

# HUMAN RIGHTS

## INTRODUCTION

The main aim of this monograph is to provide an over view of human rights as a concept and a practice for the establishment of a truly humane and civilized society. It will be of particular use to the students, teachers, institutions and researchers interested and committed to the cause of human rights and establishing democratic and humane societies throughout the globe.

Currently there is a renewed emphasis world wide on the value and significance of human rights. There is a focus on not only the knowledge about the concept but also on the greater understanding of it as a phenomenon as it permeates the social, political, cultural and economic life of different societies. It is, therefore, important to see how the interpretations of the concept and phenomenon of human rights in different societies can be utilized for the greater benefit of the world community.

One of the sources that can aid in gaining a better understanding of how human rights are understood across different cultures and/or societies is Literature. Literature is specifically useful in presenting the origins of concepts and principles of human rights as well as the retrospective experiences of them by the contemporary societies. Moreover, it can vividly describe the conditions under which people have been led to encourage specific categories of rights.

Short stories and novels have, during all times, contributed towards building a collective awareness of instances of violation of human rights committed against specific groups of people, such as **slaves, minorities, working class (disadvantaged) children and women.**

This monograph will acquaint the readers with human rights as a concept and a phenomenon. It will also introduce the readers to some of the major short stories that have contributed towards creating a better understanding of human rights by high-lighting the causes and conditions of human suffering and/or privileges.

### 1.1 DEFINITIONS OF HUMAN RIGHTS

Human rights can generally be defined as those rights that are inherent in human nature and without which human beings cannot live a decent life. **The United Nations defines Human Rights as those rights, which are inherent in our nature and without which we can not live as human beings (Human Rights, Questions and Answers, (1987) United Nations, New York)**

Human rights is an attractive term as it denotes all those things that human beings have and do in order to live in peace and harmony and to fulfill their (natural, basic) need to enjoy freedom of action and speech without fear of subjugation. It is a term that embraces more than a conceptual understanding of freedom of human beings as it also signifies the conditions by which such freedoms should be conducted.

Human rights and fundamental freedoms allow us to fully develop and use our human qualities, intelligence, talents and conscience and to conciliate spiritual and other needs. These are based on humankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection.

The concept of human rights may be conceptualized on two levels. On one hand these are a set of **legal and formal articles** demanding political commitment both at national and international levels. On the other hand these are a set of **social and cultural values**, inherent in democratic and human societies/communities, such as tolerance, respect for dignity, social practice, truth and peace.

## 1.2 INDIVISIBILITY AND UNIVERSALITY OF HUMAN RIGHTS

The origins of human rights can be found in all cultures and societies of the world. Since the beginning of humanity/civilization, human beings have attempted to define and spell out the conditions that are required for leading an improved and quality human life. There is a substantial amount of historical evidence to suggest that different cultures and communities over the centuries/years have attempted to deal with the need to protect individuals against the abuse of power by the ruling groups and tyrants. The concept of human rights is found in all religions, individual and collective ideologies and philosophies. Classical theories such as the Natural Law theory, the theories of Grotius and the Jus Naturale of Roman Law were propagated and revived during the modern times by philosophers such as John Locke, Dewey and John Fiere.

Whether it is the Greek Philosophy, Roman law, Judeo-Christian traditions or the 17<sup>th</sup> and 18<sup>th</sup> century English, American and French revolutions or the Hindu and Buddhist mythologies or the Islamic history with Sirat ul Nabi and the last sermon of the greatest prophet of all times Mohammed (Peace Be Upon Him), they have all served as the basis for the present day concept and understanding of human rights. The most significant document of all times is the Holy Book Quran that not only spells out what are human rights but also gives processes and laws to implement these human rights.

Human rights should be seen as a whole that is, they are valid everywhere and for everyone without distinction on the basis of sex, country, religion, wealth race and/or origin. They are based on universal values such as dignity, freedom, equality and justice. These values are also standards that can regulate the lives of all human beings. Moreover, in addition to being universal, human rights are also specific, as they also characterize certain forms of activity as inhumane such as slavery, torture and the seizure of freedom without the necessary process of law. Human rights are basically an ethical stance propagating every individual's rights and are valid for the human race as a whole. This makes all human beings the subject of law and therefore calls for all to participate more or less directly in the making of laws across the globe. Therefore, all cultures and societies are creators of rights of the law, and at the same time protector of rights, of all human beings, bearing the obligations and duties in respect of the greater public interest.

Human rights are both universal and indivisible. They must be seen as a whole. There can not be a selection made out of them or an exclusive preference given to any particular category of rights without instantly sabotaging the underlying concept of human rights.

The main argument for human rights is their indivisibility that is their inalienability. The economic and political and civil rights can not be undermined for cultural and social rights of individuals and communities.

There is an unshakable link between **civil** and **political** rights on one hand, and **economic** and **social** rights on the other. All human rights are interdependent and interconnected,

and therefore, are indivisible and inseparable. Each category of rights promises a condition of the value of the human person and human dignity.

### **1.2.1 Economic & Social Rights**

Economic and social rights are the essential pre-requisite for the effectiveness and exercise of all the rights recognized for human beings. The developing countries are facing a much tougher struggle than their developed counterparts in achieving the exercise of these rights on a long term basis. This situation is further worsened by the problems of economic globalization that is presenting new challenges.

The global society must realize that economic rights, both at national and global level, alone affect the individual rights (civil rights) and rights of all individuals to decide their own destiny and the future of their country (political rights).

### **1.2.2 Political and Cultural Rights**

Cultural rights are just as important as any other set of rights and are strongly interrelated with political rights of individuals and communities. However, perhaps this set of rights is more difficult to achieve than any other rights. Cultural diversity is considered by some as the main challenge to the universality of human rights. There is a school of thought that stresses “cultural relativism” and questions the universality of these rights. The idea that traditional customs and standards will overpower the common good of the global society forever, and that they will refrain individuals from contributing to the larger community cannot be accepted. While cultural norms do indeed influence individual attitudes and thoughts, they also develop and carry on developing. There is always room for cultures to learn from each other. Therefore, cultures are not by nature static but are in fact they are constantly changing phenomena. The unnecessary attention that is given to relativism which results in accepting cultural diversity as a hindrance to universal basis of human rights can lead to violent conflicts as have been witnessed in former Yugoslavia. Similarly it can lead to the occurrence of Islamo-phobia, anti Semitism and violation of women’s rights in different societies. Cultural difference, therefore, cannot be an excuse for not respecting human rights.

Political rights define the condition under which citizens exercise their responsibilities. To be democratic, the organization of political and social life must respect the individual rights of members of society. The typical fundamental freedoms of a democracy (freedom of expression, thought, assembly and association) are themselves part of human rights.

All kinds of cultures can promote human rights. They differ in their degree of achievement, but nevertheless they are equal in dignity when they are expressions of liberty and freedom. Individuals and communities from time to time use their cultures to invent ways of making human rights a living reality, for example, in Islam the concept of Haqooq-ul-Ibad (good of the community) is akin to the modern democratic value of common good and rule of law. Diversity can in fact enrich and promote respect for the value of each individual as an end in himself/herself taking account of human rights as a whole. The universality of human rights indicates the question of diversity of culture and that of the specific nature of cultural rights. The concept of human rights recognizes the rights of all individuals to participate in the cultural life of their community and of their

country, to receive education and training, and to be informed about all possibilities to improve their private and collective existence. All human beings, irrespective of their differences and varied origins, are born free and equal before law. This is an underlying principle of the universality of human rights. The rights of **minorities** in different societies and states are, therefore, of crucial importance. The minorities must be recognized as a whole in themselves and as significant contributors to the common good of the larger society/state.

### **1.3 HUMAN RIGHTS AND RESPONSIBILITY**

The indivisible nature of human rights does not make them an obscure set of desires and needs. Each right, in the legal sense of the term, is characterized by a subject, that is the holder of the right, a specific object and a guarantee, to whole human race, men, women, children, regardless of sex, religion, ethnic and geographical origin, and age. Each human being is an object of a law and is specified and stated in internationally reorganized texts or natural law, for instance, education, freedom of expression, freedom of thought etc. All rights are given somewhat a legal status in the conventions and covenants drawn up by international bodies, indicating the concept of responsibility along with that of human rights. Every right is enforceable against the party that does not respect it. The concept of responsibility signifies that all rights must be must be guaranteed. In the modern world guarantees regarding human rights are afforded primarily by international institutions. However, there is also emphasis that they should also be ensured by all institutions responsible for every day lives of public (states, regional institutions, specialized institutions, universities etc) and by each individual as a responsible member of a community.

One cannot demand a whole series of freedoms endlessly without respecting others as much as oneself and without recognizing that they have the same freedoms and rights. Nor can anyone decide that one set of human rights is more important than another set. Human rights form the whole and represent a complete group of values and principles. Such as all human beings in all countries and all cultures must respect all individuals. Human beings can and should conjure for themselves and for others, a full range of rights and responsibilities.

Human rights should not be thought of as a neat list of values that might continually be added with new temporary elements or from which certain rights might be withdrawn depending on preferences, cultures, religions and economic priorities. All human beings, therefore, are responsible, individually and collectively in taking up these challenges and developing international and national laws ensuring uniformity of rights and balance of responsibility. However, a certain type of political and social system would be needed to sustain human rights.

Human rights are by no means a promise of happiness. They do, however, indicate a way to achieve greater happiness and contentment for individuals and communities.

### **1.4 HUMAN RIGHTS AND DEMOCRACY**

Human rights, the rule of law and democracy are feature closely inter-linked. Human rights along with fundamental freedom is a significant feature of democracy. Democracy is both a system and set of values that ensure participation of all in the formal and informal processes of decision making and guarantees freedoms and dignity of all human beings. Thus, in more simple terms democratic functioning of a human group implies the prospect of dialogue among all its members, that is, between the governments and governed, and between the people of all beliefs, opinions and backgrounds etc. Democracy is a way of collective life where respect for other

people is significant. It must be grounded in a genuine democratic culture, a culture of debate, dialogue and mutual respect, caring and sharing.

The democratic functioning of societies is a prerequisite for the authenticity and credibility of human rights, without this, implementing human rights remains unachieved. Although in most of the developing and developed countries there is democracy, it is the way these democracies function and the way these democracies affect human rights conditions that differentiates them from each other. It is mainly participatory democracy that takes an edge over numerical democracy (based on mere electoral process with distinctive ruling class) where human rights are concerned. This is so because participatory democracy demands recognition of human rights of all people. Moreover participatory democracy also propagates democratic values such as respect for human dignity, freedom, caring and sharing and social justice and sees human rights as not only a set of legal articles and principles but also as a value system.

## **1.5 HUMAN RIGHTS AS A VALUES SYSTEM**

Human rights are also values that affect and direct individual and collective actions since they are values that reflect human aspirations. They are also the underlying principles on the basis of which states legislate and pass judgments. In terms of values, human rights have represented an ideal and a supreme goal, which, (although may have never be fully achieved) have given meaning to life to societies throughout the history of humanity. Human rights have been defined and understood with reference to the values such as **dignity** of each individual, **freedom, equality** and **justice**.

Such values are universal across cultures. Cultures and societies may differ in their overt practices and for this reason these values take up varying forms. However, diversity can not affect inalienability of these values as being at the core of human rights.

Each individual, regardless of family, social or cultural background, must be recognized as a representative of human kind. Human dignity must be respected and acknowledged in action and practice.

### **1.5.1 Freedom**

Freedom is both a principle and a value. It is because human beings are, are naturally free, that they have a claim to exert all rights and also share a responsibility as subjects of Law. The concept of human rights can not be complete without considering basic freedoms as basis of them. Since the fundamental freedoms which are the practical expression of this principle are not enjoyed by all human beings, it may be concluded that basic human freedom is yet to be achieved and it is the main ideal towards which the global society must work in order to have a humane environment. It is a value to be attained and made real for a peaceful world.

