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## **REDEFINING HUMAN RIGHTS IN 21ST CENTURY: A Search for New Universal Values**

*Vinay Kumar Kashyap & Ajay Kumar Singh*

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# REVISITING HUMAN RIGHTS IN 21<sup>ST</sup> CENTURY: A Search for New Universal Values

*Vinay Kumar Kashyap\* & Ajay Kumar Singh\*\**

[Abstract: *The human rights discourse is a discourse of expectations. The concept of human rights is an outcome of prolonged discourse. Various scholars have argued that the idea of human rights is essentially an outcome of enlightenment thinking. In recent time, most of the courts around the world faced maladministration of the government. The recent development of constitutionalism puts limits on the judgment of the majority. The second half of the twentieth century witnessed the development of constitutionalism and democratic values. It is a well-accepted view that the Constitutional law of any country has been built upon the core principles of the theory of rights, separation of power, and judicial review. Most of the philosophical thinkers of modern times are of the opinion that laws have a vital role to play in civil society. Autonomy is the basic feature of civil society, which can only advance through the law. In modern democracy, civil society is considered the essential pillar of the state. The growing non-state entities and transnational underworld actors had developed strong roots in statehood. This apparent influence of non-state actors has greatly affected the very concept of human rights. The Universal Declaration of Human rights (UDHR) is intended to provide a minimum standard that should be accepted as a universal rule to prevent oppression of the majority in the name of culture and civilization. The constitution of a democratic country signifies basic human capabilities. Authorities in power should be held accountable; governance should be made just to realize the objective of human rights.]*

Keywords: *Human rights, democracy, globalisation, universalism, welfarism, constitutionalism etc.*

## I

### Introduction

The human rights discourse addresses the issue of sectarianism and divisiveness, and it tries to unite people of different cultural and religious background in one

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movement that asserts universal humanity<sup>1</sup> when there is a constant threat from chronic economic forces.<sup>2</sup> Human rights, by their very nature, appeal to universal values, seem to resonate across cultures and traditions, and represent those who keep trying to establish a just, sustainable, and more peaceful world and society so that people develop their personalities.<sup>3</sup> People from different groups and cultures have accepted the idea of human rights, sometimes it is used rhetorically in support of conflicting causes because it has many meanings.<sup>4</sup> The Concept of human rights possesses significant allure and rhetorical potency. Furthermore, it is employed with ease and might assume distinct connotations within an alternative framework.<sup>5</sup> Therefore, it is up to the people to use the idea of human rights for the betterment of society.

The concept of human rights is an outcome of enlightenment thinking,<sup>6</sup> and that is why it has been contextualized within the framework of modern thinking. The modernistic approach to the concept of human rights has caused confusion in the minds of the people, as it is perceived as a reflection of Western dominance over colonial states or nations. Therefore, many thinkers have suggested that it should

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<sup>1</sup> The principles of the Universal Declaration of Human Rights UDHR formulated in 1948 serve as a background for maintaining unity among people of diverse cultures and religion. Universal, timeless, for people of all colour, sex, orientation and faith – the UDHR is a peoples document. Particularly Art.1 and Art.18 of the UDHR state that ‘All human beings are born free and equal in dignity and rights emphasizing shared humanity that unites people across differences.’ And Art.18 guarantees the freedom of thought conscience, and religion, ensuring that individual can practice their faith without fear or discrimination.’

<sup>2</sup> ‘Human rights are not merely about the articulation of entitlements but are also about the struggle to make these entitlements real in the lives of people across the globe’. See Upendra Baxi, *FUTURE OF HUMAN RIGHTS* (2007). See also, ‘Human rights, while essential as a moral language of resistance, often risk becoming tools of power when detached from their critical potential to challenge the inequalities and structures that sustain oppression’. Duncan Kennedy. *CRITICAL LEGAL STUDIES AND HUMAN RIGHTS* (2012).

<sup>3</sup> Kofi Annan, *Do we still have universal values*, (Lecture delivered at Tubingen University, Germany, on 12 December 2003), available at: <https://www.un.org/press/en/2003/sgsm9076.doc.htm#:~:text=The%20values%20of%20peace%2C%20freedom,of%20many%20different%20nations%20and> (last visited (4 Feb., 2024).

<sup>4</sup> Vernon Van Dyke, *Human Rights and the Rights of Groups* 18 *AJPS* 725 (1974).

<sup>5</sup> Willy Moka & S.J. Mubelo, *Towards a contextual understanding of Human Rights*, 12 *EAGP*, 40 (2019).

<sup>6</sup> Immanuel Kant tried to define enlightenment thinking; he said ‘man’s release from his self-incurred immaturity’ through the use of reason without guidance from others. The ancient motto, ‘*Sapre Aude* (Dare to Know), was the motto for enlightenment, as Kant said in his essay submitted to *Monatschrift*. Kant believed that the use of reason would be a possible tool for enlightenment. See, Dorinda Outram, *THE ENLIGHTENMENT* 1 (2013).

not be used with the same meaning and aspirations as Western thinkers. The notion of human rights has been significantly influenced by enlightenment philosophy. Many fundamental ideas originating from the western tradition, such as democracy, justice, freedom, equality, and human dignity, are commonly employed in political discourse.<sup>7</sup> We cannot deny the importance of these words just because they have associations with western enlightenment thinking. It would limit or sterile the political debate in modern times. Therefore, these ideas must be made more dynamic and inclusive to accept the aspirations of other cultures and traditions instead of western meanings. Enlightenment has brought about significant transformations in dogmatic and conservative traditions, yet at times it has also embraced the language of materialism and self-indulgence.<sup>8</sup> It has been noted that there are conflicting claims of human rights, therefore necessitating the need to reconcile these opposing claims. The universality of human rights should not be mistaken for being unchanging; rather, it should be derived from individual subjective experiences. The expression of universal principles necessitates engagement in debate, deliberation, and the sharing of ideas.

## II

### Challenges Before the Basic Idea of Human Rights

The twentieth century witnessed crimes of genocide and other atrocities;<sup>9</sup> humanity had never been guaranteed. Most of the Constitutions of nations asserted the fundamental rights constitutionally but also made provisions to protect and enforce such fundamental rights.<sup>10</sup> The prescriptive context of some 'liberty rights', is now becoming subjective rights<sup>11</sup> and asking for an institutional guarantee. It is possible for constitutional rights to be impeded if stated rights such as a dignified existence, medi-care, education, and a liveable environment, among others, are not effectively

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<sup>7</sup> Steven Pinker, ENLIGHTENMENT NOW THE CASE FOR REASON, SCIENCE, HUMANISM, AND PROGRESS 1-7 (2018).

