

DE JURE NEXUS LAW JOURNAL

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**PROTECTION OF HUMAN RIGHTS UNDER CONSTITUTION OF
INDIA: AN ANALYSIS**

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

Abstract

India is a sizable nation that is multireligious, multi-ethnic, multilingual, and multicultural. India's constitution is the world's longest-standing written constitution. The Constitution lists seven different sorts of fundamental rights. Human rights are derived from several sources, including the Magna Carta (1215), the Declaration of Human Rights, the Bill of Rights during the Natural Rights, the French Revolution, and the Universal Declaration of Human Rights.

As a signatory to the Universal Declaration of Human Rights, India is committed to defending human rights (UDHR).

In other words, protecting those rights that we refer to as "The Fundamental Rights" is the responsibility of the State before reaching the level of international protection. In this paper, we will first examine the many sections of the Indian Constitution and how they protect human rights in that country. The second emphasis is placed on the degree of agreement between the provisions of the UDHR and the Indian Constitution with regard to the defense and enforcement of human rights. The third topic of discussion will be the numerous forums that serve as watchdogs against the infringement of human rights.

This study is premised on a doctrinal research methodology that takes into account judicial pronouncements, textbooks, articles, committee reports, and legislative enactments at both national as well as at international levels which explains human rights, their significance, and safeguards it in place at the local level. The study is restricted to determining how the UDHR and the Indian Constitution protect human rights in India.

INTRODUCTION

"Writing words on a piece of paper or moving one's lips to create air movement does not establish human rights. Building specialized, well-designed organizations is how human rights are formed. When such institutions start to thrive via organized, articulate, free, and law-abiding interests through free association of any kind among the free people-human rights are further established.

The provisions of the Universal Declaration of Human Rights safeguard human rights on a global scale. When something comes to recognizing and guarding individual rights in India, the Indian Supreme law of the land. Part III of the Indian Constitution guarantees people certain "rights" known as fundamental rights.

India has a sustainable and resilient human rights promotion and protection regime, owing to the country's incredibly huge diversity and sophisticated social structure, as well as the fact that we're now working to ascertain the principles of democracy, freedom, and the rule of law.

Human Rights and the Constituent Assembly

On December 9, 1946, the Constituent Assembly of India met for the first time and drafted the Indian Constitution. Human rights were given top priority. The Constitution's Preamble and Human Rights. The Preamble emphasized social, financial, and political justice, freedom of speech, belief, and idolize, equality of status and opportunity, and the endorsement of fraternity as ways to uphold each person's dignity as well as unity and integrity of the country. India is proclaimed to be a sovereign, socialist, secular, democratic, and republic in the Preamble. The Preamble contains some significant human rights.

Human Rights and Fundamental Duties

The Eleven Fundamental Duties of Every Indian Citizen are embodied in Part IV (A) of the Indian Constitution (Article 51-A).

Respecting the Constitution and institutions, honouring the noble ideals of the freedom movement, safeguarding India's integrity and sovereignty, defending the nation, cultivating communal harmony, refraining from practices demeaning to women's dignity, conserving cultural heritage, protecting and enhancing the natural environment, truly caring for all living things, nurturing a scientific mindset, protecting public property, and a sense of national pride are among these obligations.

It appears that the judiciary significantly influences how parts III, IV, and IV(A) of the Constitution are interpreted and applied. The multiple "reasonable limits" clauses are found in Part III, Article 21, and the rarely utilized. Part IV-A has provided the judiciary plenty of room to review administrative and legislative action based on the law. Article 21 has given it the power to function as a catalyst, pressuring the State to put the directive principles into practice insofar as they directly affect "life and personal liberty."

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India's constitution and the Universal Declaration of Human Rights are Related (UDHR)

Parts III and IV of the Indian Constitution outline the basic obligations for implementing human rights. These components comprise the core of the Constitution as a whole.

Since India is a signatory to these covenants or treaties, the rights insured and granted by the Constitution must concern the Covenant on Civil and Political Rights as well as the Covenants on Economic, Social, and Cultural Rights.

To Live with dignity

The preamble to the Constitution guarantees the dignity of the individual. In a similar vein, Article 1 of the Universal Declaration of Human Rights declares that everybody has the right to live with dignity and everybody is born free.

Rule of equality

No human being may be discriminated against on the basis of race, gender, religion, or caste.

Article 14 of the Indian Constitution and Article 7 of the UDHR both protect the right to equality before the law. This is based on the idea of "equals being treated equally."

Article 15 of the Indian Constitution and Article 7(2) of the UDHR both prohibit discriminatory practices, caste, or religion.

Right To Participate in Governance

India is a republic where citizens have the freedom to directly or indirectly elect their government. Similar to this, everyone has the right to participate in governance, either directly or through representatives, according to Article 21(1).

Equal access to public service

Every person in India has equal rights in matters relating to employment or appointments under State offices, according to Article 16(1) of the Indian Constitution. In a similar vein, everybody has the legal right to access public employment in their nation under Article 21(2) equally.

