



## An Evaluative Study of Human Rights In India – An Overview

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### ABSTRACT

In the Ancient period, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contract with the enormous Indian sub-continent over a very long stretch of time. The right of men have been the concern of all civilizations from time immemorial. The concept of human rights is a universal concept rights kept to their cure amenities that are recognized and protected be the state. The human rights enacted by the government of India, states that human rights are right to life, liberty, equality and dignity recognized by the constitution recognized by the international treaties. But many related to human rights have not been implemented human civilization are deeply rooted in the historical past beings are not mature. They can survive in different places so they can't create well-defined society. The history of mankind has been firmly associated with the struggle of individuals against injustice, exploitation, and disdain. A few centuries later man who lived like a feuded seated in the same place and tried to live in peace and harmoniously. It is not a natural, easy to live life, but also a person who does not have the natural way of life to enjoy the naturally enjoyed life. The man made a "social agreement" in this contract is the starting point of human rights. In this paper I have to show the origin, growth, significance, and importance of Human rights in a descriptive way.



## **INTRODUCTION**

Although various explanations have been given to the term human rights, it is changes according to circumstances that change in every period of time. Human rights are not the right to buy anyone. Human rights a global phenomenon rights of human being are inherent in nature we have come up in our society. The human nature of the human being is inherently immutable in nature. These things are connected with each person born as human. These human rights are recognized by the government at the time of man's birth. Many of the man's demands are the right to claim. "It is the right of a public to be recognized by the state by the acceptance of other people in the community by the demands of an individual". These are not only owned by a few. Everyone is entitled to enjoy this privilege.<sup>1</sup>

The term "Human Rights" is comparatively derived recent origin. But the idea of human rights is as old as the history of human civilization. The concept of human rights is the result of the long evolution of philosophical, political, legal and social reflection, inseparably connected to the social-democratic traditions.

The fundamental rights have become very much essential ingredient to maintain our life. In this light India takes various crucial step to uplift the status of citizens in India. Human rights in India is an issues complicated by the countries have size of population, widespread poverty, lack of proper education as well as diverse culture even though bring the world's large sovereign, secular and democratic republic.

### **Meaning of Human Rights**

Human rights are man's form of demands for human being. Human rights can be considered as promoting human values and being recognized by society and society. The state guarantees these rights of man and maintains through its laws. Human rights are the ones who are born in the birth and they have human rights, where ethnicity, color, language, religion and religion are sprung. These human rights are called by the name of "fundamental rights" in our constitution.

Human rights are the standards that allow all the people to live with dignity, freedom, equality, justice and peace. Every person has these rights simply because they are human beings. They are guaranteed to everyone without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Human rights are essential to the full development of individuals and communities.

## **Importance of Human Rights**

Human rights reflect the minimum standards necessary for people to live with dignity and equality. Human rights give people the freedom to choose how they live, how they express themselves, and what kind of government they want to support, among many other things. Human rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing, and education, so they can take full advantage of all opportunities. Finally, by guaranteeing life, liberty, and security, human rights protect people against abuse by individuals and groups who are more powerful. According to the United Nations, human rights:<sup>2</sup> Human rights are not just theoretical; they are recognized standards to which governments are to be held accountable.

There are five basic tenets underlying human rights as they apply to all people. Human rights are:

- ❖ Universal in that they belong to all people equally regardless of status. All people are born free and equal in dignity and rights.
- ❖ Inalienable in that they may not be taken away or transferred. People still have human rights even when their governments violate those rights.
- ❖ Interconnected because the fulfillment or violation of one right affects the fulfillment of all other rights.
- ❖ Indivisible as no right can be treated in isolation. No one right is more important than another.
- ❖ Non-discriminatory in that human rights should be respected without distinction, exclusion, restriction, or preference based on race, color, age, national or ethnic origin, language, religion, sex, or any other status, which has the purpose or effect of impairing the enjoyment of human rights and fundamental freedoms.