<sup>8</sup> N.N.s Golik, & I.Izvekov Arkady, *The Anglo-Saxon Zugzwang: The Irrational Paradox of the Enlightenment Saint- Petersburg*, available at: [https://www.researchgate.net/profile/Izvekov-Arkady/publication/332224115\\_The\\_AngloSaxon\\_Zugzwang\\_The\\_Irrational\\_Paradox\\_of\\_the\\_Enlightenment/links/5ca73fe04585157bd323628b/The-Anglo-Saxon-Zugzwang-The-Irrational-Paradox-of-the-Enlightenment.pdf](https://www.researchgate.net/profile/Izvekov-Arkady/publication/332224115_The_AngloSaxon_Zugzwang_The_Irrational_Paradox_of_the_Enlightenment/links/5ca73fe04585157bd323628b/The-Anglo-Saxon-Zugzwang-The-Irrational-Paradox-of-the-Enlightenment.pdf) (last visited 02 Feb., 2024).

<sup>9</sup> Alain Destexhe, RAWNDA AND GENOCIDE IN THE TWENTIETH CENTURY 21 (1994).

<sup>10</sup> The Constitution of India, 1950, Part III.

<sup>11</sup> Subjective rights are legal relationship between individuals that rely on the rule of law to be acknowledged and enforced. Subjective rights are intricately linked to legal powers, which used, alter the range of rights and obligations held by legal entities and are bound by.

accomplished. The impediment may be largely attributed to an uneven allocation of resources. In recent days, both theories, 'more market, less state' and the state's constitutional obligation regarding social solidarity and welfare have merged.<sup>12</sup> The benefits of fundamental rights should expand and reach all of those who share the state's responsibility. The government is very astute; it gives up small social interventions but intervenes in macro-social stability and progress. This synthesis of welfare-based government and market-oriented government experiences both liberal and social democracy.

With the emergence of the concept of human rights, the idea of human rights is facing newer problems day by day. It has been observed that human rights gave birth to more problems than they solve. As we know the term 'human right' signifies that every individual, being a member of the human family enjoys some minimal rights. The idea of human rights is not basic by nature; rather, it is relative.<sup>13</sup> What appears fundamental in one part of history is not the same in another time and place. The philosophies of Kant<sup>14</sup> and Maine<sup>15</sup> emphasized the transmission of ideas from society to the individual. Whereas Locke's concept of natural rights presupposes that a society the priorities individualism and the state.<sup>16</sup> This argument is much

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<sup>12</sup> In the time of globalization, the state's responsibility has changed now the state not only further its constitutional obligation but also promote the welfare of its people. See, Paul Pierson, *The New Politics of the Welfare State*, 48 WP 143-179 (1996).

<sup>13</sup> Marie Luisa Frick, HUMAN RIGHTS AND RELATIVE UNIVERSALISM 103 (2019)

<sup>14</sup> Kant has emphasized individual autonomy is necessary to exercise moral agency. He Said that 'Right is the restriction of each individual's freedom so that it harmonizes with the freedom of everyone else (in so far as this is possible within the terms of a general law). And Public right is the distinctive quality of the external laws which make this constant harmony possible. Since every restriction of freedom through the arbitrary will of another part is termed coercion, it follows that a civil constitution is a relationship among free men who are subject to coercive laws, while they retain their freedom within the general union with their fellows.' See James R. Otteson, *Kantian Individualism and Political Libertarianism*, 13 TIR, 392 (2009). See Stanford Encyclopaedia of Philosophy, Kant's Social and Political Philosophy, published on Jul 24 2007.

<sup>15</sup> Henry Maine has highlighted the transformation of ideas from society to individual. He said in his seminal work *Ancient Law* (1861), that 'the movement of the progressive societies has hitherto been a movement from status to contract' here what 'status' mean various right and obligation of the individual is determined by the relation the society but now society has moved from status to contract which menas the right and obligation of the individual is not dependent on the societal relation but a contract between the State and the individual. See Katharina Isabel Schmidt, *Henry Maine's Modern Law*, 65 TAJCL 145-186 (2017).

<sup>16</sup> Alex Tuckness, *Locke's Political Philosophy*, (The Stanford Encyclopaedia of Philosophy), available at: <https://plato.stanford.edu/archives/win2020/entries/locke-political/>> (last visited Apr. 05, 2022).

more against the age-old concept of society.<sup>17</sup> As we experience there has been a constant battle between 'cultures and civilizations'.<sup>18</sup> The Universal Declaration of Human Rights (UDHR)<sup>19</sup> has been instrumental in setting a minimum standard that is universally accepted in order to reduce the chances of disputes across various civilizations and cultures. UDHR was drafted with a view to removing all kinds of distinctions and clashes. Representatives from different backgrounds whether legal or cultural from across the world have agreed to set for the first time in history the fundamental human rights which are going to be universally accepted. UDHR has posed a framework in which all the differences and distinctions relating to cultures and civilizations are pacified. At national level, one attitude is that social rights are enshrined under the Constitution as individual rights, even though they are non-justiciable rights.<sup>20</sup> With the passage of time, the rights enshrined under the UDHR acquire a place in all legal documents of the countries of the world.

### *Shrinking Scope of State*

A healthy and active state provides its subject with an equal opportunity to participate in the governance of the state. Currently, most countries are facing crises of ungovernability because they have to adopt a new structure for their societies. In recent times, the state has departed from the earlier established rules to cope with the new developments, delegalize set rules, and quite often transferred its duties and responsibilities to private parties.<sup>21</sup> The old strong-guarded sovereign state has

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<sup>17</sup> To emphasize this point we must consider the Gestalt theory that highlights that 'whole of anything is greater than its parts'. Therefore, society is more important than individual. See William R Woodard, Gestalt Psychology. In B. Kaldis (ed.), Encyclopedia of philosophy and the social Sciences 383-387 (2013)

<sup>18</sup> Samuel P. Huntington in his article has said it is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilizations. The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of the future.' See Samuel P Huntington, *The Clash of Civilizations?* 72 FA 22-49 (1993).

