**THEORIES OF HUMAN RIGHTS**

**INTRODUCTION**

Human rights are one of the significant features of our political reality. It is the moral rights of highest order.1Human Rights are evolved out of self-respect. It is inherent to all humans without any discrimination of race, sex, nationality, ethnicity, language, religion and colour etc. It received new shape when human beings began to think themselves. Each and every human beings are entitled to these rights without any discrimination.

**HISTORICAL ORIGIN**

Though modern historians are manage to trace out “Magna Carta” of 1521 as the historical beginning of human rights, but itsreal origin goes back to 539 B.C. when Cyrus, the great (king of ancient Persia) conquered the city of Babylon, he freed all slaves to return home and declared people to choose their own religion and even maintained racial equality. A clay tablet in theAkkadian language with cuneiform scriptcontains these liberties are considered as the first human rights declaration in history.It is translated into all six official languages of the United Nations and its provisions parallel the first four Articles of the Universal Declaration of Human Rights. The idea of human rights rapidlyspread from Babylon to many nations especially India, Greece and eventually Rome where the concept of „natural law‟ arose in observation of the fact that people tended to follow certain unwritten laws in due course of life. The written pioneer to the modern human rights documents are the English Bill of Rights (1689), the American Declaration of Independence (1776), the French Declaration of the Rights of Man and Citizen (1789), the first Ten Amendments of the Constitution of the United States ( Bill of Rights 1791) and the Universal Declaration of Human Rights of UN (1948).

**WHAT IS HUMAN RIGHTS?**

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law , general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

**Universal and inalienable**

The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights treaties, reflecting consent of States which creates legal obligations for them and giving concrete expression to universality. Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations.

Human rights are inalienable. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.

**Interdependent and indivisible**

All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education , or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others.

**Equal and non-discriminatory**

Non-discrimination is a cross-cutting principle in international human rights law. The principle is present in all the major human rights treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: “All human beings are born free and equal in dignity and rights.”

**Both Rights and Obligations**

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

In short, it is the basic rights and freedom of all human, it include the right to life, liberty, freedom of thought, expression and equality before the law. It is interrelated, interdependent and indivisible.There are several theories which are relevant to the concept of human rights such as, 1. Theory of natural rights.Theory of social rights.Theory of legal rights.Theory of historical rights and .Theory of economic rights.

**THEORY OF NATURAL RIGHTS**

It statesthat an individual enters into society with certain basic rights and no government can denythese rights. The natural rights evolved out of thenatural law that peoples are the creatures of nature. They existtheir lives and organize their society on the basis of rules and principles laid down by nature. When the idea of individualismdeveloped in the 17th century, theory of natural law were modified and focussed onthe rights of the individuals4.Itcannot be violated by anyone or by any society because they are natural beings. Therefore we can clearly say that today‟s human rights are the child of ancient natural rights. The most not able expression of this doctrine is found in the writings of John Locke. John Lockeargued that all individuals were gifted by nature with the inherent rights to life, liberty and property of their own and could not be removed or abolished by state. Two things are evident from his view of natural rights, one is the individual is an autonomous being capable of exercising choice and the second is the legitimacy of government depends not only upon the will of the people, but also upon the government‟s willingness and ability to protect those individual natural rights. Accordingly, human beings are rational and good by nature and theycarried the same rights they had enjoyed in earlier stages of society into political society and important among them are freedom of worship, the right to a voice of their own government and the right of property. Jean Jacques Rousseau attempts to settle the natural rights of the individual with the need for social unity and cooperation through the idea of the social contract. Rousseau declared that natural law conferredinalienable sovereignty on the citizens of the state as a whole. The most significantdetails of idea of natural rights came from the writings of Thomas Jefferson, Samuel Adams and Thomas Paine made the natural rights theory a powerful justification for revolution. Positivists strongly oppose these theory because they gave importance to society not for individual rights.

