

Concept of Human Rights in India

Km. Vaishali^{1*}, Aateka²

Abstract

In this world, India is known as the largest democratic country. It ranks second in population in the world. The majority of individuals in the country are not aware of their rights. There is also a problem of protecting human rights for this large population, as declared by the UDHR in 1948. We find, while studying the history, that it is not a new chapter in human civilization in India. We had all these things throughout our ancient period. Our saints taught us the lesson of human values. They preached and practiced a natural way of living. This sense of living their lives with great values makes people feel free and secure in their state. Our kings also adopted this way of leading life. Most of the kings of the past made their states welfare-oriented. In modern times, our Constitution adopted the modern look of human rights declared by the UDHR on December 10, 1948. Today, the problem of human rights violations is a big deal. Our Parliament and Judiciary, to curb this problem, played their roles very well. The Parliament passed the "Protection of Human Rights Act, 1993". This Act was to make procedures for protecting human rights.

Keywords: Fundamental rights, natural rights, human rights, judiciary, parliament, UDHR

INTRODUCTION

The jurisprudence of human rights, derived from the rich legacy of Indian traditions, values, and culture, has attained an important place. So we can say that in India, this journey of human rights has come a long way. Gradually, it is moving towards its destination because these rights have not lost their link with Indian culture. We see that what the world has revealed about human rights in the contemporary period was already embedded in India. Because of its deep-rooted customs and values, since the immemorial period, we have had glimpses of these rights.

HUMAN RIGHTS IN ANCIENT INDIA

The expedition for equality, harmony, knowledge, love, might, etc. inspired the Indians more than the Romans and Greeks. Even the Indian philosophers and saints expressed a view of higher moral values. They also taught the lessons of Dharma, i.e., righteousness; Artha, i.e., wealth; Kama, i.e., desires; and Moksha, i.e., salvation. All of these lessons are intended to create a peaceful social order.

Those people taught society that it can be achieved by maintaining a balance between our inward and outward senses, or, in other words, our unworldly and physical aspects of life. Our saints and philosophers defined and presented human rights, which had their essence in our nature and day-to-day lives. And without these values and morals, one cannot live as a free human being. They supported the point of view of human rights and fundamental (individual) freedom [1].

*Author for Correspondence

Km. Vaishali
E-mail: vaishali.0682@gmail.com

¹Scholar, Department of Law, Deen Dayal Upadhyay Gorakhpur University, Gorakhpur, Uttar Pradesh, India

²Associate Professor, Department of Law, Glocal University, Saharanpur, Uttar Pradesh, India

Received Date: February 01, 2023

Accepted Date: February 08, 2023

Published Date: February 28, 2023

Citation: Km. Vaishali, Aateka. Concept of Human Rights in India. Journal of Human Rights Law and Practice. 2023; 6(1): 9–14p.

There are so many illustrations in the Vedas which are related to the presence of human rights.

Vedic rhymes like ‘Let everyone be free from all ills, let everyone be happy’ are the crux of human rights theory. Following this view, the king was the main and only power on this earth who could protect the lives of living and non-living subjects in his estate. Because of this protection, they could promote their wellbeing and prosperity [2].

The Vedas taught the people that there must be liberty of body, habitat, place, and life. These ancient Indian scriptures taught us about the freedom of an individual in his or her life. The Smirities obligate the king that he must make such policies that could achieve the goal of a welfare state. ‘Kautilya’ who wrote ‘Arthashastra’, not only described the civil and legal rights first given by Manu, but also added some economic rights to this list. Shukracharya said that ‘king is the root of a tree like a state, ministers are the trunk, military heads are branches, the army is leaves; the subjects are flowers; and at last, prosperity is its fruit; and the whole country is the final seed.

In the post-Vedic period, Jainism and Buddhist ideology were reactions against moral values as well as the privileges given to certain upper classes. In the Buddhist period, all people were equal in all fields of life. Emperor Ashoka also protected the human rights of his people, the subjects. He provided them with particular rights to equality, freedom, happiness, etc. He worked for the promotion of his subjects. He was a backer of civil liberties for civilians. Following these views, he established a successful welfare state. He was a great promoter of non-violence, and his vigil led him to administer the law for the purity and safety of all living creatures. Thus, we can say that people enjoyed many more rights in the Hindu Empire. Like that, torture and inhuman behavior with prisoners were prohibited by Ashoka in his administration.