<sup>19</sup> UDHR was adopted on the 10 December 1948 which declares that human rights are universal and to be enjoyed by all people, no matter who they are or where they live. The Universal Declaration includes civil and political rights, like the right to life, liberty, free speech, and privacy.

<sup>20</sup> Part IV and Part IVA of the Indian Constitution is the catena of individual rights, which are not enforceable in court of law but are fundamental requirements in the governance of the state. It posed responsibilities as well as duties on the state to realise these rights in reality, not only on paper.

<sup>21</sup> Rana Dasgupta, *After decades of globalisation, our political system has become obsolete, and*



shrunk due to regionalisation as well as globalization. This gives a clear picture of limiting the state. One of the most important and fascinating questions that has to be answered is what lessons we should learn from globalisation, particularly from the point of view of developing countries, in terms of economic and political survival without going back to earlier periods of statehood.<sup>22</sup> One significant mechanism is the Constitution, which stands to limit governmental action; Constitutionalism refers to limiting the majority decisions and making the organs of the government function within its circumference.<sup>23</sup> The doctrine of constitutionalism is dynamic; it serves both means and ends, both normative and empirical.

Globalisation has various impacts on the states; the globalisation process fosters cross-border trade, cultural interchange, and information sharing. Additionally, several non-governmental organisations operate at the international level, functioning independently of sovereign governments.<sup>24</sup> Globalization has a serious effect on state sovereignty, which compels the state to accept the external limitations on sovereignty. States are now bound to accept the rules of the international economic system because of economic stability. It is significant here to emphasize the role of multi-national corporations (MNCs) and trans-national corporations (TNCs) as they shape the state's decisions and policies.<sup>25</sup> These multinationals are influencing the state's policy-making to further their vested interests, and thereby they limit the scope of the state. This hampers the progressive power of the state in

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*spasms of resurgent nationalism are a sign of its irreversible decline*, THE GUARDIAN (Apr. 5, 2018).

<sup>22</sup> The process of globalisation has eliminated the limitations imposed by national boundaries, resulting in political, social, health, and economic decisions that have effects beyond the borders of a single state. See, Chapter 4: Globalisation and the role of the State, <https://repository.up.ac.za/bitstream/handle/2263/24284/02chapters4-5.pdf?sequence=3&isAllowed=y#:~:text=Globalisation%20has%20opened%20the%20boundaries,%2C%20countries%2C%20regions%20and%20institutions> (Last Visited 04/02/2024)

<sup>23</sup> Andrew Heywood, POLITICS 349(2007).

<sup>24</sup> Globalisation refers to the ongoing process of contact and integration between individuals, businesses, and governments on a global scale. the process of globalization has gained momentum since the 18<sup>th</sup> century as a result of advancements in transportations and communications technologies. The surge in worldwide relations has led to a rise in international trade and the interchange of ideas, values, and culture. Globalisation is predominantly an economic phenomenon characterized by the exchange and merging of goods, services, and capital across borders. It is closely linked to social and cultural dimensions. See, Khemraj Subedi, 'Globalization and globalization Debates. [https://www.researchgate.net/publication/362656610\\_Globalization\\_and\\_Globalization\\_Debates](https://www.researchgate.net/publication/362656610_Globalization_and_Globalization_Debates) (Last visited on 04/02/2024)

<sup>25</sup> Kal Raustala, *Rethinking the Sovereignty debate in International economic law*, 6(4) JIEL, 841-878 (2003).

realising democratic values at the state level.<sup>26</sup> Globalisation has serious issues with state integrity. Policies and laws are influenced outside state which results in deregulation and privatization. The confluence of inside authority and outside giants ultimately lessens the authority of state, which put serious threat to human rights protection and prevention.<sup>27</sup> In recent times, non-state actors and international networks have played significant role in the promotion of human rights on local, regional, and international platforms.<sup>28</sup> Non-State actors and international networks have opened a new dimension of realisation of human rights enumerated in the UDHR and other international covenants and conventions.

### *Challenges of Liberal Democracy*

Liberal democracy focuses on the rights of individuals and protects their freedom. The concept of human rights is situated within the framework of individual rights and responsibilities towards others, potentially posing a fresh threat to the authority of the state.<sup>29</sup> The Universal Declaration of Human Rights has solidified the concept of human rights, transforming it into universally accepted norms, so establishing the undeniable significance of human rights. In the early 1900s, there was a prevailing belief that human beings possess not just rights but also corresponding obligations. This notion garnered significant interest among researchers.<sup>30</sup> There is question that constitutionalism<sup>31</sup>, often known as the rule of law, and democracies are two of the most prominent qualities of governance. Liberal ideology has developed into a powerful ideology that does not have any competing ideas. Subsequently, globalization has gained strength, which decreases attention to the national sovereign state. Constitutionalism and democracy have been accepted as universal principles in the second half of the century. Constitutional law primarily consists of variety of the rights; however, the declaration of human responsibility

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<sup>26</sup> Shalu Shrivastava, *The rise of globalization and its effect on the autonomy of state and political economy*, 27 SA 457 (2021).

<sup>27</sup> Jonas Christoffersen & Mikael Rask Madsen, *THE EUROPEAN COURT OF HUMAN RIGHTS BETWEEN LAW AND POLITICS* 97 (OUP 2011).

<sup>28</sup> Sripen Tantives & Gill Walt, *The role of state and non-state actors in the policy process: the contribution of policy networks to the scale –up of antiretroviral therapy in Thailand*, HEALTH POLICY AND PLANNING 330 (2008).

<sup>29</sup> H. J. Steiner, P. Alston, & R. Goodman, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS: TEXT AND MATERIALS* 427 (2008).

<sup>30</sup> Shashi Tharoor, *The Universality of Human Rights and their Relevance to Developing Countries* 59(1) NJIL 139 (1990).

<sup>31</sup> Constitutionalism is the belief that a government's power is established by a set of law or constitution. While constitutionalism is occasionally seen as synonymous with limited government, it is important to note that this is just one view and not necessarily the most prominent one throughout history. See Richard Bellamy, 'constitutionalism'. Encyclopedia Britannica 2 Aug 2023, <https://www.britannica.com/topic/constitutionalism>. (Last Visited 05/02/2024).

emphasises a moral standpoint that might potentially supplant the responsibilities and obligations outlined in constitutional law. Historically much emphasis has been given on human rights and less on human responsibility, UDHR only focuses on Human Rights but when we refer moral standpoint of human responsibility it comes from the Kantian Ethics which concentrates on individual moral duties to maintain social harmony. This would have been supported by the legal references but more stress has been on the human rights not on the human responsibility. The Indian constitutional framework includes individual responsibility along with rights by incorporating various provisions (Art.51A) in the Constitution.

