

UNIVERSAL DECLARATION OF HUMAN RIGHTS (NHRC)

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ABSTRACT

Introduction: *The Universal Declaration was adopted by the General Assembly of the United Nations on 10 December 1948. Motivated by the experiences of the preceding world wars, the Universal Declaration was the first time that countries agreed on a comprehensive statement of inalienable human rights.*

Objectives: *The aim of the paper are to know about the fundamental rights of UDHR, To describe the various function of National Human Right Commission and To analysis the role of Judiciary related to UDHR.*

Methodology: *To fulfill this objectives researcher used empirical and rational. Moreover, following philosophical studies of its secondary data it is mainly helped by television, newspaper, book, journal, research paper, internet (web resources) and discussion of the people related to the issue.*

Conclusion: *Finally, Human rights are basic fundamental rights which are integral part for the development of human being in the absence of which person cannot live life with dignity.*

Keywords: *Universal Declaration of Human Rights, General Assembly, National Human Right Commission etc.*

1. INTRODUCTION

"Freedom means the supremacy of Human Rights everywhere. Our support goes to those who struggle to gain those rights and keep them. Our strength is our unity of purpose. To that high concept there can be no end save victory".

- Franklin D. Roosevelt

1.1 Concept of Universal Declaration of Human Rights (NHRC):

Human rights are essential for the overall development of individuals. The Constitution of India makes provisions for basic rights also known as Fundamental Rights for its citizens as well as for aliens. A distinction is made between Specific Fundamental Rights and Unspecified Fundamental Rights. The rights enshrined in the

Constitution also at times are at par with the International Covenant on Civil and Political Right (ICPPR) which is an international treaty. The ICCPR is applicable to States rather than to individual.

Therefore, rights enshrined therein become the obligation of a state only when they have been incorporated in the States internal law.

After the Universal Declaration of Human Rights by the UN General Assembly on December 10, 1948, the concept of Human Rights assumed a significance of its own though earlier than this, International Labour Organisation in 1920 also initiated the Conventions on the rights of workers to form unions and organisations, abolition of forced labour and right to collective bargaining.

The UN Charter in 1945 affirmed faith in the fundamental human rights and appointed a Commission on Human Rights under Mrs. E. Roosevelt. This declaration was the outcome of the latter deliberations A.A. Said aptly remarked the concept of Human Rights may be difficult to define but impossible to ignore. The Human Rights are concerned with the dignity of the individual the level of self esteem that secures personal identity and promotes human community.¹

1.2 As defined by OHCHR:

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.²

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

2. LITERATURE REVIEW

“Human Rights in the United Nations” by Zakiyyu Muhammad³ in his article evaluates the extent of the promotion and protection of human rights by the local legislations that are directly or indirectly influenced by the UN conventions.

¹ AnshArora , Interpretation of Human Rights In India Available at: <http://www.legalserviceindia.com/legal/article-1200-interpretation-of-human-rights-in-india.html#:~:text=In%20Keshavnanda%20Bharati%20v.,time%20the%20Constitution%20was%20adopted.> (Last Visited on August 10, 2020).

²Available at: <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx#:~:text=Human%20rights%20are%20rights%20inherent,all%20interrelated%2C%20interdependent%20and%20indivisible> (Last Visited on August 10, 2020).

“The Evaluation of Human Rights: An Overview in Historical Perspective” by Md. Kamruzzaman⁴ in his article describe the A new world order came into being out of the ashes of the World War II in 1945, putting respect for human rights alongside peace, security and development as the primary objectives of the United Nations.

3. OBJECTIVES

The main objectives are to be stated as following:

1. To know about the fundamental rights of UDHR.
2. To describe the various function of National Human Right Commission.
3. To analysis the role of Judiciary related to UDHR.

4. METHODOLOGY

It has been mainly used by empirical and rational. Moreover, following philosophical studies of its secondary data it is mainly helped by television, newspaper, book, journal, research paper, internet (web resources) and discussion of the people related to the issue.