## **Human Rights and Development**

Human rights and development have a strong, complex relationship. There has been a long history of the birth and growth between the two areas since the end of the World War II, starting with the Universal Declaration of Human Rights. This very document officially established new moral standards for human rights at international level, with its legal binding effects on all member states of the United who have ratified the bill. Since then, numerous efforts have been made to realize these standards at national, regional and international spheres.

Development, on the other hand, in his opinion, “grew from the decolonization process after World War II and were also inspired by efforts to create a more just world order” (Sano 2000). This aspiration has led to the “economic development” in the 1950s and 1960s and “sustainable and people-centered development” for the 1980s and 1990s (Theis 2004). The struggle against global



inequality and poverty, which started to dominate the UN agenda since 1970s and has stayed in the spotlight especially after the Cold War, witnessed a change in perception of root causes of poverty and a quest for sustainability (Theis 2004)

Besides, Theis (2004) adduced that the separation of human rights and development in the global order in the last century was mainly caused by the confrontation of the two poles in the Cold War. Human rights were advocated for by the Western world topped by the United States concentrating on civil and political rights and freedoms while the Socialist bloc promoted economic and social rights.<sup>3</sup>

### **Human Rights in India**

India is the biggest democracy in the world. Being a democratic country one of the main objectives is the protection of the basic rights of the people. Government of India has given due consideration to the recognition and protection of human rights. The Constitution of India recognizes these rights of the people and shows deep concern towards them.

The Universal Declaration of Human Rights contains civil, political, economic, social and cultural rights. Constitution guarantees most of the human rights contained in Universal Declaration of Human Rights. Part III of the constitution contains civil and political rights, whereas economic, social and cultural rights have been included in Part IV of the Constitution.<sup>8</sup> All the statutes have to be in concurrence of the provisions of the Constitution.<sup>4</sup>

The philosophy and objective of the Constitution of India is enshrined in the preamble which include the protection of the dignity of an individual. For the fulfillment of this objective Part III of the constitution guarantees fundamental rights to people which are essential for the development of an individual personality, these rights include 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. It is the duty of the central as well as state Governments to provide adequate conditions to each individual to enjoy their human rights. The constitution through Directive Principles of State Policy enshrined in the Part IV of the Constitution, ascertains the duties on the government to work for the welfare of the people and protection of human rights of the people. These are guiding principles for the state to make policies regarding distributive justice, right to work, right to education, social security, just and humane conditions of work, for promotion of interest of weaker section, raise the standard of nutrition and standard of living and to improve public health, protection and improvement of environment and ecology etc. so that each individual can enjoy rights to the fullest.

## **National Human Rights Commission**

It is the State's primary responsibility not only to protect the human rights of the people from any violation but also the prevention of such violations by providing the requisite means for its realization and further ensuring human development. State discharged such responsibility through its institutions. So, at national level, National Human Rights Commission was established under the Protection of Human Rights Act of 1993 to fulfill this responsibility.

Section 3 of the Act provides for the composition of National Human Rights Commission. Commission is composed of a chairperson and four other members. In order to provide representation to the backward and oppressed sections of the society, besides these members, the chairmen of the National Commission for Minorities, the National Commission for SCs, the National Commission for STs and the National Commission for Women are given ex-officio membership of the Commission.

The functions of the National Human Rights Commission are provided under Section 12, from the perusal of Section Commission performs various functions which are as follow:- <sup>5</sup>

- a) Inquire into the cases of violation of human right Suo motu, on petition presented to him or on the direction of the Court.
- b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
- c) Visit into any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and to make recommendations thereon to the Government;
- d) Conduct a systematic review of the Government's human rights policy in order to detect shortcomings in human rights observance and to suggest ways of improvement. The National Human Rights Commission has been doing this task by commenting on the draft legislation, drawing the attention of the Government to the lacuna in the existing law and forming a human rights policy for the nation according to the local needs.
- e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- f) Study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- g) Undertake and promote research in the field of human rights.



- h) 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.