Right to Expression and Opinion Freedom

Article 19(1) of the Indian Constitution guarantees the freedom of speech and expression to all citizens.

Similar to this, everyone has the right under Article 19 of the UDHR to express their opinion, hold them, and gather and examine the information from any media source.

Freedom from ex facto laws

The constitutional rights under Article 20 forbid the application of the criminal law retroactively and grant immunity from double jeopardy as well as protection from self-incrimination.

Similar to this, according to Article 11 of the UDHR, "No one shall be held guilty of any penal offense on account of any act or omission which, under the national or international law, did not constitute a penal offense at the time it was committed nor shall a heavier penalty be imposed on anyone who commits such an act or omission."

Freedom from arbitrary detention or arrest

As per Article 21 of the Constitution, "no individual shall be deprived of his life or personal liberty except by the process provided by law." Any statute or decision that violates the fundamental standards established in this Article 21 may be overturned by the Court in furtherance of this Article. Similar protections against arbitrary detention, arrest, and banishment are provided in Article 9 of the UDHR.

Freedom from slavery and servitude

Articles 23 of the Indian Constitution and Article 4 of the UDHR both outlaw all forms of slavery and forced labour.

Freedom of religion, conscience, and thought

Everyone has the right, as stated in Article 25 of the Indian Constitution and Article 18 of the UDHR, to practice, teach, and observe their religion or belief.

Right To Social Security

Every Indian person has the right to preserve their native language, culture, and writing system, according to Article 29(1) of the Indian Constitution. Similar to this, everyone has the right to social security as a member of society under Article 22 of the UDHR.

Constitutional Provisions for Human Rights Implementation

Part III of the Indian Constitution, also referred to as "fundamental rights," grants people a number of "basic rights." Two fundamental rights have been elevated to the status of unalienable human rights, according to the Indian Constitution. They are mentioned in both Article 20 and Article 21. The constitutional protections provided by Article 20 preclude the retroactive application of the criminal law and give immunity from both double jeopardy and self-incrimination.

Article 21 of the Constitution, which stipulates that "*no individual may be deprived of their life or personal freedom unless they comply with the law-established process*," was enlarged by the Supreme Court in *Maneka Gandhi v. Union of India*¹. Throughout the Indian Constitution's history, this established as a pivotal judgment. According to the case, the Supreme Court made it quite plain that Article 21 supersedes both legislative and executive actions. In furtherance

¹ *Maneka Gandhi v. Union of India*, 1978 AIR 597, 1978 SCR (2) 621

of this Article, the Court has the authority to invalidate any statute or decision that is against the legal rule of process and that is not reasonable, fair, or just.

The State must follow specific guidelines outlined in Part IV of the Indian Constitution to ensure that human rights are implemented correctly.

Article 51 outlines the criteria that should be used to define and evaluate foreign policy, and it emphasises these criteria as follows:

The State shall make efforts to:

- a. "Promote international peace and security;
- b. maintain just and honourable relations between nations;
- c. foster respect for international law and treaty obligations in organised peoples' interactions with one another; and
- d. encourage arbitration as a means of resolving international disputes."

In practice, Article 51(c) is effective or has no authority to implement the accords without the assistance of the State.

It is the responsibility of the State to include international treaties in their agreement when determining interstate relations.

The official specifications for implementing human rights are outlined in Parts III and IV of the Indian Constitution. They serve as the foundation of the entire Constitution. So because the United States is a participant in these covenants or treaties, the rights protected by the Constitution must also be covered by the Covenants on Civil and Political Rights and also the Covenants on Economic, Social, and Cultural Rights.

Human Rights Protection in India

In India, a large number of groups are actively working to preserve human rights at the federal and state levels. A few examples include NGOs, the National Human Rights Commission, the judicial system, and the media. As part of our basic rights under Articles 32 and 226 respectively, the Supreme Court of India and State High Courts offer instant access to justice against human rights breaches.

The National Human Rights Commission's Role in Advancing Human Rights (NHRC)

The establishment of a self-sufficient Commission for the advancement and protection of human rights by the Indian government reflects the government's genuine goal of compelling the implementation of human rights measures under regional and international agreements.

Suo Motu consideration of any complaints relating to human rights violations, observation of jail and detention facilities, and formulation of policies for efficient implementation.

Conclusion

"Where there is a right, there is a remedy." We don't grant the rights here. However, we can act as intermediaries for people who are in any way vulnerable. The aforementioned techniques can be used to implement human rights in India. All that is required is that these rights are made known to everyone even to give them the impression that their actions are a breach of their rights and can speak out against it. Being an accountable Indian citizen is the first.

Public interest litigation allows every citizen to protect their right to seek justice (PIL). The primary goal is to give fundamental civil and political rights significance to the large majority of people in poverty and squalor and for whom these rights have, up until now, no meaning or value because of ongoing and continuous exploitation and deprivation. The moral application of media and internet resources to draw attention to issues and pursue justice is yet another legal recourse to safeguard human rights.