

Analyzing the Challenges to Human Rights in India: A Socio-legal Perspective

Bhup Singh Gaur, *Head and Associate Professor, Department of Sociology, DGC Gurugram, Haryana*
Dr Binoyjyoti Das, *Academic Director, International institute of cosmic sciences New Delhi*

Abstract

Human Rights Watch's 2016 report acknowledges India's foremost human rights issues. Government critics are intimidated and subject to lawsuits, while civil society organizations are harassed. There is enough evidence to look at the probability of a crisis in human rights management. All persons, regardless of origin, race, religion, gender, or nationality, are entitled to fundamental human rights. Fundamental rights are sometimes referred to as inherent rights, natural rights, and birthrights because of how significant they are. The freedom and rights to which every person is entitled are known as human rights. Despite facing significant challenges, human rights have received a lot of attention lately. With a focus on the development of judicial activism and flagrant abuses of these rights by the government and private entities, this paper offers an authoritative examination of the current trends and issues in India's human rights landscape. The paper focuses on the basic challenges and the socio-political perspectives on Human Rights in India with a special reference to UDHR and Indian constitutional machinery.

Keywords

Socio-political, Constitution, Human Rights, India, UDHR, Challenge

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I. Introduction:

Human Rights are the fundamental protections against the State or other public authorities that every person is entitled to by virtue of being a "member of the human family," regardless of any other factors. The goal of human rights is to protect everyone against major political, judicial, and social injustices. Human rights encompass issues such as the prohibition of torture, freedom to practice one's religion, the opportunity for fair trials if somebody is accused of a crime & the right to education. The right to education is a major one among others, leading to the emancipation of human communities and realizing their true potential.

Human rights are examined in terms of their nature, existence, universality, justification, and legal standing. Many discourses in the intellectual, social, and legal spheres have firmly asserted that human rights are universal, unalienable, and cannot be separated from human life. This entry discusses the concept of human rights, its existence and justification, the controversy over whether rights constitute human rights, and relativism in relation to human rights. This entry discusses the concept of human rights, its existence and justification, the controversy over whether rights constitute human rights, and relativism in relation to human rights.

History of Human Rights

Most likely, prehistoric societies had no idea of human rights. The idea of human rights, in the form of some fundamental natural rights, dates back to the beginning of human civilization, according to the creator of the natural law doctrine. The natural law theory supported the idea that a person is born with certain unalienable rights, the most important of which is the rights to life, liberty, and property. But as Dr. Paras Diwan has noted, it wasn't long before it became clear that the poor man's human rights were merely ornamental pieces in the form of a few paragraphs in some written constitution, and that they were in fact privileges reserved for the wealthy and powerful. All human rights become useless and irrelevant when poverty denies a person a fair standard of living.

But after the Second World War, the campaign to protect human rights carried on and grew stronger. Soon after the United Nations was established in December 1948, its General Assembly enacted and proclaimed the Universal Declaration of Human Rights. On December 16, 1976, the Central Assembly adopted two international covenants: one on civil and political rights and the other on economic, social, and cultural rights. (Fadaee, 2014).

There are some documents that have directly influenced Modern human rights such as the “Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today’s human rights documents.” (Chong, 2018) Even The holy bible for Christians, the Quran(Koran) for Mohammadi even the sacred Vedas for Hindus, and the Babylonian code of Hammurabi and Analects of Confucius are five of the earliest written sources of that.

The league of nations expressed concern over the safety of specific minority groups following the end of World War I. but the successful European allies organization for world peace and cooperation never succeeded in achieving its objectives. The league failed to stop Japan from invading China & Manchuria, which contribute to its demise and the United States’ refusal to join. (Ramamurthy, 2011)

The concept that every person, simply by virtue of the fact that they are human, is entitled to a certain set of human rights is a relatively recent one. In spite of the fact that there is historical precedent for it in numerous cultural writings and older traditions, World War II was necessary as a catalyst in order to bring human rights to the attention of people all over the world. Being a member of a group, such as a family, an indigenous nation, a religion, a social class, a community, or a state, enabled individuals to acquire rights and responsibilities throughout a significant portion of human history. The proverbial "Do unto others as you would have them do unto you" is a tradition that can be found in the majority of the world's nations.