Commission is empowered to exercise the powers of civil court in respect of summoning and enforcing attendance of witnesses and their examination on oath, discovery and production of documents, receiving evidence on affidavit etc. The commission for the purpose of conducting any investigation pertaining to the inquiry can utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be. National Human Rights Commission also performs an important function of making guidelines and recommendations to various authorities. It has provided many recommendations on various matters such as health, education, jails reforms, police encounters, police public relations, guidelines on arrest, food security bill, violence against women etc. from time to time. Recently, Commission has given recommendations on Prison Reforms, Human Rights Defenders, Leprosy and Mental Health.<sup>6</sup> Commission has rendered a significant role for the observation of human rights. In various instances of human rights violation, it took Suo motu cognizance and took cognizance on the complaints filed before it. References may be made to few cases, which are discussed below:

In Gujarat Communal Riot's Case,<sup>7</sup> the commission took Suo motu action on communal riots, took place in Gujarat in early 2002; based on media reports. The Commission also received an e-mail communication requesting the Commission to intervene. A team of the Commission had visited Gujarat in March, 2002 and prepared a confidential report, which was later published. The Commission observed that the State has failed to discharge its primary and inescapable responsibility to protect the rights to life, liberty, equality and dignity of all of those who constitute it.

In Bonded Labourers Working in Chauna Stone Mines, District Gwalior Madhya Pradesh,<sup>44</sup> Bonded Labour Liberation filed a complaint that 400 bonded labourers had been working in Chauna Stone mines in District Gwalior and they were not paid their wages; besides they were tortured and harassed. Commission asked government to direct Labour Commissioner, MP to ensure the inspection of these establishments and strict enforcement of all labour laws. persons were released and sent to other districts as per their wishes. In a subsequent report, Labour Department, Government of M.P. stated about the rehabilitation of released labourers and also indicated the





action taken against the guilty employers. On consideration of the report, Commission closed the case.

In Case No. 2432/4/39/2012, the Commission has taken Suo motu cognizance of a press report titled "Kids thrashed for refusing insect infested school meal" The report alleged that students of a school at Mithani Milki village of Vaishali district near Patna were allegedly thrashed by their headmaster till they fainted for refusing to eat a midday meal of khichdi in which they found insects. The Commission issued notice to the Chief Secretary, Government of Bihar and the District Magistrate, Vaishali to submit a report in the matter and also about the steps taken by them. The SP Vaishali, Bihar submitted report that chargesheet has been filed before the Court against the Head Master of the school. District Magistrate, Vaishali, Bihar, further directed to send a report along with proof of payment within six weeks, regarding payment of interim monetary relief to the victim students of SC community under the provision of Rule 12 (4) of SC/ST (PA) Rules 1995. Response received in the matter is under consideration of the Commission.

In Case No.1155/35/5/201447 commission took the Suo motu cognizance of the matter on report published in Hindi Newspaper titled 'Is school main batch helmet pehan kar karte hain padhai'. According to the newspaper report, in a school in village Doodhli, 25 kms from Dehradun, children wear helmet while studying in the class room. It has been mentioned that building of the school in which they study is in dilapidated condition and plaster from the roof continuously falls. This fall of plaster from the roof has resulted in injuries to many students. Therefore, for protecting the heads of children from injuries, the parents have provided helmets to the children for use in the school. The contents of the press report raised a serious issue of violation of human rights of school children. Commission issued notice to the Secretary, Department of Education, and directed to submit a report in respect of the various school buildings in a dilapidated condition in the State and the corrective measures taken/ proposed to be taken by the State Government. District Magistrate, Dehradun was also directed to submit a report in respect of the number of children who have suffered injuries in the school, details of medical treatment provided to them as well as any ex-gratia relief granted by the State Government. The matter is pending under consideration of the commission.

