

INDIAN CONSTITUTION AND HUMAN RIGHTS: AN OVERVIEW

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ABSTRACT

“All Human beings are born equal in dignity and inalienable rights and fundamental freedom.” Respect for the dignity of an individual and striving for peace and harmony in society, has been an abiding factor in Indian culture. Since the days of the Indus Valley Civilization, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contact with the enormous Indian subcontinent over a very long stretch of time. Human rights have always occupied a place of paramount importance in India's rich legacy because India's believed in the principle, "Vashudheva-kutumbakam. There are many references in the Vedas, which throw light on the existence of human rights in ancient India. The modern version of human rights jurisprudence may be said to have taken birth in India at the time of the British rule. The freedom movement and the harsh repressive measures of the British rulers encouraged the fight for civil liberties and fundamental freedoms. The main objective of this article is to find the origin and development of Human Rights in India. Human rights are essential for the overall development of individuals and this article is to know about the fundamental rights guaranteed to the individuals in democratic India. India is the largest representative democracy in the world, based on universal adult suffrage, providing every Indian of at least eighteen years of age the right to vote. The modern version of human rights jurisprudence may be said to have taken birth in India at the time of the British rule. The Indian Constitution is a document rich in human rights jurisprudence. The Supreme Court of India recognises these fundamental rights as 'Natural Rights' or 'Human Rights'. Judiciary in India plays a significant role in protecting human rights.

Keywords: Indian constitution, human rights and democracy

INTRODUCTION:

“All Human beings are born equal in dignity and inalienable rights and fundamental freedom.” Respect for the dignity of an individual and striving for peace and harmony in society, has been an abiding factor in Indian culture. The Indian culture has been the product of assimilation of diverse cultures and religions that came into contact in the enormous Indian subcontinent over time.

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ORIGIN OF HUMAN RIGHTS IN INDIA:

Since the days of the Indus Valley Civilization, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contact with the enormous Indian sub continent over a very long stretch of time. The rights of man have been the concern of all civilizations from time immemorial. The concept of the rights of man and other fundamental rights was not unknown to the people of earlier periods. The Indian concept perceives the individual, the society and the universe as an organic whole. Everyone is a child of God and all fellow beings are related to one another and belong to a universal family. Scholars who have spent long time in lucubration on the Hindu "Dharmasastras" and the "Arthasastras" and other legal treatises of the past have discovered an amazing system, which, interlaid, regulates the duties of Kings, judges, subjects and judicial as well as legal procedures. The central concept is Dharma, the functional focus of which is social order. Human rights gain meaning only when there is an independent judiciary to enforce rights.

The independence of the judiciary was one of the outstanding features of the Hindu judicial system. Even during the days of Hindu monarchy, the administration of justice always remained separate from the executive. It was, as a rule, independent both in form and spirit. It was the Hindu judicial system that first realized and recognized the importance of the separation of the judiciary from the executive and gave this fundamental principle a practical shape and form. Human rights have always occupied a place of paramount importance in India's rich legacy because India's believed in the principle, "Vashudhaiva-kutumbakam. There are many references in the Vedas, which throw light on the existence of human rights in ancient India. The Vedas proclaim liberty of body (Tan), dwelling house (Skridhi), and life (Jibase). In 1367 B.C. Bahmani and Vijayanayara Kings are stated to have entered into an agreement for the humane treatment of prisoners of war and the sparing of lives of the enemy's unarmed subjects.

Kautilya, the author of the celebrated political treatise Arthasastra not only affirmed and elaborated the civil and legal rights first formulated by "Manu," but also added a lumber of economic rights. He categorically ordained that the King should also provide the orphan, the aged, the infirm, the afflicted and the helpless with maintenance. He shall provide subsistence to the helpless, the expectant mothers and the children they give birth to. In the Post-Vedic period, the rise of Buddhism and Jainism were certainly a reaction against the deterioration of the moral order as against the rights of the privileged class. Life was more human and liberal in the Post-Vedic era. After Buddha, Emperor Ashoka protected and secured the most precious of human rights, particularly the right to equality, fraternity, liberty and

happiness. Ashoka successfully established a welfare State and made provisions for securing basic freedoms.

The downfall of the Rajput administration gave rise to the advent of Muslim rule in India. The Muslim invasion of India created a new situation wherein the Muslim rulers or Sultans followed a policy of discrimination against the Hindus. The Muslim conquerors like Mahmud Ghaznavi and others made frontal attacks on ancient Hindu way of life and religion. With the Mughal rulers, especially with Akbar a new era began in the Mughal history of India in the field of human rights as a result of his policy of 'Universal Reconciliation and Tolerance.'

