

HUMAN RIGHTS IN INDIA

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Abstract : Human rights are some moral principles and some norms for human behavior. Human rights are rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion or any other status. It includes right to life, liberty, freedom from slavery and torture It includes freedom of opinion and expression, the right to work and education. The concept of human rights is not new thing to the Indian political thinkers and philosophers. They have expressed concern to secure human rights and fundamental freedom for all human beings everywhere since the very early times of Vedic age. International human rights law lays down the 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. UN has made a declaration of universal human rights on December 10 1948 and made all the nations to follow the declaration and there by directed the states to protect the right of the individuals in their respective states (UDHR). More emphasis has been given to the fundamental rights and they are directly enforceable in the court of law. From a deep study of the Part III and Part IV of the Indian Constitution, it is easily evident that almost all of the rights provided in UDHR (Universal Declaration on Human Rights) are covered in these two parts.

KEY WORDS

Human rights, Nationality, UDHR, DEC 10 1948, Fundamental rights, Indian Constitution

INTRODUCTION

Human rights are some moral principles and some norms for human behavior. Human rights are rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion or any other status. It includes right to life, liberty, freedom from slavery and torture It includes freedom of opinion and expression, the right to work and education.

History of Human Rights

The evolution of human rights has been a gradual process that has included the development of theories, the creation of international treaties, and the establishment of institutions

Originally, people had rights only because of their membership in a group, such as a family. Then, in 539 BC, Cyrus the Great, after conquering the city of Babylon, did something totally unexpected—he freed all slaves to return home. Moreover, he declared people should choose their own religion.

In the 17th and 18th centuries, philosophers like John Locke developed the idea of "natural rights". This theory held that people have rights that come from their nature, not from the government.

Another cornerstone in Human Rights History is represented by the promulgation of the Magna Charta in 1215 AD which introduced a raw concept of "Rule of Law" and the basic idea of defined rights and liberties to all persons, which offers protection from arbitrary prosecution and incarceration. Before the Magna Charta, the rule of law, now considered as a key principle for good governance in any modern democratic society, was perceived as a divine justice, solely distributed by the monarch or the king. Here it was the King John of England.

An evolution of the concepts expressed by the Magna Carta is represented by the English Bill of Rights. It was an act signed into law in 1689 by William III and Mary II, who became co-rulers in England after the overthrow of King James II. The bill outlined specific constitutional and civil rights and ultimately gave Parliament power over the monarchy. Many experts regard the English Bill of Rights as the primary law that set the stage for a constitutional monarchy in England. It's also credited as being an inspiration for the U.S. Bill of Rights (1791)

Human Rights in Modern world

It was the 1945 and the fifty founding members of the United Nations stated, in the preamble of the UN Charter, that they were determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained in order to promote social progress and better standards of life in larger freedom.

In the first article of the UN Charter, Member states pledged *“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, sex, language, or religion.”*

A strong political commitment was set to advance on these goals, a Commission on Human Rights was immediately established and charged with the task of drafting a document spelling out the meaning of the fundamental rights and freedoms proclaimed in the Charter. Three years later, The Commission, guided by Eleanor Roosevelt’s forceful leadership, captured the world’s attention, drafting the 30 articles that now make up the **Universal Declaration of Human Rights**.

The Declaration was presented to the world, acting for the first time as a recognized and internationally accepted charter, whose first article states that “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.”

Evolution of Human Rights in India

The history of human rights in India can be divided into three stages: Ancient, Medieval and Modern. The history of human rights in India has deep roots within Indian political thinkers and philosophers, dating back to ancient civilizations

Human rights in ancient India

The concept of human rights is not new thing to the Indian political thinkers and philosophers. They have expressed concern to secure human rights and fundamental freedom for all human beings everywhere since the very early times of Vedic age. Philosophy of human rights had already occupied a place of prime importance in ancient Indian society. The Indian thinkers are of the view that it is not justified to limit the origin of the concept of human rights to only western civilization. What the west has discovered today was found in the writings of Thiruvalluvar in the ancient Tamil literature. Thiruvalluvar’s views on human equality, human effort, love and compassion, and secularism are completely compatible with those of modern humanists. Thiruvalluvar’s proclaimed that

“All human beings are equal by birth, but distinctions arise only because of the different qualities of their actions”. (Kural-972)

In Vedic tradition Right to Equality is an age-old concept. The idea of equality was a part and parcel of Indian Tradition from Vedic period. A Vedic Rishi says that one should try to live together in a friendly manner Vedas recommend equal respect to elders, youngsters, youths and ages and exhort that all should contribute their mite in the performance of yajna.

ie . “Let all be happy, let all free from diseases, let all see auspicious things, let nobody suffer from grief”

The scriptures have pointed out that just as a man never conceives his own head, hands and other limbs as belonging to anyone else, a person should not regard his fellow creatures as distant from himself.