Liberalism<sup>32</sup> emphasises individual freedom and the protection of rights, whereas Communitarians highlight the significance of community, solidarity, and responsibility. By the end of the last century, constitutionalism and democracy had been accepted as universal principles.<sup>33</sup> As we know, constitutional law encompasses the charter of rights, whereas the declaration of human responsibilities has provided moral perspectives that have led to a rethinking of duties and responsibilities in constitutional law. There has been a great tussle between libertarians and communitarians, the former focuses on individual rights and latter focuses on community rights.<sup>34</sup> Over time, Apotheosis of Libertarians and Communitarians initiates the epoch for human rights based on critical thinking and an understanding of Individualism. In this new environment, the individual is seen as holy and non-negotiable but so are their liberties if the general public's interest is to be considered. <sup>35</sup>It is thus necessary to embrace an improved paradigm which embraces the heart's significance as a mere abstraction of a human, though a human whose basic rights should not be violated but more as a reference to the social nature we cannot run away from as human beings. Human rights' actualization needs to hold out the societal sovereignty in a manner that would complement individual freedom because both aspects are important in the society. But viewing the world through this critical analytical lens we can find a way to reconstruct the society

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<sup>32</sup> Liberalism is a political and philosophical ideology that revolves around two fundamental principles: individuality and liberty. Firstly, liberalism prioritises the person as the central figure in society and asserts that the most valuable social structure is one that revolves around the individual. Furthermore, the objective of society is to facilitate the realisation of people's maximum capabilities, should they want to do so; and the most effective approach to doing this is by granting the person a significant degree of freedom. See, Liberalism, available at: [https://www.iilsindia.com/study-material/635182\\_1602428938.pdf](https://www.iilsindia.com/study-material/635182_1602428938.pdf) (Last Visited on 04/02/2024).

<sup>33</sup> Donald S. Lutz, *Thinking about Constitutionalism at the start of the Twenty-First Century*, 30(4) *ESSAYS IN MEMORY OF DANIEL ELAZAR* 115-135 (2000).

<sup>34</sup> Kamil Zeider and Magdalena Lagiewska, *Liberalism Versus Communitarianism in Cultural Heritage Law*, 34 *IJSL* 657 (2021).

<sup>35</sup> Y. M. Barilan, *Respect for Personal Autonomy, Human Dignity, and the Problems of Self-Directedness and Botched Autonomy*, 36(5) *TJMP*, 496 (2011).

based on a respect for human rights and freedoms of all individuals, as well as contribute to the creation of a society that is fair, progressive, and inclusive.<sup>36</sup>

### ***Globalisation, Citizenship, Democracy and Changing Notion of Modern Nation-State***

The concept of citizenship and Human Rights has been connected to each other but at the same time distinct to each other. Citizenship is deeply rooted in the concept of nation-state, that gives rights and privileges to the individuals. These privileges are available to the individual that they belong the particular political community.<sup>37</sup> But human rights are part of international debate system. The World War II post world emerges discourse whether the concept of human rights diluted the concept of citizenship.

Citizenship is a status conferred on the individual by a sovereign state that implies the particular individual is having membership and the legal recognition as a part of national political community. When citizenship is conferred it gives set of rights and responsibilities which is only given to the citizen. These rights are political participation, voting, and access to welfare. On the other hand, Human Rights has become global standard of rights of individual which is signifies in the Universal Declaration of Human Rights (1948). The UDHR recognised rights that should be given to every individual irrespective of their connection to any political community or nation state.

Human Rights advocating for extensive inclusion of global understanding of justice and equality.<sup>38</sup> This shifts the foundational concept of rights in the way they were conceptualized. Human Rights challenges the exclusivity of benefits once the citizenship held. The universalism of Human rights dilutes the notion of citizenship by limiting the lines between holder of rights and where do the right come from.

Globalization has also made the Human Rights preference over citizenship in the political nation community. International Bill of Rights, treaties and conventions and particularly human rights NGOs played a crucial part in advancing for individual's rights across borders, irrespective of nationality.<sup>39</sup> The right to life, freedom of autonomy, choice, freedom from torture, and right to education are available as entitlement to all the individual irrespective of nationality. This focus on individual rights by the international agencies has weakened the traditional

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<sup>36</sup> M. A. Elliott, *Human Rights and the Triumph of the Individual in World Culture*, 1(3) CS, 343 (2007).

<sup>37</sup> J. Habermas, *CITIZENSHIP AND NATIONAL IDENTITY*, 354-55, (1990).

<sup>38</sup> B. A. Ackerly, *Just responsibility: A human rights theory of global justice*. 76, (2018).

<sup>39</sup> S. Skogly, *BEYOND NATIONAL BORDERS: STATES' HUMAN RIGHTS OBLIGATIONS IN INTERNATIONAL COOPERATION*, 113 (2006).

notion of nation states over their citizens. As we have experienced, the international human rights law often questions local laws that might restrict certain rights of non-citizens. Refugees, Migrants, and stateless people, who are not having protection of domestic laws, now their rights are safeguarded under the regime of international human rights protection system irrespective of their nationality. In the case of *Hirsi Jamaa and others v. Italy*, 2012 the European Court on Human Rights relied on Art. 3 and Art. 4 of protocol 4 of the European Convention on Human rights, reaffirmed that the states must respect the human rights of migrants and refugees under international human rights, irrespective of their state origin. The international Criminal court in 2019 has said that International legal mechanisms are under obligations to protect the rights of marginalized and stateless persons.<sup>40</sup>

Migration is one of the example where the distinction between human rights and citizenship becomes intricate. Globalization has led millions of people to cross the borders for better opportunities, protection from persecution or attaining better quality of life. Conventionally, citizenship is the essential requirement for the attainment of full protection in political community but now human rights providing the protection for all individuals irrespective of political nation state.

Human Rights regime challenges the basic concept of sovereignty of states, that granted the rights to non-citizens within their borders. Growing the recognition of migrant, refugee rights based on human rights principles, further weakens the exceptionality of citizenship.<sup>41</sup> The European Union is the best example which has created a design where rights granted to all EU citizens across member states. Human rights protection is available to non-citizens in the EU member states like healthcare, freedom of movement, Education etc.