The modern version of human rights jurisprudence may be said to have taken birth in India at the time of the British rule. The freedom movement and the harsh repressive measures of the British rulers encouraged the fight for civil liberties and fundamental freedoms. India that the Charter Act of 1813 was enacted to promote the interest and happiness of the native inhabitants of India. Similarly, the Government of India Act, 1833 was passed to allow the Indians to enjoy some political rights. The proclamation of Queen Victoria on 1st November 1858 contained: some principles of state policy, which were similar to fundamental rights in nature.

The concrete demand for fundamental rights came logically in the wake of the nationalist movement, which coincided with the birth of the Indian National Congress in 1885. The Constitution of India Bill 1895 known as the "Home Rule Document" prepared by the Indian National Congress paved the way for a constitution guaranteeing everyone of the citizens the basic human rights like freedom of expression, inviolability of one's own house, right to property and equality before law.

The Indian Constitution was framed by the Constituent Assembly of India, which met for the first time on December 9, 1946. The Constitution of India gave primary importance to human rights. The Constituent Assembly incorporated in the Constitution of India the substance of the rights proclaimed and adopted by the General Assembly in the Universal Declaration of Human Rights. Further on 10th December 1948, when the Constitution of India was in the making, the General Assembly proclaimed and adopted the Universal Declaration of Human Rights, which surely influenced the framing of India's Constitution. The Constitution of India which came into force on 26th January 1950 along with the fundamental rights and human rights is one of the most elaborate fundamental laws ever adopted.

DEFINITION OF HUMAN RIGHTS:

The Universal Declaration of Human Rights 1948, defines human rights as “rights derived from the inherent dignity of the human person.” Human rights when they are guaranteed by a written constitution are known as “Fundamental Rights” because a written constitution is the fundamental law of the state.

D.D. Basu definition brings out the essence of human rights. He says “Human rights are those minimal rights, which every individual must have against the State, or other public authority, by virtue of his being a ‘member of human family’ irrespective of any consideration. Human rights are based on the principle of respect for the individual. Each person is a moral and rational being who deserves to be treated with dignity. They called Human Rights because they are universal. Mahatma Gandhi remarks, “I do not want to think in terms of the whole world. My patriotism includes the good of mankind in general. Therefore my service to India includes the services of humanity.

HUMAN RIGHTS IN THE INDIAN CONSTITUTION:

Constitution of India is the longest written constitution of any sovereign country in the world. It sets out Fundamental Rights, Directive Principles and the Duties of Citizens. It declares India to be a Sovereign, Socialist, Secular, Democratic, Republic, assuring its citizens of justice, equality and liberty and endeavors to promote fraternity among them. The Preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to all its citizens.

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 number of fundamental rights guaranteed to the individuals in Part III & IV of the Indian Constitution.

The following articles are very clear.

Article 14: equality before law

Article 15(1) Prohibition of discrimination

Article 16(1) Equality of opportunity

Article 19(l) (a) Freedom of speech and expression

Article 19(1) (b) Freedom of peaceful Assembly

Article 19(1) (c) Right to form associations or Unions

Article 19(1) (d) Freedom of movement within the border

Article 21 Protection of life and personal liberty

Article 20 (1) Protection in respect of conviction for offences

Article 22 Right against arbitrary arrest

Article 23 Protection of slavery and forced labour

Article 25(1) Freedom of conscience and Religion

Article 29(1) Right to social security

Article 32 Remedy for enforcement of Rights and detention

Article 38 Right to a proper social order

Article 39(a) & Article 47 Right of everyone to a standard of living adequate for him and his family

Article 39(d) Right to equal pay for equal work

Article 41 Right to work, to just and favorable conditions of work

Article 42 Provision of human conditions of work.

Article 43 Right to just and favorable remuneration & Right to rest and leisure

Article 44 Provision of a uniform civil code for the whole country.

Articles 21 (A), 41, 45 & 51A (k) Right to education

Article 46 promotion of educational and economic interest of the weaker sections of the people and their protection from injustice and all forms of exploitation.

Article 47 raising the standard of living, improving the level of nutrition and public health and prohibition of intoxicating drinks and of drugs.

India is the largest representative democracy in the world, based on universal adult suffrage, providing every Indian of at least eighteen years of age the right to vote. The right to vote, the right to contest elections, and the conduct of elections are all governed by the Constitution (Part XV) as well as special laws like the Representation of the People Act, 1951. The Constitution provides for an independent Election Commission (Article 324), which has in fact acquitted itself quite admirably in the recent elections, both State legislative as well as parliamentary, and set an agenda for clean elections and elimination of the criminal - politician nexus.