There are significant historical precedents for both the creation of the United Nations(UN) & Modern International Human Rights in the 19th century we witnessed numerous attempts to end the slave trade and lessen the atrocities of war. The international Labor Organization(ILO) was founded in 1919 by nations to oversee agreements that protect employees’ rights, including their health and safety.

The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights was adopted in 1948, and special agreements protecting the rights of women, children, and people with disabilities were included.

Nevertheless, crimes still occur unchecked and unabatedly.

Every human is a member of a society.

According to the 1948 U.N. Declaration of Human, RightsAll people are born free, with equal rights and respect.

Because they are endowed with reason and conscience, they should act toward one another in a manner that is congruent with the spirit of brotherhood. According to this definition, every single human being possesses the right to fully exercise all of their freedoms.

UDHR includes the “right to asylum, the right to freedom from torture, the right to free speech, and the right to education. It includes civil and political rights, like the right to life, liberty, free speech and privacy” etc.

Human existence depends on human rights.

Human rights may be contested in specifics, yet there is hardly any disagreement over its fundamental principles.

In human history, human rights have consistently been abused. Even religious authorities have occasionally violated human rights.

For the purpose of advancing human rights concerns in India, a number of institutions have been established at the national and state levels, including the National Human Rights Commission, State Human Rights Commissions, a nd Women's Commissions. (Ahmed, 2018).

Legislative protections.

The Human Rights Act of 1997 is one of the numerous laws that exist yet serve no purpose, including the ultimate law of the land, the Indian Constitution. Human rights abuses are prevalent, and the aforementioned "law-enforcement" tools are ineffective in stopping them. Rights are just listed on paper and hence remain unenforceable.

The atrocities that were committed during World War II, including the Holocaust, were a driving force behind the creation of the Universal Declaration of Human Rights (UDHR). The text enumerates the universal human rights that are guaranteed to all individuals, such as the right not to be subjected to torture, the right to free speech, and the right to seek asylum. When such rights aren't protected or when they are ignored in a blatant way, it is a violation of their rights.

The Indian Constitution, the supreme law of the land, is just one example of the many laws that are on the books but serve no practical purpose. Another such law is the Human Rights Act of 1997. The aforementioned "law enforcement" strategies are ineffective at putting a stop to the widespread violations of human rights that continue to occur despite their widespread use.

Rights are just listed on paper and hence remain unenforceable.

The construction of the text outlines the human rights to which everyone is entitled, including the freedom from torture, the right of expression, and the right to asylum. The Holocaust and other atrocities committed during World War II served as inspiration for its creation. When these rights are not protected or are blatantly disregarded, they are violated. (Narain, 2013).

Human rights aren't defined in a way that is accepted everywhere. Haas contends that there is widespread agreement that human rights are defined as the notion that every person has the right to have a good standard of living with the fewest constraints feasible. Humans should also be free to fulfill their social, economic, and cultural demands, be treated equally in the eyes of the law, and not have their perfectly legal behavior interfered with. This essay's goal is to examine whether the Universal Declaration of Human Rights (UDHR) has any bearing on regional human rights accords by keeping these concepts in mind. Understanding the factors that can undermine the UDHR's continued applicability and if these factors have an impact on regional human rights accords is essential.