### III

#### Internationalization of Human Rights

Human rights have been on the process of development since time immemorial and they represent humanity's struggle for rights, freedom and fairness all over the world. The Greek thinker and philosopher Sophocles over 2000 years ago said that there are some ethical laws are higher than the laws of the King which everyone has

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<sup>40</sup> Rohingya Refugee Case (International Criminal Court), 2019. The key issues in this case is allegations of crime against humanity involving the deportation of Rohoingya from Myanmar to Bangladesh. The court in this case accepted the jurisdiction and emphasized the application of International Human Rights law to protect stateless people and refugees.

<sup>41</sup> M. B. Dembour, (2015). When humans become migrants: study of the European Court of Human Rights with an Inter-American counterpoint, 504 (2015).

to obey irrespective of their position.<sup>42</sup> This we can trace the early account of Human rights. Likewise, the Hammurabi's code of law written by King Babylonian between 1792- 1750 BC focused on justice and also provide defence of the weak person.<sup>43</sup> This initial account shows the early development of human rights. Chinese academician P. C. Chang who contributed to the drafting of the UDHR, has said that some of the principles in UDHR are in resemblance to the Confucian idea of rights and duties.<sup>44</sup> Some of the Confucian concepts entered into the United Nations Charter as well which prompted the U Thant the third secretary general described the UDHR as the grundnorm of human rights. In the words of Eleanor Roosevelt, the chairperson of the UNCHR, 'Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood they live in; the school or college they attend; the factory, farm, or office where they work.'<sup>45</sup>

The Universal Declaration of Human Rights (UDHR) is a momentous document produced in the wake of World War II.<sup>46</sup> It represents the collective supposition of humanity to autocracy, colonization, and suppression. NGOs have always been on forefront in fighting against the evils such as child labour and human trafficking.<sup>47</sup> NGOs is playing very important role in shaping and universality of human rights in the world. For example, the European Court of Human rights or the Vienna Convention of 1993 has accepted the idea of universality of human rights. These concentrated efforts show that people never give up the principles of justice and always maintained the values for better rights, for growth and establishing the democratic systems around the world. Universal Periodic Review system where all the member states periodically submit report on human rights, accountability and respect of international norms. Apart from this, the international judicial system like International court of justice and International Criminal Court has handled the disputes between states relating to human rights and also provides advisory opinion on human rights. This shows internationalization of human rights.

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<sup>42</sup>K. J. Dover, & K. J. Dover, GREEK POPULAR MORALITY IN THE TIME OF PLATO AND ARISTOTLE, 255 (1994).

<sup>43</sup> K. R. Veenhof, *Before Hammurabi of Babylon: Law and the Laws in Early Mesopotamia*, TLB 138,2000.

<sup>44</sup> Pinghua Sun, *Pengchun Chang's Contributions to the Drafting of the UDHR*, JCLS 5(2016)

<sup>45</sup> Speech delivered 27 March, 1958 United Nations commission on Human Rights in New York City. <https://www.ei-ie.org/en/item/28228:human-rights-begin-in-small-places-close-to-home>.

<sup>46</sup> J. Morsink, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE HOLOCAUST: AN ENDANGERED CONNECTION 305 (2019).

<sup>47</sup> C. E. Welch, (ed.) NGOS AND HUMAN RIGHTS: PROMISE AND PERFORMANCE 27 (2001).

## IV

### Realization of Human Rights in the Globalized World

Globalisation<sup>48</sup> embodies the concept of economic fundamentalism<sup>49</sup> which has exerted significant influence over Western economic policies. The recognition of this economic fundamentalism underlying the present phenomenon of globalisation is of utmost significance. There is a substantial backlash against globalisation. The reply of different groups like HR groups, Consumer Groups, and other international bodies at initial stage directed towards the economic fundamentalism, a form of globalisation, rather than idea of globalisation which is more in favour of bringing world close together. This specific form of globalisation that is economic fundamentalism had been influencing the international agenda of human rights over the past many decades. It is accepted fact that idea of human rights is in consonance with the economic globalisation but it rejects economic fundamentalism. It emphasises the importance of human values, shared humanity, and the development of global citizenship. This idea is especially pertinent in the context of the new global order that communication and information technology advancements have created. The idea of globalisation echoes with the concept of human rights because globalisation connects the people from across the world at a lower level but at the higher level it protects the right of the rich and influential people who want to protect their rights in realm of globalisation. This attitude raises concern about the meaningful realisation of human rights in proper sense.

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<sup>48</sup> According to the WHO, globalization can be defined as 'the increased interconnectedness and interdependence of peoples and countries. It is generally understood to include two inter-related elements: the opening of international borders to an increasingly fast flow of goods, services, finance, people, and ideas; and the changes in institutions and policies at national and international levels that facilitate or promote such flows.' available at: <https://www.who.int/topics/globalization/en/>. See also James Rosenau, 'the dynamics of globalization: Towards an Operational Formulation,' paper presented at the International Studies Association Convention, San Diego (Apr. 18, 1996) 3-4. Anthony McGrew, *A Global Society* in MODERNITY AND ITS FUTURES (Stuart Hall, David Held and Anthony McGrew, eds., 1990).

<sup>49</sup> The principles of economic fundamentalism are inherently straightforward: they stem from a philosophy of individualism and the pursuit of self-interest, where the exchange of goods and services in the marketplace governs the fulfilment of human wants. Marjorie Griffin Cohen, What Women Should Know About Economic Fundamentalism, <https://www.sfu.ca/~mcohen/publications/Womenlab/fundamen.pdf> (Last Visited 05/02/2024); See also David Geoffrey Smith, *Economic Fundamentalism, Globalization, and the Public Remains of Education*, available at: <https://link.springer.com/content/pdf/10.1023/A:1007577616645.pdf> (last visited Feb. 05, 2024).