The fundamental freedoms significant here are freedom of opinion, conscience, association and movement etc. These freedoms are also defined in legal terms, such as the right of assembly, the right to freedom of movement and Public freedoms. These mean fundamental freedoms that are protected by the state/government.

### **1.5.2 Equality**

One important underlying value of human rights is equality. It is a value, an ideal for individuals and communities who live and face different forms of inequalities such as,

economic, social and cultural, for example, inequalities concerning unemployment, sweat-shops and child labour. Social inequalities are also grounded in cases where privileges are enjoyed by some at the expense of others, for example, inequality of educational opportunity and discrimination against women. It has been witnessed throughout the human history that the aspect of human rights which was most fought for was the aspect of equality, for example women's rights and civil rights movement in America etc. In order to maintain a humane and democratic society, freedom and **equality** are both fundamental. Violation of such values and principles, results in dictatorship, abuse of power by some human beings over other human beings.

**Equality is a principle that maintains balance of power among and between different communities in a society/state. The rights of minorities and anti-slavery laws stem out of this principle.** As a universal value, equality is concerned with the freedoms and rights of each individual, that is to say, other people are different but are equals, and one must respect others freedom as much as one's own freedom. One's ability to decide, to choose values and to participate in the making of laws –that is, one's independence depends on the recognition of other people. This equality forbids any form of discrimination on the grounds of race, sex, religion, nationality, age or language.

### 1.5.3 Justice

Having equal rights, human beings are all accountable for their actions including the action of denying others their freedom and rights. However, one can be responsible for one's actions in a just way only when judgments are given in the framework of democratically established laws, courts and commonly agreed value system. Consequently the enormous emphasis is placed on access to justice as a fundamental right and the right of opposing groups/parties to be heard prior to judgment. Another aspect of justice is social justice. Social justice is a value for which people aspire and which should be the aim of not only the States but also of individuals who are all jointly responsible for what happens to human kind. (UNESCO, 2001)

Social justice is the most important aspect of human rights. Human rights are a prerequisite for a just society. Human rights must be applied to every day life highlighting an ethical attitude to think in universal terms. Universal may be defined as what is legitimate and valid for all human beings, that is the notion of common good.

In everyday life, justice, as a principle, gives meaning to the relationships between people, that is individually and socially. Human beings do not exist in isolation or a vacuum. Human dignity includes all the social and collective aspects of individuals and their legitimate place in the natural environment. Respect for other people, the conscience to make one's own action congenial with the whole range of human rights making social relationships just and civil. Moreover, civic responsibility having a legal and ethical basis needs to be established. This facilitates a peaceful and just individual and collective existence. Conflicts must be resolved by means of peaceful negotiation and dialogue strengthened by the principle of justice. This makes a humane society a possibility: a combination of individual and collective character along with the laws that govern social, political, and cultural relationship based on the principle of justice. Human rights where represent social political freedoms and ideologies, they are also legalized political and formal documents articles.

## 1.6 HUMAN RIGHTS AS SET OF LEGAL ARTICLES

The first most important and notable document which has been developed regarding the human rights is the Universal Declaration of Human Rights, 1948. This was mainly drawn up because of the aftermath of World War II and some extraordinary post-colonial development such as the independence and partition of India and formation of the new State of Pakistan. The colossal human suffering and largest human displacement in 1947 was witnessed by humanity, that forced nations to develop a legal document laying down the parameters for human behavior for the peace in the world. The global society had to draw up a broad framework of human rights and actions defining the boundaries and/or a set of collective and individual responsibility.

The document which was developed as a result is known as the **Universal Declaration of Human Rights, 1948**. The Universal Declaration of Human Rights is the basic international pronouncement of inalienable and indivisible rights of all members of the human family.

The declaration was proclaimed in a resolution of the UN General Assembly on December 10, 1948 as the “*common standard of achievement for all peoples and all nations*” regarding human rights.

The Universal Declaration of Human Rights, 1948, states that all human beings in order to safeguard their dignity and self respect should enjoy freedom of speech and belief, and freedom from fear. It laid down the foundations of the universality and indivisibility of human rights in the legal and formal structures of societies and governments. The principle of indivisibility is an essential part of the philosophical, ethical and legal foundations of the human rights. Moreover, human rights are not about individuals in isolation, but a system for ensuring mutual responsibility, therefore, the Universal Declaration is a two way document. The originality of the Universal Declaration of human rights is inherent in the fact that it gives equal emphasis to cultural rights, economic and social rights, and civil and political rights along side giving the boundaries for mutual responsibility of the human family:

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is that foundation of freedom, justice and peace in the world” (Preamble to the UDHR, 1948).

“All human beings are born free and equal in dignity and right” Article 1 of UDHR, 1948.

Originally the Universal Declaration was conceived as a statement of objectives to be achieved by governments and was not part of international law. However, the fact that it has been accepted by so many countries/governments across the globe that it has acquired considerable moral weight in the official and cultural life of all nations in the world. It has defined numerous United Nation Actions, and has not only encouraged but has been used in many subsequent international conventions. In 1968, the United Nations International Conference on Human Rights agreed that the Declaration Constitutes an obligation for the members of the international community”. The Declaration has also exercised a significant influence on national constitutions, on national laws and in some cases on court decisions.

The Universal Declaration of Human Rights is also the first segment of the International Bill of Human Rights, which includes the International Covenant on Economic, Social and

Cultural rights (adopted by the General Assembly in 1966) and the Optional protocol (adopted in 1966) to the latter covenant.

### **1.6.1 Rights Proclaimed in the Universal Declaration**

The first two articles of the Universal Declaration emphasizes that all human beings, without discrimination, are born free and equal in dignity and rights, and set out the basic principles of equality and non discrimination in the employment of human rights and fundamental freedoms.

*The next 19 articles deal with the civil and political rights to which all human beings are entitled. These will include the rights to:*

1. *Life, liberty and security of person.*
2. *Freedom from slavery and servitude.*
3. *Freedom from torture and cruel, inhuman or degrading treatment or punishment.*
4. *Recognition as a person before the law.*
5. *Equal protection of law.*
6. *An effective judicial remedy for violations*
7. *Freedom from arbitrary arrest, detention or exile.*
8. *A fair trial and public hearing by an independent and impartial tribunal.*
9. *The presumption of innocence until guilt has been proved.*
10. *Exclusion from conviction for an act that was not penal offence at the time it was committed.*
11. *Freedom from arbitrary interference with privacy, family, house or correspondence.*
12. *Freedom of movement and residence, including the right to leave any country and to return to one's country.*
13. *Asylum in case of political, social and cultural persecution.*
14. *A nationality.*
15. *Contract a marriage and found a family.*
16. *Own property.*
17. *Freedom of thought, conscience and religion.*
18. *Freedom of opinion and expression.*
19. *Freedom of peaceful assembly and association.*
20. *Participation in the government of one's country. (United Nations, 1987)\**

*The next seven articles (22 to 28) deal with economic, social and culture including right to:*

1. *Sound security*

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\* Special acknowledgements for UNESCO publication. The above text is adapted for this Monograph's purpose.

2. *Work and free choice of employment*
3. *Equal pay for equal work without any form of discrimination or injustice*
4. *Just and favourable reward ensuring an existence worthy of human dignity*
5. *Form and join trade unions*
6. *Rest, leisure and peace*
7. *A standard of living adequate for health and well being (including food, clothing, housing and medical care.*
8. *Right to security in the event of unemployment, sickness, disability, widowhood, old age or other circumstances beyond one's control.*
9. *Protection of motherhood and childhood.*
10. *Education, with parents having a right to choose their children's type of education.*
11. *Participation in the cultural life of one's community.*
12. *Protection of the moral and material interests resulting from one's authorship of scientific, literary or artistic production*

In accordance with article 28, everyone is entitled to a social and international order in which the rights and freedoms set forth in the UDHR can be fully realized.

Article 29 states that every one has duties to the community, in which alone the free and full development of one's personality is possible. Moreover, in the exercise of his/her rights of freedom, everyone will be subject only to the precincts that have been established by law. Moreover, the respect for the rights and freedoms of others, that is responsibility towards maintaining morality, public order and the common good.

#### **1.6.1.1 International Covenants on Human Rights**

The international covenants on Human Rights are treaties whose States parties – i.e. nations which have formally agreed to abide by their provisions – undertake to respect, ensure and take steps for the full achievements of a wide range of rights.

There are two such covenants: The international covenant on economic, social and cultural rights and the international covenants on civil and political rights. Both were adopted by the General Assembly and opened for signature in December, 1966 and were enforced in 1976.

The covenants recognize and define in more detail most of the rights set out in the Universal Declaration, and deal with some additional rights as well. Each covenant also sets up a mechanism through which United Nations bodies oversee the implementation by States' parties of the rights. A committee on economic, social and cultural rights has been established by economic and social council to review states parties' progress in implementing the covenants on economic social and cultural rights. The implementation of civil and political covenant is in the hands of another body of independent experts, the Human Rights committee. The covenants unlike UDHR have legal powers to intervene and ask the signatory states to implement human rights as legally binding principles. This ensures an effective implementation of human rights (both individual specific rights, such

as minority rights) in the State parties.

### 1.6.2 Individual/Specific Rights and Human Rights

The universality and indivisibility of the human rights set forth in the Universal Declaration of Human Rights do not impede the strengthening and enhancement of certain rights for certain categories of people so as to make them real and effective. The **rights of women, children, disabled people, migrants and refugees**, and of **minorities** do not fall outside but are in fact crucial part of human rights document. The document propagates **anti-slavery** and **anti discrimination** laws in the member states. The articles are devised to be particularly useful for the people who are more vulnerable than others. It is the vulnerability of such people that it necessary to devise conventions, covenants, recommendations and solutions to complement the UDHR 1948.

Specific rules are laid down to protect human rights. These rules are defined regarding the conditions and events that the global society considers being infringement of basic human values.

The following two examples show how concern for groups of people enduring special forms of injustice has given birth to different conventions.

#### 1.6.2.1 Human Rights and Children's Rights

Children through out the globe are facing adverse living conditions and situations, such as, poverty, neglected in nutrition, health and education and are exploited through debt bondage labour (a form of slavery) human trade and trafficking. This situation inspired the international community to visualize a document to give legal and moral protection to the rights of the child. This movement promoted a **Declaration of the Rights of the Child** in **1958**. However, the need for a treaty with legal force to protect children became intensely important. A collective international effort resulted in the adoption of the **Convention on the Rights of the Child** in **1989**. This convention is the most comprehensive of all the texts devised concerning human rights and initiated a change in the attitudes of government and public opinion towards the treatment and conditions concerning children.

Children are now regarded as complete human beings in their own right and subjects of law. The text lays down important parameters concerning the relations between parents and children, the role of the media, the responsibility of the global society and communities, role of educational institutions and governments to their dignity. The 1989 Convention is prominent in ensuring that all children throughout the globe are regarded as full-fledged people and that they have rights and responsibilities. They are aware of them and are able to exercise them with all privileges as do the adults.

The main categories of these rights are: the right to specific protection, the prevention of violation of physical and moral integrity, and rights to participation in the social and cultural life of the community, that is, the right to information, self expression, play, cultural leisure priorities, sport etc. A comparison of the rights of the child with those presented in UDHR 1948 clearly show that the convention on the Rights of the Child as significant part of human rights.

Articles 32 to 36, 38, 39 of the Convention spell out greater protection of the rights of the child. The protection of children from sexual exploitation and forced/bonded labour depends on the effective implementation of certain rights in practice, such as the right to education the CRC obliges the States that have ratified it to adopt their laws according to the convention and give legal and ethical basis to the rights of Children. The determination of all adults in this is necessary if progress is to be made. As children and young people represent the future of humanity, CRC is particularly important. It is progressively becoming the main instrument through which children and young people can acquire knowledge of human rights.

