

Human Rights, Constitutional Provisions and Laws in India: The rules of the National Human Rights Commission (NHRC)

Monika*

M.A. in Political Science (NET/JRF Qualified)

Abstract – Human Rights, in fact, are fundamental to our nature and affect our daily lives in various ways. Human Rights define the values and worth of each person. We all are equally entitled to our human rights without discrimination. The paper deals with the human and fundamental rights in India. The paper is attempt to analyse the Constitutional provisions and laws in India for the protection of Fundamental Rights. The paper is also discussed about the role of judiciary and Human Rights Commission (NHRC) for the enforcement of Fundamental rights. Human rights belong to everyone and necessary for the development of human beings.

Keywords : Human Rights, Fundamental Rights, Judicial Activism, NHRC.

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INTRODUCTION

Human Rights are the basic rights and freedoms that belong to all of us, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life.

Human Rights are rights inherent to all human beings, regardless of race, sex, nationality, language, religion or any other status. Everyone is entitled to these rights, without discrimination.

The principle of universality of human right is the cornerstone of International Human Rights law. The Universal Declaration on Human Rights, adopted by the General Assembly in 10 December 1948. 1

HUMAN RIGHTS IN INDIA

India is the world's largest democracy. India has played a very significant role in the promotion of the cause of human right. Indian Constitution has incorporated a Declaration of Rights. India has not only incorporated an elaborate Bill of Rights in its Constitution but efforts have been made to translate these reality.

From Philosophy to Practice Constitutional Provisions, Establishment of Human Rights Laws and Institutions

After Independence , In India most important pronouncement on human rights came in the pages of objectives Resolution moved by Jawaharlal Nehru in 1946. Fundamental Rights and and the Directive

Principles of the Constitution of India between them covered almost the entire field of the Universal Declaration of Human Rights. In short, the objectives resolution forms the basis for the incorporation of various provisions of the Constitution. 2

The Preamble and Human Rights

The Preamble to the Constitution is of supreme importance and the constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble.

Fundamental Rights and Human Rights

A unique feature of the Indian Constitution is that a large part of human rights are named as Fundamental Rights, and the Rights to enforce Fundamental Rights itself have been made a Fundamental Rights.

Fundamental Rights provided by Indian Constitution are-

- Right to Equality (Article 14-18)
- Right to Freedom (Article 19-22)
- Right Against Exploitation (Article 23-24)
- Right to Freedom of Religion (Article 25-28)

- Cultural and Educational Rights (Article 29-30)
- Right to Constitutional Remedies (Article 32)

LAWS FOR THE RIGHTS

Indian government makes law for the protection of Fundamental Rights time to time. For e.g. Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Article 17 of the constitution abolishes the practice of untouchability.

- To make untouchability law further strong, parliament passed Untouchability Act in 1955 which came into force 1st June 1955.
- Right to life (Article 21) has a much wider meaning which include Right to leave with human dignity, Right to livelihood, Right to pollution free air.
- The constitution 86th Amendment Act 2002 enshrined Right to Education as a Fundamental Right under the Article 21A
- The Equal Remuneration Act 1976 was enacted in pursuance of Article 39 of the Constitution of India, which envisages that the state shall direct its policy, among other things towards securing that there is equal pay for equal work for both men and women. 3
- The 73rd Constitutional Amendment for the increased participation of women in pre political institutions at the local government which is good example of enhancing women rights and equal representation. 4

JUDICIAL ACTIVISM AND FUNDAMENTAL RIGHTS

In our Country judiciary is known as the independent wing of government. Judiciary is the protector of Fundamental Rights. The Supreme Court and the High court can issue writs (Habeas Corpus, Mandamus, Prohibitions, Qua Warranto, and Certiorari) to the government for enforcement of rights.

- The Supreme Court gave a historical decision in Kesavananda Bharti case. The court said that these are certain basic features of the constitution and these can not be changed by Parliament.
- Judiciary has made immense contribution to strike the balance between discrimination caused to the working women and availing them of justice against such discrimination.

