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HISTORY AND HORIZON OF HUMAN RIGHTS

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ABSTRACT

This article throws light on the evolution of the concept of human rights in India. It posits an analysis of how human rights act as the basic seed for individual and national growth. Though the modern human rights terminology paved the way in America, it was advocated and assured since ancient times in India, primarily evident through literary sources. The Rigveda states that nobody is superior or inferior. People make progress in several ways by their merits. Human rights serve as the basic essence of life for citizens' empowerment and become a major component for the multi-dimensional development of a nation. Therefore, this article attempts to present a historical analysis of human rights and subsequently concludes with the contemporary challenges and a way forward.

INTRODUCTION

“Te ajyesthaa akanisthaasa udbhido amadhyamaaso mahasaa vi vavridhuh /

Sujaataaso janushaa proshnimataro divo marya aa no achaa jigatana / /” Rig: 5-59-6

This shloka is one of the major verses from the Rigveda where equality is preached through the saying that nobody is superior or inferior. All humans, irrespective of religion, race, caste, sex, or place of birth, are equal and cannot be discriminated against, as propounded by Article 15 of the Indian Constitution. According to the Universal Declaration of Human Rights (UDHR), “all human beings are born free and equal in dignity and rights,” so they must receive equal amenities and opportunities.

There are various interpretations of human rights. Some associate it with a high standard of living, personality development, ethical welfare, and fundamental rights, whereas others identify it with the social contract and following certain regulations. However, the domain of human rights is vast and cannot consist of just a single element. Similarly, it extends into specific rights of women and children. Women and children are the foundation blocks of a society. Women are the nurturers of children who are the leaders of tomorrow. Women themselves are the present leaders as pioneers

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of their families. Their empowerment goes through various hurdles and thus requires specific provisions catering to their upliftment. This upliftment would ensure a capable future not just for them but also for the nation. Therefore, the vicious cycle of denial of rights should be tackled efficiently through awareness and inculcation of humane ideals.

“To deny people their human rights is to challenge their very humanity.”- Nelson Mandela.

HISTORY OF HUMAN RIGHTS

Ancient India served as a model for the concept of human rights. It was enshrined in ancient literary texts such as the Vedas, the epics Mahabharata and Ramayana, the Dharmashastras, the Arthashastra, etc., along with the epigraphical sources (e.g., Ashoka's inscriptions). The Rigveda proclaims *tan* (liberty of body), *skridhi* (house dwelling), and *jibase* (life). It also had the idea of “*Vashudhaiva Kutumbakam*” (the world is one family), espousing one for all and all for one. Atharva Veda also talks about equality, especially regarding the availability of food and water. The 18th chapter of Shanti Parva in the Mahabharata highlights the Veda hearing rights extended to all the varnas and also their participation in the elite *Ashvamedha yajna* held by *Yudhisthir*. (Singh, 2009)

During the Buddha period, tales of Jimutvahana, the Buddha Sangha's codes, and the mobility of all the sections present a great example of equality. The notions of human rights were further exercised in the Mauryan period. During Mauryan times, the ‘*Rashtra*’ term was prevalent, and that all the subjects were “sons” of the King. Even the provisions for punishment had to be equal, and thus, the *dandasamta* and the *vyavaharsamta* were strictly followed. There was also the concept of “*praja pitatulya*”, highlighting a patriarchal hegemony over subjects. The Arthashastra, written by Vishnu Gupta, also propounds economic rights in addition to the legal and the citizen rights.

The Gupta era is controversial with respect to human rights. Eran inscriptions have epigraphic evidence of the crushing practice of the Sati. However, there is not a single sculpture depicting women in veils. Instead, their femininity is celebrated through the images of Yakshi and Shalabhanjika. Still, women did not enjoy the same status and rights as their male counterparts in the society. Even the Shudras' status diminished during the Gupta age.

The medieval period, too, had contrasting examples of human rights. Some emperors followed strict orthodoxy even if it attacked a human's right, whereas others like Akbar, with innovations such as Din-e Illahi, Ibadatkhana, Jharokha Darshan, Diwan e Aam, etc., strived to hear the public grievances and urges and provide them basic fundamental rights. The modern period, on the other

hand, attempted a systematic approach to advocating human rights. The Hamid Ansari Committee formed after the 1927 INC Session and the 1928 Motilal Nehru Committee Report were the early advocates for the fundamental rights to ensure political freedom. The proposals of the Motilal Report were- personal liberty; freedom of conscience, profession and practice of religion; expression of opinion and right to assemble peacefully; free elementary education; equality for all before the law and rights; right to writ of habeas corpus; protection from punishment under ex-post-facto laws, non-discrimination, equality of access and use of public property; freedom of combination and association for implementation and maintenance of labour and economic factors; equality of rights to men and women.

