

Analysis of Civil Liberties: A Review

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ABSTRACT: Civil liberties, or Fundamental Rights as they are known in India, are the fundamental rights granted by governments to its citizens. Civil liberties safeguard an individual's interests from others or the government by ensuring fundamental but important rights such as freedom of speech and expression, religion, assembly, privacy, and security. In India, the Fundamental Rights Act gives a person the ability to file a complaint with the High Courts and the Supreme Court if his fundamental rights are being violated. Civil liberties guarantee that the state functions smoothly and that order is maintained since everyone's rights are respected until they infringe on the rights of others. The authors of this article attempted to demonstrate the significance of civil liberties by comparing the position of civil liberties as promised for the first time in the Magna Carta of 1215 to the current status of Fundamental Rights that both governments and international organizations such as the United Nations promise to an individual. A number of instances listed in this article demonstrate how, at regular intervals, the judiciary has stepped in to protect an individual's civil freedoms from being invaded arbitrarily. This article also looks at the worldwide situation in terms of civil rights and their current global position, as well as how different countries safeguard their citizens' interests. An examination of the situation in key nations such as the United States, France, and China aids in the development of a deeper knowledge of the issue. The writers also attempted to address a significant question, namely, whether the current Indian government poses a threat to civil rights, by examining the current Modi administration and the Bhartiya Janata Party's historical positions.

KEYWORDS: Civil, Liberties, Fundamental, Rights, Supreme Court.

1. INTRODUCTION

The freedoms of none are safe until the liberties of all are protected,” as William Douglas put it. Civil liberties, often known as personal liberty, are personal protections and freedoms that the government cannot restrict without due process, either via legislation or judicial interpretation. Civil liberty, according to the Britannica encyclopaedia, is the freedom from arbitrary government or individual intervention in one's activities. In most cases, the term is used in the plural. Civil liberties are expressly guaranteed in most democratic countries' constitutions [1], [2].

Though the definition of civil liberties varies by country, they may include freedom from torture, forced disappearance, freedom of conscience, freedom of the press, freedom of religion, freedom of expression, freedom of assembly, the right to security and liberty, freedom of speech, the right to privacy, the right to equal treatment under the law and due process, and the right to a fair trial. The freedom to possess property, the right to self-defense, and the right to bodily integrity are all examples of civic rights[3].

A constitution, a bill of rights, or similar constitutional texts exist in many modern states to recognize and protect civil liberties. Various governments have sanctioned comparable legislation by a variety of legal mechanisms, including signing and ratifying important treaties such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights, or granting wide effect to them. The presence of certain stated civil freedoms, like the degree of most civil rights, raises questions. Property rights, reproductive rights, and civil marriage are all controversial issues. Whether the prevalence of innocuous wrongdoings infringes on civil freedoms is a point of contention. Another topic of open debate is whether and to what extent some civil freedoms should be suspended or modified during times of war or other extremely sensitive situations. The formal concept of common liberties may be traced back to Magna Carta, an English legal document signed in 1215 and based on prior reports, such as the Charter of Liberties[4].

These Fundamental Rights, included in Part III of the constitution, provide liberties with the objective of allowing all Indians to live peacefully as citizens of India. Right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, and right to constitutional remedies are the six basic rights[5].

Individual rights, which are prevalent in most liberal vote-based systems, are enshrined in a main rule that everyone must obey and is enforceable in a court of law. Infringement of these rights results in sanctions outlined in the Indian Penal Code, which are subject to the judiciary's discretion. These freedoms are not unfettered nor unaffected by constitutional changes. They were created with the intention of reversing pre-autonomy social practices. They abolished untouchability and prohibited segregation based on religion, race, caste, sex, or place of birth, among other things. They make it illegal to engage in human trafficking and

forced labor. They protect ethnic and religious minorities' social and educational rights by allowing them to preserve their dialects and control their own educational institutions.

Individuals of all races, religions, castes, and genders have the right to petition the High Courts or the Supreme Court for the execution of their fundamental rights. It's pointless for the irritated party to be the one to do so. Anyone can file a lawsuit in court for their own advantage if there is open intrigue. "Public Interest Litigation" is the term for this type of case. Judges of the High Court and Supreme Court can also follow up on their own based on media reporting.

The Fundamental Rights emphasize equality by guaranteeing that all citizens, regardless of their background, have access to and use of public institutions and securities. The rights to life and individual liberty pertain to individuals of all nationalities, but others, such as the right to talk freely and express oneself, are only applicable to Indian citizens (including non-resident Indian citizens).