**THEORY OF SOCIAL RIGHTS**

The theory of Social rights states that rights are the conditions of society. It is the creation of society, law, customs, traditions and yield to what is socially useful or socially desirable. What is socially useful should have for its test the greatest happiness of the greatest number. The real advocators of this theory was Bentham and Mill. They established the principle of greatest happiness of the greatest number and made it for the measure of utility. But utility should be determined by considerations of reason and experience according to them. Laski accepts utility as the basis of rights. He agreed that the test of right is utility and the utility of a right is its value to all the members of the State. Rights are not independent of society, but inherent in it. One‟s rights are built upon one‟s contribution to the well-being of society. Rights are built upon their utility to the individual and the community. Utility is the measuring rod of a particular right.The theory has its appeal in the sense of justice and reason.

**THEORY OF LEGAL RIGHTS**

According to this theory rights are created and maintained by the state. The state is the only source of right and outside the state an individual has no rights at all and never claim rights against state. The theory further maintains that rights are not natural to man. The political pluralists object this theory, because the state does not create rights but it only recognizes them.One of the main exponents of this theory was Austin. There are lot of criticism about this theory because it does not provide an adequate basis of right. It might tell us the character of a particular state but it does not tell us what rights need recognition. This theory will lead to despotic state and tyranny of laws. It does not provide a basis to know what right ought to be ensured. Rights are in factnot what the state grants what the man needs for his self-development and what the state should grant.

**THEORY OF HISTORICAL RIGHTS**

According to this theory, rights are the product of history and originate in its customs which passed from one generation to another.It gives emphasis to custom. They are considered fundamental to the growth and development of man, because they are maintained by a long unbroken custom and the generations have habitually followed them. The scholarBurke maintains that the French Revolution was based on the abstract rights of man, whereas the Glorious Revolution of England was based on the customary rights of the people of that country. There is much truth in what Burke says because the French Revolution itself was the result of the prevailed conditions of that country, but its slogan was liberty, equality and fraternity.These three abstract principles were universally applied.On the other hand, the Glorious Revolutionwas simply a reaffirmation of the historic liberties of English, had their heritage since the days of the AngloSaxons. It found due expression in Magna Carta, Petition of Rights and various other documents of constitutional importance. It is to note that many of our rights are really originated in our primitive customs. At the same time it does not mean the origin of all rights can be traced to customs and traditions. When rights are rigidly tied to customs alone, we entirely ignore the dynamic nature of society and the changing capacities of rights. Rights change with the facts of time and place.

**THEORY OF ECONOMIC RIGHTS**

It finds its inspiration in the teaching of Karl Marx. It rejects the concept of natural andother rights,stated from time to time as an explanation of the nature of rights. Marx‟s idea is simple and even convincing too to certain extent. According to him the State ispowerful agency to uphold the particular type of social organisation and law is a tool of the State that preserves and safeguards the interests of the dominant group in the society. He explained that political, social, religious and other institutions are determined by economic components, which is essentially the mode of production. To each stage of production in the development of society corresponds as appropriate political form and an appropriate class structure. Every system of production leads to the rise of two opposite classes -- the exploiters and the exploited. Laski agrees with Marx‟s idea and maintains that the way the economic power is distributed at any given time and place will shape the character of legal duties which are imposed on that time and place. The economically powerful group

in society dominates, controls and regulates the machinery of the government and occupies all the key positions of power. The laws are so made and the policies of the governing class are so devised and formulated that they protect the interests of this group alone. Consequently, the dogmas of equality before the law and other fundamental rights of the people are only a cloak of inequality, i.e. slavery. Rights are, as such, neither the product of human nature nor their origin can be traced to the ancient customs, or in their inherent utility, nor are rights the result of external conditions essential to man‟s internal and real development. The economic structure of society at a given period of time is the foundation on which the political system of a country is built. In a capitalist society, the aim and nature of rights are to promote and foster the interests and privileges of the dominant economic group that owns productive forces. For the masses rights are the instruments of their enslavement. Karl Marx finally believes that rights can exist and flourish only in a classless society where all are equal and no one is to be an exploiter. He ignored all talk of rights in the capitalist society and regarded fundamental rights the pillars of democracy and the fetish of bourgeois jurisprudence.