HUMAN RIGHTS IN THE MIDDLE AGE

In middle age, the concept of human rights misplaced its appearance as it had in ancient times. Due to Muslim attackers in India, these rights were violated at a high rate. They followed a discrimination policy against ‘Hindus’. The concepts of harmony, equality, justice, and non-violence suffered greatly. There were different laws for Hindus and Muslims. The view of equality changed into inequality. Many Muslim attackers, like Mahmud Ghaznavi, Sikandar, and Babar, attacked the ancient Indian way of life. There was destruction of temples and idols, and people were forced to convert themselves to the Muslim religion. In this period, ‘Zajia’, a tax, was imposed on the Hindu community. At a similar point in time, there was the emergence of the Bhakti movement in India. There were some renowned saints in this era like Shankaracharya, Ramanujan, Kabir, Tulsidas, Guru Nanak, etc. who attracted people’s attention through their lectures and writings. They shed light on the evils of society which were making it hollow.

HUMAN RIGHTS IN MODERN AGE

One may argue that India was the birthplace of modern human rights jurisprudence while it was ruled by the British. The British government’s severe repressive policies inspired the freedom movement to struggle for their liberty.

In this line, Gandhi Ji spread a national movement. This movement placed emphasis on political independence as well as liberating the nation from foreign rule. Indians demanded constitutional protections and certain basic liberties including the elimination of untouchability and Harijan’s access to the temple. Indeed, the actions marked significant turning points in the history of the modern Indian human rights movement. People’s demands for fundamental liberty, civil, and political rights were one way that the struggle against British rule in India took shape. The subjects’ rights and liberties were not protected by a fundamental law, and they suffered several forms of discrimination and humiliation within their own nation. At first, securing freedoms and human rights protections against discrimination based on race and colour was the primary goal of many national groups, including the Indian National Congress.

Raja Ram Mohan Roy, the most recent social reformer in India, delivered a powerful condemnation of the religious practices that sharply divided Hindu society and deprived the vast majority of people of

their most fundamental human rights. He denounced discrimination in all its manifestations, especially when it affected women. In resistance to sati pratha, the mistreatment of women and child matrimony, he raised his voice.

Similar to Raja Ram Mohan Roy, Ishwara Chadra Vidya Sagar devoted his life to making women unrestrained. He tried to remove all odds and obstacles, including hostile social resistance. His efforts led to the removal of permitted barriers to widow marriage by law in 1856. He also took the lead in promoting girls' education.

Comparatively, Bal Gangadhar proclaimed, 'I was entitled to Swaraj (self-rule), and I would exercise it'. Gandhi criticized British control over Indians as aggressive and unjust.

He defended the idea of nonviolent resistance against British law. He began a nonviolent campaign to promote self-government and fundamental rights for all people.

Jyotiba Phule was another outstanding defender of civil liberties in contemporary India. Jyotiba Phule played a significant role in encouraging education for girls, especially those from disadvantaged castes, and created the "Satyasodhak Samaj" to organise the oppressed castes in a fight for equality. Similarly, through the Arya Samaj and Ramkrishna Mission, which were founded by Swami Vivekananda in 1899, the socio-religious movements led by Swami Dayanand Saraswati made significant contributions to the propagation of education for all groups. This practice made Hindus alert against social evil connected with superstitions and religious practices [3].

The fight for freedom from British rule increasingly centres on the issue of human rights or fundamental rights for the Indian people.

The main goal of many national movement organisations was to protect people's civil freedoms and the right to receive goods and services without being subjected to racial, ethnic, or other forms of discrimination. The 1857 uprising is sometimes referred to as the "First War of India's Independence", [4]. Although the 1857 uprising, which is referred to as the "First War of India's Independence", was put down by the British, the Queen promptly issued a proclamation. On November 1st, 1858, Queen Victoria issued a proclamation that stated the state's secular nature and its adherence to the principles of non-interference with any subject's practice of religion [5].

