurately. The study has developed an in-depth analysis of individual rights and its historical evolution. For the study data have been collected from secondary sources and the data gathered have been interpreted and analyzed so as to epistemolise the gap existed between the idle scenario and the actual scenario of the UDHR.

Aims and Objectives of the Study: The following are the aims and objectives of the study:

- i. To trace the origin and evolution of the concept of Human Rights in ancient and medieval times.
- ii. To narrate and details the pros and cons of UDHR.
- iii. To recapitulate the limitations and relevance of UDHR in the modern world.

Research Questions: For the present analysis, certain research questions have been framed and they got mentioned below:

- i. What is the historical and philosophical root of the concept called human rights?
- ii. What prompted the world community to enact an international document on individual rights?
- iii. To what an extent has the UDHR been helpful in the accomplishing of its noble objectives which it was enacted for?

Concept of Human Rights: Human Rights are those rights which belong to an individual as a consequence of being human as a means to human dignity. These are the rights which all men everywhere at all times ought to have, something of which no one may be deprived without a grave affront to justice. D. D. Basu defines human rights 'as those minimum rights which every individual must have against the State or those public authority by virtue of his being a member of human family, irrespective of any other consideration(Basu,2015)'. Bennett in his famous work 'Human Rights in Constitutional Law' said, " Human rights include those areas of individual or group freedom that are immune from governmental interference or that, because of their basic contribution to human dignity or welfare, are subject governmental guarantee, protections or promotion.(Bennett,2010)"

According to 'The Protection of Human Rights Act,1993', "Human Rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts of India." 'International covenants' means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on December 16, 1966 and such other Covenant or Convention adopted by the General Assembly of the UN as the Central Government may specify. The Indian government acceded to these two International Covenants on April 10 1979.

Evolution of Human Rights: The evolution and development of the concept of Human Rights can be discussed through the following headings:

1. Human rights in Ancient Greece: The notable Greek thinkers, namely-Socrates, Plato and Aristotle developed the idea of 'natural law' and laid down its essential features. Citizens of certain Greek city-states enjoyed such rights as:

- (i) Isonomia-equality before the law
- (ii) Isotimia-equal respect for law
- (iii) Isogoria-equal freedom of speech.

2. Human right and stoic philosophy: The Stoic philosophers formulated the doctrine of natural rights as something which belong to all men at all times. The rights were not particular privileges of citizens of particular cities, but something to which every human being everywhere was entitled by virtue of being human and rational.

3. Human rights and Roman Law: Roman philosophers followed the Stoics closely and recognized the idea of natural rights. According to Roman jurist Ulian, natural law is that which nature and the state assured to all human beings. He stated that according to law of nature, all men are equal and by the same law all are born free. Cicero, a Roman statesman laid down the foundations of natural law and human rights.He believed that there should be universal human rights laws that would transcend customary and civil laws.

4. Human rights in middle ages: In the middle ages, great philosophers Thomas Aquinas reaffirmed that the natural law is higher than the positive laws and it should be obeyed by all. According to him, any order or authority which contravened the natural law could be disobeyed, for unjust laws have no moral validity.

5. Human Rights and Magna Carta: The most important event in the evolution of human rights was the signing of Magna Carta on June 15, 1215 A.D. The Magna Carta is also known as the great Charter of liberty. The over-reaching theme of Magna Carta was protection against arbitrary acts by the King. The Carta was buttressed in 1628 by the Petition of Rights and in 1689 by the Bill of Rights.

6. Human Rights and Social Contract Theory: The famous advocates of Social Contract Theory are Hobbes, Locke and Rousseau. Hobbes is a staunch supporters and believer of individual freedom and equality of man. According to Locke, the rulers must respect the standards evolved by a political community. Rousseau wants the people to enjoy their liberty, equality and fraternity within a political set up.

7. American Declaration and French Declaration: The American Declaration of Independence was adopted on 4 July, 1776. It declared that ‘all men are created equal and they are endowed by their creator with certain inalienable rights. These are-life, liberty and pursuit of happiness. In 1789, the French Declaration of the Right of Man and of the Citizens declared that ‘men are born free and remain free and equal in respects of rights.’

