

CONSTITUTIONAL STRUCTURE OF HUMAN RIGHTS IN INDIA

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ABSTRACT

Those rights that are inalienable to us as human beings are known as human rights, and they are described as such. The fact that we are human beings entitles us to make some claims. Human rights in the Indian Constitution are the subject of this study. The purpose of this study is to examine how the Indian judiciary and judicial activism contribute to the preservation of human rights. As a result of its independence, India has played a major role in the defense of human rights worldwide. Although India's constitution does not have a detailed Bill of Rights, attempts have been undertaken to transform this fact into law. India's judiciary had a pivotal role in translating these rights into practice.

KEYWORDS: *Human Rights, community, Judiciary, Constitution.*

INTRODUCTION

History of human rights may be traced back to the beginnings of humanity. A lot has changed in the notion of human rights throughout time. Despite the fact that the term "Human Rights" has a contemporary ring to it, the concept really dates back to the dawn of recorded human history. Human rights have existed in some form or another ever since man first lived in groups, such as families, clans, tribes, towns, or nations, and they continue to exist now in the shape of an autonomous global community. When seen in historical context, the notion of human rights is neither wholly western nor wholly contemporary, but rather the crystallisation of principles that are shared by all of humanity. Human rights are the twentieth century label for what has been previously known as natural rights or in more thrilling words, the rights of man," a well-known researcher explains when explaining the subject.

LITERATURE REVIEW

Urvashi (2021) There is a constant stream of coverage about women's rights abuses in India in the media, on television, and on technological devices. As a member of the human race, everyone has

the right to the very minimum set of freedoms and liberties guaranteed by the United Nations' Universal Declaration of Human Rights. Equal rights for men and women are also guaranteed in the Indian constitution. There is a vast divide between theory and reality when it comes to women's human rights in India. Men are thought to be superior to society in our culture, which is male-dominated. The country of India Discrimination, unfairness, and degradation of women's reputations must be endured. Despite the fact that women in India have been granted greater rights than males, the situation of women in the country remains dire. It will be discussed in this article how women's human rights are being abused across India, as well as how these rights have been granted to women in the first place.

Victoria Adelmant et.al (2021) Human rights requirements are becoming an increasingly important component of climate change litigation, which is a fast expanding sector. Commentators have lauded the 2020 Supreme Court decision dismissing Ireland's National Mitigation Plan for 2050 transition to a low carbon, climate resilient, and ecologically sustainable economy. Even yet, the situation deserves a lot more attention. This case represents a step backwards for human rights-based climate change litigation in Ireland, and the Court's conclusions on who has the right to suit, whether human rights laws apply, and whether a derived right to environmental health exists are all concerning.

R. M. Kamble (2019) Human rights is an ever-evolving notion. For example, these rights may be referred to as the "fundamental," "natural," or "innate" rights. Human rights are universal concepts that must be upheld by all nations, regardless of their cultural differences. Both Indian and international law have as their primary goal the defence of human dignity and the preservation of their basic rights. As a result, every state's ultimate purpose should be the achievement of human rights. Human rights have piqued the curiosity of people all across the globe. The United Nations is responsible for the conception and development of the global system for promoting and protecting human rights. Politics and history have affected the development of the international human rights framework, sometimes at the cost of other alternatives. The study focuses on some of the most significant international conventions and treaties on human rights, as well as the procedural standards that primarily create monitoring systems to provide some protection against the State. Human rights are also discussed in the paper. The Protection of Human Rights Act, 1993 [As modified by Protection of Human Rights (Amendment) Act, 2006-No. 43 of 2006] is briefly highlighted.

Anuradha Palanichamy (2016) An important part of the growth of a country is the role that children play in society. The destiny of a nation rests in the hands of those entrusted with the task of raising the next generation of its inhabitants. Forced by their socioeconomic circumstances, some youngsters have to labour at an early age. As a result of poverty, the majority of youngsters are forced to labour. Illiterate families, particularly those in rural regions, are forced to put their children

to work in unsafe and exhausting situations because of poverty and vices like drug and alcohol abuse. An even worse kind of child labour, bonded child labour, is made possible by a country's extreme poverty and the absence of social safety nets. To this end, this paper is based on ILO conventions 138 and 182 on the worst forms of child labour, which aim to eradicate child labour in all its forms. IPEC, which is part of the ILO's In Focus Programme on Child Labour, seeks ways to fill in the reform gaps in "Legislation, Systems, and Mechanisms" that are necessary to reduce "Child Labour in India."

