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# UNIVERSAL HUMAN RIGHTS SERVICE FOUNDATION®

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“ACCESS TO JUSTICE & HUMAN RIGHTS FOR ALL”



## CIVIC SENSE & HUMAN RIGHTS

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# CIVIC SENSE & HUMAN RIGHTS

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# UNIVERSAL HUMAN RIGHTS SERVICE FOUNDATION

# DEVELOPMENT OF HUMAN RIGHTS CONCEPT



It is interesting to note that the concept of Rights of Human beings is neither entirely western nor modern. Rig Veda cites three Civil Rights, that of Tana (Body), Skridhi (Dwelling place) and lubhasi (Life). Mahabharata tells about the importance of the freedoms of the individual (civil liberties) in a State. Concept of Dharma-rights and duties of individuals, classes, communities and castes-has been delineated in our scriptures. Before Second Century B.C., Indian States could boast of elected kings. Arthasastra elaborates on civil and legal rights first formulated by Manu which also included economic rights. When British ruled India, resistance to foreign rule manifested in the form of demand for Fundamental freedoms and civil and political rights for the people. The Indian National Congress, which was in the vanguard of freedom struggle, took the lead in this matter.



The Constitution of India Bill 1895 prepared by Indian National Congress, also known as 'Home Rule Document', talked about a constitution guaranteeing every one of the citizens basic Human Rights like freedom of expression, inviolability of one's own home, right to property, equality before law, etc.

In August 1918, Indian National Congress demanded incorporation of a Declaration of the Rights of the People of India as British Citizens. It demanded, inter alia, guarantees of Equality before Law, protection in respect of Liberty, Life and Property, Freedom of Speech and Press and the Right of Association. In the Delhi Session of December 1918, Indian National Congress included the Principles of Self Determination as one of the basic rights.

Constitution of the Irish Free State 1921 included a List of Fundamental Rights. This had profound influence on the thinking of the Indian National Congress, which in 1925 finalised the draft of 'Commonwealth of India Bill' embodying a Declaration of Rights.

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Madras Congress of the Indian National Congress in 1927 demanded incorporation of a Declaration of Fundamental Rights in any future constitutional framework. A committee under Motilal Nehru was appointed. Reporting in 1928, this committee, declared that the first concern of the people of India is to secure fundamental rights. It is interesting to note that the Constitution of the Republic of India enacted in 1950, incorporated ten of the nineteen Rights enumerated in the Motilal Nehru Committee Report.

The Rights emphasised by the Motilal Committee Report are:

- Personal Liberty, Inviolability of dwelling place and property;
- Freedom of conscience and of profession and practice of religion subject to public order and morality.
- Right of free expression of opinion and to assemble peaceably and without arms and to form association and unions subject to public order and morality.
- Right to free elementary education and in the matter of admission into any educational institution maintained and aided by the State without distinction of caste or creed
- Equality for all citizens before the law and in civil rights
- Right to every citizen to the writ of Habeas Corpus
- Protection of respect of punishment under ex-post facto law
- Non-discrimination against any person on grounds of religion, caste or creed in the matter of public employment, office or power or honour and in the exercise of any trade or callings
- Equality of Right to all citizens in the matter of access to, and use of public roads, wells and other places of public resort
- Freedom of combination and association for the maintenance and implementation of labour and economic conditions
- Equality of Rights to men and women as citizens.

Lahore Congress of 1930 declared Freedom from Foreign Rule as a Fundamental Right. Karachi Congress passed a Resolution in 1931 on 'Fundamental Rights and Social Change', in three parts; (a) Fundamental Rights and Duties; (b) Labour and (c) Economic and Social Programme.

The Government of India Act, 1935—Sections 297-300 incorporated certain rights with built-in exceptions. Sapru Committee in 1945 stressed on the need for Written Code of Fundamental Rights. In the Constituent Assembly (1946) also Demand for Declaration of Fundamental Rights Was raised.

Promulgation of the Constitution by the People of India in January 1950 is a watershed in the history of Development of the Concept of Human Rights in India. The Preamble, Fundamental Rights and the Directive Principles of State Policy together provide the basic Human Rights for the people of India. Democratic socialism spelt out in the Preamble and the Directive Principles is meant to provide the context in which the fulfilment of Fundamental Rights has to be achieved. While Fundamental Rights stress on the existing rights, Directive Principles provide the dynamic movement towards the goal providing Human Rights for all.