8. Covenant of League of Nations and Charter of the UNO: The Covenant of League of Nations in 1920 and the Charter of the UNO in 1945 marked a new vista in the evolution of the concept of Human Rights. The League Covenant gave an emphasis to the fair and human conditions of labour for men, women and children. The UN charter believes in the international protection of human rights for international peace and progress.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights is called the contemporary Magna Carta of Rights. The Declaration set for the international community a common standard of achievement and it recognized the inherent dignity and the equal and inalienable right of all people in all national. The human rights in the form of norms mentioned in the UDHR are fundamental in a moral sense and are universal, indivisible, interdependent and interrelated. The Declaration completed the transformation of the substantive norms of human rights from national to International law. Besides, the UDHR is an authoritative statement of the meaning of Article 55 of the UN Charter. Thus it would not be inappropriate to state that the UDHR is the cornerstone of all UN activities relating to human rights.

History of the UDHR: The Universal Declaration of Human Rights emerged from the ashes of the Second World War. With the end of the conflict, and the creation of the United Nations, the international community vowed never again to abide the unspeakable atrocities the world had just witnessed. So the leaders of the world decided to amplify the UN Charter by enshrining and encouraging guarantees for the rights of human beings everywhere.

1. Philosophers’ Committee: In 1946, as part of the preliminary work of drafting the Declaration, under the auspices of UNESCO, Jacques Maritain assembled a Philosophers’ Committee to identify key theoretical issues in framing a charter of rights for all peoples and all nations.

2. UN Commission on Human Rights: The work of the Philosophers’ Committee then moved to the UN Commission on Human Rights. At its first session in January 1947, the Commission authorized its members to formulate what it termed “a preliminary draft international bill of human rights.”

3. Drafting committee: The work was taken over by a formal drafting committee, consisting of members of the Commission from eight states. The Commission on Human Rights comprised 18 members from various political, cultural, and religious backgrounds. Eleanor Roosevelt, the widow of President Franklin D. Roosevelt, chaired the Commission. It also included René Cassin of France, who composed the first draft of the declaration; Commission Rapporteur Charles Malik of Lebanon; Vice-Chairman Peng Chung Chang of China; and John Humphrey of Canada, Director of the UN's Human Rights Division, who prepared the Declaration's blueprint.

4. Nature of the Declaration: The Commission on Human Rights had to resolve issues of fundamental importance. First, it concluded that the right mission was to develop a declaration, rather than a treaty. The Commission's view was that the declaration should be relatively short, inspirational, energizing, and broadly accessible to peoples everywhere: the defining document of an international bill of human rights. It also decided that the declaration should encompass both civil and political rights, on the one hand, and social and economic rights, on the other.

5. Geneva Draft: Cassin handed his draft of the declaration to a meeting of the Commission on Human Rights in Geneva. Thus this version, which was sent to all UN Member States for comment, became known as the "Geneva draft." The Commission revised the Geneva draft to reflect the replies it had received from Member States, before submitting it to the General Assembly.

6. The UDHR: The General Assembly in turn scrutinized the document between September and December of 1948, with over 50 Member States voting a total of 1,400 times on practically every clause and virtually every word of the text. By its resolution 217 A (III) of 10 December 1948, the General Assembly, meeting in Paris, voted to adopt the UDHR with eight nations abstaining but none dissenting. It was an historic moment, and the General Assembly called upon all Member States to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read, and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories." Today, the Universal Declaration, translated into 350 languages, is the best-known and most often cited human rights document on Earth.

The 48 countries voted in favour of the Declaration. They are— Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, and Venezuela. The following eight countries abstained themselves from voting— the Soviet Union, Ukrainian SSR, Byelorussian SSR, People's Federal Republic of Yugoslavia, People's Republic of Poland, Union of South Africa, Czechoslovakia, and the Kingdom of Saudi Arabia. Honduras and Yemen – both members of the UN at the time – failed to vote or abstain.

7. ICCPR and ICESCR: The UDHR formed the basis for two covenants which were adopted by the General Assembly in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These Covenants have binding status in international law. The Declaration and the Covenants are collectively known as the “International Bill of Human Rights.”

PREAMBLE TO THE UDHR

The basic aims, objectives, hopes and aspirations have been visualized in the preamble to the UDHR. It is the essence or brief summary of the document. It highlighted the philosophical wisdom of the world community and reflected the peace-loving attitudes of them. It has been resulted from the axiological and epistemological realization of the human faculties. The Preamble reads:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore **THE GENERAL ASSEMBLY** proclaims **THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Articles of the UDHR: The UN Universal Declaration of Human Rights has as many as 30 Articles in total. Articles 2 to 21 deal with those civil and political rights which have been generally recognized throughout the world. On the otherhand, Articles 22 to 30 deal with economic and social rights. These are mentioned below:

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood

Article 2: All the following rights should be applied without discrimination on basis of “race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Article 3: The right to life, liberty and security of person.

