

Constitution of India and Human Rights: A Modern Chronological Outlook

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Introduction:-

The Constitution of India, adopted on 26th January 1950, is a comprehensive document that guarantees a wide range of fundamental rights to its citizens. These rights are enshrined in Part III of the Constitution, which is commonly referred to as the “Fundamental Rights” chapter. The Constitution reflects a modern outlook towards human rights by recognizing the importance of individual liberties and providing a framework for their protection.

Human rights are a set of fundamental entitlements and liberties that are inherent to all individuals by virtue of their humanity. They are often referred to as fundamental rights or natural rights because they are considered essential and universal, applying to every person regardless of their nationality, race, religion, gender, or any other characteristic.

These rights are considered to be inalienable and should not be arbitrarily deprived or violated by any government, authority, or legislative body. They are typically enshrined in national constitutions or international human rights instruments, such as the Universal Declaration of Human Rights and various international treaties.

Human rights encompass a wide range of principles and freedoms, including civil and political rights, such as the right to life, liberty, and a fair trial, as well as economic, social, and cultural rights, such as the right to education, healthcare, and an adequate standard of living. They also include collective rights, such as the right to self-determination and the right to participate in the cultural, social, and political life of one's community.

The concept of human right is rooted in the belief that every individual possesses inherent dignity and worth, and therefore deserves to be treated with

respect and fairness. They serve as a foundation for promoting equality, justice, and the well-being of individuals and societies as a whole.

While the recognition and protection of human rights have made significant progress over the years, challenges and violations persist in many parts of the world. Advocacy, education, and efforts to hold governments and individuals accountable for human rights abuses remain essential in ensuring that these fundamental rights are upheld for everyone, everywhere.

The concept of human rights acknowledges that these rights exist by virtue of a person's humanity, and they should be recognized and protected by all countries and international bodies.

The recognition and protection of human rights are indeed considered a duty for nations that are members of the United Nations. The UN Charter, which serves as the foundational document of the organization, emphasizes the promotion of respect of human rights and fundamental freedom. Member states commit themselves to upholding these principles and work towards ensuring that human rights are respected, protected and fulfilled.

It is important to note that while human rights are considered universal and inherent, the legal framework through which they are protected and enforced can vary among countries. International human rights instruments, such as treaties and conventions, provide a common framework for states to adhere to and establish legal obligations for their implementation. However, the specific legal mechanisms and protections for human rights may differ from one country to another, depending on their domestic legal systems.

While the core principles of human rights should not be subjected to amendment, the interpretation and application of human rights standards can evolve over time. This is often

reflected in the development of international human rights law and the jurisprudence of human rights courts and tribunals. The aim of these developments is to ensure that human rights remain relevant and effective in addressing contemporary challenges and advancing the well-being of individuals and societies.

I. Historical evolution of the concept of human rights:-

During the ancient period, the development and recognition of human rights were influenced by various historical and cultural contexts. While formalized human rights systems as we know them today did not exist during this time, there were certain advancements and philosophical ideas that laid the groundwork for the concept of human rights.

In ancient civilizations, such as Mesopotamia, Egypt, India, China, Greece, and Rome, there were varying degrees of recognition of individual rights and freedoms. Some of these ancient societies had legal codes or philosophical teachings that emphasized principles related to justice, fairness, and the dignity of individuals.

For example, the Code of Hammurabi in ancient Mesopotamia, established around 1754 BCE, contained provisions that aimed to protect vulnerable groups, regulate labor relations, and provide a framework for justice. In ancient India, philosophical texts such as the Upanishada and the Arthashastra discussed ethical principles and the responsibilities of rulers towards their subjects.ⁱ

The Twentieth Century witnessed a complete transformation of natural law from that of absolutism and individualism to that of social progress. Justice, equality and good conscience exercised a great formative influence and that "All men are born free and equal in dignity became mostly widely accepted principle."ⁱⁱ

After 1945, the development of human rights experienced significant advancements on the global stage. Here are some key developments:

1. Universal Declaration of Human Rights UDHR: adopted by the United Nations General Assembly in 1948, the UDHR is a milestone document that proclaimed the inalienable rights to which every individual is entitled regardless of their nationality, race, religion or gender. It serves as

the foundation for international human rights law and has been instrumental in shaping subsequent human rights instruments.

2. International Human Rights Covenants:- Building upon the UDHR, two binding treaties were adopted in 1966—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These covenants establish legally enforceable rights and provide a framework for protecting civil, political, economic, social, and cultural rights.

3. Regional Human Rights Instruments:-

4. International Criminal Court (ICC):-

5. Human Rights Organizations:-

6. Human Rights Norms in International Law:-

The comments by Justice D.M. Dharmadhikari emphasize the role of judicial activism in situations where the executive or legislative branches fail to act or address certain issues. According to justice Dharmadhikari, when there is inaction by the executive or the legislature, the judiciary has a constitutional obligation to step in and provide a solution until the legislature enacts proper legislation. This underscores the idea that the judiciary plays a vital role in upholding the constitutional scheme and ensuring justice and fairness.

The **Supreme Court's ruling in M.C. Mehta Vs. Union of India** further emphasizes the prioritization of life, public, health and ecology over concerns such as unemployment and loss of revenue. This decision reflects the court's recognition of the importance of sustainable development and the need to protect the environment and public welfare.