First, as the phrase says, it is critical to contextualize the serious violations of human rights. Human rights abuses are actions that violate UDHR's list of rights. Just simply looking at key historical events, there are numerous examples of violations of human rights. War crimes, or crimes committed when there is an armed conflict, are among the earliest examples of human rights abuses to date. An example of this is Uganda. The so-called Lord Resistance Army and other opposition groups to the Ugandan government have perpetrated war crimes and human rights violations. According to Ssenyonjo, these wrongdoings include frequent attacks on people, acts of torture, sexual assault, and the enlistment of children as soldiers. These actions clearly contravene several of the UDHR's articles, including the one that states that no one "should be subjected to torture." (Latif, 2015).

Another form of abuse known as a crime against humanity is thought to be the most serious offense against human dignity and to have the strongest connection to the law governing human rights. These abuses have resulted in the denigration and humiliation of people due to government-sanctioned or suggested policies. Injustices, such as "degrading treatment" blatantly infringe on the UCHR's listed rights. The Nazi Regime's atrocities during the Second World War and the holocaust are examples of crimes against humanity. Crimes against humanity may at first glance resemble war crimes. Human trafficking instances appear to classify the abuse as "modern slavery". The UCHR, which prohibits all forms of slavery, is once again violated by this. Due to the lack of a legal requirement on non-state actors, the question of the effectiveness of international human rights law with regard to abuses involving human trafficking also arises.

The UDHR was created in response to serious human rights violations, as stated above, in order to assist in reducing and ending such violations. This effort prompted the UN Commission to create the UDHR, which was ratified by 48 governments at the UN General Assembly. The International Bill of Human Rights is comprised of the following documents: the Universal Declaration of Human Rights (UDHR); the International Covenants on Civil and Political Rights; and the International Covenants on Economic, Social, and Cultural Rights. It is essential to keep in mind that the Universal Declaration of Human Rights (UDHR) is merely a proclamation with limited legal authority regarding the scope of its applicability. In spite of this, the fact that it is non-binding is likely to be overshadowed by the fact that it is a component of the international Bill of Rights as well as two other binding treaties, which indicates that it does continue to be relevant.

Human Rights in Indian Society

Human rights are inherent freedoms. As old as human civilization itself is the idea of human rights. All human beings are entitled to some fundamental freedom and rights known as human rights, which are vital for them to live in harmony with dignity. (Inam, 2010)

According to Nagendra Singh, the third-century B.C. The Buddhist philosophy of non-violence in thought and deed is "a humanitarian doctrine par excellence." Jainism also held similar beliefs. The Gita states that God loves those who are "without malice toward any being, friendly and compassionate, free from egoism and self-sense, even-minded in suffering and joy, and patient." It also claims that the characteristics of non-violence, honesty, freedom from anger, renunciation, aversion to finding fault, sympathy for living things, freedom from covetousness, gentleness, modesty, and steadfastness — traits that a decent human being should possess — express divinity in humanity. The history of ancient Bharat demonstrates unequivocally that human rights existed. (Hingorani, 1985).

The Rajput empire's downfall led to the establishment of Muslim authority in India. In India, the first Muslim Empire was established by Muizz-ud-Din. Due to the Muslim conquest of India, there was a new situation where the Muslim Sultans discriminated against the Hindu population. Therefore, the impact of Muslim dominance in India was detrimental to peace, justice, and equality. M.K. Nawaz qualifies his conclusion with the fact that, at least in its traditional meaning, "Islamic law" views certain people as having more equality than others. The principle of equality was violated since there was one law for Muslims (the faithful) and another for Hindus.

The government of India is run by a parliamentary democracy, and the country's legislature is bicameral, multiparty, and federal. (Jordaan, 2015) The prime minister is the person in charge of the government, but the president is in charge of the country. The president is elected by an electoral college that is made up of all of the state legislatures and the parliament. According to the constitution, the nation's 28 states and eight union

territories each have a significant amount of autonomy and are primarily responsible for maintaining law and order within their respective borders.

Human Rights Challenges to Indian Democracy

In India, there are several obstacles to upholding human rights, including inadequate institutions, corruption, gender inequality, and terrorism. (Kalra & Ranjan, 2014).