The right of education, as stated in article 26 of the UDHR and article 28 of 1989 Convention on the Rights of the Child, is at the core of all endeavours to improve knowledge and ensuring respect for the rights of all humanity.

Both the texts of UDHR and CRC concern human rights, the rights of everyone, which are universal and indivisible rights. All human beings, as asserted in the Universal Declaration of Human Rights, must be given priority and importance.

#### **1.6.2.2 Human Rights and Women's Rights**

Women's rights are of crucial significance, since women's rights influence all aspects of human life. Gender is a universally significant factor in the interpretation and implementation of human rights.

The Fourth World Conference on Women (Beijing, 1995) and World Conference on Human rights clearly concluded that throughout the world women perhaps face more discrimination as compared to their male counterparts.

Since the beginning of pro democracy movements, women's struggle for equal civil and political rights have expanded in extent and scope. However, this aspiration to equality was not given due attention until the United Nations was in a position to provide gender-related data on the magnitude and severity of discrimination against women. During the United Nations Decade for Women Equality, Development and Peace (1976-85) a Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) was prepared and adopted by General Assembly (1979). The United Nations thus became the main advocate of the rights of women through out the world.

#### **1.6.2.3 Slavery and Racial Discrimination**

21<sup>st</sup> Century is still witness to various forms of slavery present in many modern societies. The United Nations aims to address this problem through increased action in the form of the International Slavery Convention approved by the League of Nations in 1926, followed by a supplementary Convention adopted by the United Nations in 1956 in order to do away with all forms of slavery. The member State parties are required to discontinue laws, institutions and practices such as debt bondage labor, serfdom, purchase of brides, slavery like practices against women and children.

Moreover, a five-member Working Group on Slavery was also established in 1974. The group mainly meets every year and reviews information regarding the implementation of various conventions against slavery, debt-bondage labour, human trafficking, exploitation

and discriminatory practices such as Apartheid and colonialism. The Group reviews and gives recommendations and suggests reforms. Furthermore, the Sub-commission on Prevention of Discrimination and Protection of Minorities works to safeguard the rights of minorities in the member States.

## **1.7 HUMAN RIGHTS MOVEMENTS**

Human rights have a long history of civilizations and societies working to establish a humane society. Prophets, great thinkers and individuals, when faced with injustice, rebelled and fought for giving legal status to human rights, making laws that would apply equally to all human beings.

The history of human rights goes back a very long way. All the civilizations, religions and philosophies put a value on the human being and have contributed to the idea of human rights as is seen today in the legally binding international texts. Here has to be highlighted that art and literature played a significant role in the emergence of the concept of the human being as accomplished with essential dignity.

Human rights will continue to be expressed in changing language as will the legal guarantees required to ensure their exertion. The struggle for justice, freedom and human dignity will continue and the values inherent in human rights will always constitute a landmark for humanity. (UNESCO, 2001)

The Magna Carta (1215) provided guarantees against arbitrary action by the Crown and then Habeas Corpus Act (1679) was the first attempt to prevent illegal detention. The American Declaration of Independence of July 4, 1776 proclaimed the natural human rights that were to be respected by the government. The declaration was based on the Virginia Convention of June 12, 1776, which proposed the concept of individual rights belonging to each person.

The French Declaration des Droits de L'Homme et du Citoyen (1789) and the demand made throughout the nineteenth and twentieth centuries for freedoms, including the freedom of peoples, widened the scope of human rights and defined economic and social rights. However, in the twentieth century most important period for the history of human beings was undesirably that between 1945 and 1948. In 1945, awareness of the atrocities and tragedies of the Second World War led countries to create the United Nations as an organization to establish and maintain world peace and safeguard humanity. It was an attempt to restore global democracy, where all states, nations, races and belief systems had equal access to decision-making and global resources in order to have a dignified existence. The United Nations was to establish a global culture of tolerance and peace through inclusive legislature, i.e. global legal system.

Through the charter of the United Nations, signed on June 20, 1945, the nations states across the globe planned their commitment to discourage war and conflict. They pledged to reaffirm a belief in fundamental human rights, in the dignity and worth of human person, in the equal rights of men, women and of nations large and small to promote social progress and better parameters of life and peace. The United Nations reflects the need for a world where tolerance, peace and solidarity among nations will help to achieve social and economic advancements and betterment for all peoples. Further under the UN, nations and peoples must work collectively to ensure respect and recognition of human rights for peace and harmony in the world. (UNESCO, 2001)

Similarly, the constitution of the **United Nations Educational, Scientific and Cultural Organization** UNESCO (adopted on November 16, 1945) states *that a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the people of the world, and that the peace must therefore, be founded upon the intellectual and moral solidarity of humankind.*

The purposes of the United Nations, as expressed in its Charter, **is** *“to maintain international peace and security and to that end to take effective collective measures to strengthen universal peace [and] to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction, as to race, language or religion.*

As the nations were convinced that effective protection of human rights was essential in order to achieve these objectives, on December 10, 1948, the United Nations General Assembly proclaimed the Universal Declaration of Human Rights.

Presently the Universal Declaration is regarded as the fundamental document that highlights and gives impetus to the promotion of human rights. The authority and moral value that it has acquired over the past fifty years make it a fundamental reference point. Nearly all documents concerning human rights quote the declaration and some States refer to it directly in their national constitutions.

The importance accorded to UDHR 1948 is rightly enormous and unique especially when it is only a formal expression of the goals of the United Nations and that countries are not legally bound to respect it. Therefore, the Declaration was proclaimed to prepare treaty provisions that, while specifying the rights stated in the Declaration, would become legal obligation on those States ratifying it. This resulted in the adoption of two significant instruments in 1966: The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional protocol to the latter covenant.

1945 and 1966 was the period of decolonization, leading the countries of the Third World to struggle for the right of self-determination for all peoples to be included in 1966 instruments. They succeeded and this right is now listed in Article 1 of both covenants. The struggles of East Timor and Kashmiri people are supported by these documents.

Despite the creation of two separate covenants, the International Conference on Human Rights (Tehran, 1968) reaffirmed that the enjoyment of civil and political freedoms and interconnection and interdependence of economic social and cultural rights as fundamental to global and regional peace.

The Universal Declaration of Human Rights and the two 1966 instruments along with the Second Optional Protocol to the international covenant on Civil and Political Rights, aiming at the abolition of the death penalty (adopted by the United Nations General Assembly in 1989) constitute the “international bill of human rights”. The 1966 covenants are more effective and must be implemented. Human rights are essential, in order to build a more just and peaceful world, these values must not only be recognized but should be universally respected and practiced.

## 1.8 CHALLENGES TO HUMAN RIGHTS

Although Human Rights are internationally validated moral standards, universally accepted principles in international discourse, even if they are not always enacted by governments and their agents, the universal status of human rights is also accepted by all major religious groups, namely Judaism, Christianity, Islam Buddhism etc. However, the principles of human rights are not seriously challenged in the international community. The nation states, at times do not overtly address human rights through their official, legal and social policy.

All major human rights texts commit to the equality of rights and equality of dignity to all. That is the recognition of the innate dignity and of the equal and indivisible rights of all members of human family. It is the foundation of freedom, justice and peace in the world.

In view of this, respect for dignity is the focus of all human rights. However, the way the concept of human rights is perceived by different societies/nations is mainly coloured by the cultural and ideological foundations of the concerned societies, posing sometimes overt and covert challenges to the effective implementation of human rights as legal articles and social principles:

- 1.8.1 **Universalisation:** The foremost challenge to establish human rights practice is the cultural and social diversification. Not all conventions and covenants are legally accepted by many countries of the world. Although the concept of human rights exists in all cultures and societies, however, misconception about some group results in not accepting the universality of human rights. The legal articles appear to be ineffective when larger society does not accept the language in which these articles are written and get coloured by cultural variations. It has to be understood that many of the cultural, political and economic rights are needed to be exerted in the day to day interaction between individuals and communities and sometimes are undermined before their legal standing is required to be exercised. It is therefore important that underlying values of human rights and democracy are duly promoted through education and political and social action across the world.
- 1.8.2 **Interconnectedness:** Human rights are said to be ‘indivisible’, one cannot bargain between a political rights such as freedom of speech and socio-economic right, such as the right to an adequate standard of living yet some countries will favour economic, social and cultural rights over civil and political rights or vice versa.
- 1.8.3 **Diversification:** Spreading human rights across cultures is good but, it can mean they are piecemeal and unsystematic more attention should be paid to appropriate education. Education is one tool that can promote greater tolerance and understanding regarding cultural and social diversification. Recognition and sympathy for victims than for potential “abusers” mainly understanding of victims and abusers – rights and responsibilities. Every day experiences carry important messages for understanding what human rights are all about. Stories from across the world can help towards understanding the fact that human aspirations and needs are universal and indivisible. Whenever, there is selection and/or separation of rights there is human suffering at some level that can turn into collective suffering of communities and groups.
- 1.8.4 **Specification:** There is a morass of different instruments which recognize the human rights of specific groups – women, children, migrant workers, indigenous peoples, those with diseases, AIDS – yet these lead to a challenge, for example unavailability of

financial resources to meet these rights or lack of access of specific groups to assistance and protection (right and wrong answers to moral dilemmas and plight of people in different parts of the world).

### 1.9 HUMAN RIGHTS ANALYSIS - CASE STUDIES AND SHORT STORIES

Human Rights are not about individuals in isolation but a system for ensuring mutual responsibility. The declarations are two way documents:

- 1) Conventions do not provide absolute answers, but a framework in which moral dilemmas can be discussed and analyzed.
- 2) The concepts (fairness, privacy, and voice) are easily understood by people.
- 3) Human Rights must be understood in diverse contexts and cultures. Case studies and stories from the history of humankind when understood from human rights perspective framework focus provide important insight into the concept of human rights and its significance for peaceful and quality life through out the world.

#### 1.9.1 The Last Sermon of the Holy Prophet (PBUH) and the Concept of Human Rights:

The first and most important pronouncement presented regarding human rights is the last sermon of the Holy Prophet of Islam, Muhammad (PBUH) on the occasion of the last pilgrimage in the valley of Arafat, Makkah (February 632 A.D / 10 Zil-Hajjah of 10 A. H. This sermon of the Holy Prophet is a comprehensive manifesto of Human Rights and complete code of life for the Humankind. It is a masterpiece of Arabic Literature and of immense religious, spiritual, social and academic value. It is considered so because this document along side presenting the concept of rights for the first time also delineated the concept of responsibility. That is, rights do not exist without the concept of mutual responsibility among the Humankind. The modern concepts of legitimacy and accountability are also put forth in order to achieve fair and just society.

1	2	3	4	5	6	7	8	9	10	11
12	13	14	15	16	17	18	19	20	21	22
23	24	25	26	27	28	29	30	31	32	33
34	35	36	37	38	39	40	41	42	43	44
45	46	47	48	49	50					

## **Extracts from The Last Sermon of the Holy Prophet**

**February 632 A.D / 10 Zil-Hajjah of 10 A.H.**

### **Arafat Makkah**

All praise is due to Allah, so we praise him, and seek his pardon and we turn to him. We seek refuge with Allah from the evils of ourselves and from the evil consequences of our deeds. Whom Allah guideth aright, there is none to lead that person astray and there is none to guide aright, whom Allah leads astray. I bear witness that there is no God but Allah, the One, having no partner/equal with him. His is the Sovereignty and to Him is due all praise. He grants life and causes death and powerful over everything. There is no God but Allah, the One; He fulfilled His promise and helped His servant and He alone routed the (offensive) confederates.

O people listen to my words for I do not know whether we shall meet again and perform Hajj after this year.

