

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

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Constitutional Safeguards for Human Rights and Social Security in India: An Analytical Study

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ABSTRACT

The constitution of India is generally based on the three pillars of liberty, equality, fraternity, and justice. These pillars are also known as the three legs of the Indian constitution. To achieve the aim of the paper, I have gone through a conscience study of all the books and journals associated with constitutional provisions that demonstrate high respect for human integrity, a commitment to equality and non-discrimination, and compassion for current societal weaker ones.

“Everybody needs social protection throughout their lives, as young children, in working life, and in old age. People need protection in case of specific shocks, such as illness, disability, and loss of income or work. ...” In this paper, we attempt a critical appraisal of the historical development and experience of social security initiatives at the all-India level. Based on the findings of the review, we visualize a road map to more comprehensive and participatory initiatives in the provision of social security by the state, while stressing the role of civil society, non-governmental organizations, and mass organizations. It also attempted to categorize the ongoing social security schemes according to the definitional framework of our study, that is, in terms of the definitional division of social security into basic and contingent social security.

This paper is an attempt to provide the role of the Judiciary and judicial activism in the protection of rights in India. After independence, India played a very significant role in the protection of rights. India has not incorporated an elaborate Bill of Rights in its constitution and efforts have been made to translate this reality. Judiciary in India played a crucial role to translate these rights into reality.

The paper also examines some of the challenges faced by the supreme court in fulfilling its role as a custodian of social justice, such as the issue of judicial overreach and under-representation of certain communities in the judiciary overall this research seeks to provide a comprehensive understanding of the supreme court’s role in protecting social justice in a constitutional democracy. This paper also focuses on the rights of senior citizens, the vulnerable section of society, and the legal framework in place to protect their rights. The

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paper aims to contribute to the ongoing debate on the proper role of the state, civil society, and stakeholders in promoting social justice and protecting the rights of all citizens.

Keywords: *constitution, human rights, social security, supreme court.*

I. INTRODUCTION

Every individual, as a member of human society, possesses some unique rights that are universal in nature. These rights are essential for leading a dignified life. As the history of human rights suggests, certain civilizations recognized the existence of basic human rights as early as 5,000 years ago: the Indian, Egyptian and Roman civilizations are the prime examples. Ancient Indian scriptures, including the Vedas, Manusmriti, Arthashastra, relics of Ashoka and Thirukkural from the Dravidian regions in southern India, may show that the king or the state was duty-bound to protect the basic rights of human beings. Hence, it is clear that ancient Indian literature stood for enlarging and encouraging human rights, freedom, liberty and equality of all people irrespective of any discrimination based on caste, creed, gender, sex, religion and place of birth.

The paper will explore the evolution of constitutional safeguards for human rights and social security in India, It will examine the role of the judiciary in interpreting and enforcing these provisions and will evaluate the effectiveness of these safeguards in protecting the rights of citizens. The link between human rights and democratic constitutional order begins with the process leading up to the adoption of a constitution or a constitutional reform. Such a process promises successful results if it is based on the broad participation of all parts of society.

The constitution of India is generally based on the three pillars of liberty, equality, fraternity and justice. These three pillars are also known as the three legs of the Indian constitution. From the Indian perspective, the Constitution empowers the state to protect its citizens by extending social security benefits thereby helping in the promotion of the ideals of a welfare state. In accordance with the constitutional mandates, the state can guarantee social security and assistance in cases of unemployment, old age, sickness, maternity, disablement, etc.

To achieve the aim of the paper, I have gone through a concise study of all the books and journals associated with constitutional provisions that demonstrate high respect for human integrity, a commitment to equality and non-discrimination, and compassion for current societal weaker ones. In conclusion, this research paper will provide a comprehensive analysis of the constitutional safeguards for human rights and social security in India. It will highlight the strengths and weaknesses of these safeguards and provide recommendations for further improvement. Ultimately, the aim of this research is to contribute to the ongoing efforts to

promote and protect human rights and social security in India.

II. INTERPRETATION OF HUMAN RIGHTS AND SOCIAL SECURITY BY THE JUDICIARY

The judiciary is the ultimate guardian of the human rights of the people. It not only protects the rights enumerated in Constitution but also has recognized certain unenumerated rights by interpreting the fundamental rights and widening their scope. As a result people not only enjoy enumerated rights but also unenumerated rights as well. Through their interpretations, the judiciary has the power to shape policies and influence the decisions of other branches of government.