JUDICIARY PROTECTION FOR HUMAN RIGHTS:

The judicially enforceable fundamental rights which encompass all seminal civil and political rights and some of the rights of minorities are enshrined in part III of the Constitution (Articles 12 to 35). These include the right to equality, the right to freedom, the right against exploitation, the right to freedom of religion, cultural and educational rights and the right to Constitutional remedies. Fundamental rights differ from ordinary rights in the sense that the former are inviolable. No law, ordinance, custom, usage, or administrative order can abridge or take them away. Any law, which is violation of any of the fundamental right, is void.

The Supreme Court of India recognizes these fundamental rights as 'Natural Rights' or 'Human Rights'. The right to Constitutional remedies is essentially the right to move the Supreme Court of India for enforcement of the above rights (Article 32). The Supreme Court is vested with wide Constitutional powers in this regard. They include the power to issue directions, orders or writs for the enforcement of the fundamental rights (Article 32(2)). State High Courts too have identical powers (Article 226). As laws inconsistent with or in derogation of the rights conferred by part III of the Constitution is void (Article 13), the Courts having the power to adjudge the Constitutional validity of all laws. Furthermore, by virtue of Article 141, the law declared by the Supreme Court shall be binding on all courts in India.

ROLE OF MEDIA TO PROTECT HUMAN RIGHTS:

The freedom of the press is an important concept in considering the role of the media in all aspects of the society. It is a necessary condition for the media to be effective in carrying out their functions. The impact of the media in society is tremendous. The social responsibility of the media is fostered when the media engage in what is referred to as "committed journalism", in which priority is placed on values such as "democracy, free choice, openness, morality, and serving the common good", thereby informing the public "about political, social, economic, and cultural affairs". The "Fourth Estate" plays a crucial role in a large democracy like India where about 1500 different types of newspapers are circulated. The Information Media is an important arm of any modern democratic polity through which the people exercise their freedom of information. The freedom of information, the democratic right to know, is crucial in making all other human rights effective and providing an important safeguard for the enjoyment of all those rights. Traditionally, the vehicle of public information was the Press. Today it is called the media, which include the press, the radio, the television and the internet. The period of National Emergency saw, for the first time, the gagging of the free press. Many then depended on the BBC for 'impartial'

news about India. It is no wonder that the freedom of the Press or media became a watchword after emergency.

The duty of a true and responsible journalist to provide the people with accurate and impartial presentation of news and his views after dispassionate evaluation of facts and information received by him and to be published as a news item. The editor of a newspaper or a journal, the court said, has a greater responsibility to guard against untruthful news and its publication. Since the 1970's the media in India have played a central role in sensitizing people with information about governance, development, science and technology, foreign relations and so on.

Media can play a major role in protecting and promoting human rights in the world. It can make people aware of the need to promote certain values in the cause of human rights which are of eternal value to the mankind. Peace, non-violence, disarmament, maintenance and promotion of ecological balances and unpolluted environment and ensuring human rights to all irrespective of caste, colour and creed should be the minimum common agenda for the media. The media can perform this role in different ways. It can make people aware of their rights, expose its violations and focus attention on people and areas in need of the protection of human rights and pursue their case till they achieve them.

Media can also give publicity to the individuals and organizations, which are engaged in securing human rights. Media can inform and educate the people of their rights and suggest ways and means by which they can solve their problems and thus empowering them to protect their rights. Media's new role today is reporting, analyzing and commenting. It faces a challenge in playing the role in protecting human rights in the world. Press has a sacred duty to focus human rights violations and then measures for protecting them.

CONCLUSION:

Since the days of the Indus Valley Civilization, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contact with the enormous Indian sub continent over a very long stretch of time. In the Post-Vedic period, the rise of Buddhism and Jainism were certainly a reaction against the deterioration of the moral order as against the rights of the privileged class. Life was more human and liberal in the Post-Vedic era. After Buddha, Emperor Ashoka protected and secured the most precious of human rights, particularly the right to equality, fraternity, liberty and happiness. The modern version of human rights jurisprudence may be said to have taken birth in India at the time of the British rule. In the same way the Indian Constitution is a document rich in human rights jurisprudence. Part III of the Indian Constitution may be characterized as the 'Magna Carta' of India.

Fundamental rights have been bestowed to the citizens of India by the founding fathers of the Indian Constitution. Fundamental rights also known as the basic rights are recognized and guaranteed as the natural rights. There are certain rights which are enjoyed by Indian citizens due to wide interpretation of the Fundamental Rights. The Supreme Court of India recognizes these fundamental rights as 'Natural Rights' or 'Human Rights'. The right to Constitutional remedies is essentially the right to move the Supreme Court of India for enforcement of the above rights (Article 32). The Supreme Court is vested with wide Constitutional powers in this regard. State High Courts too have identical powers (Article 226). Media has been performing a sacred duty to focus human rights violations and then measures for protecting them. The Judiciary in India plays a significant role in protecting human rights.

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