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Significance and Challenges of Human Rights: Role of Indian Government to Achieve the Goals Envisaged by Constitution

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ABSTRACT

Government is an institution that has a union of ministers who make laws for the country and fulfill the needs of the country. A country that is vast and diverse also has unlimited expectation from all groups of people. They need a government to work to fulfilling those expectations and for the proper functioning of government, there must be a constitution. Every constitution has some goal like elevating poverty, bringing equality in the society, everyone getting a chance to be prosperous, civil rights to citizens, keeping all people united, all religions coexisting peacefully, etc. All these expectations are fulfilled by the Indian constitution which is a strong and written constitution. Indian constitution has three main pillar's legislatures (which make laws), the Executive (who implement laws), and Judiciary (which look at the proper implementation and give verdicts and establish truth). Among all these pillars, the legislature gives a platform where people's voices are raised for their benefit and their welfare. Indian parliament is divided into three parts i.e., President, Rajya Sabha (indirectly elected by the people), and Lok Sabha (directly elected by the people). The people of India cast their votes and form a government. This Government makes laws and rules for the welfare of the people. Here, the role of government comes out to fulfill the needs of the people.

This research is done to find out whether the Indian government is working towards the goals envisaged in the constitution. We also find out some data where the government did well, somewhere doing good, but we also found some blackness in providing civil and economic rights. In the research, we tried to find out solutions that the Indian government has to achieve. We covered national and international issues, problems, and their solutions to human rights.

Keywords: *Indian Government, Constitution, Parliament, Human Rights, Diplomacy.*

I. INTRODUCTION

Human Rights are a right that is given to every individual in society. This is a basic right enshrined in the human by birth. Human Rights are one of the relationships of the individual to

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his fellow human beings within the community. As Aristotle told us, *Man is a Social Animal*; it means that a person can't leave in isolation, but by proper association with other fellow beings an individual can achieve his full development of personality. As we know each right coexists with a duty and this duty is towards the community; there are also rights and duties of the community against the person. A person can't enjoy his right if he does not follow his duties towards others. So, having a positive approach towards rights with the duty will reduce the chance of jeopardy of social order. It is believed that if everyone follows his duties then there is no need for social authorities the enforcement of rights. Many civilizations had fought to protect the rights of the individual like a civil war in America that abolished slavery and brought equality between white and black. Human Rights are inherent and inalienable rights that are due to an individual by being a human being and they are necessary to ensure the dignity of an individual as a human being. Human rights can't be discriminated against just because of race, religion, caste, sex, nation, or any other factor. All claims of rights can't be said to be a human rights. An individual who wishes and desires to do whatever he wants to do, cannot be treated as a human right. Only those claims which are essential for the overall development of human personality and which are recognized by society, constitute right.

The Indian constitution has provided fundamental rights to all citizens. These are the introductory moral rights elevated in the constitution. The rights are the right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, and right to constitutional remedies. A person can approach the court using Article 32 and 226 of the Supreme Court and High Court respectively, which provides constitutional remedies if it gets violated by the state. Indian society is a very diverse and unique mixture of culture and tradition. As the Indian constitution has provided fundamental rights to citizens; it also gave some duties to perform by the citizens as well as the state. Both duties of the state (directive principles of state policy) and fundamental rights broadly constitute a spectrum of Human rights. No alone part can claim to be completely set by itself.

II. EVOLUTION OF HUMAN RIGHTS

The concept of human rights or fundamental rights is not new in India but it evolved from various phases of history.

The Magna Carta of England, the American Declaration of Independence, the French declaration on the Rights of man, and the Bolshevik Revolution in Russia could be cited as important landmarks in the development of the concept of human rights. Above mentioned all the declarations contributed to the development of human rights. However, they have some

