

ROLE OF INDIAN JUDICIARY IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

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ABSTRACT



Man is a social being, so rights are paramount for his/her development. Human rights are given to all the persons regardless the nationality, sex, religion, race, place of birth, cast, etc. They set the minimum standard for living dignified life. They guarantee the people the necessary basic rights that are food, shelter and house. These rights are provided for the protection of human being from any kind of abuses. They are available to all human beings from their birth. Welfare of any human being is very essential for his/her existence. Human rights are universal, inherent, indivisible and inalienable. Universal means they can be applied to human beings everywhere in the world. Inherent means they are inborn to human being. Indivisible means that these rights are interrelated. Inalienable means no one can take away these rights. Poor access to justice, delay in implementation of the judgments in case of human rights, less accountability, police violence, lynching, unclear policies, complex laws, overburden courts, poor infrastructure, etc. are some of the challenges which are being faced by all the nations.

Keywords: Human Right, Judiciary, justice, equality, fundamental right

INTRODUCTION

Human rights are the basic entitlements that every individual possesses by virtue of being human. These rights are universal, inherent, and inalienable. They cannot be taken away or surrendered under any circumstance. They protect the dignity, freedom, and equality of all individuals, forming the foundation of a just and humane society.

In India, the judiciary plays a vital role in safeguarding these rights. Through constitutional interpretation, judicial review, and progressive judgments, courts ensure that human dignity is upheld and protected against violations by the State or other entities. The judiciary has gradually expanded the meaning and scope of fundamental rights, thereby strengthening human-rights jurisprudence in the country. This research paper examines the evolution of human rights,

the constitutional framework for their protection, and most importantly the judiciary's contribution in protecting and promoting them.

HISTORICAL BACKGROUND

The idea of human rights is as old as humanity but the systematic declarations are more recent. United Nations Charter makes the human rights in a codified form at international platform. Hamurabi Code of laws also describes the human rights. The roots of human rights are also found in doctrine of natural justice. Cicero, a Roman Jurist laid down the foundations of natural law and human rights in his work. Some of the human rights documents are English Bill of Rights (1688), American Declaration of Rights of Independence (1776), The United States Constitution (1787), United States Bill of Rights (1791), and French Declaration of Rights of Man (1789).

MEANING AND CONCEPT OF HUMAN RIGHTS

Human rights refer to the moral principles and legal standards that recognize and protect the inherent dignity of all human beings. These rights ensure that individuals live with freedom, equality, and justice.

Key features of human rights include:

Universality: They apply to all humans without discrimination.

Inalienability: They cannot be taken away except under lawful circumstances.

Indivisibility: Civil, political, economic, social, and cultural rights are interconnected.

Equality and Non-Discrimination: Every individual is equal before the law.

HUMAN RIGHTS IN THE INDIAN CONSTITUTION

India's Constitution incorporates a comprehensive human-rights framework. It protects civil, political, social, economic, and cultural rights through:

Fundamental Rights (Part III)- These rights ensure equality, freedom, protection against exploitation, religious freedom, cultural rights, and constitutional remedies. Major freedoms include, freedom of speech and expression, freedom of movement, freedom of profession, freedom of religion, right to life and personal liberty. Article 21, in particular, has been judicially expanded to include the right to privacy, education, livelihood, environment, health, and more.

Directive Principles of State Policy (Part IV)- These guide the State in promoting social and economic justice. Though non-justiciable, they influence judicial interpretation and policy-making.

Fundamental Duties (Part IVA)- These duties encourage citizens to respect the Constitution, promote harmony, and safeguard public property—strengthening the overall culture of rights.

ROLE OF THE JUDICIARY IN PROTECTING HUMAN RIGHTS

The judiciary is the guardian of the Constitution and the protector of fundamental rights. It performs several crucial functions:

Judicial Review: Courts examine whether laws and executive actions violate constitutional provisions. This prevents the misuse of power.

Public Interest Litigation (PIL): PIL has democratized access to justice by allowing any individual to approach courts on behalf of disadvantaged groups. The Supreme Court has expanded rights through PILs concerning environmental protection, prison reforms, bonded labour, women's rights, and more.

Judicial Activism: When necessary, courts adopt a proactive stance to fill gaps in legislation, protect vulnerable groups, and interpret the Constitution in a progressive manner.

Expansion of Article 21: Through creative interpretation, courts have transformed Article 21 from a narrow right to a broad guarantee of a dignified life.

Protection of Marginalized Groups: The judiciary has consistently intervened to protect minorities, women, children, disabled persons, transgender persons, and other vulnerable populations.

Human Rights Commissions: Courts work in coordination with statutory bodies like the National Human Rights Commission (NHRC) to ensure redressal of human-rights violations.