On 5 October, 2016 the National Human Rights Commission has taken Suo motu cognizance of a media report that a prisoner of the Greater Noida Jail, an accused in the lynching of Mohammed Ikhlas of Dadri, has died in a Delhi hospital during treatment. Observing that the contents of the news report raised a serious issue of violation of human rights of the prisoner, the



Commission issued notices to the Director General, Prisons and the Director General of Police, Uttar Pradesh calling for a report in the matter within four weeks. The allegations regarding beating of the prisoner by some police personnel in judicial custody are serious in nature. Even in the judicial custody, a prisoner cannot be deprived of his Right to Life ensured by the Constitution of India. The family members have all the rights to know about ill health of the prisoner. Someone, who is suffering from illness in judicial custody can not avail the medical treatment of his own. Therefore, the Commission observed, it is the duty of the authority under whose guardianship he is being detained, to protect his Right to life, which cannot be exercised, if proper medical treatment is not provided to him in time. The family members have alleged that Ravi, the deceased was being kept in a separate cell by the jail authorities and mercilessly beaten up by some police officials inside jail on the 30th September, 2016, due to which his condition deteriorated. According to the media report, the authorities did not inform the family about the deteriorating condition of the prisoner. It was only after his death on the 4th October, 2016, that his family was informed. The matter is pending before the Commission.

### **State Human Rights Commission**

Power to constitute commission at state level is conferred on the state government under Section 21 (1) of the Act. The Commission is composed of chairperson and four other members. The State Commission is empowered to perform similar functions, which have been entrusted to the National Human Rights Commission. State Commission inquiries into violations of human rights only in respect of matters related to any of the entries enumerated in List II and III in the Seventh Schedule of the Constitution. The study of treaties and other international instruments on human rights have been excluded from the purview of State Human Rights Commission.

As regards the mechanism for the redress of human rights grievances in Union Territories, the Minister of Human Affairs had taken the position that the best way of proceeding may be through the extension of the jurisdiction of the State Commissions of neighboring States into the adjoining Union Territories, as has been done in respect of High Courts.

iii) Human Rights Courts State government set up these courts with concurrence of the Chief Justice of the High Court, by notification specifying for each district a Court of Session to be a Human Rights Court under Section 30. State Government appoints Special Public Prosecutor to conduct cases in human rights court under Section 31 of the Act.

Human Rights Courts have been set up in the States of Assam, Andhra Pradesh, Sikkim, Tamil Nadu and Uttar Pradesh.<sup>8</sup> Commission stays in touch with the concerned High Courts with a





view to making clear the precise nature of the offences to be tried in such courts and other details regarding the conduct of their business.

The National Human Rights Commission has made an inquiry into thousands of complaints it has submitted reports to the government on various matters wherein it has made a number of recommendations suggesting measures to be taken to curb the human rights violations. In August 2016 it has received 7822 fresh complaints and has disposed of 7772 fresh as well as old cases.

### **Role Of NGOs**

Besides the government there are non-government entities which play an important role in protection of human rights. NGOs are playing remarkable role in the society. These organizations pickups the government's deficits in service and help in protecting rights of the people. NGOs are non-profit making organizations ranging from small groups to international organizations having branches all over the world. NGO is independent organization of state and managed by group of private individuals and they draw strength from the people who offer voluntary support to their causes. NGOs raise awareness among people about their rights by imparting education and uplifting them.

NGOs have key role to play in planning, monitoring and evaluation of the process of the protection of human rights. B.R.P. Bhasker<sup>9</sup> points out that "in the field of human rights, the role of NGO is particularly important as Government or their agencies often become violators of the very rights, they are committed to protect and promote vast sections of the people who are illiterate and ill- informed, and that makes it easy for rights violators to act with impunity. Against this background human rights education assumes importance and this task is primarily performed by NGOs".

Even the Government has also recognized the crucial role played by the NGOs in various fields. They are playing a remarkable role in various fields such as education, health, environment protection and protection of the rights of the various classes of people. Some of the NGOs working in this field are - Saheli for women's rights, Youth of Voluntary Action for eradication of child labour, Bandhula Mukti Morcha for eradicating bonded labour, People's Union for Civil Liberties and citizens for democratic rights have also playing a crucial role as they have taken up various instances of human rights violation before the Supreme Court of India.