Lord Krishna says in Githa

He who sees the supreme Lord as the only imperishable substance abiding equally in all perishable beings, beholds the reality. Yajurveda has similar views. It says that those who practice equality lead a peaceful life The study of Mudra Rakshas⁴³ shows that dispensation of justice was considered as one of the important duties of the rulers. Hence, it is abundantly clear that ancient Indian jurisprudence stood for enlarging and encouraging human freedom, liberty and equality for all people. It has developed common ideals based on human unity and harmony which transcends diversities of race, colour, language, religion

Human Rights and War:

Ashoka's Raja dharma is an important aspect of human rights concerns the treatment of human beings during war as well as prisoners of war. The evolution of humanitarian law and the international law of war have focused on the rights of men, women and children in armed conflicts. The Indian tradition of human rights during war is best exemplified in the work of the converted emperor Ashoka

Human Rights During Medieval period.

Some of the Moghul rulers especially Akbar, he brought some basic change in administration. He adopted the policy of tolerance and non-discrimination towards Hindus. Hence, it was not wrong to say that, with Akbar a new era began. The right of an accused to be released on bail did exist during Mughal rule in India. Similarly, the right to benefit of doubt was known to Muslim jurisprudence in the administration of criminal justice. The benefit of doubt was known as shuba (doubt) which entitled an accused to be acquitted."

Finally, the bhakti movement evolved in later periods ultimately revived and regenerated the old Indian values of justice and morality. It may be recalled that from time immemorial Indians have called their culture by the name of human culture. Bhakti movement was a social protest against the inequalities like caste class and gender. It tried to show the path of spiritual salvation to the non-privileged classes. This movement tried to free the society from the existed superstitions. It helped the down trodden to attain spirituality through their local languages.

Human Rights in the Modern Period

The period starts from the advent of British empire. The process of Indian administration started by the British with the introduction of Regulating Act of 1773. Under this bill the rights of Indians were suppressed. When Indians felt that their rights had been lost in the hands of the colonial rule, they thought to fight for their rights perhaps the first explicit demand for fundamental rights appeared in the constitution of India bill 1895. The bill guaranteed every Indian the right to expression, right to equality before law right to property, right to personal liberty, right to education etc. A series of resolutions were passed between 1917 and 1919 for demanding civil rights and equality.

Another major development was drafted by Mrs. Besant's Commonwealth of 1925. The bill contained the list of seven fundamental rights

1. Liberty of person
2. Freedom of conscience and free profession and practice of religion
3. Free expression of opinion
4. Free elementary education
5. Use of roads, public places, courts of justice and the like
6. Equality before law, irrespective of consideration of nationality
7. Equality of sex

Human rights and United Nations

International human rights law lays down the 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. UN has made a declaration of universal human rights on December 10 1948 and made all the nations to follow the declaration and there by directed the states to protect the right of the individuals in their respective states (UDHR). UDHR is a milestone document in the history of human rights the declaration was proclaimed by UN General Assembly in Paris on 10th December 1948. By general assembly resolution 217A(111) as a common standard of achievements for all people and all nations this as inspired many constitutions of newly independent states. UDHR is followed with covenant on economic social and cultural rights and international covenant on civil and political rights

Human rights in modern India

India's human rights are compiled by its size, population and diverse culture. However, the country's constitution guarantees certain fundamental rights to its citizens.

1. Right to equality includes equality before the law and prohibition of discriminations based on religion race, cast, sex or place of birth
2. Right to freedom includes freedom of speech and expression, assembly, association, movement and residence
3. Right against exploitation- prohibits forced labour, child labour and human trafficking
4. Right to freedom of religion – includes the right to practice propagate and profess any religious faith.

Provision of Right	ICCPR	Article in Indian Constitution
Right to life and Liberty	Article6(1) and 9(1)	Article21
Prohibition of Trafficking and Forced Labour	Article8(3)	Article23
Protection against detention in certain cases	Article9(2)	Article 22
Freedom of movement	Article12(1)	Article 19((1)(d)
Right to equality	Article14(1)	Article 14
Right against compelling to witness against self	Article14(3)(g)	Article20(3)
Protection against double jeopardy	Article14(7)	Article20(2)
Protection against post facto law	Article15(1)	Article20(1)
Right to freedom of conscience and to practice profess and propagate any religion	Article!8(1)	Article25(1)&25(2)(a)
Freedom of speech and expression	Article19(1)&(2)	Article19(1)(a)
Right to assemble peacefully	Article21	Article 19(1) (b)
Equality in opportunity of Public service	Article25(c)	Article16(1)
Right to form union and associations	Article22(1)	19(1)(c)
Equality and equal protection before law and no discrimination on the basis of any ground such as race, colour, sex, language, religion etc	Article26	Article14 &15(1)
Protection of interests of minorities	Article 27	Article29(1)&30