The era of the national movement in India also witnessed the Karachi Congress in 1931, in which three parts were decided- (i) fundamental rights and duties, (ii) labour rights, and (iii) economic and social programme. Further, with the efforts of B. R. Ambedkar and others, the significance of human rights was put forward in the first and the third Round Table Conferences. In the 1937 Calcutta Session, Fundamental Rights were demanded outright. The decade of 1940 was of global importance to human rights, with the Universal Declaration of Human Rights raising awareness globally, including India. Its report was considered, and in 1945, the Sapru Committee Report contributed a great deal. It discussed complete equality for all classes, freedom of political and citizen rights, security, and freedom of religion.

On 22nd January 1947, the Constituent Assembly imagined the idea of Justice, Equality, and Freedom for its future Constitution, which was inspired by the workings of the Atlantic Charter and the UDHR Commission. It also proposed two subparts:- rights of justice and fundamental rights.

LAWS IN THE CONTEXT OF HUMAN RIGHTS

The Constitution of India provides many human rights in its articles, particularly the Preamble, Part III Fundamental Rights, Part IV DPSP, and Part IVA Fundamental Duties. India's Constitution came into operation on 26th January 1950. The Preamble declares India as a Sovereign, Socialist, Secular and Democratic Republic. Indians are also bestowed with three justices- social, economic, and political; five liberties- thought, expression, belief, faith, and worship; and two equalities- opportunity and status. India was also a signatory to the UDHR. The Supreme Court observed in the *Keshavananda Bharati vs the State of Kerala*, "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." The following chart makes this clear.

TABLE 1.1**RIGHTS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS
AND IN THE INDIAN CONSTITUTION**

S. No.	Name of Rights	Universal Declaration	Indian Constitution
1.	Equality before law	Article 7	Article 14
2.	Prohibition of discrimination	Article 7	Article 15(1)
3.	Equality of opportunity	Article 21(2)	Article 16(1)
4.	Freedom of speech and expression	Article 19	Article 19(1) (a)
5.	Freedom of peaceful assembly	Article 20(1)	Article 19(1) (b)
6.	Right to form associations or unions	Article 23(4)	Article 19(1) (c)
7.	Freedom of movement within the border	Article 13(1)	Article 19(1) (d)
8.	Protection in respect of conviction for offences	Article 11(2)	Article 20(1)
9.	Protection of life and personal liberty	Article 3	Article 21
10.	Protection of slavery and forced labour	Article 4	Article 23
11.	Freedom of conscience and religion	Article 18	Article 25(1)
12.	Remedy for the enforcement of rights	Article 8	Article 32
13.	Right against arbitrary arrest and detention	Article 9	Article 22
14.	Right to social security	Article 22	Article 29(1)
15.	Right to work, to just and favourable conditions of work	Article 23(1)	Article 41
16.	Right to equal pay for equal work	Article 23(2)	Article 39(d)
17.	Right to education	Article 26(1)	Article 21(a), 41. 45 & 51A(k)

18.	Right to just and favourable remuneration	Article 23(3)	Article 43
19.	Right to rest and leisure	Article 24	Article 43
20.	Right of everyone to a standard of living adequate for him and his family	Article 25(1)	Article 39(a) & 47
21.	Right to a proper social order	Article 28	Article 38

FUNDAMENTAL RIGHTS AND HUMAN RIGHTS

Fundamental Rights are judicially enforceable rights that are mentioned in Part III (Articles 12 to 35) of the Indian Constitution. Major judgments on these rights were *Golak Nath v. State of Punjab*, *Jabalpur v. Shukla*, *Keshavananda Bharati v. State of Kerala*, and *State of West Bengal v. Subodh Gopal Bose*. The fundamental rights in India are the Right to Equality (Articles 14-18), the Right to Freedom (Articles 19-22), the Right against Exploitation (Articles 23-24), the Right to Freedom of Religion (Articles 25-28), Cultural and Educational Rights (Articles 29-30), and the Right to Constitutional Remedies (Articles 32-35). The following table shows the fundamental rights shared by the Indian Constitution and the Covenant on Civil and Political Rights.

TABLE 1.2

DIFFERENT ARTICLES OF THE INDIAN CONSTITUTION AND THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

S. No.	Fundamental Rights	Indian Constitution	Covenant on Civil and Political Rights
1.	Equality before law	Article 14	Article 14(1)
2.	Prohibition of discrimination	Article 15	Article 26
3.	Equality of opportunity to public service	Article 16(1)	Article 25(C)
4.	Freedom of speech and expression	Article 19(1)(a)	Article 19(1) & (2)
5.	Right for peaceful assembly	Article 19(1)(b)	Article 21
6.	Right to freedom of association	Article 19(1)(c)	Article 22(1)

7.	Right to move freely within the territory of a state	Article 19(1)(d) & (e)	Article 12(1)
8.	Protection in respect of conviction of offences	Article 20(1)	Article 15(1)
9.	Protection from prosecution and punishment	Article 20(2)	Article 14(7)
10.	Not to be compelled to testify against himself	Article 20(3)	Article 14(3)(g)
11.	Right to life and liberty	Article 21	Article 6(1) & 9(1)
12.	Right to child education	Article 21(A)	Article 26(1)
13.	Protection against arrest and detention	Article 22	Article 9(2)(3) & (4)
14.	Forced labour	Article 23	Article 8(3)
15.	Freedom of conscience and religion	Article 25	Article 18(1)