There are several instances where NGOs were the first to report the violation of human rights to the concerned authorities. The National Human Rights Commission has taken action on several complaints, mainly reports by local NGOs from different parts of the country. NGOs are also



having effective role in enforcing the policies of the Government. The exceptional role of NGOs in furthering human rights is given recognition in the Protection of Human Rights Act, 1993 not only this Act alone but also Vienna Declaration and Programme of Action 1993 also recognized the role of NGOs in promotion of human rights. This declaration insisted upon the cooperation of nations with the NGOs in creating favorable conditions for enjoyment of human rights.

The Protection of Human Rights Act under Section 12 (I) expressly provided the Commission to “encourage the efforts of non-governmental organizations and institutions working in the field of human rights”. This is a responsibility which Commission readily assumes, for the cause has much to gain both from practical help and from the constructive criticism that NGOs and the Commission can bring to bear in their mutual interaction and growing relationship. To this end the Commission has, from time to time, invited leading human rights activists and NGO representatives for discussions and advice and sought their help in practical ways. In addition, in every visit to a State, the Commission has made it a point to benefit from experience and knowledge of NGOs, whose contacts at the “grass-roots” level give strength and meaning to the human rights movement where it matters most.

### **Critical Evaluation**

Constitution of India provides safeguards for the protection of human rights, however, for the effective implementation of the human rights Government of India has enacted the ‘Protection of Human Rights Act, 1993’, which provides for the establishment of the National Human Rights Commission, State Human Rights Commission in various states and also the Human Rights Courts at the district level and Indian judiciary is also working to protect the human rights of the people of India as well as to provide speedy remedy to the victim of human rights violation. Despite such efforts by the Government sought objectives have not yet been achieved due to the following reasons:-

- I. Though Constitution of India has enumerated various rights but there are large number of people who are not even aware of these rights guaranteed by the Constitution due to their vulnerable conditions and struggle of every day survival. These are the people who are mostly victims of human rights violation but they cannot think to approach court as they are more worried about their daily wages instead of protecting their basic human rights.
- II. Though Constitution enshrined duties of the State under Part IV i.e. Directive Principles of State Policy to enacts laws and to work for the welfare of the people of India in various



spheres whereas these directive principles are not enforceable in the Courts and one cannot approach court if the Government does not enforce these principles.

III. The Human Rights Commission is expected to be completely independent in its functioning. But there is no provision for the independence of the Commission. In fact, there are provisions in the Act which draw attention to the dependence of the Commission on the Government these are discussed as follow:-

- a) Commission is dependent upon the Government for its human resources for its functions as per Section 11 of the Act.
- b) Finance is considered as the blood of an organization. Section 32 of the Act makes the commission dependent on central government for its finances as the section stated that “the Central Government shall pay to the Commission by way of grants such sums of money as it may consider fit”.
- c) Human Rights commission is only fact-finding body and it has got no power to adjudicate upon the disputed facts and also to issue any order to any party or government so as to be complied with.<sup>57</sup>The Commission’s findings are only advisory to the government. It is on the discretion of the government whether to accept or reject the findings and recommendations of the commission as there is no provision which makes the recommendations binding on the government.
- d) Commission does not have power to constitute special investigation teams for purposes of investigation and prosecution of offences arising out of violations of human rights.
- iv. Unlike Supreme Court and High Courts Commission cannot inquire into any matter which is pending before state human rights commission or before human rights courts despite the gravity of matter concern as provided under Section 36(1) of the Act.

Act has puts 1 year limitation period for seeking redressal of grievances before the human rights commissions. Human rights commissions cannot investigate an incident if the complaint was made more than one year after the incident as provided under Section 36 clause 2. Therefore, a large number of genuine grievances go unaddressed if victim fails to approach the commission on time due to whatsoever reasons.

It is not mandatory on the State government to established state human rights commission and human rights courts. Sections 21 provide “A State Government may constitute a body to be known as the..... (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, State Commission under this chapter”.



Section 30 provide that “For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.”