5. ANALYSIS

5.1 Fundamental Rights of UDHR

UDHR Preamble

The UDHR begins with a preamble. Think of a preamble in terms of a book’s introduction: it explains the Declaration and sets out its underlying values. Rene Cassin, the French member of the drafting commission, compared the Preamble to the steps leading up to a house.

It is a vital part of the UDHR because it places it within a historical context, and explains what it meant to the 48 countries that ratified the document back in 1948 (the UN had 58 members at the time).⁵

³ Zakiyyu Muhammad, “Human Rights in the United Nations” 6 *JETIR* (2019).

⁴ Md. Kamruzzaman, “The Evaluation of Human Rights: An Overview in Historical Perspective”, 3 *American Journal of Service Science and Management* 5-12(2016).

⁵ Universal Declaration of Human Rights, 1948 Available at: http://www.legalserviceindia.com/articles/ud_human_rights.htm (Last Visited on August 10, 2020).

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

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

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

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

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

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

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

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

The Universal Declaration of Human Rights

The UDHR contains 30 articles, and covers the most fundamental rights and freedoms of people (collectively and individually) everywhere in the world. The articles can be divided into 6 groups. The Preamble, remember, is like the steps leading to a house.

- **Articles 1 and 2⁶** are the foundation blocks on which the UDHR is built. They reaffirm human dignity, equality and brotherhood.
- **Articles 3-11⁷** are the house’s first column. They are the rights of the individual: the right to life, outlawing of slavery or torture, equality before the law, the right to a fair trial etc.

⁶ Art. 1 and 2 Universal Declaration of Human Rights, 1948

- **Articles 12-17⁸** are the second column. These are the rights of individuals within civil and political society. They include freedom of movement, the right to a nationality, the right to marry and found a family, as well as the right to own property.
- **Articles 18-21⁹** are column number three. They are the spiritual and religious rights of individuals, such as freedom of thought and conscience (i.e. religion), the right to your own opinion, the right to peaceful assembly and association, and the right to vote and take part in government.
- **Articles 22-27¹⁰** are the final column to the UDHR house. They are the social, economic and cultural rights of the individual. They include the right to work, the right to rest and leisure, the right to a decent standard of living, and the right to education.
- The final three **articles, 28-30¹¹**, are the pediment that binds these four columns together. They remind us that rights come with obligations, and that none of the rights mentioned in the UDHR can be used to violate the spirit of the United Nations (Remember: the Preamble, or steps to the house, establishes this spirit).

5.2 National Human Rights Commission

It is the State's primary responsibility not only to protect the human rights of the people from any violation but also the prevention of such violations by providing the requisite means for its realization and further ensuring human development. State discharged such responsibility through its institutions. So at national level, National Human Rights Commission was established under the Protection of Human Rights Act of 1993 to fulfill this responsibility.¹²

Section 3 of the Act provides for the composition of National Human Rights Commission. Commission is composed of a Chairperson and four other members. In order to provide representation to the backward and oppressed sections of the society, besides these members, the chairmen of the National Commission for Minorities, the National Commission for SCs, the National Commission for STs and the National Commission for Women are given ex-officio membership of the Commission

The functions of the National Human Rights Commission are provided under Section 12, from the perusal of Section Commission performs various functions which are as follow:-

- a) Inquire into the cases of violation of human right suo motu, on petition presented to him or on the direction of the Court.

⁷ Art. 3-11 Universal Declaration of Human Rights, 1948

⁸ Art. 12-17 Universal Declaration of Human Rights, 1948

⁹ Art. 18-21 Universal Declaration of Human Rights, 1948

¹⁰ Art. 22-27 Universal Declaration of Human Rights, 1948

¹¹ Art. 28-30 Universal Declaration of Human Rights, 1948

¹² Amartish Kaur, "Protection of Human Rights In India: A Review", *Jamia Law Journal* (2017).