Rajendra K. Jain (2017) The revival of insurgency brought more media attention and international condemnation of human rights breaches, which prompted India to rethink its policy toward human rights and initiate discussions with the European Union concerning human rights for the first time in 1990. Indian attitudes of EU human rights policies, dating back to the 1990s, are scrutinised in this essay. Indian reactions to inclusion of human rights clauses in trade agreements and criticism of the "one size fits all" paradigm of the Europeans for the advancement of human rights are examined in this paper. Indians' scepticism about the international human rights framework and their criticism of Western nations' selectivity in upholding human rights are examined in this article. In the end, it is Indians who must assume the responsibility for starting and executing the many structural, economic, social, and political changes required to enhance the application of human rights. It is impossible for outsiders to make significant changes on their own; they can only act as a catalyst for internal progress.

HUMAN RIGHTS IN INDIA

Self-determination, equality, liberty, and justice were among the main goals of India's war for independence. These are the fundamental principles of the Human Rights movement. Early social reformers, on the other hand, have long emphasised the importance of civil freedoms. As the colonial rule became more oppressive and social groups became more aware of their rights, more people began to demand them. It was the Indian National Congress that drove the national movement's focus on rights. Rowlatt Act protests in 1919 were a turning point in India's civil rights movement.

An organised civil rights movement was also conceived during the civil disobedience campaign in 1930. Indian Civil Liberties Union (ICLU) was created in August 1936 as a result of this. On the recommendation of Jawaharlal Nehru, Rabindranath Tagore and Sarojni Naidu were named Honorary President and President, respectively, of the ICLU. The defence of civil freedoms was not limited to one party or group throughout the liberation movement. It was expanded to the defence of all factions, regardless of ideological or strategic disagreements, without exception.

HUMAN RIGHTS AND INDIAN CONSTITUTION

Rights are claims that are essential for the existence and development of individuals. In that sense there will a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justifiable, i.e. enforceable through courts. Being justifiable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are provided in Part III of the Indian Constitution. The Constitution guarantees six fundamental rights to Indian citizens as follows: (I) right to equality (II) right to freedom (III) right against exploitation (IV) right to freedom of religion (V) cultural and educational rights and (VI) right to constitutional remedies. Rights are claims that are essential for the existence and development of individuals. In that sense there will a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justifiable, i.e. enforceable through courts. Being justifiable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are provided in Part III of the Indian Constitution. The Constitution guarantees six fundamental rights to Indian citizens as follows: (I) right to equality (II) right to freedom (III) right against exploitation (IV) right to freedom of religion (V) cultural and educational rights and (VI) right to constitutional remedies. Rights are claims that are essential for the existence and development of individuals. In that sense there will a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justifiable, i.e. enforceable through courts. Being justifiable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are provided in Part III of the Indian Constitution. The Constitution guarantees six fundamental rights to Indian citizens as follows: (I) right to equality (II) right to freedom (III) right against exploitation (IV) right to freedom of religion (V) cultural and educational rights and (VI) right to constitutional remedies. Individuals' rights are claims that are fundamental to

their life and growth. In this regard, there will be a lengthy list of rights. ' These are all acknowledged by society, but some of the most essential rights are inscribed in the Constitution by the State. Be such, these rights are referred to as "basic." Because of these two reasons, these rights are vital. First and foremost, they are enshrined in the Constitution and, as a result, are protected by law. If a person's rights are violated, he or she may seek redress in a court of law. The courts will invalidate any legislation that limits any of these rights if it is passed by the government. Part III of the Indian Constitution provides for such rights. Six essential rights are guaranteed to Indian people by the Constitution: the right to equality, the right to freedom, the right against exploitation, the right to religious freedom, the right to cultural and educational freedom, and the right to constitutional remedies.

(I) Right to Equality

Article 14: Equality before law: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 16: Equality of opportunity in matters of public employment.

(II) Right to Freedom

Article 17: Protection of certain rights regarding freedom of speech, etc.

Article 18: Protection in respect of conviction for offences.

Article 19: Protection of life and personal liberty.

Article 20: Protection against arrest and detention in certain cases.

(III) Right against Exploitation

Article 21: (1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article 22: No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

THE IMPORTANCE OF RIGHTS

The government hired a few contractors in 1982 to help with the building of the Asian Games. The flyovers and stadiums were built by a significant number of low-skilled labourers from around the nation hired by these companies. These individuals were subjected to substandard working conditions and given pay much below the federally mandated minimum wage. As a result of a study by social scientists, the Supreme Court was petitioned. A breach of the fundamental right against exploitation occurs when an employee is paid less than the minimum wage mandated by law. This

appeal was approved by the court, and the government was ordered to guarantee that thousands of employees get the mandated salaries for their job.

FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION

Our freedom movement leaders realised the value of rights and urged that British authorities respect the people's rights throughout our battle for independence. As early as 1928, the Motilal Nehru committee called for the creation of a bill of rights. The inclusion and preservation of rights in the Constitution came as no surprise when India got independence and the Constitution was being drafted. These rights were referred to as 'basic' in the Constitution, which specified them. "basic" implies that certain rights are so vital that the Constitution has designated them for particular protection. The Constitution itself assures that the government does not violate the Fundamental Rights.

INDIA'S DOMESTIC LEGAL FRAMEWORK FOR PROTECTING HUMAN RIGHTS

For India, human rights are anchored in the basic rights that are guaranteed in Part III of the Indian Constitution. They include the right to life and liberty, as well as rights to equality under the law, freedom of speech and the press, and recourse to India's Supreme Court if their rights aren't being upheld locally. According to a broad interpretation of basic rights by the court (primarily the right to life), the judiciary has recognised various additional rights, such as the right to privacy, health care and clean environment, as derived from this fundamental right. The Indian Constitution's Directive Principles of State Policy acknowledge a number of social and economic rights. It is widely accepted that these concepts are important to the country's governing structure. There are also a number of legislative provisions in place to protect environmental and labour rights as well as those of women and children as well as those who are disabled.

DEVELOPMENT OF HUMAN RIGHTS

In India, the concept of human rights has been around for a long time. Jainism may simply be identified by its core Buddhist beliefs. Hindu holy literature such as the Gita, Vedas, Arthasatra, and Dharmashstra all included human rights clauses. Muslims like Akbar and Jahangir were also lauded for their adherence to the rule of law and respect for human rights. Modern Human Rights law in India was born out of the oppression that Indians endured throughout their colonial rule. Despite the fact that just a few changes were suggested, there was almost no debate about the underlying ideas. It is practically impossible to find an area of the Indian Constitution that does not include some or all of the rights included in the Universal Declaration of Human Rights. The Motilal Nehru Committee

Report, 1928 included 19 essential rights, 10 of which were included in the Fundamental Rights and three of which were included in the Fundamental Duties.

CONSTITUTIONAL REFORMS IN HUMAN RIGHTS

Constitutions are at the apex of most legal systems' hierarchical framework of governing documents. Constitutional compatibility is a requirement for all state legislation and other legal acts. If a state statute or other legal measure violates the constitution, the appropriate judicial authority shall declare it null and invalid. Individual, group, and state connections, as well as decision- and oversight-making processes, are all permeated by human rights, which are at the core of the constitutional order of contemporary states. As a result, a contemporary constitution must include a bill of rights. At the same time, constitutional law flaws frequently cause problems with the domestic application of human rights, whether they pertain to individual or collective rights.

Human rights and democratic constitutional order are intertwined from the outset of the process of drafting a constitution or reforming an existing constitution. If people from many walks of life are encouraged to take part in such a process, it is likely to produce positive outcomes. In order to ensure an open discussion, individuals in authority should refrain from interfering with participants' ability to express themselves and interact with one another. They should be given due consideration for their comments and viewpoints, but only if the people in charge of supervising the process are fair and unbiased. 1 Freedom of expression, including the right to express one's thoughts, freedom of the press, and freedom of organisation and assembly, are only possible when certain criteria are respected.

Respecting human rights and freedoms involves behaving in a way that is both fair and just, as defined by the constitution. The constitution is seen as a standard for assessing public authority's actions and inaction, as well as the ultimate guarantee for people' and groups' rights and freedoms, and as such, officials who violate it should be held responsible. As the greatest legal safeguard for citizens' rights and interests, the constitution is also seen as a key instrument for guiding social change and structuring the government. An individual country's constitution, which is its highest governing document, is critical to that country's political and social life, serving as a guide to both citizens and government officials alike. Political and social stability should be ensured by the constitution in times of upheaval. As a form of peace plan in post-war scenarios, the constitution acts as a kind of democratic institutions and the protection of rights that should assist to avoid recurrence of tensions and conflict Changes in political and social life may be introduced by amending the constitution.

CONCLUSION

According to the Freedom House study, India's election process and many other indicators show that the country is still a strong democracy. History, on the other hand, shows that when freedom of expression dwindles, healthy democracies morph into elected autocracies in a matter of years. An important moment for freedom of speech, as well as the ICCPR and UDHR, has arrived with these new rules. Domestic Courts are being urged to respect freedom of speech and privacy and to strike down the excessive measures in the 2021 Rules. According to their present form, these rules will govern big tech in India, but at the expense of freedom of speech in the world's most democratic country.

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