The Supreme Court of India recognizes these fundamental rights as 'Natural Rights' or 'Human Rights'. While referring to the fundamental rights contained in Part III of the Constitution, Sikri the then Chief Justice of the Supreme Court, in *Keshavananda Bharati v. State of Kerala*² observed, "I am unable to hold these provisions to show that rights are not natural or inalienable rights. As a matter of fact, India was a party to the Universal Declaration of Rights and that Declaration describes some fundamental rights as inalienable." Chief Justice Patanjali Shastri in *State of West Bengal v. Subodh Gopal*³ referred to fundamental rights as those great and basic rights, which are recognized and guaranteed as the natural rights inherent in the status of a citizen of a free country.

The Supreme Court in *Maneka Gandhi v. Union of India*⁴ interpreted the right to life and widened its scope and deduced un-enumerated rights such as the "right to live with human dignity". Supreme Court propounded the theory of "emanation" to make the existence of the fundamental right meaningful and active. Thereafter, in many cases, courts such as *People's Union for Civil Liberties and another v. State of Maharashtra*⁵ and others, *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*⁶ held that the right to life includes the right to live with human dignity. Therefore, through the judicial interpretations, various rights have been recognized though they are not specifically provided in Part III of the Constitution.

Women are considered weak in our society which has resulted in the backwardness of women in every sphere. Women remain oppressed and are often denied basic human rights. They are subjected to violence in society whether it is within four walls of the house or at the workplace. Despite the provision of the right to equality enshrined under Article 14 of the Constitution,

² AIR 1973 SCC 225

³ AIR 1954 SC 92

⁴ AIR 1978 SC 597

⁵ 2014 (10) SCC 635

⁶ (1981) 2 SCR 516

they are subjected to discrimination. Gender is considered to be the most important factor as for as the Indian labour market is concerned. Discrimination against women laborer in terms of wage payments is a very common phenomenon in India. Wages earned by women are generally lesser than their male counterparts. However, the Article of the Constitution guarantees the principle of equal pay for equal work for both men and women. Despite the guarantees of equal rights to women still, they are not equally treated to men. Supreme Court has played a remarkable role in the protection of their rights in the case of Associate Banks Officers Association v. State Bank of India, Supreme Court protected the rights of women workers and held that women workers are in no way inferior to their male counterparts and hence there should be no discrimination on the ground of sex against women. In the State of Madhya Pradesh v. Pramod Bhartiya, Supreme Court held that under Article 39 the State shall direct its policy towards securing equal pay for equal work for both men and women.

Article 21 i.e. protection of life and personal liberty was invoked for the dignified life for the prostitutes by the Supreme Court in the case of State of Maharashtra v. Madhukar Narayan Mandlikar⁷ held that even a woman of easy virtue is entitled to privacy and no one can evade her privacy. In Bodhi Satwa Gautam v. Subra Chakraborty⁸, Supreme Court held that rape is a crime against basic human rights. Supreme Court laid down guidelines for the protection of women against sexual harassment in the workplace. Vishaka v. State of Rajasthan⁹ and reiterated the same in Medha Kotwal Lele v. Union of India¹⁰. Guidelines for ensuring a safe work environment for women were given and made mandatory for employers to take responsibility in cases of sexual harassment at work.

In the National Federation of Blind v. Union of India¹¹, the Supreme Court of India held that the right to education is a fundamental right and is protected under Article 21 of the Indian Constitution. The court emphasized that individuals with disabilities have the right to equal access to education and directed the government to take necessary measures to provide them with adequate facilities and accommodations.

The Supreme Court also protected the rights of workmen in BALCO Employees Union (Regd.) v. Union of India¹², Consumer Edu. & Research Centre v. Union of India¹³. In People's Union

⁷ AIR 1991 SC 207

⁸ AIR 1996 SC 922.

⁹ 1997(6) SCC 241.

¹⁰ 2013(1) SCC 297

¹¹ AIR 2014

¹² 2002(2) SCC 333

¹³ 1995(3) SCC 42

for Democratic Rights v. Union of India¹⁴, the Supreme Court stated that releasing persons from bonded labour was connected to the rehabilitation process in order to give full remedy. In *Workmen v. Rohtas Industries*¹⁵, the Supreme Court observed that the right to equality became instrumental in protecting the right of workers against unreasonable closures and discrimination in the payment of pensions.