O ye people, Allah says: “O people we created you from one male and female and made you into tribes and nations, so that you are known to one another. Verily in the sight of Allah, the most honoured amongst you is the one who is the most God fearing”. There is no superiority for an Arab over non Arab and for a non-Arab over an Arab, none for white neither over the white nor for the black over the white except in piety. All humankind is the progeny of Adam and Adam was fashioned out of clay. (refer to **(1) Equality**)

Behold! Every claim of privilege whether that of blood or property is under my feet except that of the custody of Allah’s House (Ka’aba) and supplying of waters to the pilgrims. (refer to **(2) Social justice**)

O people of Quraysh! Do not appear with the burden of this world around your neck, whereas other people may appear (before their lord) with the reward of the hereafter. In that case I shall avail you naught against Allah.

Behold! All practices of the days of ignorance are now under my feet. The blood revenge of the days of ignorance are remitted. And the first claim on blood I abolish is that of Ibne Rabi’ah bin Al – Harith who nursed (brought up) in Beni Sa’d and who was killed by Hudhayls. All interest and usurious dues accruing from the age of ignorance stand wiped out. And the first amount of interest that I remit is that which Abbas bin Abu Muttalib had to receive. Verily, it is being remitted entirely. (Refer to **(3) Equality and Justice**)

O people! Verily your blood, your property and your honour are sacred and inviolable until you appear before your lord, as the sacred of this day of yours, this month of yours, and this very town (of your). Verily, you will soon meet your lord and you will be held accountable for your deeds. (Refer to **(4) Subject of Law**)

O people ! Verily you have got certain rights over your women and your women have certain rights over you. It is your right upon them that they must not allow anybody save you to come to your bed and admit none to enter your home whom you do not like but with your permission. And it is for them not to commit acts of impropriety, which if they do, you are authorized by Allah separate them from your beds and chastise them. But not severely, and if they refrain, then clothe and feed them properly. Behold! It is not permissible for a woman to give anything from the wealth of her husband to anyone but with his consent.

Treat the women kindly since they are your helpers and are not in a position to manage their affairs themselves. Fear Allah concerning them for verily you have taken them on the security of Allah and have made their persons lawful unto you by words of Allah. (Refer to (5) **Dignity**)

O people! Allah, the Mighty and Exalted, has ordained to everyone his due share (of inheritance). Hence there is no need (of special) testament for an heir (departing) from the rules laid down by the (Shariah).

The child belongs to the marriage-bed and the violator of wedlock shall be stoned. And reckoning of their deeds rests with Allah.

He, who attributes his ancestry to other than father claims his client ship to other than his master, the curse of Allah is upon him.

All debts must be repaid all borrowed property must be returned, gifts should be reciprocated and a surety must make good the loss to the assured.

Beware! No one committing a crime is responsible for it but himself. Neither the child is responsible for the crime committed by his father nor father is responsible for the crimes of his child.

Nothing of his brother is lawful for a Muslim except what he himself gives willingly. So do not wrong yourself. (Refer to (6) **Rule of law**)

O people! Every Muslim is the brother of other Muslim, and all the Muslims form one brotherhood.

And your slaves see that you feed them with such food as you eat yourselves, and clothe them with the clothes as you yourselves wear.

Beware that you go not astray after me and strike one another's necks. He who (amongst you) has any trust with him, he must return it to its owner. (Refer to (7) **Legitimacy**)

If a mangled black slave is appointed your Ammer, listen to him, and obey him provided he executes the Ordinance of the Book of Allah amongst you.

O people! There is no Prophet to come after me and there would be no Ummah to form after you.

Verily! I have left amongst you that which would never lead you astray, the Book of Allah, and the Sunnah of His Messenger, which, if you hold fast, you shall never be misled. And beware of transgressing the limits set in the matters of Deen. (Refer to (8) **Freedom**)

## DISCUSSION POINTS

- **What is the concept of dignity in Islam?**
  - **Equality is at the core of the last sermon of the Holy Prophet;: Discuss with reference to universal Declaration of Human Rights.**
  - **What is legitimacy with reference to equality?**
- While reading the sermon refer to the following points indicated in the text:**

- (1) **Equality** is main underlying value concerning human rights. The Holy Prophet stressed this point very strongly. The following lines mainly highlight the fact that all human beings are equal without the distinction of race, colour, class or gender and age.
- (2) **Social justice:** Everyone has the right to life, liberty and the security of person. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- (3) **Equality and justice:** Everyone has the right to recognition everywhere as a person before
- (4) **Subject of law:** Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his/her rights and obligations and of any criminal charge against him/her.
- (5) **DIGNITY:** During the times of the Prophet (PBUH) Women did not have any say or recognition in the society. When he proclaimed their rights he referred to their disadvantaged position in the society at that time and also to the centuries of discrimination against them that gave them a very weak position in the society. Here the Prophet has given the foundations of gender equality of present times.
- (6) **Rule of Law:** 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.
- (7) **Legitimacy:** Legitimacy is crucial underlying value of democracy and human rights, that is, legitimacy of holding a position (elected or selected) and legitimacy of action. If actions taken by the ruler are unlawful then he/she must be held accountable. However, all human beings have a right to be elected and selected without any kind of discrimination.
- (8) **Freedom:**  
The Holy Prophet (PBUH) towards the end of his address/sermon emphasized freedom of peaceful and lawful life

## SUGGESTED READING

- The English translation of the Holy Quran
- Medina pact concluded by the Holy Prophet Mohammad (PBUH) with the Jews of Medinah guaranteeing them certain basic protections concerning their lives and properties.
- Sirat ul Nabi
- Universal Declaration of Human Rights, 1948

### 1.9.2 Eleanor Roosevelt and Drafting of UDHR: Making Human Rights Come Alive

Eleanor Roosevelt was the First Lady of the United States and one of the leading and influential members of the UN Commission on Human Rights. Her devotion to her work at UN was rooted in her humanitarian convictions and her faith in human dignity and worth. Due to her commitment and hard work she was elected as the chairperson of the Commission on Human rights. Her concern for humanity made her the driving force behind Universal Declaration of Human Rights.

This section includes a discussion on the role of Mrs. Roosevelt in drafting the Declaration.

Her speeches reflected a strong conviction for cause of human rights. They are also a good source to understand the cultural, social and political contexts and connotations of Universal Declaration of Human Rights.

**Speech To Pi Lambda Theta,  
Columbia University  
by Eleanor Roosevelt (edited)  
March 30, 1949**

We worked as eighteen representatives of Government on the Human Rights Commission. We are very happy to know that UNESCO accepted the first fruits of our labor and adopted the **Universal Declaration of Human Rights**. You know what it will mean if all the various Commissions of UNESCO really help to tell the people of the various countries about this document. It is an educational document because it is simply a declaration that sets standards and puts down things for which we want to strive. It has no legal binding value, but it is a preparation for the coming bill of rights. When the covenant is written, then we will have to be prepared to ask our various nations to ratify that covenant and to accept the fact that the covenant has legal binding value.

Now, of course, the first covenant will probably be a very simple document. It will probably not contain all the things that are in the Declaration, because in the Declaration we could write some aspirations, but nevertheless we know quite well that we will go on. Perhaps the first covenant will not cover all the things that we will want to have covered in the future. We will keep our minds open and we will be prepared to meet new needs and new circumstances as they arise, but we have to make a beginning, and the beginning can only be made if we really make the Declaration a living document, something that is not just words on paper but something which we really strive to bring to the lives of all people, all people everywhere in the world.

## **Study the Document**

We will have to understand how it came to be written, why certain things are in it. I think perhaps the best way to explain to you how difficult a universal document is to put down on paper, the best way to explain that to you is to tell you a little about what happened in Committee III of the General Assembly in Paris, when we presented as a result of the Human Rights Commission's work over a period of two and a half years that document that we thought was quite a good piece of work, over which we thought possibly there might be some discussion but not too much, and we were to find that there was going to be a great deal of discussion, so much discussion that at one point I thought perhaps we would never get agreement.

M. Laugier, out of his wisdom, said, "This is very valuable. People who discuss as much as this over ideas are going home to talk about them afterwards." I hope that he was right, because that is the way this document will come to mean something in the lives of people all over the world.

I will take the first three Articles and tell you a little about them. In Committee III there are quite a number of women who sit as delegates. I imagine that you know that that is a good committee on which to put women! In the first place, they are naturally interested in humanitarian questions, but in addition, I think some of the members of our delegations believe, we might not do so well if we were put in the political committees or legal committees. We really might get into trouble, so Committee III has quite a number of women.

Right away they saw something in our document that we brought to them which we had not given much thought to. As we presented the document, it was perhaps a little too Anglo-Saxon, a little too much like the American Declaration. It said "all men" in the beginning of a great many paragraphs; the final Article reads, "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."

After I got home I received a letter from a gentleman who said, "How could you as the United States Delegate vote for Article I of the Universal Declaration when it is not like our Declaration?"

Now I will tell you how I could. The women on Committee III--and remember there were 58 representatives of governments in Committee III, not 18-58--and the women said " 'All men,' oh, no. In this document we are not going to say 'all men' because in some of our countries we are just struggling to recognition and equality. Some of us have come up to the top but others have very little equality and recognition and freedom. If we say 'all men,' when we get home it will be 'all men.'" So you will find in this Declaration that it starts with "all human beings" in Article I, and in all the other Articles it says "everyone," "no one." In the body of the Article it occasionally says "his," because to say "his or hers" each time was a little awkward, but it is very clearly understood that this applies to all human beings.

The first three Articles in Committee III took four weeks to pass and a great deal of argument, a great deal of real feeling was expressed.

## **Words in Different Languages**

Perhaps one of the things that some of us learned was that in an international document you must try to find words that can be accepted by the greatest number of people. Not the words

you would choose as the perfect words, but the words that most people can say and that will accomplish the ends you desire, and will be acceptable to practically everyone sitting round the table, no matter what their background, no matter what their beliefs may be. So that's what happened to us.

In the next few words of Article I you will notice that instead of saying: "All men are created equal," it says: "All human beings are born free and equal in dignity and rights."

Now, I happen to believe that we are born free and equal in dignity and rights because there is a divine Creator, and there is a divine spark in men. But, there were other people around the table who wanted it expressed in such a way that they could think in their particular way about this question, and finally, these words were agreed upon because they stated the fact that all men were born free and equal, but they left it to each of us to put in our own reason, as we say, for that end.

There is one other word that I want to tell you about because it cost us a great deal of time, and it illustrates one of the difficulties of writing a document of this kind. It is in Article II which reads:

Everyone is entitled to all the rights and freedoms 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**. Furthermore, **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.

Now, the word we had so much difficulty about was the word "birth" in the first paragraph. Our Russian colleague was making a speech, stating something he wished to have included in the Article, but he and the translator had a different opinion as to the way his idea was translated, and he stopped and said "That translation is wrong. It does not say what I mean." So he was finally asked if he would explain what he wanted to express. And he said that he wanted to say in French the word "etat"; in English the word "estate." There is no distinction of any kind such as "etat." Well, Professor Cassin, who is the Delegate of France and a very distinguished and interested delegate on the Human Rights Commission, said: "I am afraid that wouldn't mean a great deal today. There was a time when it might have meant something in France. It was 'etat,' but today I don't think it would be very meaningful to people in my country." I said: "Well, I don't think the word 'estate' would mean a great deal to people in the English-speaking countries."

So, our Russian colleague said he would accept the word "class," and that I didn't like very much. I said: "I think in many countries we're getting away from the use of that word, and it would be a mistake to write it in a universal document." So, finally, after long discussion we settled on the word "birth" as a translation that our Russian colleague would accept and I thought that was all settled. ...Dr. P. C. Chang of China, decided that since we were going to put the word "birth" it should come after the word "race" and should read: "without distinction of any kind such as race, birth, colour, sex," etc. ...I think these three things give an idea of some of the difficulties of writing documents which is to mean something to a great many different peoples at different points of development, with different religious beliefs, and different legal systems, and with habits and customs that vary very greatly.