Poverty - It has been 75 years since India gained its independence, but poverty still exists in India today. The development will not occur in India unless poverty is eradicated, and people will not take responsibility.

Religious conflicts - Religion and fault lines between different people with different religious belief systems will lead to some violations of human rights

Weak education – Children that receive weak education do not learn from it and are unaware of their rights, which presents challenges. Education must be of high quality because it is crucial to the nation's development.

Lack of accountability - Democracy works with a minimum amount of trust and accountability. Sometimes there is a gap in political accountability and it may lead to disturbances in the basic principles of human rights.

Corruption - Today, corruption presents several difficulties. Due to corruption, people are neglecting their obligations.

Social discrimination: People look down on one another as a result of social prejudice. Social discrimination leads to a rise in human rights abuses

Gender inequality: When India gained its independence, there was a lot of gender discrimination, but it is now slowly disappearing. Boys and girls are discriminated against nowadays.

Constitutional and Legal Framework on Human Rights in India

On January 26, the Constitution of Independent India took effect and began governing the country. It cannot be denied that the Universal Declaration of Human Rights played a role in the formulation of Article III of the Constitution. The International Covenants on Economic, Social, and Cultural Rights and the International Covenants on Civil and Political Rights were both enacted by the Central Assembly of the United Nations, and India has ratified all of them. Additionally, India has signed and ratified the Universal Declaration of Human Rights. (Krishnan, 2004)

The theory of natural rights is the source of the fundamental rights protected by Part III of the Constitution. What was formerly known as Natural Rights is now referred to as Fundamental Rights. Part IV of the Constitution's Directive Principles enshrines the ideals, aspirations, sentiments, precepts, and objectives of our whole liberation struggle.

Liberty And The Right To Life

Article 21 of the Indian Constitution guarantees a person's right to life as well as personal freedom. The Right to Privacy As a component of Article 21 In the case of *Kharak Singh v. the State of Uttar Pradesh*, the Supreme Court of India initially declined to acknowledge the constitutional right to privacy as an element of Article 21. (AIR 1963 SC 1295). In this particular instance, the name of the petitioner was entered into a police history log as a result of complaints, and the police were keeping a close eye on the petitioner's every move.

Clean Environment Right As A Life Right

In the *Doon Valley Case* (AIR 1985 SC 652), Art. 21 was used to stopping the Mussoorie Hills from degrading as a result of the mining there.

The Indian Constitution lists the fundamental civil and political rights

Under the directive principles of the Indian constitution, cultural, social, and economic rights were enumerated. 'natural individual rights are also recognized under the Indian constitution.

For a person's overall development, human rights are crucial. Basic rights, also known as fundamental rights, are protected by the Indian Constitution for both citizens and foreigners. Specific and Unspecified Fundamental Rights are distinguished from one another. The International Covenant on Civil and Political Rights (ICCPR), an international instrument, and the rights guaranteed by the Constitution occasionally stand on equal footing. Instead of being applicable to individuals, the ICCPR is for States.

II. Conclusion:

In spite of the fact that it is the world's largest sovereign, secular, democratic republic, the complexity of India's human rights situation is exacerbated by the country's enormous size and population. One of the fundamental rights guaranteed by the Indian Constitution is the freedom to practice any religion one chooses. In addition, there are clauses that guarantee the right to free speech, the separation of the executive and judicial branches, as well as the freedom to travel both domestically and internationally. (Chowdhury, 2011) In addition to impartial courts, this country also has organizations that monitor and protect human rights. In some circumstances, enforcement of protection against violations of these rights committed by a state (including the state whose national the victim is) may be possible. in the law of nations. Human rights are occasionally said to

be so fundamental that they are included in natural law, but the majority of them are best viewed as being a part of the treaty. Human rights are therefore each individual's right to fundamental freedom. In front of human rights, there are numerous such national and worldwide challenges. Women's conditions have improved, but not as much as was originally anticipated.

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