Article 4: The right to freedom from slavery.

Article 5: The right to freedom from torture or to cruel, inhuman or degrading treatment or punishment.

Article 6: The right to recognition everywhere as a person before the law.

Article 7: The right to equal treatment before the law.

Article 8: The right to an effective legal remedy for rights violations.

Article 9: The right to freedom from arbitrary arrest, detention or exile.

Article 10: The right to a fair trial.

Article 11: The right to presumption of innocence until proven guilty.

Article 12: The right to privacy and freedom from upon honor and reputation.

Article 13: The right to freedom of movement, to leave any country, and to return to one’s country.

Article 14: The right to asylum from persecution.

Article 15: The right to a nationality.

Article 16: The right to marry and to found a family.

Article 17: The right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

Article 18: The right to freedom of thought, conscience and religion.

Article 19: The right to freedom of opinion and expression.

Article 20: The right to freedom of peaceful assembly and association.

Article 21: The right to take part in the government of one’s country.

Article 22: The right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23: The right to work, and to just conditions of work and to equal pay for equal work.

Article 24: The right to rest and leisure.

Article 25: The right to a standard of living adequate for the health and well-being of oneself and of one’s family, including food, clothing, housing and medical care.

Article 26: The right to education.

Article 27: The right freely to participate in the cultural life of the community.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.

Article 29: Everyone has duties to the community in which alone the free and full development of his personality is possible.

Article 30: No one can take away Human Rights.

Three Human Rights Generations: The Universal Declaration of Human Rights adopted by the UNGA and having 30 Articles denote ‘three human rights generations.’ These

(a) First Human Rights Generation: The First Human Rights Generation consists of ‘negative rights’ which represent the civil and political rights. These rights have been incorporated in the Articles from 2 to 21 of the Universal Declaration of Human Rights. These rights have aimed at ensuring freedom from any curtailment of individual liberty.

(b) Second Human Rights Generation: The Second Human Rights Generation consists of ‘positive rights’ which represent the economic, social and cultural rights. These are enshrined in the Articles from 22 to 27 of the Universal Declaration of Human Rights. These rights aim at ensuring social justice to all and their participation in economic, social and cultural life.

(c) Third Human Rights Generation: The Third Human Rights Generation consists of certain ‘collective rights’. These rights are indicated in Article 28 of the Universal Declaration of Human Rights.

In addition to the above, ICCPR and ICSECR are the two important events that marked a new era in strengthening the concept of Human Rights. Thus all these developments contributed to the evolution of human rights in the modern sense. Although Human rights are enshrined in separate international instruments, yet they are perceived as forming a whole. In the present era, it is necessary for peace, stability and human development. Human rights should be given prime importance not only in international instruments but also they should receive due recognition at the national level .

1. Critical estimation and concluding remarks: In the history of human commonwealth as to the human rights, the UDHR paved a new vista towards the human dignity and equality. Human beings across the world have started experiencing a new direction to internalize their lives and liberty. Despite all these, it is not an exaggeration to say that this document is not beyond criticism. It has been subjected to criticism for more reasons than one, which are as follows—

- (a) The UDHR was originally formulated as “soft law;” it was aspirational, not legally binding. In other words, it is not binding on States as law but rather a UN recommendation to states.
- (b) Some of its provisions are as general as that of Article 55 of the UN Charter. For instance, Article 3 stated that ‘everyone has the right to life, liberty and security of person’.
- (c) The UDHR offers no means of implementation other than State’s goodwill.
- (d) The Declaration does not clearly indicate the reasons for enumerating the particular rights it mentions, nor does it articulate the philosophical ideas upon which these rights are predicated.
- (e) Dignity is not defined in the UDHR. But human dignity is a special status that accrues to all people on account of the inherent features of their human being, their human potential, and their human qualities and capacities.