## **UNESCO Will Help Us Gain Peace**

Now, UNESCO is going to help us all to understand each other better. ....UNESCO is going to help us all to achieve; and, perhaps, one of the best ways will be in really making people understand why human rights and freedoms are one of the foundations on which we hope to build peace. Peace isn't going to just drop on us all of a sudden. We have machinery in the United Nations which we can use, if we will, to help us create an atmosphere in which peace may grow, but we will have to work to keep that machinery doing its job. And the study of human rights, the acceptance of human rights and freedoms, may be one of the foundation stones in giving us an atmosphere in which we can all grow together towards a more peaceful world.

## **Precedents in Laws**

I remember very well when Professor Rene Cassin in the early days of our discussion in the Human Rights Commission, suggested an article. It is not now in the words that he used in first suggesting it, though the idea is in that direction. I have often thought of it because it not only illustrated the difficulties of different legal systems, but it also illustrated the belief which many of the representatives in our Commission had, that certain things must never happen again because they had been one of the causes that brought on World War II. I will tell you about it because I think it is interesting. His suggestion was that we have an article that would read in French, "Personne ne doit etre prive de sa personalite juridique," and I, without any legal knowledge, translated it into English as "No one shall be deprived of their juridical personality."

Well, I didn't know what I had started. Behind my back, where lawyers sit from the departments in Washington, there was a storm. They all said, "There is no such expression as 'juridical personality' in English or American law." And all the United Kingdom gentlemen who were lawyers put their heads together and said "No" very firmly at me. So I knew that I hadn't gotten the right word. Behind my back they kept arguing, saying what it means is "without due process of law," but how do you say it? Well, it took a long while to argue that out and finally one day one of my Department of Justice youngish lawyers handed me a piece of paper and said, "You can accept the translation 'juridical personality,' it was once used in American law."

....There was no trouble at all with any of the Latin American countries, all of which accepted the French idea quite happily because they had the same system of law. The trouble lay with the Anglo-Saxon people, and finally our United Kingdom delegate said that it didn't mean anything in English law, but he couldn't think of any better expression, so for the time being, he would accept it. Professor Cassin himself finally thought of something better in the way of wording and the idea is in the document, though the words are changed. But I always felt that it was a very good illustration of some of the difficulties that came up on the legal side.

## **There Are No Guarantees**

.....It is an educational declaration and the only way we can guarantee that these rights will be observed is by doing a good job educationally. People really strive to have their governments and their people understand that these are the kind of rights that give dignity to man, and, therefore, they insist that they be observed.

Now, we have great belief, I think, in the force of documents which do express ideals. We think that, in themselves, they carry weight. But they carry no weight unless the people know them, unless the people understand them, unless the people demand that they be lived. And perhaps Article 2 is one of the articles that we, in this country, and in most of the democracies,

should think about, but perhaps it is more important for us in the United States because we have to recognize that there are two ideas that must live side by side in the world.

Well, the only way that they can live in the same world is for the recognition of their equal strength to come about. At present, the U.S.S.R. is quite convinced that their idea is stronger than the democratic idea.

They feel quite sure that what they have to offer in their attitude of equality of all races, of a kind of economy which they consider gives greater equality than other types of economy in the world, of a kind of political government which they say is government by workers for workers they are quite sure that if they make those promises there are masses of people in the world who will feel that they are better promises than we of the democracies can make, and that is why they single out over and over again the United States and the United Kingdom for attack--the United Kingdom on colonial policies, the United States on racial policies, the way we treat minorities--because there is no better forum for propaganda than the United Nations.

### **The United Nations Is a Forum**

You are talking in every committee to the representatives, in the last meeting of 58 nations, in the next I think of 60 nations. That is quite a forum! There are quite a number of people that can hear what you are saying and you cannot blame the U.S.S.R. for feeling that they are offering what they feel will appeal to the people throughout the world who have perhaps not felt that they were on a basis of equality, who have perhaps felt that their economic security was a little insecure. There are a good many peoples of the world who have often been not only one day away from starvation but actually have starvation among them, and yet they have seen a few people who still have a good deal.

So this offering--it is only promises, of course--and that is another thing we must remember. The U.S.S.R. can make promises because very few people get in to verify what they promise, but the United States, the United Kingdom, the other democracies, they are all open to inspection, so it is very easy to find out what actually goes on, and that is one of the reasons why it is so important that we in the democracies make human rights and freedom a reality. It is true that these very words that are in Article 2 have been in our own Bill of Rights, but we felt it was a domestic question. We had plenty of time. We could set our house in order when we felt the time had arrived. We could have a little more time for education. We could let people gradually grow out of their prejudices. Now it is a part of the great question of whether democracy or communism really offers most to the people of the world. It is no longer a domestic question. It is an international question, and for that reason you can't wait any longer. You are open for inspection.

### **We Are Inspected**

Nothing ever happens in any part of the United States that, if we are in session, whether it is the Human Rights Commission or the General Assembly, that wherever I am sitting the U.S.S.R. delegate doesn't manage somehow to tell the story of what has happened, and then he will turn to me and say, "Is that what you consider democracy, Mrs. Roosevelt?" And I am sorry to say that quite often I have to say, "No, that isn't what I consider democracy. That's a failure of democracy, but there is one thing in my country: **we can know about our failures and those of us who care can work to improve our democracy!**"

.....Another thing which is interesting is that all through the Declaration the value of economic and social rights is emphasized. The U.S.S.R. delegates fought for those and many of their suggestions are included in those articles, but they still abstain on the whole from the Declaration. They fought for those economic and social rights because to them those are the really important things. They never offer anybody freedom and I have often wondered whether those who listened to their promises ever noticed that freedom was left out.

### **Conceptions of Freedom**

The interesting thing is that they are quite safe in doing so because many of the peoples to whom they talk don't know the meaning of freedom as we know it. In Japan, for instance, freedom only means license. There was no character in the Japanese language which meant freedom as we understand it, so that when we tried to explain what freedom meant, they had to evolve a new character, because when they speak of a child who acted with complete irresponsibility and complete license, they said he was acting with freedom.

That is something we must remember, because when you argue with Mr. Vishinsky, he will say there is no such thing as absolute freedom, and of course you and I know that is true. All freedom is conditioned by the freedom of other people, but nevertheless there is for human beings something very precious, which we know as freedom, the freedom to help govern ourselves, the freedom to help develop the future. These are very important things for us, more important perhaps than the actual assurance by the state of certain economic and social rights.

Now I am going to read you just one Article, because it will explain to you why it was impossible for the U.S.S.R. to vote in favor of this document, and it will show you the cleavage in thought which somehow, some day, we have to bridge. We are not going to bridge it right away. It is going to take time, but the understanding of it is necessary before we can begin to decide how we can work. The Article is one of freedom of movement. It reads:

*“Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and return to his country”.*

The amendment they wanted to that was:

**Everyone has the right to leave any country, including his own, and to return to his country according to the laws of his country.**

That would have meant that the law said you couldn't leave your country without permission of the government.

Naturally, in discussion it was brought out that many countries have regulations. I have to pay my income tax; I have to take the little piece of paper from my doctor saying when I was vaccinated. I must have been vaccinated within the last three years or I can't come back. But when that is done, I can leave and come back, and I can move anywhere within my own country and can do it when I wish, and I can settle where I wish.

After defeat of the amendment, I went over to talk to Mr. Pavlov, and I said: "Mr. Pavlov," (I should say that he speaks French very well) "do you see no difference between the regulations which my country puts on freedom of movement, and the regulations of the U.S.S.R. which forbid a citizen to leave without permission from his government, and to give no permission?" He looked at me and he said: "All regulations are the same." Now that is a very interesting thing because that is a good illustration of where we think differently.

Now, I don't expect that gulf to be bridged for a long while. But I do feel that we can reach the point where we can live in the same world, but I think the only way we will reach it is if we show in the democracies that our beliefs are as strong; that we intend to crusade just as much as they do, and that we are as determined that all human beings shall eventually have the rights and freedoms set forth in this document, and that we are not going to be intimidated; neither are we going to be despondent.

I think they count on wearing out our patience, on making us feel that it is hopeless, on getting us discouraged to the point where we will give up and decide that there is no way to live in the same world. The day we do that we have lost, and I hope, therefore, that we will concentrate on making our own selves, our own communities, our own country, the real democracy that we have given lip service to for so many years. And in doing that, that we will be the spearhead and the spiritual and moral leader of all the other democracies that really want to see human rights and human freedoms made the foundation of a just and peaceful world.

### **For Better World Understanding**

In the United Nations we are trying to work for better world understanding. You would feel, I am sure, that we in the United Nations ought to find the answers. I agree that we ought to, since we have delegates from so many nations. There were fifty-eight delegates at the last meeting in Paris, and there are going to be sixty at the next meeting. That makes a good many delegates in the General Assembly, for each delegation is composed of five delegates, five alternates, and quite a number of advisers. You get to know and to talk to many people from different countries. And this, perhaps, ought to give us the answers on how to promote world understanding. But I confess that at each meeting I learn something new. Surprising facts are thrust upon me that I had never thought of before. So I have come to feel that one of our troubles is lack of awareness of the differences between peoples.

I will illustrate for you by something that happened to me in Paris. I have always been assigned to Committee III. That is the committee that deals with education, cultural, and humanitarian subjects. When I was first put on this Committee, I felt quite sure that one reason for the assignment was that our delegation was worried about having a woman as one of the delegates. They said, "Committee III--that's safe. She can't do anything there." Sometimes I think it has not been quite as safe as they thought it would be at the beginning. But I want to get back to my story, because it illustrates the points of our difficulty in understanding. The Committee was discussing, at the last meeting in Paris, the Declaration of Human Rights. On my right, since we sit alphabetically, was the delegate from Uruguay, and he was making many objections and giving many legal arguments. I thought, in order to save time, the delegate from Chile, who sat in the Commission on Human Rights, might explain some things to him, so I asked Mr. S. if he would have a talk with the delegate from Uruguay and explain certain things to him. He looked at me and said.

"I have been on the Human Rights Committee for quite some time and have become accustomed to this document, and you must let him become accustomed to it because it is an Anglo-Saxon document."

"But," I protested, "It is the result of eighteen nations and they were not all Anglo-Saxon nations." He insisted, "It still is an Anglo-Saxon document. In time, the delegate from Uruguay will grow accustomed to it, but just now he is very much shocked, just as I was when I first read it."

I had been thinking that it was a joint document which we had produced and I was sure there were a great many things in it that were not the result of Anglo-Saxon thinking. You see how unaware we are of the fact that other nations think of things that come up in terms of not representing their thinking, or their type of law, or their type of religious feeling, and, as my Chilean colleague said, it had taken him time to grow accustomed to it but finally he began to agree with the strange ideas that were Anglo-Saxon. I don't know whether it should always be just that way, for certainly sometimes we should become accustomed to thinking in their terms, as well as having them thinking in our terms. That flow backwards and forwards of ideas and understanding is one of the great contributions of the United Nations, but it isn't the only thing that must take place before we get to the bottom of what it is that divides people. The increase of intellectual understanding, the exchange of ideas, and the gradual coming to see what affects other people on the intellectual levels is very important, but there are other things, too.

I have thought a great deal, of course, about our first and most important difficulty, which is the U.S.S.R. I suppose you read what their delegates say to us. They say: "Perhaps in the military and economic sense you have the upper hand." (They never say, "We have . . ." they say "perhaps.") "But time is on our side. We can afford to wait, because our ideas are much stronger than yours; our ideas, our belief in communism, are going to gain the world. It makes a great appeal because we believe in basic human rights. We believe that all races, all people are equal; we believe that men and women are equal."

