



Human Rights and Indian Constitution

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Introduction:

The Constituent Assembly began its work on December 9, 1946. After several discussions and debates the Constitution of India was finally adopted on January 26, 1950. The framers of the Indian Constitution were greatly influenced by the concept of human rights and most of the human rights embodied in the Universal Declaration of Human Rights. While the civil and political rights have been incorporated in Part III of the Indian Constitution, (Fundamental Rights). The Economic Social and cultural rights have been incorporated in part IV of the Constitution (Directive Principles of States policy.) The Constitution of India as said above, provides some fundamental Rights to its citizens. The fundamental human rights ascertained by the Constitution of India, were influenced by many rights that had been endorsed by several countries. The England's Bill of Rights (1689), the United States Bill of Rights (December 15, 1791) and the Declaration of the Rights of Man and Citizen of France (created during the revolution of 1789) were the main influences that went into the making of the Fundamental Human rights of India.

The fundamental Rights are included in part III of the Constitution. (Articles 12-35). These rights were finalized by a committee of the Constituent Assembly headed by Sardar Vallabh bhai Patel. These rights have not been defined in the constitution but it has been agreed upon that they are essential. That is why they are named as Fundamental Rights because they are the most essential rights and are above all ordinary laws. Thus unlike ordinary laws they can be altered only through a constitutional amendment.

Contrary to other justifiable rights the Fundamental rights are protected by a constitutional remedy. Thus the Fundamental Rights are not absolute but have been subjected to certain restrictions.

Objective of the Research Paper:

1. To study the human rights in Indian context
2. To study the human rights which given the Indian people
3. To study the provisions of fundamental rights in Indian constitution

4. To study the real situation of human rights in India

Research Methodology:

The present research paper is based on secondary data. The data are collected from various references, journals, books, websites and used of the preparation of the research papers.

Human Rights and Indian Constitution:

The Constitution of the Republic of India which came into force on 26th January 1950 with 395 Articles and 8 Schedules, is one of the most elaborate fundamental laws ever adopted. The Preamble to the Constitution declares India to be a Sovereign, Socialist, Secular and Democratic Republic. The term 'democratic' denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal "irrespective of the race, religion, language, sex and culture." 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.

Fundamental Rights in India:

The Indian constitution assures certain Fundamental Rights to all the citizens of India. The Constitution of India gives the greatest priority to these civil liberties. They are guaranteed to be above all other laws of the nation. They

encompass many basic individual rights like equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion and the right to constitutional remedies for the protection of civil rights, for instance the Habeas Corpus. The fundamental rights were incorporated in the Indian constitution with the aim to eradicate the inequalities and discriminatory social practices of the past. They abolished the practice of untouchability and also forbid differentiation on the basis of gender, religion, race, caste, or place of birth. It also prohibited discrimination between human beings and atrocities like forced labour. They even protected cultural and educational rights of minorities by safeguarding the right to retain their unique culture and discrete languages. The minorities were also given the freedom to set up and execute their own educational institutions. There are six fundamental rights.

There are **six fundamental rights** enshrined in the Indian Constitution.

1. Right to Equality
2. Right to Freedom
3. Right against Exploitation
4. Right to Freedom of Religion
5. Cultural and Educational Rights
6. Right to Constitutional Remedies

Right to Property has been deleted from the list of fundamental Rights by the 44th Constitutional Amendment Act of 1978. Now it is a legal right under article 300(A).

In 2002, Article 21(A) was incorporated by the 86th constitutional amendment act. Primary education has also been made a fundamental right under the Right to Life and Personal Liberty. It says that "The children in between the age group of six to fourteen years shall be provided free and compulsory education" by the state.

Fundamental Rights are not absolute but have been subjected to certain restrictions. The Constitution equips the states with the provision of imposing restrictions on these rights at times, for upholding the independence, sovereignty and integrity of India. Nevertheless, the right to life and personal liberty cannot be suspended. Similarly, the six freedoms (Right to freedom) also bear some restrictions. They can be suspended automatically during the state of emergency.

India and the Universal Declaration:

India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed to the individuals in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights. The following chart makes it very clear.

In *Keshavananda Bharati v. State of Kerala* the Supreme Court observed, "The Universal Declaration of Human Rights may not be a legally binding instrument but: it shows how India understood the nature of human rights at the time the Constitution was adopted."

Recognition of international Human Right principles in India:

Truly internationally recognized human right principles and standards have a very special place in India. They are embodied in the Indian Constitution, which is the highest law of our land. The rights recognized in the Universal Declaration of United Nations are mirrored in the Indian Constitution.

Many of these rights are incorporated in the Fundamental Rights and the Directive Principles of the State Policy, guaranteed by the Constitution of India. This has been best exemplified in Article 47 of the Directive Principles of the Indian Constitution, which epitomizes Article 25 of the Universal Declaration of United Nations. Article 25 of the Universal Declaration says that everyone has the right to a standard of living that is adequate for the health and well-being of themselves and their family. This right has been included as Article 47 of the Directive Principle of the Constitution of India, which says that the State shall consider its primary duty to raise the level of public health, nutrition and standard of living of the people.

Apart from the inclusion of internationally recognized human rights in the Indian Constitution, some human rights are also specifically protected under different laws enforced in the country. The Protection of Civil Rights Act, 1955; Prohibition Act, 1961; Bonded Labour System [Abolition] Act, 1976; Child Labour [Prohibition and Regulation Act],

1986; and the Scheduled Tribes [Prevention of Atrocities] Act, 1989, are a few examples that certify India's lust for human rights. Similarly, the Human Rights Protection Act, 1993 affirms the human rights associated with life, equality, liberty and dignity of a person, which have been ascertained by the Indian Constitution and the International Covenants. It also assures their execution by the courts in India.

The special place of Human Rights in our Constitution:

When the Constitution was written, human rights were included in Part III and Part IV which are the chapters on Fundamental Rights and Directive Principles of State Policy. Together they are said to form the 'conscience of the constitution'.

Constitution makers felt that civil and political freedoms must combine with social and economic justice to create a just social order for all. The Directive Principles are meant to guide all policies and law making; indicate the directions of change; and the goals toward which the State must strive. The Directive Principles are not less important than Fundamental Rights but unlike a fundamental right, which allows a person to take the State to court if it is violated, individuals cannot take the State to court if a principle laid down in the Directive Principles is not followed. Nevertheless, Directive Principles are not lifeless ideals but have provided the basis from which new rights such as the right to education have evolved and the right to food is being developed.

Conclusion:

The Indian Constitution is a document rich in human rights jurisprudence. This is an elaborate charter on human rights ever framed by any State in the world. Part III of the Indian Constitution may be characterized as the 'Magna Carta' of India. The Judiciary in India plays a significant role in protecting human rights. The Indian Courts have now become the courts of the poor and the struggling masses and left open their portals to the poor, the ignorant, the illiterates, the downtrodden, the have-nots, the handicapped, the half-hungry, half-naked countrymen.

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