Regarding minority rights, it is important to distinguish between two concepts: individual rights applied to members of minority groups and collective rights accorded to minority groups as a whole. The United Nations initially treated indigenous peoples as a category of minorities. However, there has been an expanding body of international law specifically focused on indigenous peoples, including the International Labour Organization's Convention 169. This convention highlights the importance of addressing the cultural and social characteristics of minority populations and gives greater consideration

to issues of autonomy, integration, and cultural preservation.

The recognition of collective rights and the need for states to make important choices concerning minority populations reflect the evolving nature of human rights discourse. As ethnic revival movements gain momentum globally, there is a growing understanding of the importance of protecting and promoting the rights of minority groups, including their cultural identities and social organization. This requires states to make informed decisions that balance autonomy and integration while respecting the rights and characteristics of minority populations.

II. Judicial Approach towards Indian Constitution and Human Rights:-

The Supreme Court recognized as a guardian of the fundamental rights. We are the secretary of the international conventions on human rights therefore our constitution is embodied with human rights in the form of fundamental Rights in part 3rd. In India judiciary exercise its power of interpretation of part 3rd efficiently in order to trigger advancement in the Human Rights protection.

Here is a brief overview of each case and its significance:

1. Keshavananda Bharati Vs. State of Keralaⁱⁱⁱ

In this landmark case, the Supreme Court established the doctrine of the basic structure, stating that certain essential features of the Constitution cannot be amended by the Parliament. This principle ensures the protection of fundamental rights and prevents the excessive alteration of the Constitution's core values.

2. Shabnam Abidi Vs. State of Delhi^{iv}

The Supreme Court, in this case, recognized the right of child victims and established the entitlement of child victims to have a support person during trials. It also recognized the option for child victims to testify outside the court environment, creating a more child-friendly and supportive judicial process.

3. D.K. Basu Vs. State of West Bengal^v

This case led to the formulation of guidelines and procedures to be followed during the process of arrest. The Supreme Court aimed to prevent human rights violations during arrests, ensuring that individuals are treated with dignity and their rights are respected.

4. NALSA Vs. Union of India^{vi}

In this significant judgment, the Supreme Court recognized the rights of transgender individuals as third genders and directed the government to treat them as minorities. The court's decision paved the way for transgender rights, including reservations in jobs, education, and other amenities, to endure their inclusion and protection.

5. Shreya Singhal Vs. Union of India^{vii}

This case dealt with the constitutionality of S. 66A of the Information Technology Act, which allowed arrests for objectionable content posted on the internet. The Supreme Court declared the provision unconstitutional, emphasizing the importance of free speech and protecting individuals from arbitrary restrictions on their online expression.

These cases demonstrate the judiciary's active role in interpreting and safeguarding fundamental rights in India, contributing to the advancement of human rights protection and ensuring a just and inclusive society.

III. Suggestions:-

Certainly, here are some suggestions to further strengthen human rights protection:

1. Empowering Institutions:

Strengthening institutions such as the National Human Rights Commission (NHRC), State Human Rights Commissions, and National Women's Commission is crucial. Providing them with adequate resources, independence and enforcement powers can enhance their effectiveness in addressing human rights violations.

2. Public Awareness:-

Promoting awareness about human rights among the general public is essential. Conducting educational campaigns, workshops, and disseminating information through various channels can empower individuals to assert their rights and contribute to a culture of respect for human rights.

3. Speedy Disposal of Cases:-

Establishing and expanding the number of Fast Track Courts can help expedite the judicial process, ensuring prompt justice delivery. This is particularly important in cases involving human rights violations to prevent prolonged delays and ensure timely redressal.

4. Anti-Corruption Measures:-

Combating corruption and reducing bureaucracy is crucial for the effective protection of human rights. Implementing transparent systems, strengthening anti-corruption mechanisms, and promoting accountability within government institutions can help prevent corruption from undermining human rights.

5. Adequate Resource Allocation:-

Allocating sufficient resources to human rights-related matters is vital. This includes financial resources, infrastructure, and personnel to support the functioning of institutions, enable effective investigations, and ensure the implementation of human rights laws and policies.

By implementing these suggestions, there can be substantial improvements in the protection and promotion of human rights, fostering a society where rights are respected, upheld, and individuals can live with dignity and equality.

IV Conclusion:-

In conclusion, as society continues to evolve and new challenges emerge, it is crucial for India to address the exploitation and violation of human rights. The implementation of robust data privacy laws is essential, considering the increasing threats to human rights in the digital realm. Protecting individuals' privacy and ensuring their rights are respected in cyberspace should be a priority.

Additionally, it is important to recognize that the protection of human rights requires a holistic approach. Empowering institutions like the NHRC, State Human Rights Commissions, and the National Women's Commission, along with spreading awareness among people about their rights and responsibilities, are vital steps in safeguarding human rights.

Efforts should also be made to ensure the speedy disposal of cases, establish anti-corruption measures, and allocate adequate resources to human rights-related matters. By undertaking these measures, India can make significant progress in protecting and promoting human rights, creating a society where individual's rights are respected and upheld in all spheres of life, including the digital realm.

ⁱ (Param Jit Jaswal & Nistha Jaswal, human rights and law, APH publishing corporation New Delhi 1996 P.4)

ⁱⁱ G.S. Bajwa, 1995, P. 30, T.S. Batra, 1979, P. 38.

ⁱⁱⁱ (AIR (1973) 4 SCC 225)

^{iv} (AIR (2004) DLT 125)

^v (AIR, 1997 SC 610)

^{vi} (WP (civil) No. 400 of 2012)

^{vii} (WP (criminal) No. 167 of 2012)