.....When they state what they believe, they are very sure of their **philosophy of equality**, and they state it so simply that they are certain that the downtrodden people of the world will accept it much more easily than they will accept our democratic theories. They say, "Our government is a government of workers, for workers. Our economy is perhaps having a little hard time at present, but basically, as commodities increase, everybody will share alike. There will be none of this having a great deal for certain groups as you have in your decadent democracy; we will all share alike." That sounds simple, doesn't it? And, of course, there is something in what they say when one considers that they are offering these ideas to people who are perhaps, not more than a day away from famine. Nearly all of these people have seen small groups in their midst having a great deal and the masses having little, and to them these promises are very alluring. The question is whether people who are better off are willing to accept such promises with no proof.

.....In the last session of the 3rd Committee we had as a delegate, for a short time, from the United Kingdom, a young member of Parliament. This British delegate had sat through some pretty stiff attacks on the United Kingdom's colonial policy. There is never a time when we touch on the problems of a colonial country, that the U.S.S.R. goes not give us at least an hour of attack on the United Kingdom. I realized that our job was to get the Declaration of Human Rights accepted, and I knew that the U.S.S.R. would like very much to delay it so that we wouldn't have time to vote on it. Up to the time of the last meeting, they always abstained from voting, saying that they could not commit their government to an unfinished document, but at Paris it was a finished document, and it would be difficult to go home and say that they had abstained on a declaration of human rights. ....They were really interested in certain points and wanted to have a chance to talk them over. These colleagues were from the South American countries and they had a document on human rights in which they took great pride. They had the Declaration of

Bogota and some of them were anxious, for reasons of pride, to have the same wording used in the universal declaration.

.....England sent a new delegate to serve on Committee III. This delegate was Mrs. Corbett Ashby. I immediately said to her, "Look, we have a declaration to get through. We have spent two days listening to attacks and the answers. .... While it is true that the Russians must be answered, Mrs. Ashby agreed that it was more important to get the Declaration of Human Rights through. By bringing the Declaration up for a vote, we would obligate the Russians to say why they had to abstain. This was more revealing for the rest of the world, and perhaps in the long run more revealing to them, than all the attacks we could have made. It certainly leaves less bitterness. I believe we must never compromise a principle. We must be very persistent, very patient, because we have a long way to go in understanding.

I was talking the other day to a very learned gentleman on how we could ever understand the U.S.S.R. He said, "Read Didemus," and I thought, "Oh, when will I get time to read Didemus, and why?" So I thought I had better ask honestly why I should read Didemus. He said, "Because all the rest of Europe received its civilization from Rome, but the Russians, from their first beginnings, drew their civilization from the Byzantines. You will find more explanation for Russia by going back to Byzantine thought than you will in trying to think of Russia as a part of the European scene." But I haven't had time to read Didemus. I am going to try, for I do know that there is a great deal for us to learn.

.....The Declaration of Human Rights was looked upon as so important because many people believed it to be one of the things on which we might build understanding in the future, if enough nations could agree on what the basic rights and freedoms were. Even though the Declaration has no legal binding value, it is a document to be used for education in preparation for a Covenant. The Covenant won't cover many things, but the Declaration includes the aspirations that we hope, in time, to achieve. It was written with the aim in view that all the countries that accepted it would make a study of its ideas.

We have even included a resolution asking the governments to see that schools and colleges become sufficiently familiar with the document to quote from it and to discuss it intelligently. It is quite true that it has no legal binding value and that is why some people say, "It is just words--more words--and we have plenty of words--why do we bother with more words?" Well, the Declaration is only half of the Bill of Rights. The second part of the Covenant, if accepted, must be ratified by each nation and that will have legal binding value as a treaty....

**A criticism that is often made about this Declaration is that rights alone are set forth, but that with every right there goes a responsibility, and that those responsibilities are not set forth with each article.** That was discussed for a very long time, and it was decided that, if you tried to set forth with each article all the responsibilities, it would make a very long and detailed document that would not have the same impact on people as a declaration that was shorter and more concise. After all, this is the Declaration of rights and freedoms, and so it was decided to have one article as a general over-all limitation and that reads--

*Everyone has duties to the community in which alone the free and full development of his personality is possible. In the exercise of his rights and freedoms, everyone is subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality,*

*public order and the general welfare in a democratic society.* These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

The feeling was that this article covered in a general way and would not detract from the really important thing which was to get down on paper, for people all over the world, with different backgrounds, customs, and stages of development, the basic idea that every individual had certain rights and freedoms that could not be taken away from him. It gave respect and importance to the individual, which is, of course, a basic tenet of democracy.

Now, I think, perhaps, you would be interested in the article on religion. We thought we had consulted most of the interested people who were represented by consultants in the Human Rights Commission. We found that one group had had no representation. They had never asked for it. But when it came to the final decision, that group differed among themselves as to the interpretation they could put on certain things in their own religious law, and they nearly voted against the whole Declaration because they did not think they could accept just one thing in this article. The article reads:

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.

*And the group that had not asked for representation and with whom we had not consulted beforehand was the large group of Muslims[SIC], and they said, through their representatives in Committee. "We can't accept that because in our religion you may not change your belief." And Saudi Arabia abstained from voting. Pakistan changed. And the statement of the head of their whole delegation before the Assembly was as follows: "I think our delegate misinterpreted the Quran. The Quran says that 'he who will shall believe; he who cannot believe shall disbelieve.' The only unforgivable sin is to be a hypocrite!" I repeat this statement at every opportunity, for I think it is something all of us would do well to remember. He voted for the Declaration.*

## **Education**

Everyone 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.

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 United Nations for the maintenance of peace.

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

That number three was put in by the Catholic nations. They were very insistent on the right of the family and the right of parents. We realized that they said this because they aimed to prevent a repetition of Hitler's training of youth, and of course of the Communistic training of youth. On the other hand, this statement caused other difficulties to arise. For instance, I know

families in my own country-area with whom one really had to fight to get them to allow their children to have more education than they themselves had had; I am not quite sure that always the parents' rights rather than the rights of children should be the permanent, final decision. I think the parents naturally have great rights. You couldn't educate children against the will of their parents along certain lines, but the children have a right to certain opportunities for education and should be allowed to take advantage of them. It was very difficult for me to accept paragraph 3, but I was outvoted. We had a full and complete argument, and it was easy to understand why anyone familiar with Hitler's youth training, and Communistic training today, should want to safeguard their children against it. You do have to adjust to different countries at different times and anything that is completely rigid will put us in a straight-jacket. This, after all, is just a statement of standards and aspirations and a very good document for us to become educated upon--but when you come to the Covenant it is going to be extremely difficult and extremely necessary for us to watch every single thing that we agree to.

I can't tell you much more, but I hope that I have given you some idea of some of the problems that come in writing international documents and some of the problems that exist when you start out to really achieve world understanding. I have a feeling that in practice this document will do a great deal for even those countries where it will not be published. It will not be published in any of the satellite countries, but, curiously enough, knowledge seems to seep through even Iron Curtains. And I can't help but believe that working together on some of these things and writing them down may be a good basis for beginning a little more understanding and confidence. Much of our difficulty today lies in our fears. We fear the Russians; they fear us. How you get away from fear, I don't know yet. I am hoping that if we can stay together, and work together, each year that we live we perhaps will build a little more confidence and destroy a little of the fear.

All of you who are going to teach the next generation--the generation that is going to live with this when we are dead--can perhaps teach them the willingness to be patient, to experiment, to believe in human beings even when they seem so contrary and so difficult. I get so angry sometimes with my U.S.S.R. colleagues. Then each time that I do, I say to myself, "Remember that you really like these people as people. If you could meet them as people you would like them. So try to begin again with good will, with a sense of objectivity, of understanding why it is so hard for them.

They couldn't possibly accept this document because freedom of movement is one of the articles. They don't allow any freedom of movement. There are lots of things that they can't accept, and it will take them a long time. Children growing up today are going to live in a world that is a very adventurous world and not a very secure one. After all, many generations have lived that kind of life. It takes more character, more calm, but perhaps the challenge of today is the ability to stay in the United Nations and watch ourselves as the leading democratic nation of the world, a nation which all the world watches. If they can see that our beliefs are as strong as theirs and that we are not going backward, they might begin to live in the same world with us and make some compromises. That is almost as important as to have more military power and more economic power.

We have a difficult job because all of our failures are seen. At the same time, our successes are seen and, for that reason, I hope we are going to be strong enough, and imaginative enough, and take the future with enough spirit of adventure so that we will live it with joy and never grow hopeless. Never get a feeling that we cannot succeed, because I think with the help of

all of you, and the help of many other people in our country, we can succeed. All we can do is pray that we will grow more tomorrow and that others will grow with us, and together we will be able to win a peaceful existence.

#### **DISCUSSION POINTS**

- **Why do you think it was important to come up with Universal Declaration of Human Rights? Discuss in the light of Mrs. Roosevelt's speech.**
- **How do you interpret the comments regarding Muslims in the speech? Do you think the drafting of UDHR was inclusive?**
- **What is democracy and how is that reflected in the formation of UDHR, 1948?**
- **USSR was a communist country? Is there a clash in the ideologies of human rights and communism?**

#### **SUGGESTED READING (optional)**

**Night** by Elie Weisel

**Rigoberta Menchu** by Rigoberta Menchu Tum

**Martin Luther King: The Inconvenient Hero** by Vincent Harding

**Nelson Mandela:** autobiography by Ann Johnson

**Biko** by Donald Woods

#### **1.9.3 Voices of Women: Pakistani Literature**

In recent years a large number of female Pakistani writers have written about situation of women in Pakistan. Culture and traditions play a significant role in the understanding about human rights situations/conditions and the challenges ahead to effectively implement the specific rights of women in different societies. A selection has been made to illustrate an example of such literature. Many of the problems faced by women in Pakistan are due to the lack of education and unawareness of society about exploitative elements in the society.

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

Men and Women have equal claim to equality, dignity, freedom and justice.

Everyone 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 United Nations for the maintenance of peace. 3. Parents have a prior right to choose the kind of education that shall be given to their children.

## SHOCK

By Ziatoon Bano

### **Lost in her own world Utterly unwanted and unloved.**

Yes she was mad. She had gone off her rocker. But the Pathan sense of honour could not reconcile itself to her roving insanity and she was admitted to bedlam. She detested the people in the madhouse. She even hated her year-and-a-half old child. She abhorred her husband. She did not even want to see her in-laws or even her own dear father. When they would be forced by the taunts of the people, they would unwillingly turn to the loony-bin to call on her. As soon as she would see them, Shamsho would hide her face in her hands, or she would simply turn her face away. This, however, is not the sign of deranged behaviour. The insane rave and rant and abuse people, or show their aggressiveness by running amok. Shamsho's form of insanity was quite different. As soon as she saw them, she would calm and shut her eyes. Sometimes, she would also cover her ears. Perhaps she couldn't tolerate even the din of their voices. The people around went on seeing all this, but nobody knew the real reason of her demented indisposition.

Shamsho was the wife of an artist. Her husband was a graduate but she herself was illiterate. Her husband could not provide her with the necessary peace of mind. There could be no meeting of minds between the two of them, as mentally and spiritually they were poles apart. When he would talk about his art, she would open her own Pandora's box of complaints against her in-laws. Whenever he would catch hold of some book, she would snatch it away from him, showing her annoyance. She was not to blame, because he would only come home after a week and she liked to relate to him all that she had heard or felt during that time. But he would be lost in his own thoughts or always absorbed in writing something. It would be getting late for dinner. She would lose patience and would at last cull him for the meal. This would shatter his thoughts and spoil his writing. She felt helpless; her heart wanting 'peace and a quiet meal, after eight days. instead of this total alienation.

The artist perfectly understood all this but chose to ignore it. Finally he could not tolerate any more of this nonsense and wanted to get rid of her altogether. His father anticipated his intention and stopped him outright from taking such a step, as it was against "Pukhto"—the Pathan code of honour. To divorce her was ruled out by this ageless code of conduct.