LANDMARK JUDICIAL DECISIONS ON HUMAN RIGHTS

The Constitution of India evolves continuously to meet the needs of society and protect the values it embodies. Due to this dynamic character, it is often described as a “living document.” The judiciary, especially the Supreme Court, plays a pivotal role in interpreting the Constitution, expanding the scope of rights, and ensuring that human dignity remains central to governance. Several landmark judgments have strengthened human rights jurisprudence in India:

1. **Maneka Gandhi v. Union of India (1978):** This judgment transformed Article 21. The Court held that the “procedure established by law” must be fair, just, and reasonable, expanding the right to life and personal liberty. It incorporated elements of due process and made Article 21 the foundation of many future human-rights-oriented judgments.
2. **Vishaka v. State of Rajasthan (1997):** In the absence of a domestic law to curb workplace sexual harassment, the Supreme Court issued the Vishaka Guidelines, recognizing sexual harassment as a violation of Articles 14, 15, and 21. This later led to the enactment of the Prevention of Sexual Harassment (POSH) Act, 2013.
3. **Olga Tellis v. Bombay Municipal Corporation (1985):** The Supreme Court held that the right to livelihood is part of the right to life under Article 21. This protected pavement dwellers and recognised that without livelihood, life itself cannot be meaningful.
4. **K.S. Puttaswamy v. Union of India (2017):** A nine-judge bench unanimously held that the right to privacy is a fundamental right under Article 21. This judgment expanded digital rights, bodily autonomy, and informational privacy.
5. **Indra Sawhney v. Union of India (1992):** Commonly known as the Mandal Commission case, this judgment upheld reservations for OBCs while also imposing a 50% ceiling limit. It balanced equality with social justice, protecting the rights of socially and educationally backward groups.
6. **Unnikrishnan v. State of Andhra Pradesh (1993):** The Court held that the right to education up to age 14 is a fundamental right under Article 21. This led to the insertion of Article 21A, making free and compulsory education a constitutional guarantee.
7. **NALSA v. Union of India (2014):** The Court recognised transgender persons as a third gender, affirming their right to dignity, equality, and self-identification. This judgment remains a milestone for LGBTQ+ rights in India.

CHALLENGES BEFORE THE JUDICIARY IN PROTECTING HUMAN RIGHTS

Although the judiciary is a strong guardian of rights, it faces several challenges:

Overburdened Courts- India has one of the world's largest backlogs, with crores of pending cases. This delays justice and often leads to the belief that justice delayed is justice denied.

Limited Accessibility- High litigation costs, lack of legal awareness, and procedural complexities prevent many vulnerable groups from approaching courts.

Judicial Overreach vs. Activism Debate: Sometimes judicial intervention is criticised as encroachment into legislative or executive domains, raising a conflict between activism and separation of powers.

Inadequate Implementation of Judgments: Even after landmark decisions, poor implementation by government agencies weakens human-rights enforcement.

Shortage of Judges and Infrastructure: Vacancies in courts and inadequate court infrastructure hamper efficient functioning.

Socio-Political Pressures: Highly sensitive cases involving political or social matters sometimes put indirect pressure on the judiciary, testing its independence.

SUGGESTIONS

To strengthen human-rights protection in India some measures should be adopted. More judges, fast-track courts, and digital courts are essential to tackle case pendency. The National Legal Services Authority (NALSA) and state bodies should expand free legal aid, especially in rural and marginalized areas. Awareness campaigns in schools, colleges, and communities can empower people to fight human-rights violations. Government agencies must be made accountable for timely and effective implementation of court orders. Continuous training programs for judges on international and contemporary human-rights standards can ensure quality judgments. ADR mechanisms like mediation and arbitration can reduce burden on courts and ensure quicker justice. Transparent appointment processes, protection against political interference, and adequate funding are crucial for maintaining judicial independence.

CONCLUSION

The Indian judiciary has played an extraordinary role in expanding the scope of human rights and ensuring justice for every individual. Through judicial review, activism, PILs, and progressive interpretations, the courts have transformed fundamental rights into living realities for the people. Despite challenges such as pendency of cases and limited accessibility, the judiciary continues to be a pillar of democracy and the ultimate protector of human dignity. For a truly rights-based society, judicial efforts must be complemented by effective governance, public awareness, and strong implementation frameworks. The protection of human rights is not a one-time achievement but an ongoing process, and the judiciary remains at its heart for all persons for safeguarding freedom, equality, and justice.

BIBLIOGRAPHY

1. Aristotle, *Politics*.
2. John Locke, *Second Treatise of Government*.
3. United Nations, “What Are Human Rights?”.
4. Universal Declaration of Human Rights, 1948.
5. UN Charter, 1945.
6. International Covenant on Civil and Political Rights, 1966.
7. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
8. M. Nagraj v. Union of India, (2006) 8 SCC 212.
9. S.R. Bommai v. Union of India, (1994) 3 SCC 1.
10. Skill Lotto Solutions Pvt. Ltd. v. Union of India, (2020) 12 SCC 486.
11. Hussainara Khatoon v. Home Secretary, State of Bihar, (1979) 3 SCC 532.
12. Sunil Batra v. Delhi Administration, (1978) 4 SCC 494.
13. D.S. Nakara v. Union of India, (1983) 1 SCC 305.
14. M.C. Mehta v. Union of India, Various Judgments (1986–2020).

16. D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.
17. NALSA v. Union of India, (2014) 5 SCC 438.
18. K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
19. Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
20. Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.
21. Indra Sawhney v. Union of India, (1992) Supp 3 SCC 217.
22. Unnikrishnan v. State of Andhra Pradesh, (1993) 1 SCC 645.