- b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
- c) Visit into any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and to make recommendations thereon to the Government;
- d) Conduct a systematic review of the Government's human rights policy in order to detect shortcomings in human rights observance and to suggest ways of improvement. The National Human Rights Commission has been doing this task by commenting on the draft legislation, drawing the attention of the Government to the lacuna in the existing law and forming a human rights policy for the nation according to the local needs.
- e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- f) Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- g) Undertake and promote research in the field of human rights.
- h) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means.

5.3 Role of Judiciary

Only provision for the fundamental rights does not fulfill the objective of 'protection of dignity of an individual', but free enjoyment of the rights has to be ensured. Therefore, Article 32 guarantees right to constitutional remedies, i.e. right to move to Supreme Court to enforce fundamental rights.

It is constitutional mandate of judiciary to protect human rights of the citizens. Supreme Court and High Courts are empowered to take action to enforce these rights. Machinery for redress is provided under Articles 32 and 226 of the constitution. An aggrieved person can directly approach the Supreme Court or High Court of the concerned state for the protection of his/her fundamental rights, redress of grievances and enjoyment of fundamental rights. In such cases Court are empowered to issue appropriate order, directions and writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-Warranto and Certiorari.

Judiciary is ultimate guardian of the human rights of the people. It not only protects the rights enumerated in Constitution but also has recognized certain unenumerated rights by interpreting the fundamental rights and widened their scope. As a result people not only enjoy enumerated rights but also un-enumerated rights as well.

Supreme Court in *Maneka Gandhi v. Union of India*,¹³ interpreted the right to life and to widen its scope and deduced un-enumerated right such as “right to live with human dignity”. Supreme Court propounded the theory of “emanation” to make the existence of the fundamental right meaningful and active. Thereafter, in many cases court such as *People's Union for Civil Liberties and another v. State of Maharashtra and others*,¹⁴ *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*¹⁵ held that right to life includes right to live with human dignity. Therefore, through the judicial interpretations various rights have been recognized though they are not specifically provided in Part III of the Constitution.

The rule of locus standi, i.e. right to move to the court, whereby only aggrieved person can approach the court for redress of his grievances has been relaxed by the judiciary. Now court through public interest litigation permits public spirited persons to file a writ petition for the enforcement of rights of any other person or a class, if they are unable to invoke the jurisdiction of the Court due to poverty or any social and economic disability. In *S.P. Gupta v. Union of India and others*,¹⁶ Supreme Court held that any member of the public can approach the court for enforcing the Constitutional or legal rights of those, who cannot go to the court because of poverty or any other disabilities. Person can even write letter to the court for making complaints of violation of rights. Public interest litigation is an opportunity to make basic human rights meaningful to the deprived and vulnerable sections of the community. To assure vulnerable section social, economic and political justice, any public spirited person through public interest litigation can approach the court to protect their rights on behalf of aggrieved persons who cannot approach the court themselves due to their vulnerable conditions. Similar observations have been made by Supreme Court in various judgments such as in *Bandhua Mukti Morcha v. Union of India*,¹⁷ *Ramsharan Autyanuprasi and another v. Union of India and Others*,¹⁸ *Narmada Bachao Andolan v. Union of India*.¹⁹ Therefore, public interest litigation has become the tool for the protection of human rights of the people in India.

The oppressed sections of the society are more prone to the violation of human rights. Most vulnerable sections of society are children, women and socially and educationally weaker sections of society. Judiciary has taken many steps to ensure protection of human rights of these sections.

Children are more prone to exploitation and abuse. The rights of the children are needed to be specially protected because of their vulnerability. For this reason United Nations Convention on the Rights of the Child was adopted in 1989²⁰. This convention brings together children’s human rights, as children require safety and

¹³ AIR 1978 SC 597.

¹⁴ 2014 (10) SCC 635.

¹⁵ (1981) 2 SCR 516.