God blessed Shamsho with a son in the fourth year of her unhappy marriage. But the artist considered it a set of new shackles around him. Now he decided not to come home even after a week, as he did before. The artist was so fed up with his surroundings that he got himself transferred to Karachi. There he married a girl of his own choice, who was an undergraduate. Even with her, he didn't find peace of mind, because she did not speak Pushto.

When Shamsho heard of it, she became unhinged. She weaned her nine-month-old darling baby. She stopped talking to people and for sometime completely shut herself from the world. But she could not stand it any more and locked out the wide world. Soon people came to

know that so and so's wife and so and So's daughter-in-law had gone off her head, due to extreme deprivation. As a sign of shock, the women put their fingers to their noses. Some would say to her: "So what? The Pathans are polygamists. They take as many as four wives. It is all sanctioned by religion. Why should you bother your silly head over it?" But nobody knew the real reason for her derangement. She raved not at her husband's taking another wife as much as her own ignorance, and her utter inability to share the life of an educated husband. She wished that she too were equally educated, to understand the language of her husband's art and poetry. But she was not to blame for all this. All the blame was to be borne by her parents. She wished that her husband was neither educated nor an artist—that she were married to a dunce—or that she too were equally artistic and educated. A thousand sorrows for her parents, who themselves threw their daughter to the four winds, bound hand and loot. Would that poor Shamsho was never born, or then her hand was not asked for by her present in-laws. May those schools and colleges burn to ashes, where her artist husband was husbanded in the magic spells of education. May such homes be also shattered where innocent girls like Shamsho are born and brought up without even elementary education.

Translated by Qabil Khan

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## WEEPING DARKNESS

BY ABDUL QADIR JUNEJO

That night, everything was shrouded in deep dark shadows. Tiny little stars throbbed restlessly in the heavens. Like some mysterious *Sadhu'*, the night was pensive, quiet and still. Once in a while, when a puff of breeze blew in, the leaves of the *keekar*" trees in front of her house would dance gently to its rhythm and the drone of the hungry mosquitoes would fade out. A little away from the courtyard, having chewed cud for hours, the family's bulls were resting quietly. The sleeping hens on the roof of the house now looked like a large frozen dark stain.

But sleep was far from Hakima's large eloquent eyes. She had been wide awake since dusk. Sleep had been replaced by surging waves of fright, behind which a quiet courage had crept almost unknown into the midst of her intensely emotional state of mind. Her love for the beloved was over-powering, but her soul and body had been imprisoned by chains of restraint. But now, as she lay waiting for his arrival, she had thrown to the wind all the inhibitions which had engulfed her ever since she grew up, all the strictures by the ladies of the family to keep herself, her bosom and her head covered, to protect her from the prowling hungry eyes of the young men of the village.

The sound of a shrill whistle suddenly pierced the stillness of the dark night. Immediately, she raised her head. Straining her ears to confirm the direction from where the sound had come, she sat up stealthily, picked up her shoes in one hand and, in the other, the small bundle she had concealed under her pillow. As she left her bed, her *charpai'* produced a frightening creaking noise, which startled her. She stopped and looked around carefully to see if anyone heard it. But thank God, nobody had.

Quickly, she spread the *rilli* neatly on her bed, picked up her shoes once again and with the bundle in her other hand, came out of the neatly trimmed hedge which surrounded the house. She stopped at the gate and peeped inside the house to satisfy herself that no one was awake. It was pitch dark and she couldn't see anything. Satisfied, she turned and began to walk briskly toward her destination.

Crossing familiar fields with stubble of harvested wheat, she reached the point from where water was supplied to the fields. The watercourse was not very wide. Glancing around for the night watchman, she lifted her *shalwar* well above her ankles and jumped across like a gazelle, landing safely on the other side.

The soft thud of her landing startled Mahmud and he quickly raised his head. Hidden behind a thicket, he had been waiting anxiously, for he was aware of the perils en route. A smile, warm and gentle, appeared on his lips as he saw her. He came quickly out of the thicket. Greeting her lovingly, he took the bundle from her.

"I wasn't sure that you would come," he said softly.

Instead of replying immediately, she looked at him coyly for a few moments, then said: "Why can't you have faith in my love? You should be ashamed of yourself." She looked at him intently, forgetting momentarily that she was still in the peril of death.

Her coquetry pleased him immensely, for she was young, healthy and very attractive. She was dressed simply but elegantly, her hair tied back in a tight knot.

Smiling broadly, he replied: "Yes I am ashamed... But there is plenty of time to talk." He took her hand and added "Let's go or we'll be slaughtered."

"What's the hurry?" she enquired, looking lovingly into his eyes. "The whole village is asleep."

"But we have a long way to go," he reminded her. He was more conscious than she of the dangerous situation they were in.

He took a deep breath and, suppressing all the intoxicating ideas her nearness had aroused in him, told her that he had a fast horse which would take them away from the village. He wanted to reassure her that he had planned this union meticulously.

"Really? Where is it?" she asked quickly, pleased. She knew that Mahmud could not afford a horse. "Where did you get it? You must be joking".

"By God, I'm serious. It's there, across that bush, tied to a tree," he pointed.

"But whose is it?" she asked.

"Qadir Khan's... You know him... My cousin. I've stolen it temporarily", he laughed softly. She joined in his laughter, then asked mischievously: "Where do you plan to take me... permanently? Do you really have some sanctuary or do you plan to drag me hither and thither, like the nomads?"

"No, no. I have a place where we can be safe...a friend's house up north", he replied confidently: "Come on, let's go".

Hand in hand, whispering and laughing, they entered the bush. She heard the neighing of a horse. So Mahmud had spoken the truth, she thought. Mahmud untied the horse, and patted it lovingly. The spirited horse responded by whisking its tail right and left and quivered restlessly.

Mahmud picked up Hakima and placed her gently on its back. Then he mounted the horse, holding Hakima firmly with one hand and the reins with the other. They began to move slowly toward the road leading away from the village.

Within minutes, the horse's speed increased and began to break the barriers of distance just as these two lovers had broken the ties and barricades of their society and fraternity. The young lovers huddled together, feeling each other's nearness and warmth, lost in their thoughts.

Having travelled for some time, they reached the well-trodden footpath of Jamrao and then Prcetabad, Pabangaon, Vadera Gulan Jo Goth.

By now the night had begun to retreat. A slight breeze was awaking from its slumber. The sleepy leaves of the trees on the banks of Jamrao were trembling under the weight of the dew. The leisurely flowing water of Jamrao was stretching its limbs in an effort to wake up.

"How far have we to go?" asked Hakima in a tired voice, "Haven't we travelled enough?"

"We have to travel a lot yet," Mahmud replied.

"The sun is about to rise—Then?"

"Then what? Don't worry. Nothing will happen, for I am travelling with my family," he reassured her confidently. "Family?" she began blushing, but Mahmud interrupted her immediately.

"Sh!" Placing his forefinger on his lips, he stopped her softly. He pulled in the reins of the horse and strained his eyes to spot the people who must have been following them. He had distinctly heard either hooves or footsteps.

After a brief pause, he said: "They're coming from the north. Listen to their voices".

She shivered. "My God!" Her heart had begun to pound madly.

"It's not yet dawn. People may suspect," he said, and leaving the footpath, he turned the horse toward the nearby thickets, which seemed an ideal place to hide.

Slowly, the intensity of voices increased and through the leaves he saw several people. They were approaching the thicket. And as luck would have it, the moment they came near, the horse neighed.

"Looks like *baidars*!" he whispered, for he could feel that Hakima was terrified. He also tried to calm down the excited horse. But it was too late, for the diggers had already heard the neighing of the horse. Startled, one of them shouted, "who's there?" He was greeted by silence.

"Who are you? Why don't you answer?" came another man's voice, a sterner one. In reply, Mahmud jerked the reins and set the horse at full gallop.

"You swine, you robber, you cannot escape us", they all began to chase the fugitives, shouting at the top of their voices. "Thief, thief—robbers, robbers."

Within minutes the surroundings reverberated with the shouts of excited men, mingled with the noise of the galloping horse's hooves, shattering the stillness of the night. It awakened villagers in the nearby hamlet and they joined in the chase, some on foot, others on horses, with axes, clubs, sticks, guns—all screaming, shouting, threatening.

Very soon Mahmud realized that his exhausted horse was losing strength. Before he could decide what to do next, it slipped and fell

on its knees, throwing Mahmud and Hakima almost at the feet of their pursuers.

"How far will you run, you scoundrel?" shouted someone dressed in white. He dismounted and thundered, "surrender, you rascal, and lay down your axe." Then someone else threatened, "are you throwing your axe or...?" Before he could finish, Mahmud discarded his axe in submission. Next moment, his turban was snatched away and someone slapped and kicked him. "So you are eloping with a girl? Get up and start walking". Mahmud meekly picked up his turban and turned to go with them. Next instant came another order, "O you *kamdar*, get hold of that shameless bitch by her hair and drag her along with this swine."

Then another voice said: "Don't be rough with her. Just grip her arm and bring her to the *Sam's*" place." The suggestion was accepted and they all began to walk.

By the time this strange procession of the hunters and the hunted reached the village, the sun had risen. The sky was bright with a soft bluish haze. One could hear the sound of tractors working the fields.

Soon the *olaq*" of Rais Ahmad Khan was filled with turbans from one end to the other. In their midst, sat the *vadera*" majestically. Between his fingers was an expensive brand of cigarette. Facing him on the floor sat Mahmud and Hakima. All round them were hostile faces, with smouldering eyes.

"Horrible days have come," someone commented, shaking his head right and left, "every now and then one hears of some wretched girl eloping with her lover. Isn't it shameful?"

"Had *Sain* and his *kamdars* not arrived in the nick of time, these bastards would have escaped," said his neighbour.

"How far could they go? And where could they go? Had we missed them, someone from the next village would surely have caught them".

Rais Ahmad Khan suddenly roared, "let's begin with this swine. Teach him a lesson and then hand over the girl to her family, to dispose off as they wish." Complete silence followed. Taking advantage of it, Mahmud pleaded, ">Sfl;n...please, for God's sake, forgive and release us."

"You have eloped with this girl, haven't you?" Thundered Rais Ahmad Khan violently, thumping a foot on the ground.

"Yes, *Sam*" confessed Mahmud.

"Girl, what's the name of your village?" This time the question was directed at Hakima. But Mahmud replied instead, "please, please, *Sain*, forgive us".

"Can't you shut up, you scoundrel?" Rais Ahmad Khan shouted and began to abuse him. Then Mahmud went forward and quickly placed his turban at the *vadera*'s feet. Taken by surprise, Rais Ahmad Khan drew back his feet, for a sort of shiver went through him. Raising his head, he closed his eyes and began to ponder the lost traditions of Sind.

'My father had released Janu Machi *Daku*, the notorious robber' he thought, 'and what am I going to do now?' He was in a quandary, for in those moments, like lightning, the tradition of

giving shelter to those who asked for it and came back to him, crossing the gap of generations and time.

"This fellow has acknowledged his guilt, accepted his defeat... The curse of God be on you, Rais Ahmad Khan, if you don't release him", he thought.

That settled it. He decided to act in the tradition of his ancestors. Opening his eyes, he took a long puff of his cigarette and then inhaling the smoke, shouted: "*Kamdarl!*"

"Yes *Sam*," the serf close to him replied obediently.

"What should I do now?" he asked as if he was trying to find an excuse to justify his action.

"You are enlightened and wise and omnipotent, *Sain*. What you decide will be the best for everyone".

Rais Ahmad Khan gazed pensively first at Mahmud and then at Hakima, who was very pale and looked like a frightened kitten, which discovers itself surrounded by howling wild dogs. The *vadera* once again turned to Mahmud and asked: "What's your name"?