The Preamble of the Constitution of India declares that the People of India have solemnly resolved to constitute India into a Sovereign Socialistic Secular Democratic Republic and to secure to all its citizens.

**JUSTICE** : Social, Economic and Political;

**LIBERTY** : of thought, expression, belief, faith and worship;

**EQUALITY** : of status and opportunity; and to promote among them all.

**FRATERNITY** : assuring the dignity of the individual and the unity and integrity of the nation.

Fundamental Rights are enumerated in Part III of the Constitution. They in short are :

## **I. Right to Equality**

Article 14 - Equality before Law.

Article 15 - Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 16 - Equality of opportunity in matters of public employment.

Article 17 - Abolition of untouchability

Article 18 - Abolition of titles.

## **II. Right to Freedom**

Article 19 - Protection of certain rights regarding freedom of speech etc.

Article 20 - Protection in respect of conviction for offence

Article 21 - Protection of life and personal liberty.

Article 22 - Protection against detention in certain cases.

## **III. Right against Exploitation**

Article 23 - Prohibition of traffic on human beings and forced labour.

Article 24 - Prohibition of employment of children in factories, etc.

## **IV. Right to Freedom of Religion**

Article 25 - Freedom of conscience of free pursuit of profession, practise and propagation of religion.

Article 26 - Freedom to manage religious affairs.

Article 27 - Freedom as to payment of taxes for promotion of any particular religion.

Article 28 - Freedom as to attendance at religious instruction or religion worship in certain educational institutions.

## **V. Cultural and Educational Rights**

Article 29 - Protection of interests of minorities.

Article 30 - Right of minorities to establish and administer education institutions.

## **VI. Right to Constitutional Remedies**

Article 32 - Right to Constitutional Remedies.

*[Full text at the end of this Chapter]*

As stated by Jeremy Bentham 'RIGHT is a child of Law. For', Real Laws Come RIGHTS'. Keeping this maxim in view, to enable the citizens to enjoy all the Rights enumerated, many pieces of legislation have been enacted in the past over years in India. Additionally, to these, the Supreme Court of India, through judicial interpretation has widened the horizon of Human Rights in India.



# UNIVERSAL HUMAN RIGHTS SERVICE FOUNDATION

# DEVELOPMENT AND HUMAN RIGHTS

The concept of Human Rights, incorporated into several declarations and documents, is part agenda and part utopia. It incorporates a vision and seeks to spell out the major components of humanness. The historical contexts in which the notion was developed and articulated have imparted their mark on it, but some of them - the French Declaration Human Rights (1948), in particular - have elements of universality and timelessness about them. Some of these documents are country-specific, such as the US Declaration of Independence (1776) and the French Declaration (1789), some are region-specific, such as the European Convention on Human Rights, the American Convention on Human Rights, and the African Charter on Human and People's Rights; and some are theme-specific, such as the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination, the Declaration on the Elimination of Discrimination against Women, the UNESCO Convention against Discrimination in Education, and the Charter of the International Labour Organisation. Constitutions of several countries list human fundamental rights some of these, as in the USSR, associate a set of duties with the rights; others, as in India, have divided them into "fundamental rights" and "directive principles of state policy" - the former enforceable by law, the others to be implemented in stages by state action.

The foci of fundamental rights, in the main, have been on prohibition of slavery or servitude; prohibition of torture or inhuman or degrading treatment; equality before law for all; prevention of racial, religious and gender discrimination; right to respect for private and family life as well as home and correspondence; and freedom for the press. These rights are circumscribed by considerations of social responsibility, conditions of war and national emergencies, and domestic arrangements within individual countries. International processes do have some influence, but they are generally involved and time-consuming. Those in authority often get away when they defy human rights, the victims are too weak and vulnerable to resist or to seek redress.