As we know, the exercise of freedoms and human rights not only opposes state intervention but also repudiates the encroachment of other extensive social institutions, such as the market, the media, and religion.<sup>50</sup> The concept of human rights is seen as a distinct and prevailing framework in contemporary culture meaning thereby human rights by its inherent nature is universal but sometimes it is inconsistent with the culturally originated rights.<sup>51</sup> By incorporating fundamental freedoms and human rights in national institutions, modern society protects its own structure from self-destructive tendencies.<sup>52</sup> Simultaneously HR safeguards the vulnerable status of individuals in countries such as contemporary India. Human resources safeguards and enhances contemporary uniqueness, which is no longer defined by complete integration within a family, organisation, or state.<sup>53</sup> The idea of HR constitutes a social institution that protects itself from self-destructive tendencies and also informs all the institutions of social life to guarantee a decent life and equality.<sup>54</sup>

The attainment and safeguarding of human rights necessitate a persistent and arduous endeavour. There exist influential and powerful entities that are resistant to complying with the human rights mandate and seek to generate substantial profits by infringing upon the human rights of a significant population, especially in impoverished nations.<sup>55</sup> The advancement of Human Rights has been a battle fought by those who strongly uphold the values of humanity and resist the force of injustice and domination.<sup>56</sup> It is not the end; the struggle continues against the forces that try to suppress the realization of humanity, be it economic suppression or terrorism.

## V

### Human Rights: A Journey of Just Future

The main focus of human rights discourse is to establish just global order, it revolves around hope and faith. After the second world war, the human rights movement started only on the basis faith and hope that people will live their life peacefully and

<sup>50</sup> Richard Falk, *ACHIEVING HUMAN RIGHTS* 170 (2008).

<sup>51</sup> M. Mutua, *HUMAN RIGHTS: A POLITICAL AND CULTURAL CRITIQUE.*, 40 (2002).

<sup>52</sup> B. S. Turner, *Outline of a Theory of Human Rights.* 27(3) *SOCIOLOGY* 489 (1993).

<sup>53</sup> TSN Sastry, *INDIA AND HUMAN RIGHTS: REFLECTIONS* 6 (2005)

<sup>54</sup> I. Berlin, *Political Ideas in the Twentieth Century* 28 *FA* 351 (1949).

<sup>55</sup> M.W. Mutua, *THE IDEOLOGY OF HUMAN RIGHTS, INTERNATIONAL LAW OF HUMAN RIGHTS* 103-172 (2017).

<sup>56</sup> P.G. Lauren, *THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISION SEEN* (2011).



in abundance. In 21<sup>st</sup> century the principles of human rights are a useful guide to hope in meeting up to global imperatives such as inequality, oppression and unfair treatment of fellow human beings. It learns the potential of its application of human rights for creating tolerant communities and the future of humanity. The application of human rights not only remedies the error but also elucidates the vision of what is correct, provides the way forward to which we might progress on and structure of the just and ideal state.<sup>57</sup>

After accepting the concept of human rights we have not achieved the ideals as enshrined in the Universal Declaration of Human Rights. Approaching the evil ideals of globalisation (economic fundamentalism), consumerism and evils of free market have potential to diminish our optimism to achieve our vision encapsulated in human rights principles. In 21<sup>st</sup> century when these principles incorporated in the social and political life of the state is posing great concern because it brings inequality and unsustainability. Here the question is that whether human rights is providing more suitable and sustainable sense of optimism and it is undeniable fact that it has great potential for such promise.<sup>58</sup>

### *The Emergence of Transnational Civil Society*

Transnational civil society refers to 'a set of interactions among an imagined community to shape collective life that is not confined to the territorial and institutional spaces of state'.<sup>59</sup> In the development of civil society, law plays an important role when it is difficult for civil society to operate independently from the government. Legal associations and groups have a crucial role in promoting the development of civil society. They do this by supporting procedures that uphold the rule of law, allowing non-governmental entities to exist independently. Additionally, they encourage the establishment of institutions that facilitate the expansion of these entities. An established civil society also demands legal constraints on state power and the accountability of state actors. The word 'civil society' can be understood as the third sector distinct from government, business, the family, and the private sphere. It is an uncovered association that is formed for the sake of family, faith, and ideology. Civil society demands the government give chance in the political structure and also resists subordination to the state authority. Civil society can promote HR norms and raise the concerns of unheard voices, including those of people oppressed through violations of core principles of

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<sup>57</sup> J.R. Slaughter, HUMAN RIGHTS INC: THE WORLD NOVEL, NARRATIVE FORM, AND INTERNATIONAL LAW 90 (2009). See also K Bumiller, THE CIVIL RIGHTS SOCIETY: THE SOCIAL CONSTRUCTION OF VICTIMS (1992).

<sup>58</sup> James W. Nickel, MAKING SENSE OF HUMAN RIGHTS: PHILOSOPHICAL REFLECTIONS ON THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 61 (1987).

<sup>59</sup> A. Colas, INTERNATIONAL CIVIL SOCIETY: SOCIAL MOVEMENTS IN WORLD POLITICS (2013).

international HR.<sup>60</sup> Civil society can help in the development of democratic governance through its inclusive and pluralistic nature. Some scholars are of the view that the very existence of a robust system is as a precondition to democratic governance and to the realization of HR. On the other hand, these transnational civil societies may pose a threat to the sovereign government as they are voluntary organisations and may act contrary to democratic principles.

### ***NGOs and Human Rights***

NGOs have been actively playing a prominent role in the progress of human rights at both the national and international levels.<sup>61</sup> They have employed their expertise, particularly at the grass-roots level in realizing the human rights and have also held governments accountable for fulfilling the aspirations of human rights. NGOs are the great proponents of human rights, serves as advocates of human rights. They raise awareness about violations, injustices, and systematic inequalities through various means such as campaigns and awareness programs organized from time to time.

NGOs were involved from the initiation of the United Nations and positively participated in the formulation of human rights. It is well acknowledged that the conduct of the states has been measured and judged on the touchstone of international standards, and this was the preoccupation of NGOs.<sup>62</sup> In many cases, NGOs are the developers of new standards which in time become the norms of human rights. For instance, NGOs participated actively in the drafting of the UDHR, ICCPR, and ICESCR and other prominent documents on human rights.<sup>63</sup> One of human right scholars Claude Emerson, has written, 'This role increased and became political as NGOs gained legitimacy, shaped international public opinion, and formed coalitions with sympathetic governments'.<sup>64</sup> NGOs are significantly contributing to the development of human rights by submissions of complaints and through international litigation, and as also becoming parties, giving expert opinions, testifying as witnesses, etc. Not only are they responsible for developing accepted norms of human rights, but they are also helping the institutions to apply those norms in the protection of human rights.

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<sup>60</sup> Lina Marcinkute, *The Role of Human Rights NGO's: Human Rights Defenders or State Sovereignty Destroyers* 4(2) BJLP73 (2011)

<sup>61</sup> C. E. Welch, (Ed.), *NGOS AND HUMAN RIGHTS: PROMISE AND PERFORMANCE*, 213 (2001).