narrowness in the scope and application of these rights. These rights only extended to citizens and not to the ‘aliens(citizens of the enemy country) and slaves. Magna Carta, the first document which set limitations on the arbitrary rule of lords and laid the foundation for the rule of law. The American Declaration of bills of rights or the 10th amendment guarantees civil rights as well as liberties of the individuals like the freedom to choose religion, freedom of speech and expression, and freedom of the press. Slavery continued to be part of the system; African Americans were called Negro, not men. It was 1864 when slavery was legally abolished in America after a bitter civil war that threatened the unity of the United States. The countries were going through rapid industrialization and they are experiencing the need more for equality, social justice and economic security, human dignity. The French Declaration of the Rights of man and the citizens of 1789 proclaimed liberty, equality, and fraternity for all and it seems to be the most revolutionary social concept; but liberty and equality were soon proving empty slogans for poor peasants and factory workers. It was the mid-eighteenth century in Europe, and the demand for economic security and social justice, in addition to civil and political rights, appeared in the front of the socialist movement. The Bolshevik Revolution in Russia(1917), went a step forward. It emphasized that economic and social rights were as important as civil and political rights. In Europe and North America(USA), the concept of natural rights was secularized, rationalized, and democratized, by the end of the eighteenth century. There emerged a concept that was called “the rights of Man”; of course, man includes women, conceptually at least. Beginning of the mid-nineteenth century, the development that followed, sometimes accompanied by violence, within the industrial capitalist economy of Europe and North America took a new direction. There was a need for trade union rights, better wages, and better conditions for working-class improved. When conditions and development happened, people want civil liberties, social security, and freedom in political and economic terms in the whole of Europe and North America. While people around the world were more or less experiencing the sufferings and humiliation of colonialism and imperialism³. During colonial rule, the subject of the countries was deprived of their rights. The people of India, with great historical significance and having great rulers in past and a country that controlled 33% of the World economy in the past have difficulty living under colonial rule. The people of India gave their ultimate sacrifice and fearlessly fought against colonial rule and got independence. During British rule in India, they treated Indians as animals, and they humiliated and killed millions of people. Bengal famine occurred because of the hatred towards the Indians. They took all the wheat of Bengal for the second World War as stock and there was no actual need for food.

³ Principles and Theories of Human Rights, 1.2 Indian institute of Human Rights book

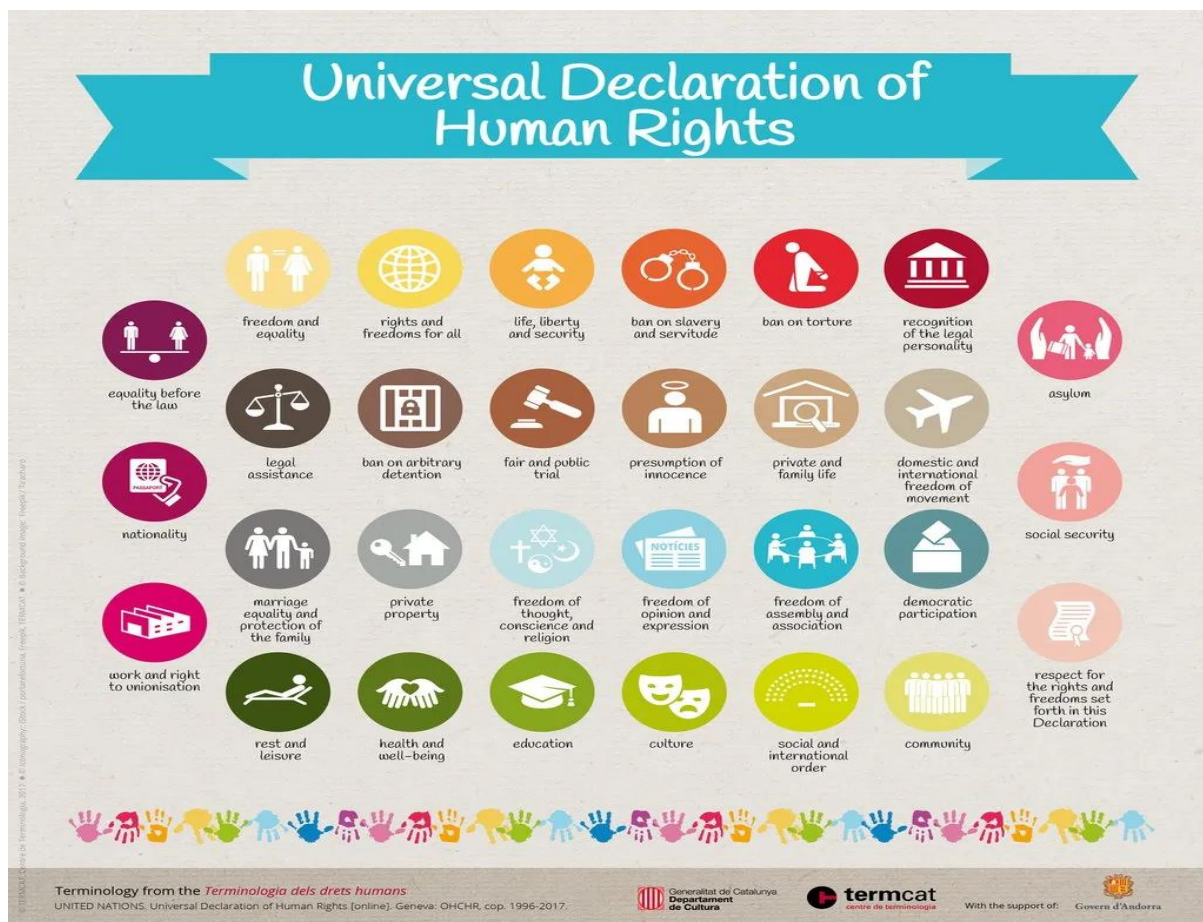
British Prime Minister Winston Churchill said:-