DIRECTIVE PRINCIPLES OF STATE POLICY (DPSPS) AND HUMAN RIGHTS

(JUDICIALLY NON-ENFORCEABLE RIGHTS)

DPSPs are non-enforceable, chiefly economic and social rights in Part IV of the Constitution. However, they are strengthened by Article 37, which empowers the states on application. Some of the DPSP articles which ensure human rights are Article 38 (minimizing and eliminating all inequalities), Article 39(A) (adequate means of livelihood), Article 39(b)(distribution of ownership and control of community resources), Article 39(d)(securing equal pay for equal work), Article 41(right to work, education and public assistance), Article 42(humane conditions of work), Article 43(living wage and a decent standard of life), Article 45(early childhood care and education until 6 years by state), Article 46(protection of interest of weaker sections), Article 50 (separation of judiciary from executive), and Article 51(promotion of international peace and security).

FUNDAMENTAL DUTIES AND HUMAN RIGHTS

The Constitution of India in its Part IV(A) (Article 51-A) embodies the 11 fundamental duties of an Indian citizen. Some of these are the duties to respect the Constitution and its institutions, to promote communal harmony, to renounce derogatory practices, to pursue high standards, to

renounce violence, and to protect public property. The duty of a parent or a guardian to provide educational opportunities to a child aged between 6 and 14 was added as a clause(k) in Article 51(A) through the 86th Amendment 2002. However, the fundamental duties similar to the rights and DPSPs depend upon the judiciary for application and interpretation.

SOME OTHER MEASURES OF PROTECTION UNDER INDIAN LAW

Judiciary (e.g., *Ajay Hasia vs. Khalid Mujib case*, *Deoraj Khatri vs. State of Bihar case*, etc.), National Human Rights Commission, Public Interest Litigation, and Media are some of the other ways through which one can assert human rights with due process. Other measures of protection include several acts in Indian Law- the Protection of Civil Rights Act, 1955; The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; National Commission for Minorities Act, 1992; National Commission for Backward Classes Act, 1993; the Mental Health Act, 1993; Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Children are the most valuable resource of a developing nation. According to a recent survey, there are about 436,637,126 children in India and over 2.4 billion globally as of 2023 (UNICEF, 2023). However, many are deprived of a normal, secure childhood. To prevent the challenges, some Acts related to **children** empowerment are Employment of children Act 1983(Amended in 1985), Juvenile Justice Act 1986, the Child Labour(Prohibition and Regulation) Act 1986, Right of Education Act 2009, Prohibition of Child Marriage Act 2006, the Protection of Children from Sexual Offence Act 2012. Supreme Court of India has even prohibited employment of children in hazardous jobs and taken precautionary and positive steps in improving the lifestyle of the children. (Basu, 2021)

In the late 1980s a feminist survey of reforms was finally initiated. (Sarkar, 2008). With a population of about 49.7% of the world (World Bank, 2023), women still face various atrocities in the form of crimes like domestic violence, rape(including marital); orthodox practices such as Female Genital Mutilation; and even casual sexism in society and workplace. Acts related to **women** are Suppression of Immoral Traffic in Women and Girls Act 1956, Dowry Prohibition Act 1961, Maternity Benefit Act 1961, Bonded Labour (Abolition) Act 1976, Equal Remuneration Act 1976, Indecent Representation of Women (Prohibition) Act 1986, Sati (Prevention) Act 1987, National Commission for Women Act 1990, Prohibition of Domestic Violence 2005, and Sexual Harassment of Women at Workplace Act 2013.

CONCLUSION

We are now part of the 21st Century, but the issues surrounding human rights still persist. The guarantee of human rights is preached in theory, but the practice of it seems far from reality. The crimes against humans by the humans themselves keep on increasing with each passing minute. A child gets deprived of education and is forced to labour through his childhood years. As per the UN, 1 out of 10 women are pushed into the abyss of extreme poverty. Additionally, there is no workplace security for billions of people, and the income gap keeps widening. There are many such examples of human rights being pushed against the wall. To overcome this, education and awareness, along with efforts of the States and other non-State actors, are necessary. It remains the responsibility of the State to ensure basic amenities to the remotest regions and most marginalized sections. The bureaucracy and administrators need to amend and reform the provisions and regulations, and ensure their efficient execution as well. We as a society are also responsible for spreading education and awareness so that each can build the necessary conscience for empowerment and development. After all, one needs to be aware of their rights for them to be exercised. *“Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the person; the neighbourhood he lives in; ...where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, and equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere...we shall look in vain for progress in the larger world.”*²

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² Eleanor Roosevelt, 1958 (OHCHR,2012)

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