In *Chairman Railway Board and others v. Chandrima*¹⁶, the Supreme Court has observed that Fundamental rights are available to all the persons of this country, and those who are not citizens of this country and who come here as tourists or in any other capacity, are entitled to the protection of their lives in accordance with the Constitutional provisions. They also have a right to life in this country. Thus they also have the right to live with human dignity so long as they are here in India. Article 14 which guarantees equality before law and equal protection of laws within the territory of India is applicable to the "person" who would also include both the "citizens" of this country and non-citizens. In this case, a Bangladeshi national Mrs. Khatoon was gang raped by Railway employees in a room at the Yatri Niwas of the Howrah Railway Station in West Bengal. The Calcutta High Court allowed compensation of a sum of rupees 10 lakhs to her for having been gang raped. Upholding the decision of the High Court, the Supreme Court held that as a national of another country, she could not be subjected to a treatment, which was below her dignity, nor could she be subjected to physical violence at the hands of Government employees who outraged her modesty. According to the tone and the tenor of the language used in Article 21, they are available not only to every citizen of this country but also to a person of another country. The Apex Court also held that since the word 'life' has been used in Article 21 of the Constitution as a basic human right in the same sense as understood in the Universal Declaration of Human Rights of 1948, there is no reason why it should be given a narrow meaning.

The health problems of workers in the asbestos industry led the Supreme Court in the case *Paramanand Katra v. Union of India*¹⁷ to rule that the right to life and liberty under Article 21 also encompasses the right of the workers to health and medical aid. The right to life has been held to include the right to receive instant medical aid in case of injury and the right of a child to receive free education up to the age of fourteen.

¹⁴ 1982(3) SCC 235.

¹⁵ AIR 1996 SC 467

¹⁶ AIR 1973 SC 2720

¹⁷ 1989 AIR 2039, 1989 SCR (3) 997

The judiciary has played an important role in interpreting human rights and social security laws for marginalized refugees also NHRC v. State of Arunachal Pradesh¹⁸ In this case, the Gauhati High Court interpreted the right to life and dignity under Article 21 of the Indian Constitution to require the state to provide adequate food, shelter, and medical care to refugees living in detention centers. The court held that the state's failure to provide basic amenities to detainees, including Rohingya refugees, violated this right. In the Ganga Bishnoi v. State of Rajasthan¹⁹ case, the Supreme Court of India interpreted the right to education under Article 21A of the Indian Constitution to include the right of refugee children to receive education in government schools. The court held that the state's refusal to admit refugee children to government schools violated this right.

The landmark judgment by the Supreme Court of India recognized the right to life and dignity of waste pickers and their entitlement to social security benefits. In the case, Safai Karamchari Andolan v. Union of India²⁰ the Supreme Court of India interpreted the right to life and dignity under Article 21 of the Indian Constitution to include the right of waste pickers to work with dignity and without discrimination. The court held that the state's failure to provide basic protective gear and social security benefits to waste pickers violated this right. Also in the case, People's Union for Civil Liberties v. Union of India²¹, the Supreme Court of India interpreted the right to social security under Article 21 of the Indian Constitution and the National Food Security Act to require the state to provide food security benefits to all citizens, including waste pickers and their families. The court held that the state's exclusion of waste pickers from the list of beneficiaries of food security programs violated this right.

The judicial system protects the rights of its citizens including prisoners. The Supreme Court by interpreting Article 21 of the Constitution protected and preserved the rights of the prisoners. In the case, Prem Shankar v. Delhi Administration²² Supreme Court held that the practice of using handcuffs and fetters on prisoners violates the guarantee of human dignity. A landmark judgment in D.K. Basu v. State of West Bengal²³ protected the rights of the prisoners and laid down various guidelines for arrest and detention to prevent custodial violence and observed that the right to life includes the right to live with human dignity.

The judiciary's interpretation of human rights and social security laws is essential for protecting

¹⁸ 1996 AIR 1234, 1996 SCC (1) 742

¹⁹ 2020

²⁰ (2014) 11 SCC 224

²¹ 2003) 4 SCC 399

²² (1980) 3 SCC 538.

²³ (1997) 1 SCC 416

the rights of elderly people. The courts have recognized that the right to life and dignity includes the right to be free from abuse and neglect, to access social security benefits, including pensions, to receive maintenance and support from children, and to have access to adequate medical facilities. In the case, *Asha Ranjan v. State of Bihar*²⁴, the Supreme Court of India interpreted the right to life and dignity under Article 21 of the Indian Constitution to include the right of elderly people to be free from abuse and neglect. The court directed the state to take steps to prevent elder abuse and to provide social security and medical assistance to elderly people. Delhi High Court's judgment on Maintenance and Welfare of Parents and Senior Citizens Act, 2007 In this case, the Delhi High Court interpreted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, to require children to provide maintenance and support to their elderly parents. The court held that the act was aimed at ensuring that elderly people were not left destitute or abandoned by their children. In the *R. K. Sabharwal v. State of Punjab*²⁵ case, the Supreme Court of India interpreted the right to life and dignity under Article 21 of the Indian Constitution to require the state to take measures to provide adequate medical facilities to elderly people. The court held that the state's failure to provide medical facilities to elderly people violated this right.