"Mahmud," the youth replied quickly.

"You can go now, Mahmud. I set you both free. If you wish, you can stay here till evening. Then all the roads will be open and safe."

At that the faces of the two lovers became suffused with pleasure. The reprieve had come like a shaft of sunlight through thick dark clouds on a wet day.

As the night deepened and the roads and fields began to look deserted, Mahmud and Hakima sneaked out of Rais Ahmad Khan's village and once again began walking toward Jamrao. With them, the dark, lonely night also began to move toward dawn and slowly a great part of it fell off silently, like the ashes of a cigarette.

"Tired?" Mahmud asked after a while, with love and concern in his voice.

"Yes, but what's the alternative?" she replied ruefully.

"We've almost reached our destination. It isn't more than three miles now," he tried to encourage her.

They had crossed the footpath which ran parallel to Jamrao and were now moving toward Wasna Khan's village. Exhausted and depressed, they reached a silent dark house.

"Wasna...Wasna!" Mahmud called cautiously. His husky voice went through the gentle breeze like a fast moving arrow. It was followed by a pause, pregnant with apprehension. Then a drowsy voice replied: "Who's there?"

"It's Mahmud. Please open the door," the youth replied, pressing Hakima's hand gently to convey that they were now safe.

The moment Wasna heard Mahmud's name, he got up quickly and came out of the house. "What a surprise, Mahmud! I hope everything's all right," he said anxiously and then stopped, as he saw the girl standing behind Mahmud.

"Don't worry. Everything's all right. Look, I've brought a *Bhab'i* for you.... Meet your sister-in-law... Hakima." He introduced the girl, who was a little reassured by their welcome.

"Please", Wasna replied: "Please come in... come in."

He took them into the house. His wife was sleeping in the courtyard. She had been disturbed by the noise, but was still in bed. Wasna woke her up, whispering:

"Get up. Guests have come."

"Guests?" She asked drowsily, opening her eyes.

"At this odd hour?" She got up, however, rearranged her clothes, covered her head with her *dupatta* and came to where the two lovers were standing. When she recognized Mahmud, she went forward and greeted him with bowed head. Mahmud placed his hand on her head lovingly and blessed her. Then she went to Hakima and scrutinized her closely from head to feet.

"Come in, sister," she invited her. They went into another room. Spreading a small *dan* on the floor, she asked Hakima to sit down. Then she went to the hearth and pushed in a few pieces of dry chopped wood and sprinkling kerosene oil, threw a lighted match on them. With a hiss, the flame leaped suddenly like a snake and began to flicker, quickly covering the hearth with fire.

The first two days passed peacefully in the sanctuary of Was-na's house. The third one was also slipping past uneventfully, when they were suddenly startled by the neighing of horses outside Wasna's house. A powerful *vadera* of the area had arrived with his entourage.

Wasna Khan went out of the house to greet him respectfully. He took the rein of his horse to tie it to a tree.

But before he could do that, the *vadera* growled, "Wasna, first listen to me and then take away my horse". His tone was so harsh and the voice so loud and dry that every word pierced Wasna's heart.

"I am listening, *Sam*. But first you must rest and honour me by having food and then we can talk. There is plenty of time for that," Wasna replied respectfully, showing great presence of mind and tact.

His haughty uninvited guest hesitated for a moment, then decided to comply. He went into the *otaq* and sat down with annoyance written all over his face. Meanwhile, Wasna sneaked away to the room at the other end of the house, where the two fugitives were staying.

"Come ...quick," he whispered, "leave the house immediately ...there's a back door." Alarmed, they rushed out.

Thus once again they were on the road. This time, destination unknown. Although Mahmud had lost his horse, he still had his axe and Hakima with him, thank God. From then onwards, like hunted fugitives, they ran from one place to another, looking for refuge. By night, they were completely exhausted and did not know what to do or where to go, for slowly and steadily all their escape routes were being blocked, their wings being systematically clipped. The *vadera's* men had spread everywhere and seemed determined to catch them. Tired and lost and depressed by the hopelessness of their situation and the frightening future which lay ahead, they stopped to rest one night under a huge, shady *peepal* tree. The night was pitch dark and quiet, and

a cool breeze swirled around them. Dazed with misery and their utter helplessness, Hakima asked feebly: "What will happen now?" She was weary of this dangerous hide and seek.

"I don't know," he replied gloomily and sounded as if they had reached the end of their journey.

"If there isn't any hope, then why not retrace our steps? Let's go back....home," she suggested sarcastically. The venom in her tone was obvious.

"Don't be crazy," he replied, for he knew that door was closed forever. But was any door open for them now?

"If we have to die eventually, then why not in our homes?" she asked in despair.

"Sh...Quiet." he stopped her abruptly, for he had heard a noise. With every nerve and muscle in his body tense, he strained his ears to hear what sounded either like footsteps or hooves of the horses. The events of the past few days had made him very nervous. Supposing what he had heard were actually footsteps..., what then, he mused.

'How can I deliver her to others, when she has now become my honour? Maybe her parents, instead of killing her, will marry her off quietly to someone else—No. I will not allow them to do that. She is mine...mine—mine and will always remain mine. They can't catch her before killing me. But if they do, then?' He shuddered at the thought of what they would do to her.

He pursed his lips and heaved a deep-exasperated sigh.

"Had I known that...!" she began 'dismally but stopped, for Mahmud looked so utterly sad. "After all, we have to go somewhere. We can't stay here all night," she tried to explain.

"Yes, I agree. But we can't leave," he declared firmly.

"Then?" she cut in quickly in a voice, which was perilously close to tears. Her mind filled with horrible possibilities. She had heard many terrifying tales and, in that moment, all of them came back to her with renewed intensity.

They were lost in their thoughts or they would have seen the fires, which raged in their minds, reflected on their faces. With pounding heart she gazed at him, not realizing the struggle, which was going on inside him. Suddenly his expression changed, as if he now knew what to do.

He picked up his axe slowly.

"Why?" She asked, feeling weak in the knees.

"Do as I say," he coaxed her gently.

"Mahmud!" she said in a choked voice. Nevertheless, she obeyed him. He wiped the perspiration from his forehead and followed her. Then stopping near the bank of the river, he lay down on the ground and drank water as animals do. He got up slowly, removed the *dupatta* from her head and wrapped it gently around her. Then, like lightning, his axe went up and before Hakima could even utter his name, it came sideways straight at her neck. Almost instantly, her head flew from her body and fell into the restless waters of the Jamrao.

The next moment he screamed: "Hakima!" and vanished into the water, which, moments ago, had devoured her.

Tr. by Anwar Inayatullah

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#### **DISCUSSION POINTS**

- **Why female education is important and how denial of such a right can affect women's life? Discuss in the light of article 1 of UDHR.**
- **Analyze the story in view of Articles 12-19 of UDHR?**
- **What cultural constraints do you find in the story 'Weeping Darkness' that hinder effective implementation of individual/specific rights?**

#### **SUGGESTED READING**

**Les misérables** by Victor Hugo, *France*

**Oliver Twist** by Charles Dickens, *England*

**Uncle Tom's Cabin** by Harriet Beecher Stowe, *United States*

**Burmese Days** by George Orwell, *England*

1.9.4 Poems by Faiz Ahmad Faiz

**THE MORNING OF FREEDOM**

This light, this night bitten dawn-  
This is not the dawn we yearned for,  
This is not the dawn for we set out  
Hoping that in the sky's wilderness

We would reach the final destination of the stars.  
Surely, the night's turgid sea will breathe its last  
On the inevitable shore.

Surely, the boat of heart's agony will somewhere  
Come to a stop.

The enigma of youthful blood-reductive hands-  
So many forsaken loves- plaintive looks.  
But irresistible was the radiant face of dawn

Even though love and beauty were within our reach.  
The subtle sorcery of desire- the aching tiredness.

They say that the darkness has been severed from light  
They say that goal has been achieved  
The predicament of the grief-stricken  
Has radically changed-  
Ecstasy of union is allowed

And the torment of separation forbidden.  
Torn nerves, glazed eyes, hearts on fire-

There is no cure for the disease of separation.  
From where did the morning breeze come  
And where did it go?

The earthen lamp shrugs its head in despair;  
The night is as oppressive as ever.

The time for liberation of heart and mind  
Has not come as yet.  
Continue your arduous journey;  
This is not your destination.

Translation by Daud Kamal

## **IF YOU LOOK AT THE CITY FROM HERE**

By Faiz Ahmad Faiz

If you look at the city from here  
You see it laid out in concentric circles,  
Each circle surrounded by a wall,  
Exactly like a prison.

Each street is a dog-run for prisoners,  
No milestones, no distinctions, no way out.  
If anyone moves too quickly you wonder  
Why he hasn't been stopped by a shout.  
If someone raises his arm  
You expect to hear the jangling of chains.

If you look at the city from here  
There is no one with dignity,  
No one fully in control of his senses.

Every young man bears the brand of criminal,  
Every young woman the emblem of a slave.  
You cannot tell whether you see  
A group of revelers or mourners

In the shadows dancing around the distant lamps,  
And from here you can not tell  
Whether the colour streaming down walls  
Is that of blood or roses.

Translation by Naomi Lazard

### **DISCUSSION POINTS**

- **The Morning of Freedom** – illustrates the concept and significance of freedom?
- **If you look at the city from here** – touches the value of dignity?
- **Is democracy important for fundamental freedom and rights?**
- **What are political and civil rights and how are these related to the concept of freedom?**
- **What is human dignity and how is it related to human rights?**
- **How would you define rights to life, liberty and security of person?**
- **Is not having freedom of expression akin to slavery and servitude?**

### **FURTHER READING**

*Cry, the beloved Country* by *Alan Paton, South Africa*

*Ahmed Nadeen Qasmi*

*Iqbal: shiqwa Juwab e Shiqwa*

## GLOSSARY

**Treaty:** A formal pact between two or more states.

**Ratification:** Procedure by **which** a state signifies its willingness to be bound by a treaty.

**Declaration:** A Document prepared by legal representatives of different governments expressing common grounds on a particular issue by laying down a set of aims, objectives and principles. The content of a declaration is more of a moral obligation than a legally binding set of rules and regulations.

**Convention:** An Agreement document between States; A form of treaty, which is by and large multilateral. It is binding only on the States that are signatories to it and have formally agreed to be legally bound by it.

**Covenant:** A form of formal pact (treaty); a document agreement between States.

**Resolution:** Text adopted through a decision-making process expressing firm intention on a given subject. It is binding on the body that adopts it, for example, resolutions by the United Nations General Assembly are legally binding upon the states that have adopted them.

**Protocol:** A formal document such as (a) A forms of treaty or convention. (b) Optional and/or additional text that does not modify or supplement a treaty.

**Democracy:** A political system based on a set of values and a process that seek full participation of the people in the political, social, cultural and economic life of a state. It professes, among other things, a free and regular electoral system and the separation of powers among the judiciary, the legislature and the executive authorities. **It has an important relevance with the concept of human rights as this is the system that is rooted and has stemmed out of basic rights of human beings.**

**Subject of Law:** A legal term considering all human beings as beneficiaries and bound by the law (national and international).

**Non-Governmental Organization:** These are the organizations that work independently of governments, in order to maintain objectivity. They act as watchdogs and are by and large international organizations that work to achieve social, economic, political and cultural betterment of human beings.

**Apartheid:** Origins from the Afrikaans word meaning 'separateness'. It is a systematic form of institutionalized racial discrimination and segregation of any racial group regardless of the fact whether they are in majority number or are a minority group.

## LIST OF ABBREVIATIONS

UDHR	Declaration of Human Rights, 1948
UN	United Nations
DRC	Declaration of the Rights of the Child, 1958
CRC	Convention on the Rights of the Child, 1989
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
UNESCO	United Nations Educational, Scientific and Cultural Organization