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Human Rights In Indian Scenario

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Abstract: In Indian scenario, human rights are protected by the constitution and the Protection of Human Rights Act, 1993, with the National Human Rights Commission playing a key role. However, despite legal frameworks, challenges remain in ensuring the full realization of human rights, particularly for marginalization groups. Human rights are universal moral rights that cannot be violated or abridged under any circumstances. They are therefore of a universal character since they transcend national or ideological borders. No idea of 'divine, moral, natural or any other form of rights' underpins these rights.

Keywords: Human Rights, Fundamental Rights, Constitution, Protection

Introduction

Since the day 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. As Jawaharlal Nehru notes, there is "an unbroken continuity between the most modern and the most ancient phases of Hindu thought extending over three thousand years."¹ The rights of person have been the concern of all civilizations from time immemorial. "The concept of the rights of person and other fundamental rights was not unknown to the people of earlier periods".²

The concept of rights of human beings is neither entirely western nor modern. Rig Veda cites three Civil Rights, that of Tana (Body), Skridhi (Dwelling place) and Jibhasi (Life). Mahabharata tells about the importance of the freedom of the individual (Civil Liberties) in a state. Concept of Dharma- rights and duties of individuals, classes, communities and castes- has been delineated in our scriptures. Before second century B.C., Indian states could boast elected kings. Arthashastra elaborates on civil and legal rights first formulated by Manu which also included economic rights. When British ruled India, resistance to foreign rule manifested in the form of demand for fundamental freedoms and civil and political rights for the people.³

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. In this context, 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".⁴

The constitution of India Bill 1895 prepared by Indian National Congress, also known as a 'Home Rule Document' talked about a constitution guaranteeing every one of the citizens basic human rights like freedom of expression, inviolability of one's own home, right to property. Equality before law, etc. In August 1918, Indian National Congress demanded incorporation of a Declaration of the Rights of the people of India as British citizens. It demanded, inter alia, guarantees of equality before law, protection in respect of liberty, life and property, freedom of speech and press and the rights of association. In Delhi session of December 1918, Indian National Congress included the principles of self-determination as one of the basic rights.⁵

Constitution of the Irish Free State 1921 included a list of Fundamental Rights. This had profound influence on the thinking of the Indian National Congress, which in 1925 finalised the draft of 'Commonwealth of India Bill' embodying a Declaration of Rights, Madras Congress of the Indian National Congress in 1927 demanded incorporation of a Declaration of Fundamental Rights in any constitutional framework. A committee under Motilal Nehru was appointed. Reporting in 1928, this committee declared that the first concern of the people of India is to secure fundamental rights. The constitution of the Republic of India enacted in 1950, incorporated ten of the nineteen rights enumerated in the Motilal Nehru Committee Report.⁶

Promulgation of the constitution by the people of India in January 1950 is a watershed in the history of development of the concept of human rights in India. The Preamble, Fundamental Rights and the Directive Principle of State Policy together provide the basic human rights for the people of India. Democratic socialism spelt out in the preamble and the directive principles is meant to provide the context in which the fulfilment of fundamental rights has to be achieved. While fundamental rights stress on the existing rights, directive principles provide the dynamic movement towards the goal of providing human rights for all.⁷

The protection of Human Rights Act, 1993 has been enacted for the better protection of human rights. The Act provides for the constitution of a National Human Rights Commission (NHRC) and a commission for each state. The very idea to bring the Human Rights Commission into existence is to give practical shape to the entire gamut of human rights philosophy by executing the intension of the legislatures manifested in different social legislation in consonances with the philosophy enshrined in our National Charter.⁸

National Human Rights Commission:

The National Human Rights Commission was constituted in October 1993 under the human rights ordinance of 28th September 1993, which was soon after enacted as the protection of Human Rights Act, 1993, it is a fully autonomous body; its autonomy derived out of the method of appointment of the members, their fixity of tenure, and statutory guarantees thereto, the status they have commission would be appointed and would conduct themselves; as also the autonomy it enjoys in terms of its financial powers.⁹

The following functions devolve on the Commission under the Act:

1. Inquire, on its own initiative or on a petition presented to it by a victim or any persons on their behave, into complaints of:
 - 1.1 violation of human rights or provocation thereof, or
 - 1.2 negligence in the prevention of such violation, by a public servant;
2. intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
3. visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and recommendations thereon;
4. review the safeguards provided by or under being in force for the protection of human rights and recommend measures for their effective implementation;
5. review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
6. study treaties and other international instrument on human rights and make undertake and promote research in the field of human rights;
7. undertake and promote research in the field of human rights;
8. spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
9. encourage the efforts of non-governmental organisations and institutions and institutions working in the field of human rights; and
10. such other functions as it may consider necessary for the promotion of human rights.¹⁰

State Human Rights Commission:

Therefore is enabling provision in the Act for State Human Rights Commission to be constituted by the respective state government. A State Commission may inquire into violations of human rights only in respect of matters relating to any of the entries, enumerated in List II (State List) and List III (Concurrent List) in the Seven Schedule of the constitution. However, if any such matter is already being inquired into by the National Commission or any other Statutory Commission, the State Commission shall not inquire into the said matter. Subjects to this, the powers, the procedure of investigation, inquiry and steps to be taken thereafter are comparable to those of the National Commission.¹¹

India is a country of multi-caste and multi-groups. In Indian social structure, the position of all castes is not equal. Some castes occupy top most position in the society. They are called as forward caste politically. Some castes occupy middle position. They are termed as backward castes politically as dalits and constitutionally as scheduled castes and schedule tribes. Since these groups are disadvantaged lot since centuries economically, socially and politically, violation of their rights takes place by the resourceful and powerful groups of the society. Although our government is making all its efforts to make these groups conscious towards their rights since independence, but the situation of poverty, indebtedness and dependency for livelihood and survival compels them to forget about human rights and protect their existence in submissive manner.

Conclusion:

In the Indian context, the protection and promotion of human rights have been enshrined in the constitution and reinforced through legislation, judicial activism and civil society movements. India has made significant progress in area such as the right to education, gender equality and the protection of marginalized communities. The establishment of institutions like the National Human Rights Commission (NHRC) and State Commission for every state demonstrates the country's commitment to uphold these rights. India to fully realize the vision of human rights for all, it must ensure stronger enforcement mechanisms, greater public awareness and a more inclusive approach to development and justice.

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