Although Basic Rights primarily protect people from arbitrary State actions, a few rights can also be enforced against private individuals. The constitution, for example, abolishes untouchability and prohibits beggarship. These agreements serve as a check on both government and private-sector activity. Basic Rights are not absolute and are subject to reasonable limits as necessary for the protection of national security[6].

The Supreme Court ruled in the case of *Kesavananda Bharati vs. State of Kerala* that all articles of the constitution, including Fundamental Rights, might be modified. The Parliament, on the other hand, is unable to alter the fundamental structures of the constitution, such as secularism, democracy, federalism, and the distribution of powers. This conclusion, known as the Fundamental Structure Doctrine, is widely regarded as an important element of Indian history.

The Supreme Court defined the doctrine's importance better than any parliamentary law in the 1978 *Maneka Gandhi v. Union of India* decision. According to the ruling, no act of parliament can be considered a law if it violates the constitution's fundamental framework. This historic protection of Fundamental Rights was hailed as a one-of-a-kind example of legal sovereignty in preserving Fundamental Rights' sanctity.

Fundamental Rights must be amended by a constitutional amendment; its inclusion serves as a check on the executive branch, as well as Parliament and state legislatures. To protect national security and public order, the burden of a highly sensitive situation may induce a short suspension of Article 19 rights (including freedoms of expression, assembly, and movement, among others). By executive order, the President can also suspend the constitutional written remedies[3].

It gives me great pleasure to watch Indians proudly waving our flag. The flag, on the other hand, is only a representation of our nation. It is now up to us to uphold our Constitution. We shouldn't be so quick to trade civil freedoms for a false sense of security. The government is powerless to protect us. In the best-case scenario, law enforcement, intelligence, and the military could prevent 99.9% of terror acts based on fear. Indeed, even in jails with no civil freedoms, desperate, cruel men devise new ways to inflict pain. Putting the entire country under lockdown will not be any more effective. Rather, we should aim to empower regular individuals to protect themselves and one another. Restricting our civil freedoms would limit Indians' ability to respond appropriately to threats. It isn't going to be with guns.

Because we are fighting terrorism, certain rights must be sacrificed, so the logic goes. It's similar to what many stated when comparable concerns arose during the Bush administration. It doesn't seem to matter to them that the "war" is open-ended and mostly metaphorical, indicating that there will be no official surrender moment at which our liberties will be restored. For what it's worth, we've witnessed a similar apathy about the abundance of another open-ended metaphorical conflict, the War on Drugs. It has also wreaked havoc on fundamental civil liberties, with judges essentially granting police carte blanche to stop anybody, at any time, without a warrant or justification[2].

2. DISCUSSION

2.1 Civil Liberties vs. Civil Rights:

It's critical to understand the difference between "civil rights" and "civil liberty." The legal region known as "civil rights" has usually revolved around the fundamental concept of being free from uneven treatment in contexts such as employment and housing based on certain protected qualities (race, gender, handicap, and so on.). In contrast to natural liberty, "civil liberties" refers to man's freedom in society. Isolated freedom has no significance. One way to think about the difference between "civil liberties" and "civil rights" is to consider:

2.2 What right is infringed upon, and Whose right is infringed upon?

For example, as an employee, you do not have the legal right to a promotion, owing to the fact that promotion is not a guaranteed "civil liberty." Instead, as a female worker, you have the legal right to be evaluated for advancement without being segregated based on your sexual gender - you can't lawfully be refused progress based on your sexual gender (or race, or disability, and so forth). The employer has violated the employee's civil rights and engaged in unlawful work segregation based on sex or gender by refusing to promote a female laborer solely on the basis of the employee's gender[7].

2.3 Landmark Judgement:

The Indian Supreme Court held in the case of PUCCL vs. Union of India that the freedom not to vote is a key component of the fundamental right to free speech and expression. The issue was brought up as a test of government laws that required a presiding officer to take a note whenever a voter refused to vote for any of the contestants. The People's Union for Civil Liberties investigated whether this technique was legal. The Court determined that a voter's decision not to vote in favor of any of the petitioners after evaluating each of them constituted a characteristic of the right to freedom of speech guaranteed by Article 19(1) (a) of India's Constitution. Finally, the Court determined that an unjustified difference was made between voters who choose to vote and those who do not. This was a violation of Article 14 of the Indian Constitution, which guarantees equality. As a result, the Court assumed that the Rules as written violated fundamental rights and ordered that electronic voting machines should include a "none of the above" option.