<sup>62</sup> William Korey, *NGOS AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: A CURIOUS GRAPEVINE* 3 (2001).

<sup>63</sup> P. J Nelson, & E. Dorsey, *NEW RIGHTS ADVOCACY: CHANGING STRATEGIES OF DEVELOPMENT AND HUMAN RIGHTS NGOS*, 17(2008).

<sup>64</sup> Claude Emerson Welch, *NGOS AND HUMAN RIGHTS: PROMISE AND PERFORMANCE* 5 (2001).

NGOs have been having an important role in providing evidence to adjudicating authorities, public authority and people about violations of human rights. They also indulge in the investigation, research, and search about the facts and circumstances wherein the violations of human rights have taken place. Organizations like International Court of Justice also take the help of NGOs in documenting human rights violations and also ask for the expertise and opinion of the NGOs because they have real and grass -roots level experience in the handling of these type of cases and while doing so, they perform their duty in a neutral way.<sup>65</sup>

NGOs are proficient in gathering information about the misuse of governmental authority, which leads to violations of human rights. For instance, they get information from various sources. Nearly 85% of the information available to the United Nations Human Rights center has been provide by NGOs which shows how heavily the United Nations is dependent upon NGOs. One more thing is worth mentioning here: the information provided by NGOs is very reliable and credible, and sometimes the information contradicts the information provided by states. This may reveal the position of the states in relation to the enforcement and protection of human rights in that particular state.<sup>66</sup>

The information that is gathered, verified, and disseminated by the NGOs is being used as a weapon in the formulation of policies that are in line with human rights norms. <sup>67</sup> While exercising their role as advocates of human rights, they are influencing the political leaders and the public authorities to deliver decisions in favour of better and more efficient protection of human rights. NGOs are also taking an active role in making new norms for human rights. NGOs are also lobbying regional and international authorities to give some directions in this respect.<sup>68</sup>

### ***Welfare Constitution and Human Rights***

The constituent assembly, particularly Dr. Ambedkar, has been very cautious in making the constitution for the common people of India. They witnessed the suffering that occurred during the freedom movement and also learned about the various forms of discrimination at the societal level. They have ensured that every step of the parliamentary process and the constitutional process be conducted in

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<sup>65</sup> NGOs like Amnesty International and Human Rights Watch, submitted research on construction of a wall in the occupied Palestinian Territory in 2004 to the ICJ. The ICJ has found it violation of International Law and called for dismantlement of wall. (Advisory Opinion on the Legal Consequences of the construction of a wall in the Occupied Palestinian Territory 2004. Likewise, in various cases NGOs played important role in realization of human rights.

<sup>66</sup> P. Alston, & R. Goodman, INTERNATIONAL HUMAN RIGHTS, 705 (2013).

<sup>67</sup> C. E. Welch, (Ed.), NGOS AND HUMAN RIGHTS: PROMISE AND PERFORMANCE, 213 (2001).

<sup>68</sup> Molly Beutz Land, *Networked Activism* 22 HHRJ 209 (2009)

such a way that it should not lead to any form of neglect, improper use, or exploitation in the future after the adoption of the Constitution.

The Constitution of India aims to create a robust administrative system that represents compassion and furthers the constitutional promises which were made to the people of India, and strengthens the individuals who suffered from untouchability which they suffered for decades. The architect of the Constitution, Dr. Ambedkar, wants to convey to the people of India that the Indian government should be compassionate and have a nurturing image.

Being a constitutional activist, Dr. Ambedkar has invested his expertise in Law, economics, and politics in constitutional reform in order to liberate the people who were suppressed at the time of colonial rule. He was very concerned about the social emancipation of the oppressed. He always contained moral dissatisfaction towards societal discrimination, which was recognized by religious teachings and tacitly approved by the law. Dr. Ambedkar played a crucial role in the battle for the rights and respect of the suppressed class in the society. As a result of his efforts, the struggles of the oppressed class are included in the Constitution, which obligates the future governments to fulfil these constitutional mandates.<sup>69</sup> His contribution in providing the justice to the oppressed is however very minuscule but it is evident from his efforts in the establishment and maintenance of the Indian political system. He had very effortlessly carried his duties which were conferred on his shoulder to create the constitution which caters the aspirations of the oppressed people and at the same time he maintained beautiful balance between the opposing forces, influences and perspectives throughout the turbulent start of the democratic governance in India. He drafts the Constitution in a way to achieve a balanced synthesis of traditional and contemporary features by ignoring the old conservative ideas and employing the new ideas of modern world. The Constitution of India ignores the means and mode by which the governance of the country is curtailed and is viewed the process by which it not only organises but also limits.

Though his contribution is microscopic and it can be seen in the birth and sustenance of the Indian polity itself. He had laboriously to fulfil the obligation which the country had put on his shoulders that of drafting the Constitution. He while making the constitution maintains the equilibrium between conflicting pressures, pulls, and perceptions prevalent during those turbulent days of

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<sup>69</sup> Dr. Ambedkar put emphasis on welfare of the people while making this Constitution. He included provisions relating to welfarism in Part IV of the Constitution with the objective of establishing social and economic circumstances that enable citizens to live a prosperous life. His objective is to construct a welfare state that promotes both social and economic democracy. The primary objective of the welfare state is to achieve a significant level of social, economic, and political equality, ensuring freedom and opportunities for individuals to fulfill their potential and express themselves in their work and leisure, and promoting social justice. The Constitution of India, Art. 36-51.

democratic infancy. He drafted the Constitution in such a way as to reflect a harmonious blend of the ancient and the modern by removing the undesirable elements of the old and filling the gap with the new. The Constitution of India provides the way, the process by which governmental action is effectively restrained and is understood as the process of the function of which it is not only to organize but to restrain.

## VI

### Subjective Human Rights

Costas Douzinas has categorised Human Rights in to two categories in Subjective and Institutional.<sup>70</sup> Institutional Human Rights serve the self-interest of sovereign states and help constitute the legal subject as both free and subjected to law.<sup>71</sup> Human Rights could give better result but it tends to serve the status quo rather than satisfy claimants such as refugees and stateless persons, whose existence questions the status quo of Human Rights. Human rights are always in danger of becoming merely right when it is transmitted in to legal rights, their essence is harmed when transformed in to legal rights. Subjective Human Rights are the dreams of the people who believe in utopian philosophy, they are the standard right which is outside of institutions and desires to free individuals from external constraints and allow their self-realisation.