¹⁶ AIR 1982 SC 149

¹⁷ (1984) 2 SCR 67.

¹⁸ AIR 1989 SC 549.

¹⁹ (2000) 4 SCJ 261.

²⁰ Available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (Last visited on August 10, 2020)

protection for their development. Judiciary is playing a commendable role in protecting the rights of children from time and again.

There are various instances where judiciary intervened and the rights of children. In the case of *Labourers working on Salal project v. State of Jammu and Kashmir*²¹, Supreme Court held that child below the age of 14 years cannot be employed and allowed to work in construction process. Court has issued various directions related to child labour. *Supreme Court in Vishal Jeet v. Union of India*²² asked governments to setup advisory committee to make suggestions for eradication of child prostitution and to evolve schemes to ensure proper care and protection to the victim girls and children. The Supreme Court further in *Gaurav Jain v. Union of India*²³ showed its concern about rehabilitation of minors involved in prostitution and held that juvenile homes should be used for rehabilitation of them and other neglected children.

*Mumbai High Court in Public at large v. State of Maharashtra*²⁴ rescued children from flesh trade and passed order for checking sexual slavery of children and for their rehabilitation. Children are not only prone to sexual abuse but they are also sometimes kept as bonded labourers as was in the case of *People's Union for Civil Liberties (PUCL) v. Union of India*²⁵ where the Supreme Court released child labourers and also ordered for grant of compensation to them. Concern of the Supreme Court about the protection of rights of children does not ended here it reiterated the importance of compulsory primary education vis-a-vis eradication of child labour in the case of *Bandhua Mukti Morcha v. Union of India*.²⁶

Supreme Court in *Sakshi v. Union of India*²⁷ highlighted the need to establish procedure that would help the child victim to testify at ease in the court and held that proceedings should be held in cameras. *Delhi High Court in Sheba Abidi v. State of Delhi*²⁸ observed that child victims are entitled to get support person during trial and also established that child victims can testify outside the court environment.

Therefore, Judiciary is playing a crucial role in the protection of the human rights of the people from time and again by expanding the scope of the rights and recognizing new rights with the need of time. Judiciary has expanded the scope of right to life to include entitlements which are vital for the enjoyment of right to life with dignity. Courts have protected right of the people in numerous cases whether it is a right against violence in custody, to live in a pollution free environment, right to health, right to adequate wages of the workers, safety of the women at workplace, compensation to rape victim and rights of the child labourers and so on.

²¹ AIR 1984 SC 117.

²² 1990 (3) SCC318.

²³ 1997 (8) SCC 114.

²⁴ (1997) 4 Bom CR 171.

²⁵ 1998(8) SCC 485.

²⁶ (1997)10 SCC549.

²⁷ AIR 2004 SC 3566.

²⁸ 113(2004) DLT 125.

6. CONCLUSION AND SUGGESTIONS

Human rights are basic fundamental rights which are integral part for the development of human being in the absence of which person cannot live life with dignity. Constitution of India protects the fundamental rights or human rights of the people, provisions for the same have been made not only in the Articles of the Constitution but in fact Preamble also talks about the fundamental freedoms and protection of the dignity of the individual. The Indian Judiciary had even relaxed the rule of *locus standi* for the protection of human rights which paved the way for the development of the concept of Public Interest Litigation. Through public interest litigation various incidents of violation of human rights had been put before the Courts. Courts protected the rights of women, workers, children, prisoners and so on. Thus judiciary is playing a role of savior of the human rights of the people so that each individual can live with dignity. Protection of human rights is important issue of concern throughout the world various international instruments have been incorporated for the protection of human rights and on the basis of the provisions of the international instruments, national endeavors have been made such as enacting the Protection of Human Rights Act 1993. Provisions have been made under the Act for the establishment of the National Human Rights Commission as well as State Human Rights Commission in various States and it also provides for the constitution of Human Rights Courts at the district level so that the justice can be provided to the victims of human rights violation at every level. Since the establishment of the National Human Rights Commission it has been playing a commendable task in protecting the human rights of the people and it also gave monetary relief to the victims and to their families. Although some amendments are necessary to be made in the Act and for the same some following suggestions have been made if such changes may be made then it can strengthen the position of the human rights commission and it would be possible to achieve the objectives of the Act easily.