The Indian National Congress was founded in 1885. This pushed for the improvement of the people's social, economic, and political situations [6]. The Indian National Congress made its efforts for the demand of basic human rights in 1895, in the Constitution of India Bill. This bill demanded some human rights through the Indian Constitution, which guarantees them to every citizen. These were some, like liberation of expression, the right to impartiality, the right to free schooling, etc. The Indian National Congress revised the plea for civil rights from 1917 to 1919. Another work in this direction was Mrs. Annie Besant's Common Wealth of Indian Bill, 1925. The Indian National Congress established a committee in 1927. The purpose of this was to design our own (Swaraj) Constitution based on the declaration of rights.

A committee under the headship of Pt. Moti Lal Nehru was set up in 1927. The committee included 19 rights for people in its report. Later on, in 1950, India incorporated ten rights from the Moti Lal Nehru committee report. The Objective Resolution (1946) by Pt. J. L. Nehru pleaded to incorporate and guarantee the rights provided to minorities, backwards, SC, and ST classes [7].

In 1945, the Sapru Committee laid stress on the necessity that there should be a written code of fundamental rights. Then, last of all, our constituent assembly adapted natural rights as fundamental rights as well as directive principles of state policy in a comprehensive manner. In 1947, India acquired

independence. But it was not sufficient. Indians did not struggle for political freedom alone. There were some other miseries like hunger, poverty, unemployment, floods, drought, exploitation, discrimination, illiteracy, etc.

Numerous initiatives have been taken to defend human rights on a global scale. Through its charter, the United Nations has made a substantial contribution to the safeguarding and promotion of human rights. Incorporated into the UN Charter is a global human rights treaty. The Preamble, as well as numerous Articles 1, 13(b), 55, 56, 62 (2), 68, and 76 of the UN Charter, comprise various provisions for the development of fundamental freedoms and human rights [8].

On December 10, 1948, when our Constitution was on the way, the Universal Declaration of Human Rights was accepted.

HUMAN RIGHTS AND INDIAN CONSTITUTION

Our Constitution's framers placed more emphasis on human rights. Thus, they included these rights in the present form of fundamental rights. Articles 14–32 are the unique features of the Indian Constitution. These rights are natural and inalienable. Other than this, there is the provision of “directive principles of state policy” (Part IV). These provisions are to ensure the implementation of human rights. Some provisions are given here:

1. Right to Equality
 - Article 14: Impartiality before the law and equal protection of the law
 - Article 15: Prevention of discrimination
 - Article 16: Equal opportunity (in public employment)
 - Article 17: Eradication of untouchability
 - Article 18: Eradication of titles
 - Article 19: Freedom of speech
 - Article 20: Security in respect of conviction for an offence
 - Article 21: Security of life and personal liberty
 - Article 22: Protection against detention and confinement
 - Article 23: Ban on traffic in human beings and forced labour
 - Article 24: Prevention of children's engagement in factories
 - Article 25: Freedom of ethics, practice, and broadcasting of religion
 - Article 26: Liberty to manage religious affairs
 - Article 27: Freedom to pay the levies for the elevation of any particular religion
 - Article 28: Liberty to attend religious training or worship in certain learning institutions
 - Article 29: Protection of the wellbeing of minorities
 - Article 30: Rights of minorities to found and administer educational institutions
 - Article 32: Cures for enforcement of rights deliberated by this part
 - Article 38: For the elevation of the well-being of the people; the state should secure a social mandate
2. People
 - Article 39A: Equal justice and free legal aid
 - Article 41: Right to labor, learning, and community aid in certain cases
 - Article 42: Facility for just and humane conditions of work and childbearing relief
 - Article 43: Wages for employees
 - Article 44: Like the civil code
 - Article 45: Provides for free and essential education for kids
 - Article 46: Progression of educational and monetary interests of scheduled castes, scheduled tribes, and other weaker divisions of society
 - Article 47: Provides that it is the duty of the state to elevate the level of nourishment and enhancement of the living and public fitness

- Article 50: Separation of the Judiciary from the Executive
- Article 51: Provides for the improvement of international harmony and security, just and decent relationships between nations, respect for international law and treaties and the encouragement of the settlement of worldwide disputes through arbitration, etc.

Similarly, there are several provisions prepared by the government for the security of human rights.