Development and the rights of the poor and the weak do not figure prominently in most of the declarations. The values implicit in them, however, point in the direction of equality and justice. The Universal Declaration of Human Rights (UN) is more explicit and covers a wide range of rights and value affirmations. Particularly important are its affirmation of "human dignity, equality and the right to freedom from discrimination and exploitation", "the right to social security, to an adequate standard of life and to the opportunity for the free and full development of the individual's personality". It also refers to the duties of the individual to his community, in which alone the free and full development of his personality can take place. The "right to development" is a relatively new idea, although it is gaining strength in the emerging contexts of the world.

In the present context, there is an air of unreality about human rights, particularly in the Third World. Because of destitution, a large section of people are compelled into servitude. The more vulnerable among them are subjected to torture and inhuman and degrading treatment. Equality before law, for them, is notional; justice is expensive, and it is often weighted in favour of the rich and the powerful. The encounter discrimination at every step. The poor have little "private" life: in the culture of poverty their life is an open book. Freedom of the press means little to them. The benefits of development bypass them; the grandiose plans and projects make practically no dent in the volume of poverty. In a world of rapid change, in the Third World poverty remains stationary. How can the people assert their human rights? This characterisation does not point only to a racist and apartheid state, it can also be witnessed in different kinds of democracies throughout the Third World.

The ideology of development, attractively packaged and persuasively sold to the Third World, has proved to be a misadventure. Mas hunger, illiteracy, and disease persist tenaciously. The quality of general social services remain poor of course, 10 those who can afford the price, top quality service's are available. Socitric are polarised; the thin upper crust of society gets the bed of everything; the masses have to remain content with crumbs 01 stale left-overs. The record of some four decades of development effort has been dismal, if we look at it from the point of view of the bottom two-thirds of the less developed societies.

## **Why This Massive Misdirection of Development Effort ?**

The notion of development has been poorly defined in the classical paradigm, which continues to chase higher GNP and per capita income. The strategies of development continue to place their faith in the "tricke down effect" and the operation of "the invisible hand". The paradigm shift emphasises satisfaction of basic needs and improvements in quality of life, and takes note of new problems claiming attention-food, security, ecological balance, environmental quality, upgraded social services, and so forth But there is little evidence of this shift making an impact on the praxis of development. The confussion regarding the real target groups of development still persists. Development has not been doing much to improve the lot of the poor and the marginalised, the weak and the vulnerable. One may rightly ask: Are human rights possible without the right kind of development of the majorities in the poverty sector of the Third World ?

The vitiated ethos of the contemporary world order is not conducive to genuine development in the Third World. Some affluent countries consume a disproportionate share of the world's resources-raw materials, energy, and even skilled manpower. They have unusually high consumption levels. Besides high personal consumption, they accord high priority to the technology of war and to projects of peace and development. Their aid has invisible and visible strings attached to it; the technology transfers, often obsolte, cause environmental degradation and consume a great deal of energy. Their trade with the Third World is on unqual terms, generally to the detriment of the poor. What they buy from them often results in diverting inputs to be made into basic needs of the people into inputs for earnings foreign exchange. With some exceptions, foreign development aid increases dependency relations. A point has now been reached where to service the accumulated debt burden, still more foreign debt ls needed.

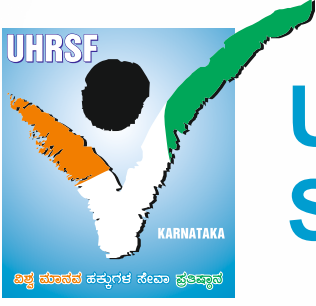
Strategies of development followed by the Third World have also been detrimental to the interests of the poor. The benefits of development have not adequately percolated to the deprived and the disadvantaged. They were cornered by a small parastitcal elite. Many large projects have led to development disasters. Several of them have caused considerable atomospheric pollution and have depleted non-renewable natural resources. SelverBalirkrigairvitiFn and other and hydel projects-approved and funded by the World an donor agencies-have been ecologically unsound and have led to massive uprooting of people without proper and adequate re-settle. ment support. Prime forests have been sought lttuobehacsuot often been outpromote commercial forestry. High-input agriculture re out of the reach of the marginal and poor farmers. New technology has rendered many jobless.