- In the case of Air India vs. Nergesh Meerza (Air Hostesses case). The Supreme Court invalidate the condition that terminated her services on her pregnancy.5

- In 1997, the Supreme Court passed a landmark judgement in the same Vishaka case laying down guidelines to be followed by establishment in dealing with complaints about sexual harassment.

- In the case of Maneka Gandhi Vs. Union of India Supreme court held that right to travel abroad is well within the ambit of Article 21 (Right to Life). The Supreme court ordered that, Article 21 guaranteed the Right to Life is not only against the arbitrary action of the executive but against Legislative action too.

Thus Judiciary played a crucial role in the protection of Fundamental Rights as well as to empower the Rights.

MECHANISMS TO ENFORCE HUMAN RIGHTS IN INDIA

Courts are the main mechanism for the enforcement of Human Right. Judiciary apart, there are specializing bodies that have been created by the Parliament to deal with rights issues.

- National Human Rights Commission (NHRC) The National Rights Commission of India is an statutory public body Constituted on 12 October 1993 under the protection of Human Rights ordinance of 1993.

FUNCTIONS OF NHRC

The protection of Human Right Act mandates the NHRC to perform the following functions:

- Proactively or reactively inquire into violations of government of India human rights or negligence in the prevention of such violation by a public servant.
- Undertake and promote research in the field of human rights.
- Engage in human rights education among various section of society and promote awareness of the safeguards available for the protection of these rights.
- Encourage the efforts of NGOs to working in the field of human rights.

POWERS OF NHRC

The commission exercised following powers in order to protect and promote human rights concerns.

- The commission while exercising the human rights Violations case, exercise the same powers of a Civil court trying to suit under the civil Procedure code, 1988.
- The commission if in its opinion arrives at a conclusion that any information may be useful for or relevant on any such aspects or matters under its considerations it can direct any person to submit such information required to it.
- The Commission exercises the following investigating powers while inquiring into a complaint:
 - i) It may utilize the services of any officer or any investigative agency of the central or state government with their prior approval.
 - ii) Such officers or agency will be under the supervision of the commission.
 - iii) Can examine the statements of such offer or agency and if dissatisfied with statements may conduct inquiry.
- It can intervene in any of the proceedings pending before a court with the permission of such court on any complaint of violation of human rights.
- The Commission while inquiring into the complaints of the violation of human rights may adopt the different procedures such as by calling for information or report calling either from central or any of the state government concerned within a time frame or if the commission thinks that matter need immediate action, it may initiate inquiry even without asking the relevant government or authority for their report.

LIMITATIONS ON THE ROLE OF THE NHRC

The creation of NHRC has brought about a qualitative change in the observance of Human Rights in India. But there are number of constraints and limitations on the NHRC.

- The commission powers have been limited to recommendation in nature.
- It is basically an investigative and reporting body, imbued with powers of a civil court.
- It lacks judicial powers, so far as meeting out punishment to offenders are concerned.

- The commissions investigating power have been restricted by the fact that if a state government institutes an investigative commission on a case of human rights violations, the commission cannot be carry any investigation on its own.
- The NHRC cannot investigate on case of human rights violations , as far as the Armed Forces are concerned.
- The NHRC has no financial independence of its own. It is depend on central government grants.

Yet, with all institutional and procedural limitations, the commission has acquired a status of local point for enforcement of a new generation human rights. In short, the commissions role however recommendatory may be in their application, has raised a new hope for thousands, who earlier has no hope to get Justice.

CONCLUSION

India has made the most sincere effort for the protection and promotion of Human Rights in the world over and is the greatest champion of human rights in the third world.[6]

Supreme Court, High Courts, National Human Rights Commission, State Human Right Commission and NGO also played an important role in protecting and safeguarding the Human Rights in India. Today, more than ever before, what is vitally important is to secure enforcement of human rights, because there are millions who are denied of human rights and unless we evolve the methods for ensuring the realization of these rights to those who really need such rights, human rights will remain merely a testing illusion and a promise unreality.

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Corresponding Author

Monika*

M.A. in Political Science (NET/JRF Qualified)

monupanghal66@gmail.com