“I hate Indians. They are a beastly people with a beastly religion”.

All these colonial rulers spread hatred not only toward Indians but they did same toward African people. They slaved people, converted them, and looted their wealth.

In the middle of the 20th century, we have an organization like United Nations that universalized human rights around the world. United Nations was formed in 1945 and after three years they adopted the Universal Declaration of Human Rights. It defines specific rights- civil and political as well as economic, social, and cultural – with equality and freedom from discrimination as a principle and recurrent theme. But this organization is like a lion without teeth and claws.

III. WHY THERE IS A NEED FOR HUMAN RIGHTS?⁴



It was natural that those who hold power dominated the weak. Countries around the world have different forms of government systems like democratic, communist, autocratic, and monarchy systems. Except for democracy, the system is an authoritative government having no control

⁴Rights, <https://cdn.thinglink.me/api/image/885518633164341250/1024/10/scaletowidth/0/0/1/1/false/true?wait=true>

over its power because of no opposition to asking questions. When we look at developing countries and developed nations, there is almost the same in human rights abuse. Developing countries have problems like forced labor, child laboring, child marriage, organ sales, and violence against women while developed countries have problems like racism, violence against non-Christian faith people, and women being sexually abused. So, we can't say that there is an abuse of human rights happening only in developing countries but developed countries also have human rights abuse. Everyone needs to get medication, nourishment, water, dress, and protection. By counting these in a person's essential human rights, everybody includes a standard level of respect. Tragically, there are still millions of individuals out there who don't have these necessities, but saying it's a matter of human rights permits activists and others to work toward getting those for everybody.

It is universally acknowledged that the use of children in armed conflicts is a form of modern slavery because it is clearly and directly linked to the trafficking and sale of children. "The total number of child soldiers in each country, let alone the global figure, is not only unknown but unknowable according to the 2018 Annual Report of the Secretary-General for Children and Armed Conflict Huffington Post article 'Illegal Organ Trafficking Poses A Global Problem,' reported on the trafficking of persons for organ removal. Due to the hidden nature of this crime, scholars have argued in the past that "the total number of child soldiers in each country, let alone the global figure, is not The majority of buyers, who may have been waiting on legitimate transplant lists for months, typically commit the illegal act out of desperation and frustration. Sellers give up their organs out of economic necessity. Poor people in some parts of India use their kidneys as collateral for loans. Customers in Sri Lanka, the Gulf States, the United Kingdom, and the United States purchase kidneys that are sourced from the "kidney belt" region of southern India. The majority of developing nations, including India, China, the Philippines, and Pakistan, donate organs to developed nations like the United States, Canada, Australia, and the United Kingdom. In many developing nations, the sale of organs is against the law, except in Iran, where paid donation is allowed but strictly regulated.

The majority of us are aware of our human rights. However, not every one of us is aware of their practical meaning. What safeguards do human rights offer? How do interact they with the law? When our human rights are violated, what happens? So, it's the responsibility of the government to make aware of human rights. A human can develop his personality among humans only with proper rights and nourishment. For this, human rights create a responsibility to the government to work for all citizens without any discrimination.