III. CRITICAL ANALYSIS

Human Rights are those claims and demands which are essential for the protection of Human life and the enhancement of human dignity, which should therefore enjoy full social and political sanctions. Human Rights recognize the inherent dignity and fundamental freedom of all members of the human family and are the foundations of all-basic freedoms, justice, and peace in the world. Human Rights, when protected by the rule of law, ensure peace in society by preventing man from turning violent and rising in rebellion against tyranny and oppression. The consciousness of social security comes to a man when he feels that he is getting his basic rights related to those rights which are related to man's life, freedom, equality, and rights implemented by the Indian judiciary system. In other words "human rights are inherent of all human beings, whatever our nationality, place of residence, sex or ethics, origin, colour, religion, language or any other status." we are all equally entitled to our human rights without discrimination and violation of human rights is a common problem. in this paper, an attempt is made to describe that casteism causes social insecurity and is a form of violation of human rights.

²⁴ (2017) 4 SCC 397

²⁵ 1995 AIR 1371, 1995 SCC (2) 745

The contemporary leader and thinkers of India, since its independence thought that with economic development and by promotion of education, the problem of casteism and untouchability declined in the society but their thinking was wrong as there was not this type of change occurring here. Caste-related violence and hate crimes in India have occurred despite the gradual reduction of casteism in the country. According to the report by human rights watch “scheduled tribes continue to face discrimination, exclusion, and acts of communal violence. Laws and policies adopted by the Indian government provided a strong basis for protection, but are not being faithfully implemented by local authorities.” now casteism gets a new face in politics and become a complicated aspect of Indian society. Since we have not started the social movement and it becomes the main cause of prejudices, anti-social thinking, customs and affects the social movement and the life of a man too.

In scheduled caste, the nature of their problems is basically social. We cannot eradicate any social problem through political, administrative and economic policies. The central government of India established departments to think and work on the problems of the oppressed class to find out basic causes and solutions. Since independence, a great amount wasted on these schemes but the results come with zero effects and the problem is living as it is. By these schemes only a few persons were obliged, first, those who are related to any political or administrative person or have some influential background. The needy are being destroyed by the same problems and till now far from the benefits of all these welfare schemes. All these create social insecurity among these classes and a gap between humans to humans. Differences in status are traditionally justified by the religious doctrine of karma, a belief that one’s place in life is determined by one’s deeds in previous lifetimes. A lack of formal education or training as well as discrimination that effectively bars them from many forms of employment and nonenforcement of protective legislation perpetuates caste-based employment and keeps its hereditary nature alive.

The main objective of the scheduled caste/tribe prevention of atrocities acts 1989 was secure SC/ST from the violation of the upper classes. Free legal facilities are available for this purpose. The punished person can have a punishment of six months to five years in jail with economic punishment and also special courts are available for the needy. But these types of facilities become useless when a real case occurred and the policy of dominance by political or economic means is implemented by the upper caste. The judiciary systems and all the concepts of the welfare state become waste whenever they come to the light. The root cause of this lack of the political and administrative will for justice and when we can find caste discrimination as the root cause of all these and the inhuman role of upper caste dominance in politics and

government.

Human rights defenders are working since then we have not had the concept of human rights in our life. They are working on a range of issues including caste discrimination, domestic violence, social justice, women's issues child abuse and much more from both the state and other interests. But the problem is here to consider that those who are discussing or working on human rights issues are being tortured by false cases and sometimes they are also murdered as we continually receive these types of news from the media. Their social security and freedom were also suppressed by the authorities. The government imposed increased administrative restrictions on human rights by the authorities. The government imposed increased administrative restrictions on human rights organizations. By all this first step to fight for justice is interrupted and the real conception of justice becomes only a theoretical interpretation. It is a good point to consider that for a good society and for a just nation, we should think about all these issues so that we can live in such places where we can realize a sense of freedom, equality, and brotherhood. For all this we need to think seriously about caste issues, human rights, terrorism child and women issues only then we can have a fruitful outlook on social problems. Universal peace presupposes social justice, equality, fraternity and love for humanity. Unfortunately, human selfishness and ego overwhelm the human mind causing destructive and dangerous consequences to the peaceful existence of humans.