- a) With regard to personnel and financial matters the National Human Rights Commission must be made independent body, as it has to look towards the Government. It should be provided with its own staff for investigation of cases instead of keep it dependent on police department and such other officials, as may be necessary for the efficient working of the Commission.
- b) The National Human Rights Commission may be empowered to observe the decisions of the Supreme Court for protecting Human Rights and if there is any delay or failure in the implementation of such decisions, it can be brought before the Supreme Court of India for taking further adequate actions.
- c) In schools as well in colleges one compulsory subject can be introduced in which students may study about human rights.
- d) Provision can be made for the conduct of seminars in every district each month for educating people about their human rights and the protections granted by Constitution as well as under the Act of 1993.

BIBLIOGRAPHY

Authors:

1. Amartish Kaur , “Protection of Human Rights In India: A Review”, *Jamia Law Journal* (2017).
2. AnshArora , Interpretation of Human Rights In India Available at: <http://www.legalserviceindia.com/legal/article-1200-interpretation-of-human-rights-in-india.html#:~:text=In%20Keshavnanda%20Bharati%20v.,time%20the%20Constitution%20was%20ado> pted. (Last Visited on August 10, 2020).
3. Md. Kamruzzaman, “The Evaluation of Human Rights: An Overview in Historical Perspective”, 3 *American Journal of Service Science and Management* 5-12(2016).
4. Zakiyyu Muhammad, “Human Rights in the United Nations” 6 *JETIR* (2019).

Article

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4. Art. 18-21 Universal Declaration of Human Rights, 1948
5. Art. 22-27 Universal Declaration of Human Rights, 1948
6. Art. 28-30 Universal Declaration of Human Rights, 1948

Cases Laws:

1. *Bandhua Mukti Morcha v. Union of India*, (1984) 2 SCR 67.
2. *Bandhua Mukti Morcha v. Union of India*, (1997)10 SCC549.
3. *Delhi High Court in Sheba Abidi v. State of Delhi*, 113(2004) DLT 125.
4. *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi* , (1981) 2 SCR 516.
5. *Gaurav Jain v. Union of India*, 1997 (8) SCC 114.
6. *Labourers working on Salal project v. State of Jammu and Kashmir*, AIR 1984 SC 117.
7. *Maneka Gandhi v. Union of India* , AIR 1978 SC 597.
8. *Mumbai High Court in Public at large v. State of Maharashtra*, (1997) 4 Bom CR 171.
9. *Narmada Bachao Andolan v. Union of India* (2000) 4 SCJ 261.
10. *People's Union for Civil Liberties (PUCL) v. Union of India*, 1998(8) SCC 485.
11. *People's Union for Civil Liberties and another v. State of Maharashtra and others*, 2014 (10) SCC 635.
12. *Ramsharan Autyanuprasi and another v. Union of India and Others*, AIR 1989 SC 549.
13. *S.P. Gupta v. Union of India and others*,AIR 1982 SC 149
14. *Sakshi v. Union of India*, AIR 2004 SC 3566.
15. *Supreme Court in Vishal Jeet v. Union of India*,1990 (3) SCC318.

Websites

1. http://www.legalserviceindia.com/articles/ud_human_rights.htm
2. <http://www.legalserviceindia.com/legal/article-1200-interpretation-of-human-rights-in-india.html#:~:text=In%20Keshavnanda%20Bharati%20v.,time%20the%20Constitution%20was%20adopted>
3. <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
4. <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx#:~:text=Human%20rights%20are%20rights%20inherent,all%20interrelated%2C%20interdependent%20and%20indivisible>