The Supreme Court ruled in *Kyollo vs. United States* that when thermal imaging was used to examine Kyollo's house where the police suspected Kyollo of growing marijuana and a warrant was issued as a result, the act was illegal because technology that was not commonly used in public was used and consent for its use would not have been obtained if Kyollo had known. The Supreme Court further declared that the deployment of unmanned aerial vehicles (UAVs) and drones above civilian areas for illegal and unjustified searches is an act of intrusion.

When the law of the District of Columbia prohibited Heller from keeping arms, which is a civil liberty in the United States of America and also includes the right of people to bear arms that the military may possess, the Supreme Court of the United States protected Heller's right to keep arms by citing the second amendment of the United States Constitution.

However, in the case of *New York Times Co. vs. United States*, when the New York Times had classified information about the Pentagon Papers, which the government opposed the publication of on the grounds that publication would cause grave and irreparable harm to the state, the court held the view that even though freedom of the press was a civil libertarian right, the court held that even though freedom of the press was a civil libertarian right, the court held that even though freedom of the press was a civil libertarian right. Some judges, on the other hand, believed that if the classified content was made public, it would be accessible to a well-informed populace who should have the right to know.

2.4 The Current Administration Endangering Civil Liberties:

It has been more than 39 years since Indian Prime Minister Indira Gandhi declared a State of Emergency, effectively suspending majority rule in the country. Prime Minister Narendra Modi expressed his thoughts on what he called "one of the darkest eras" in Indian history. It was a "day to reaffirm our pledge to safeguard the freedom to free speech and expression," he said. Modi may have struck the right chords, but Indians are waiting to see how his new government's national security strategy would effect civil freedoms and rights[8].

The Bharatiya Janata Party (BJP)-led administration is embroiled in its first open conflict over issues of speech and dissent after only a few weeks in office. According to reports compiled by India's Intelligence Bureau (IB), Greenpeace and other NGOs operating in the country are puppets of foreign powers seeking to stifle India's development by limiting coal and nuclear power plant projects. Previous government officials have criticized the study as an attempt to suppress critics, and some people are considering legal action against the government. Observers will consider whether the tone and content of this report reflect the way the Modi national security apparatus, which opponents believe to favor intimidation and the suppression of opposition, would collaborate[9].

Ajit Kumar Doval chastised the propensity to stress Indian variety above unity, arguing that "the essence of national security is not physical security but cultural identity." He praised the BJP as the most important political force fostering Indianness.

It's plausible that Doval was pandering to the sentiments of a political party, but his remarks shouldn't be disregarded as hyperbole or opportunistic rhetoric. Doval's previous writings further support his belief that India's variety - social, political, and intellectual - poses a security danger [10].

3. CONCLUSION

Civil liberty will be at its best under two circumstances, regardless of the constitution's character. First, when private action rights are explicitly stated in broad terms to encompass the broadest possible range of actions, and second, when the specified rights are firmly enforced by specific remedies that can be implemented quickly and efficiently.

In light of recent acts of terrorism in a few parts of India, some individuals have begun to argue that in order to combat terrorism, civil rights must be curtailed and harsh laws must be enacted. No one doubts the necessity to combat terrorism, but harsh laws will not reduce terrorism or crime; rather, they will stifle our country's growth. Terrorism and crime can only be eradicated by eliminating poverty and unemployment, which are the root causes of wrongdoing. Only fast industrialisation can eradicate poverty and unemployment, as well as crime and terrorism to a large extent.

The progress of knowledge is extremely necessary for industrialization, and freedom - freedom to think, freedom to publish, freedom to debate with others, freedom to explain, freedom to critique, and freedom to dissent - is absolutely necessary. As Clarence Darrow once stated, the best way to defend your freedoms in this world is to protect the liberties of others.

Science's advancement necessitates the upholding of certain ideals, particularly liberty. We must disseminate the scientific viewpoint across our country, destroying superstitions such as trust in astrology and palmistry, as well as feudal ideas like as casteism and communalism.

In this relation to significant rulings, the importance of the Indian judiciary must be highlighted: P Lakshmi Devi vs. Government of Andhra Pradesh, and Deepak Bajaj vs. State of Maharashtra. The Indian Supreme Court has highlighted the significance of liberty for growth, stating that the judiciary must function as a protector of the general public's liberty, safeguarding people from executive or even authority intrusion and oppression.

To my mind, harsh and draconian laws will restrict liberty, not only infringing on the right to liberty guaranteed by Article 21 of the constitution, but also causing great evils such as an increase in corruption in the police and other law enforcement agencies, who will have far more opportunities to extort money from citizens, in addition to impeding scientific and economic growth.

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