Recently, Gig workers, who provide on-demand services through various digital platforms such as Zomato, Swiggy, Ola, and Uber, have approached the Supreme Court of India seeking social security benefits. The case has brought into focus the issue of whether gig workers should be treated as employees and be entitled to benefits such as gratuity, provident fund, and insurance. The case before the Supreme Court raises important questions about the nature of work in the digital age. With the rise of the gig economy, traditional notions of employment are being challenged, and new forms of work are emerging. It is essential that these new forms of work are regulated and that workers are provided with adequate protections and benefits.

In the end, we can say that, we have the option to choose a better world. Why don't we think to work for our fellow beings and deal with these issues in a rational systematic manner: It is a reality that India is going through a difficult time of regionalism, communalism, religious fundamentalism, caste prejudices, and gender discrimination and these evils are deeply rooted in our society.

According to Justice, J.S.Verma²⁶ "human dignity is the quintessence of human rights". All

²⁶ <https://monad.edu.in/img/media/uploads/human%20rights.pdf>

those rights which are essential for the protection and maintenance of the dignity of individuals and create conditions in which every human being develop his personality to the full extent may be termed as human rights. According to D.D. Basu²⁷ human rights are those minimum rights that every individual must have against the state or other public authority by virtue of his being a member of the human family, irrespective of any other consideration.

IV. CHRONOLOGY OF EVENTS/INDIAN LAWS REGARDING HUMAN RIGHTS IN INDIA

Following is a list of some of the important national statutes which have a bearing on the promotion/ protection of human Rights in India.

1829: The practice of sati was formally abolished.

1923: Workmen's Compensation Act.

1926: Trade Unions Act.

1929: Child Marriage Restraint Act.

1933: Children (Pledging of Labor) Act.

1936: Payment of Wages Act.

1946: Industrial Employment Standing Orders Act.

1947: Industrial Disputes Act.

1948: Minimum Wages Act.

1950: Caste Disabilities Removal Act 1955 – Protection of Civil Rights Act.

1956: Immoral Traffic Act.

1961: Maternity Benefit Act.

1976: Equal Remuneration Act.

1986: Environmental Protection Act.

1986: Juvenile Justice Act.

1987: Commission of Sati (Prevention) Act.

1990: National Commission for Women Act.

1993: Establishment of Human Rights Commission.

2005: Right to Information Act passed.

²⁷ https://archive.mu.ac.in/myweb_test/SYBA%20Study%20Material/fc.pdf

2010: The Right of Children to Free and Compulsory Education Act came into force

2013: The Criminal Law (Amendment) Act.

2015: The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act etc.

V. CONCLUSION AND SUGGESTION

In conclusion, From the above details, it has been concluded that the history of the concept of human rights is from the advent of human culture which grow in the Vedic period, passed through the medieval and modern times and reached its due importance with the framing of the constitution of India in which due importance has been given to human rights in context to fundamental rights, directive principles and fundamental duties. Human rights and social security are essential components of a just and equitable society. Human rights provide a framework for protecting the dignity and freedoms of all individuals, while social security ensures that individuals have access to basic needs such as food, shelter, and healthcare. Both are necessary to ensure that individuals are able to live with dignity and participate fully in their communities.

It is the responsibility of governments and society as a whole to protect human rights and provide social security to all members, particularly those who are vulnerable and marginalized. This requires policies and programs that address systemic inequalities and promote inclusive growth, as well as efforts to raise awareness and promote social change.

Ultimately, the realization of human rights and social security is not only a moral imperative but also contributes to the long-term prosperity and stability of societies. By upholding these values, we can create a more just and sustainable world for all. the National Human Rights Commission it has been playing a commendable task in protecting the human rights of the people and it also gave monetary relief to the victims and to their families. Although some amendments are necessary to be made in the Act and for the same some following suggestions have been made if such changes may be made then it can strengthen the position of the human rights commission and it would be possible to achieve the objectives of the Act easily.

- i. There should be a provision in the Act which specifically provide the time period within which the decisions of the commission should be implemented by the concerned Government.
- ii. Provision can be made for the conduct of seminars in every district each month for educating people about their human rights and the protections granted by the Constitution as well as under the Act of 1993.

- iii. The provision can be made for conducting the periodical survey. A periodical survey should be conducted for checking the progress in the field of the implementation of the provisions as well as in achieving the objectives of the Act.
- iv. The special cell can be established in every human rights court at the district level where free legal aid should be provided to victims of human rights violations who due to their poverty and vulnerable conditions unable to approach the court for the redressal of their grievances.
- v. In schools as well in colleges one compulsory subject can be introduced in which students may study human rights and social security.
- vi. Strengthening the justice system by increasing the number of judges and courts, improving the quality of legal aid, and enhancing the efficiency of the judicial process would help to ensure that human rights are protected and justice is delivered in a timely and fair manner.

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