## **CONCLUSION AND SUGGESTIONS**

Human rights are basic fundamental rights which are integral part for the development of human being in the absence of which person cannot live life with dignity. The Indian constitution is a document rich with human rights jurisprudence. Constitution of India protects the fundamental rights or human rights of the people, provisions for the same have been made not only in the Articles of the Constitution but in fact Preamble also talks about the fundamental freedoms and protection of the dignity of the individual. The Indian Judiciary had even relaxed the rule of local standi for the protection of human rights which pave the way for the development of the concept of Public Interest Litigation. Through public interest litigation various incidents of violation of human rights had been put before the Courts. Courts protected the rights of women, workers, children, prisoners and so on. Thus, judiciary is playing a role of savior of the human rights of the people so that each individual can live with dignity. Protection of human rights is important issue of concern throughout the world various international instruments have been incorporated for the protection of human rights and on the basis of the provisions of the international instruments, national endeavors have been made such as enacting the Protection of Human Rights Act 1993. Provisions have been made under the Act for the establishment of the National Human Rights Commission as well as State Human Rights Commission in various States and it also provide for the constitution of Human Rights Courts at the district level so that the justice can be provided to the victims of human rights violation at every level. Since the establishment of the National Human Rights Commission, it has been playing a commendable task in protecting the human rights of the people and it also gave monetary relief to the victims and to their families. Those is an utmost need for reclining that the provision for universal access of their facilities for ground level development is a fundamental conditions in the process of creating India as a developed country. Although some amendments are necessary to the be made in the Act and for the same some following suggestions have been made if such changes may be made than it can strengthen the position of the human rights commission and it would be possible to achieve the objectives of the Act easily.

- i. With regard to personnel and financial matters the National Human Rights Commission must be made independent body, as it has to look towards the Government. It should be provided



with its own staff for investigation of cases instead of keep it dependent on police department and such other officials, as may be necessary for the efficient working of the Commission.

- ii. The National Human Rights Commission may be empowered to observe the decisions of the Supreme Court for protecting Human Rights and if there is any delay or failure in the implementation of such decisions, it can bring it before the Supreme Court of India for taking further adequate actions.
- iii. Section 21(1) and Section 30 of the Protection of Human Rights Act, 1993 should be amended so to make it mandatory for the State Governments to constitute Human Rights Commissions at the state level as well to constitute Human Rights Courts at district level and further the jurisdiction of these courts as well as the procedural requirements should also be specified for the smooth and effective functioning.
- iv. Section 36(1) should be amended and to empower National Commission to take up or investigate any matter pending before any state human rights commission or human rights courts to provide speedy justice.
- v. The provision of 1 year limitation within which person can approach commission for redress of his grievances should be relaxed so as to enable such cases where complaint could not be filed before commission within period of 1 year due to unavoidable reasons or circumstances.
- vi. There should be a provision in the Act which specifically provide the time period with in which the decisions of the commission should be implemented by the concerned Government.
- vii. Provision can be made for the conduct of seminars in every district each month for educating people about their human rights and the protections granted by Constitution as well as under the Act of 1993.
- viii. The provision can be made for conducting of periodical survey. The periodical survey should be conducted for checking the progress in the field of the implementation of the provisions as well as in achieving the objectives of the Act.
- ix. The special cell can be established in every human rights court at district level where free legal aid should be provided to victims of human rights violation who due to their poverty and vulnerable conditions enable to approach court for the redressal of their grievances.
- x. The provisions for the grants to NGOs can also be made in the Act. Where in Government can promote the NGOs by giving funds to them who are working in the field of protection of human rights and duty should be confer on such NGOs for conducting seminars for educating people about the human rights and their protections.



- xi. In schools as well in colleges one compulsory subject can be introduced in which students may study about human rights.
- xii. The local offices in each state can also be established for the National Human Rights Commission for the convenience of the general public for speedy disposal of cases and to provide justice in time as it might not be possible for every person to approach the national human rights commission at New Delhi for seeking redressal of their grievances.

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