IV. CHALLENGES TO HUMAN RIGHTS IN INDIA

India has played the most significant role in the promotion of the cause of Human Rights. With the attainment of Independence, a declaration of rights that is widely accepted in the world was incorporated into the new constitution as fundamental rights. India did the most-sincere efforts for the protection and promotion of human rights in third-world countries. India only incorporated the rights in the constitution but efforts have been made to bring them into reality. Indian constitution formed effective machinery for the enforcement of human rights in India. If fundamental rights are interfered with by an act of the legislature or by a federal state law, any person can move to the apex court to declare the act or law unconstitutional. In India several welfare measures have been introduced, for instance, the Minimum wages Act, Adulteration Act, Consumer Protection Act, etc. The Criminal Code of Procedure was amended for giving fair trial to criminals and limiting pre-trial detention. Though capital punishment remains for inhuman crimes as punishment.

Undoubtedly, India has made honest efforts to protect and promote human rights in the Third World. However, the fact remains that there is a wide gap between theory and practice. All that is preached is not always put into practice and India is not an exception. Like all other democratic countries, India is not immune from criticism for human rights abuse. *Custodial death, illegal detention, forced displacement of tribal people, harassment of women on social media, economic inequalities between rich and poor, censoring of media, internet shutdowns, and caste and religion-based politics* are the major challenges of human rights for the government. There are millions of individuals in this nation who still live in a state of *servile destitution – without nourishment, shield, business, healthcare, and instruction*. Fear-based oppression and *honor killing* are a few of the other issues which are truly affecting the human right to life at the ground level.

(A) Custodial Death

The apex court of India describes it as “one of the worst crimes in a civilized society governed by rule of law”. According to National Campaign Against Torture, on average 5 people died in custody every day⁵. Nation Human rights Commission Data reveals that 71% of the custodial death from 1969-70 to 2017-18 were from poor or marginal sections of society⁶. To bring justice Supreme Court of India ordered the installation of CCTV cameras in all government agencies⁷. NHRC guidelines say that report of custodial death be reported within 24 hours and

⁵ India annual report on torture 2019.

⁶ Poor account for 71% of custodial deaths in India, The Hindu, 10th dec. 2020.

⁷ SC orders installation of CCTV cameras in every police station, offices of central agencies, scroll.in, 2nd dec. 2020

magistrate inquiry is a must⁸. Punjab and Haryana HC held that illegal detention is a violation of article 21⁹.

(B) Tribal right to life and personal freedom

The tribal population of a country was the indigenous citizens of a country. They are cut off from city life and live in an isolated forest area. Due to government projects like dams construction and mining through them out from their place. Sometimes police register fake cases and torture them. India is the land of Lord Rama where everyone is treated as equal. At present, the government can do development but there should be equality between development and the rights of indigenous people. India has the world's largest tribal people in the country.

(C) Woman's right to live peacefully

Women's empowerment is also a challenge to human rights in India. The shameful acts executed against women in numerous parts of the world are stunning to the human heart. Sex selection abortion, child marriage, violence, rape, domestic abuse, and ill-treatment during periods are contributing to the major threat to woman rights. Data says that 736 million women, globally, three have faced sexual violence from their male partner or non-partner once in their life. Most of the female partners were victims of violence from their husbands. The same case with the girls (almost 24%) who are in relationships has faced sexual and physical assault from their boyfriends¹⁰.

If we see India's track record the number are not positive enough. NCRB survey reveals that 31677 cases of rape are registered all over India which means that on average 87 rape cases are daily. There was an increase in the overall number i.e., 19.34% from 2020 to 2021. The report further says that there is an increase in crime against women due to the pandemic. Crime against minor girls is 3,038 cases or nearly 10% of the overall case register¹¹. UN report says that nearly 1.2 million girls get married before completing their 18th birthday. NCRB survey says that 53% increase in the cases of domestic violence against women from 2001 to 2018. Woman's right is a major issue that hampers the development of the country and slander constitutional equality between sexes.