## Where Do We Go From Here ?

To promote human rights, development is necessary. But the paradigm of development needs re-thinking and its strategy needs retooling. Pursuit of GNP, it has been observed, can involve tremendous social costs with relatively little gain to the neediest. The goals of development will have to be retargetted they should now be spelled out in terms of equity, basic needs, and quality of life, giving priority to the weak and the vulnerable. For them social security and an adequate level of social services will have to be guaranteed. Imaginatively-drawn plans of compensatory discrimination could fortify them to stand up and assert their rights. For ethnic and cultural minorities, collective rights will have to be contemplated. In any case, development must not be allowed to cause or result in cultural genocide. Mental horizons of people have to be extended so that they understand their predicament and learn to do something about it.

Human Rights declarations are great and noble documents, but the convulsion and perversions of the world order have rendered them into empty rhetoric. Only through new strategy of development can the affirmations, ideals and values incorporate in these documents be actualised.



# UNIVERSAL HUMAN RIGHTS SERVICE FOUNDATION

# THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights was adopted by United Nations General Assembly on 10 December 1948. It was proclaimed by the same Assembly Resolution 217 (iii) of 10 December 1948.

Preamble

Its 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 the human rights have resulted 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 observational to secure their universal and effective recognition and observance, both among the people of member States themselves and among the people of territories under their jurisdiction.

## **Provisions of the Universal Declaration of Human Rights (UDHR)**

The UDHR differs from the traditional and fundamental laws of the 18th and 19th centuries. The Declaration consists of 30 articles.

They are,

### **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**

Every one is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Further more, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self governing or under any other limitation of sovereignty.

### **Article 3**

Everyone has the right to life, liberty and security of person.

### **Article 4**

No one shall be held in slavery or servitude. slavery and the slave trade shall be prohibited in all their forms.

### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

### **Article 6**

Everyone has the right to recognition everywhere as a person before the law.

### **Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

### **Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## **Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

## **Article 10**

Every one is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## **Article 11**

(1) Every one charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## **Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Every one has the right to protection of the law against such interference or attacks.

## **Article 13**

(1) Every one has the right of freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

## **Article 14**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

## **Article 15**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## **Article 16**

(1) Men and women of all age, without any limitation due to race, nationality or religion, have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by the society and the State.

## **Article 17**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

## **Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## **Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without restriction and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## **Article 20**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

## **Article 21**

(1) Everyone has the right to take part in the Government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of Government; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## **Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for the dignity and the free development of his personality.

## **Article 23**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Every one, without any discrimination has the right to equal pay for equal work.

(3) Every one who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection.

(4) Every one has the right to form and to join trade unions for the protection of his interests.

## **Article 24**

Every one has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## **Article 25**

(1) Every one has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock shall enjoy the same social protection.

## **Article 26**

(1) Every one has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups and shall further the activities of the UN for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

## **Article 27**

(1) Every one has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Every one has the right to the protection of the moral and material interest resulting from any scientific, literary (or) artistic production of which he is the author.

## **Article 28**

Every one 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

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms every one shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedom for others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

## Article 30

Nothing in this Declaration may be interpreted as implying for any State, group (or) person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Out of these 30 articles, 21 of them set forth civil and political rights; 6 cover economic, social and cultural rights and the rest deal with general direction, to be followed by the member States (For details Refer Last Chapter).

Importance The UDHR sets a new International Standard.

According to Mrs. Roosevelt (The Chairperson of the Commission of Human Rights and the Principal representative of the U.S.A. on the Third Committee). The Declaration was the first and foremost a declaration of the basic principles to serve as a common standard for all nations. She also added that, "It is the International Magna Carta of all Mankind".

No doubt it is the greatest effort made by mankind to give society new legal and moral foundations.

According to Prof. Humphery, "It is a part of the law of nations. It possesses the moral and political authority. It is sufficiently electric and flexible. The recent developments ensure its continuing relevance as a living instrument of incomparable importance in the field of human rights."

"The Director General of UNESCO, Mr. T. Bodet called this Declaration as ""The richest in promise of all the International texts to which the government have subscribed since 1945 in order to give life to the San Francisco Charter"". The Declaration has changed the very nature of international law."

## Impact of UDHR

The Tehran Proclamation (1968) and the Helsinki Declaration of 1975 endorsed by the General Assembly emphasize the Human Rights and Freedom of Status.



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