5. Cultural and educational rights include – the right to of citizens to preserve their culture language or script and the right of minorities to establish and administer educational institutions
6. Right to constitutional remedies – provides a way enforce fundamental rights

Provisions of Universal Declaration of Human Rights along with corresponding provisions in constitution of India are as follows

Equality and equal protection before law	Article 7	Article 14
Remedies for violation of fundamental rights	Article 8	Article 32
Right to life and personal liberty	Article 9	Article 21
Protection in respect for conviction of offences	Article 11(2)	Article 20(1)
Right to property	Article 17	Earlier a fundamental right under article 31
Right to freedom of conscience and to practise profess and propagate any religion	Article 18	Article 25(1)
Freedom of speech	Article 19	Article 19(1)(a)
Equality and opportunity of public service	Article 21(2)	Article 16(1)
Protection of Minorities	Article 22	Article 29(1)
Right to education	Article 26(1)	Article 21(a)

International Covenant on Civil and Political Rights and Rights of Indian Constitution:

The International Covenant on Economic Social and Cultural Rights (ICESCR) mainly focuses on Social and Cultural Rights like food, health, education shelter etc. India ratified this covenant and most of the provisions in the

Brief Description of Provision	ICESCR	Constitution of India
Right to work	Article 6(1)	Article 41
Equal pay for Equal Work	Article 7(a)(1)	Article 39(d)
Right to living wage and decent standard for life	Article 7(a)(2)&(d)	Article 43
Human conditions of work and maternity leave	Article 7(b)&10(2)	Article 42
Facilities and opportunities to children for prevention against exploitation	Article 10(3)	Article 39(f)
Improving public health and raising the level of nutrition and standard of living	Article 11	Article 47
Compulsory education for children	Article 13(2)(a)	Article 45
Protection of interest of minorities	Article 27	Article 29(1)&30

covenant are found in the Directive Principles of State Policy (DPSP) Part IV of the Constitution.

Some Important Judgements of Supreme Court Which Upheld Human Rights:

I. Lalitha Kumari v Govt. of U P

In this case the father of kidnapped minor girl approached the Supreme Court over the failure of the police to initially register on First Information Report (F I R) and then after the FIR had been registered to conduct a proper investigation and find fer. The father sought directions from the court to the police to apprehend the suspects and recover the girl.

In this case, which was related to the duty of the police to mandatorily register an Fir for the commission of a cognizable offence. When came to the final judgement the court said that the registration of FIR is mandatory under section 154 of the criminal procedure code and if the offence is cognizable no preliminary inquiry is permissible in such situation as the scope of preliminary inquiry is not to cross check the veracity of the

information reveals any cognizable offence Court also said while ensuring the rights of inquiry which is done first hand must be time bound and should be completed within 7 days

II. Visaka Vs State of Rajasthan AIR 1997 SC 3011(5)

This case was about working Conditions of women. In this case a social worker named Bhanwari Devi was brutally gang raped while she was doing a noble cause of barring child marriage. Case was filed by Visaka and few other women. The case was dismissed due to insufficient evidence. The court held that clearly there has been a violation of Article 14,15, and 19(1) of the constitution and also violation of all the international conventions that India was a part of Through this case Visaka guidelines were issued and the judgement also provided some basic definitions like that of sexual harassment at work place and protection against that.

III. Mohammed Ahmad Khan Vs Shah Bano Begam (8)

In this case the petitioner Shah Bano Begam was thrown out of the matrimonial home by her husband uttering Talaq three times. Her husband abandoned her from the maintenance of ₹200 which he was supposed to give In this case the Supreme Court put pressure on the statement that triple Talaq cannot take away the maintenance right of a divorced Muslim woman who is unable to maintain herself or her children This case particularly focused on the human rights of women irrespective of her religion

IV. Keshavananda Bharati Vs State of Kerala

It was a famous case of 1973. The petitioner was the founder of 'Ender Mutt' situated in Kerala He challenged the Kerala Government's attempt to impose restrictions on the management of his property. Through this case India was gifted with the doctrine of basic structure of the constitution. The court outlined that the power to amend the basic structure of constitution is very limited. Parliament has the power under article 368 of the constitution, cannot rewrite the whole constitution, taking into view of its power.

Conclusion:

Human Rights are the basic rights which form the essential part of his/her development as human being. Constitution acts as a protector of those basic rights as Fundamental Rights and DPSPs. More emphasis has been given to the fundamental rights and they are directly enforceable in the court of law. From a deep study of the Part III and Part IV of the Indian Constitution, it is easily evident that almost all of the rights provided in UDHR (Universal Declaration on Human Rights) are covered in these two parts.

Judiciary has also taken great steps such as relaxing rules of 'locus standi' and now any other person in place of the ones affected can approach Court. The apex court has interpreted the Fundamental Rights available to a citizen and now rights like right to privacy, right to clear environment, right to free legal aid, right to fair trial etc. also find place in the Fundamental Rights

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