Our Parliament has passed the “Protection of Human Rights Act, 1993”. The goal of this Act is to provide the protection for human rights and the framework for their administration. It also provides for courts for human rights to better guard human rights. In 2019, Parliament passed “The Protection of Human Rights (Amendment) Act, 2019”. The Act pleads for the establishment of human rights courts at the district level; it is for the larger protection of human rights and concerns related to them. As well as it also provides that there shall be a human rights commissions at the national and state levels as well.

In Section 2(d) of the Act, the rights related to liberty, life, dignity, and equality of the individual are provided. These rights were assured by the Constitution or exemplified in the International Covenants as well. These are enforceable by courts in India. The judiciary is the main safeguard for these rights. However, the National Human Rights Commission’s ability to function is limited by the aforementioned definition. “The International Agreement on Civil and Political Rights” and “the International Agreement on Economic, Social, and Cultural Rights” were both approved by India.

PART OF THE JUDICIARY IN SHIELDING HUMAN RIGHTS IN INDIA

The goal of “protecting the dignity of an individual” cannot be achieved just by providing for fundamental rights; instead, the rights must be freely enjoyed. Thus, Article 32 ensures the right to constitutional remedies, i.e., the ability to petition the Supreme Court to uphold fundamental rights.

The protection of citizens’ human rights is the judiciary’s constitutionally mandated duty. The Supreme Court and High Courts of states have the authority to uphold these rights. The Constitution’s Articles 32 and 226 also provide mechanisms for remedy. For the preservation of his or her fundamental rights, the redress of grievances, and the enjoyment of their fundamental rights, a distressed person may directly approach the Supreme Court or High Court of the related state. In certain situations, the court has the authority to issue the proper orders, directives, and writs of habeas corpus, prohibition, mandamus, certiorari, and quo warranto.

In *Maneka Gandhi v. Union of India* [9], the Supreme Court construed the right to life in order to broaden its application and infer unlisted rights such as the “right to live with human dignity”. The Supreme Court developed the “emanation” hypothesis to give the existence of the basic right a purpose and an active component. After that, Francis was involved in other court cases, including *People’s Union for Civil Liberties and another v. State of Maharashtra and others* [10]. *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi* [11], S.C. ruled in 2011 that the right to life also includes the right to lead a life with dignity. As a result, even though certain rights are not explicitly stated in Part III of the Constitution, they have been recognised through judicial interpretation.

The judiciary has loosened the locus standi model. This rule refers to the right to approach the court. This states that only those who have been wronged may approach the court, and only then their complaints can be heard. But today, people with a spirit for society can now file a writ petition. This can be for the enforcement of any other person’s or class’s rights through public interest litigation (PIL), if they are unable to exercise the court’s jurisdiction due to poverty or other factors.

CONCLUSION AND SUGGESTIONS

We found that the concept of human rights is not new in India. It has always been present in our society, even since ancient times. After that era, due to ups and downs in society, these rights were

eclipsed. But the battle for their revival was continued by our freedom fighters. And at last, these rights were adopted on a large scale around the world. This was done by the “Universal Declaration of Human Rights” adopted in 1948. And we were not the exception; we also did this important task while these rights were adopted in the form of fundamental rights in Part III of our Constitution. And later on, our Parliament and Judiciary used their powers to maintain their dignity.

But even with the said provisions for human rights in the world and in India, people are facing violations of these rights on a large scale. The question arises “Are these protecting agencies not working well in this field, or are people not aware in this regard”? This problem can be sorted out by raising awareness about it. Particularly, women must be aware of their rights because they are the role models for their family, society, nation, and world too. Another part is made up of NGOs, teachers, research scholars, students, politicians, etc. who can work properly to make people aware of their human rights.

REFERENCES

1. Tapan Biswal, op. cit, p. 185.
2. Ibid
3. Tapan Biswal, op. cit., p. 187.
4. Bipin Chandra, Modern India, p. 113.
5. Ibid. p. 116.
6. DC Gupta. Indian Government and Politics. p. 532.
7. Tapan Biswal, op. cit., p. 126.
8. SK Kapoor. International Law & Human Rights 800. 17th edition. Allahabad: Central Law Agency; 2009.
9. AIR1978SC597.
10. 2014(10) SCC635.
11. (1981)2SCR516.