The greatness of subjective Human Rights includes content if it has to have any meaning. The notion of Natural Law never ignores the law under positivism. The discussion about the right loses its earlier significance and its universality due to the emergence of post-modern thinking, a thinker like Jill Stauffer disagrees with Costas Douzinas who pointed out 'reason and human rights are universal; they are supposed to transcend geographical and historical differences'. Meanwhile, postmodernism is a discourse that does not believe in the universality of any phenomenon.

Many scholars are of the opinion that a utopia-like situation in the area of human rights is not possible. The debate of the origins and ends of human rights has never ceased; from Hobbes to Aristotle and Fuller to Dworkin and Rawls, there has always been had a contentious theory of justice. The liberal theory of justice, which has the consent of its subject to its origins, has been largely thrown by natural law

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<sup>70</sup> Costas Douzinas, HUMAN RIGHTS AND EMPIRE: THE POLITICAL PHILOSOPHY OF COSMOPOLITANISM (2007).

<sup>71</sup> Jack Goldsmith, & Daryl Levinson, *Law for states: International Law, Constitutional Law, public law*, 122 HLR 1791-868 (2009).

philosophy and its idea in the modern world. As we know, neither the liberal theory nor the natural law philosophy has made the human rights, The concept of justice is an advanced concept that may exhibit a variety of behaviours and adopt over time to meet the changing demands of society.

## VII

### Constitutionalism<sup>72</sup> and The Idea of Human Rights

Martha Nussbaum is of opinion that the constitution should empower the citizen to choose whether to pursue the relevant function or not to pursue it.<sup>73</sup> The Constitutional design must respect citizens' civil and political liberties and power of choice. Nussbaum further justifies that international agencies and other governments are justified in using persuasion to develop global justice. Prof. Upendra Baxi said that the Constitution of India is making the distinction on the basis of Part III and Part IV which violates the list of central human capabilities. While aligning with Nussbaum what she has developed political action to fulfil some Directive Principles, which may be considered rare example of public policy, this is beside the point; this may be the starting point where the constitutional design may justified that legitimates such trade-off in the first place.

Constitutionalism is the principle which is used to check the political power and ensures that it should be regulated by law of the land. In this regard it is considered as the tool for the protection of individual rights and provides the individual mechanism for recourse against their violation. Constitutional expert Ronald Dworkin opined that the legitimacy of any legal system is dependent on its respect for individual rights. Dworkin said rights act as trumps over collective goals of the society, it ensures the individual liberties that should not be surrendered for state

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<sup>72</sup> Constitutionalism is a mechanism which provides legitimacy to a democratic government. For constitutionalism having a written constitution is not required rather the principle on which the governance of the country is based should be followed in totality. Over the time various principles has been emerged and imbibed into the concept of the constitutionalism such as rule of law, separation of power, judicial review, independent judiciary and accountable government. In India the Supreme Court of India has recognized and also developed the concept of constitutionalism, for instance, in the Case of Rameshwar Prasad v. Union of India Writ Petition (civil) 257 of 2005. The Court has opined that, 'The constitutionalism abhors absolutism- it is premised on the Rule of Law in which subjective satisfaction is substituted by objectivity provided by the provisions of the Constitution itself.' Similar opinion has been given by then CJ Chandrachud in the case of *Minerva Mills Case* (AIR 1980 SC 1789) that 'The Constitution is a precious heritage and, therefore you cannot destroy its identity.'

<sup>73</sup> Martha C Nussbaum, *Introduction to Comparative Constitutionalism*, 3 CJIL, 429-434 (2002).

interest. Therefore, Human rights are dependent upon the government whims and caprices rather it provides checks on the governmental power. In this way, constitutionalism serves as the structural tool for entrenching human rights and dignity in the governance.

The relationship of constitutionalism and human rights can be found in the work of John Locke, who influenced the liberal thinking. He argued as the natural rights life, liberty, and property are inherent to individuals and this obligates the any legitimate government to protect them. On the other hand, John Rawls, a libertarian philosopher said that constitutional design must respect equal liberties for all individuals and to set up institutions that work for distributive justice.

## VIII

### **Conclusion**

This new development has paved the way for the emergence of the new concept of Human Rights and its advocacy for liveable conditions for human beings. Diminishing the concept of states in their hold and status, and non-emergence of strongly matching international regulatory regimes, the 'Human Responsibilities concept' assumes greater significance and necessitates much stronger transnational civil society as the important pillar of democracy.

Human rights discourse is a dominant global Idea that has diluted the conventional concept of citizenship by enlarging the scope of protection and entitlements to the individual. Citizenship grants rights to the individual within the determined political boundaries whereas human rights introduced protection to the individual in universal framework that goes beyond these boundaries. This does not make citizenship obsolete but it reshapes its importance in a globalized world where rights are not solely attached to the national identity. Human Rights have enlarged the scope of Justice and equality, but in doing so they have challenged the conventional and legal political framework that citizenship has traditionally upheld.

Constitutionalism has institutionalized human rights, it made a moral interest into enforceable legal enforceable interests. Introduction of Human rights within the framework of governance, Constitutionalism has limits the arbitrary powers of the government and upholds the individual dignity. Many modern thinkers have stretched this debate by advancing the civil liberties and socio economic rights in the central of constitutional governance. As such constitutionalism has been powerful force in shaping the global human rights movement.

As we have witnessed International Terrorism is the result of the unity of the non-state actors with the homogeneous society having a common aim to destruct the

human rights of other people who do not belong to their section. This poses threat to the Fifth Estate to be more responsible in protecting its own existence. Terrorism poses a great threat to the very basic ideology of human rights and Humanity. If the world community cannot realize at the proper point in time then they may become victims themselves. In our constitution of India, the duties of the individual is crafted which was diffused by over-enthusiastic judicial interpretations of religious norms giving supremacy over proclaimed national responsibilities.

Substantially, the Supreme Court of India has accepted the concept of human rights under the broad category of human dignity in recent judgments and reaffirmed the jurisprudence of human rights. Many instances have shown that the value of dignity has been protected by the Supreme Court and our preambular objective has been characterized as culture-relative and held to be absolute and is the core of all of our rights. Democracy and the judiciary act as the guarantor and the protector of HR's welfare idealism.