In spite of the above limitations, the UDHR has numbers of significances in our modern times, which can barely be looked down upon in the present day world politics characterized by multipolarity. The present world is a knowledge based one and no knowledge can be plasticized, inculcated and flourished unless human freedom, dignity, rights and equality are valued and preferred to anything else. In this connection, all would be in one voice to second the importance of the UDHR to ensure the establishment of a peaceful world to be characterized by disarmaments, long-lasting peace, good governance, sustainable development, spirituality and value education and so on. It has exercised a profound influence upon the minds of men in more grounds than one, which have been summarized and remarked in the following ways:

2. **Shared Value:** The UDHR purports to offer a shared basis for comprehending both the idea of human rights itself and the array of human rights that the idea implies. Specifically, the Declaration presents what the Preamble calls a “common understanding” of human rights and represents what the Proclamation Clause calls “a common standard of achievement for all peoples and all nations.” The assertion of a “common understanding” of human rights and “a common standard of achievement for all peoples and all nations” was a vital step in 1948 and it remains equally vital in the twenty-first century.
3. **Tangible Focus of Orientation:** The UDHR provide a tangible focus of orientation; so that when people debate human rights there is less chance of talking in circles or at cross-purposes. Even if people disagree with the UDHR’s formulations, the formulations nevertheless help to structure their disagreements and arguments. More than that, however, the Declaration embodies a set of common expectations for the dealings of nations and peoples with one another, so far as the proper treatment of individuals is concerned.
4. **Sense of Common Conscience:** Most of all, the UDHR gives substance to the idea that there actually is such a thing as a “common conscience” for mankind. One of the most fundamental things that human rights declarations and human rights law can do is to establish certain taboos around serious abuses and violations. It is essential that those who abuse individuals should recognize that there is something called “human rights” that they are violating, and that both those who suffer abuses and those who observe them should have a common and publicly recognized vocabulary in which to express denunciation of this conduct and to organize resistance against it.
5. **Educational and Cultural Force:** The UDHR has been and is an unprecedented educational and cultural force, making people conversant with the idea of human rights, providing a widely accepted text enumerating those rights, and delivering an articulate focus for what might otherwise be timid and inarticulate concerns. The UDHR in 1948 laid the foundation for our modern culture of human rights. In short, the UDHR has had a shaping influence on the world in which it now operates.

6. **Global Ethic:** The promulgation of the UDHR in 1948 made a difference in how people saw their place in the world and their relations with their state and with each other. This is in itself a valuable contribution, quite apart from the securing of the rights actually listed in the document. In the words of Immanuel Kant, a violation of rights in any place is now felt all around the world. The international community is continuing to build on this, and the UDHR should be regarded as one of the pillars of an emerging global ethic for our increasingly interdependent world.

The cornerstone of the Declaration is the concept of human dignity: which means - “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” The UDHR is a primary proclamation of the international community’s commitment to human rights as a common standard of achievement for all peoples and for all nations. Its message is one of hope, equality, liberation and empowerment. The UDHR since 1948 has been and rightly continues to be the most important and far reaching of all UN declarations; and it has been a fundamental source of inspiration for all national and international efforts to promote and protect human rights and fundamental freedoms. Hence it would not be incorrect to state that the UDHR has provided a fountain upon which the human rights treaties rest. In India, the founding father of the Constitution with the objectives of the protection of basic human rights of all people had intentionally incorporated Part-III and Part-IV covering articles from 12-35 and 36-51 respectively in consonance with the UDHR. These two Parts stand for the basic civic rights of every individual dwelling within the territory of India. As a result of which, basic human rights are guaranteed and secured everywhere in India.

References:

1. Basu, D. D., Manohar, V. R., Banerjee, B. P., & Khan, S. A. (2015). Introduction to the Constitution of India (Vol. 163). Gurgaon: LexisNexis.
2. HO, A. (2000). International law and human rights., Central Law Publication, New Delhi.
3. Kalhan, A., Conroy, G. P., Kaushal, M., & Miller, S. S. (2006). Colonial continuities: Human rights, terrorism, and security laws in India. *Colum. J. Asian L.*, 20, 93.
4. Pollis, A., Schwab, P., & Koggel, C. M. (2006). Human rights: A western construct with limited applicability. *Moral issues in global perspective*. Vol. 1: Moral and political theory, 1-18.
5. Bandyopadhyay, D. K and Bandyopadhyay, A. (2009). *Manaadhikarer Pathe*, Antarik, West Bengal.
6. Jaswal, P. S. (1996). *Human rights and the law*. APH Publishing.
7. Levin, L. S. (2012). *Human rights: Questions and answers*. Unesco..
8. Kant, I. (2009). *Perpetual peace*, The Book Tree, California,
9. Plato. (2019). *The Republic*, Lexicon Books, New Delhi,
10. Mill, J.S.(2020.) *On Liberty*, MJP Publishers, New Delhi,