(D) Honour Killings

Concurring to the National Crime Bureau 2020 insights, there were a add up to 25 cases (States

⁸ <https://nhrc.nic.in/acts-&-rules/guidelines-1>

⁹ Baljit Singh & Ors vs State of Punjab CRWP No. 1245 of 2016

¹⁰ Facts and figures: Ending violence against women, UNWOMAN report, last update on Feb. 2022

¹¹ NCRB's 'Crime in India 2021' report

+ Union Domains) of honor killings in India. Between 2017 and 2018, it was detailed that as it were one such slaughter happened, where the motive of the kill was honor. However, in 2019, an NGO report expressed that 195 cases of honor killings were detailed alone from Tamil Nadu. It implies a few cases go unreported. We may never discover on the off chance that there are more. But as long as society values its casteist patriarchal (disguised patriarchy) unbending nature over the lives of their genuine children, this terrible hone appears likely to proceed.

- May 6, 2022: Sayed Ashrin Sultana aka Pallavi married Nagaraju, a 25-years old Dalit man. Her Muslim family slaughtered her spouse in Hyderabad. Concurring to reports, she described the whole story to the police.
- June 14, 2022: In Tamil Nadu, Sakthivel (31) slaughtered his sister, Saranya (24), and her spouse, Mohan (31), at Kumbakonam, Thanjavur area, Tamil Nadu. Mohan was from the Naicker caste, whereas Saranya was a Dalit. Sakthivel supposedly needed his sister to wed his companion Ranjith (28). Be that, as it may, when the couple got hitched without his authorization, he welcomed both of them for supper and hacked them to death.
- November 18, 2022: Police found the mangled bodies of Sonu Singh (28) and Rahul Meena (30) in Udaipur, Rajasthan. Sonu had a place in the Rajput community, whereas Rahul was from a tribal community. These are only four of the later cases of honor killings in India, and numerous others were conceivably never indeed detailed.

A society like India having all the above mentioned or which were left are parasites that are making weak from the inside. The government and its machinery must protect these individuals and their rights.

(E) Dalit and Adivasi Women

Cases of Assault against Schedule caste women, (counting minors) account for 7.64% (3893 cases), with 2585 cases of Assault against Dalit Women and 1285 cases of minor rape, of the overall cases reported. Cases of Rape, Endeavour to rape, Attack on women to outrage her modesty, and Kidnapping of women and minors in total stood at 16.8% (8570 cases). Cases of Assault against Schedule Tribe women stood at 15% (1324 cases) of the overall cases detailed. Cases of Assault, Endeavour to assault, Attack on women to outrage her modesty, and capturing in total stood at 26.8% (2364 cases). Cases of Kill, Endeavour to kill and Appalling harm were detailed as 967, 916, and 1286 individually against Schedule Caste. Cases of Murder, Attempt

to Murder, and Grievous hurt were detailed as 199,148 and 114 separately¹².

Indian constitution abolished untouchability but it is still prevalent in rural areas and women were the vulnerable victims.

(F) Poverty

One of the main challenges is poverty. Human rights are for all human beings whether male or female or children, the destitute and the wealthy, and anything the shade of a person's skin color. Nowadays, millions of individuals endure hardship, insult, and wastage since of endemic destitution. The causes of this are complex, residential, and universal. The quality of administration in numerous occurrences could be a root cause. The execution of the worldwide financial framework is another root cause. Differences in ethnicity, convictions, and values framework may well be a contributory component in a few circumstances. According to a world bank report, more than 700 million people were in extreme poverty in 2020. The global poverty rate increased from 8.4% in 2019 to 9.3% in 2020¹³. According to World Bank estimates, despite facing covid-19 in India- there will be 7% GDP growth¹⁴ but still, there is an income disbalance between the rich and poor.

V. PERFORMANCE OF INDIA TO PROTECT HUMAN RIGHTS IN THE COUNTRY

Human rights are rights inborn to all human creatures, notwithstanding of race, sex, nationality, ethnicity, dialect, religion, or any other status. Human rights incorporate the correct to life and freedom, flexibility from servitude and torment, freedom of supposition and expression, the proper to work and instruction, and numerous more.

(A) The Constitution Human Rights:

Human rights have always been respected in India, as evidenced by the Constitution itself. This is an enumeration of UDHR principles which is the sole purpose of the inclusion of Fundamental Rights and Directive Principles of State Policy. Indian constitution has provided six fundamental rights to all its citizens which is the *basic structure* of the constitution said by the apex court¹⁵.

(B) The Human Rights Act of 1993:

The National Human Rights Commission of India was established as a result of this. It's the country's own human rights watchdog. It is an independent statutory body that investigates

¹² NCRB report 2021

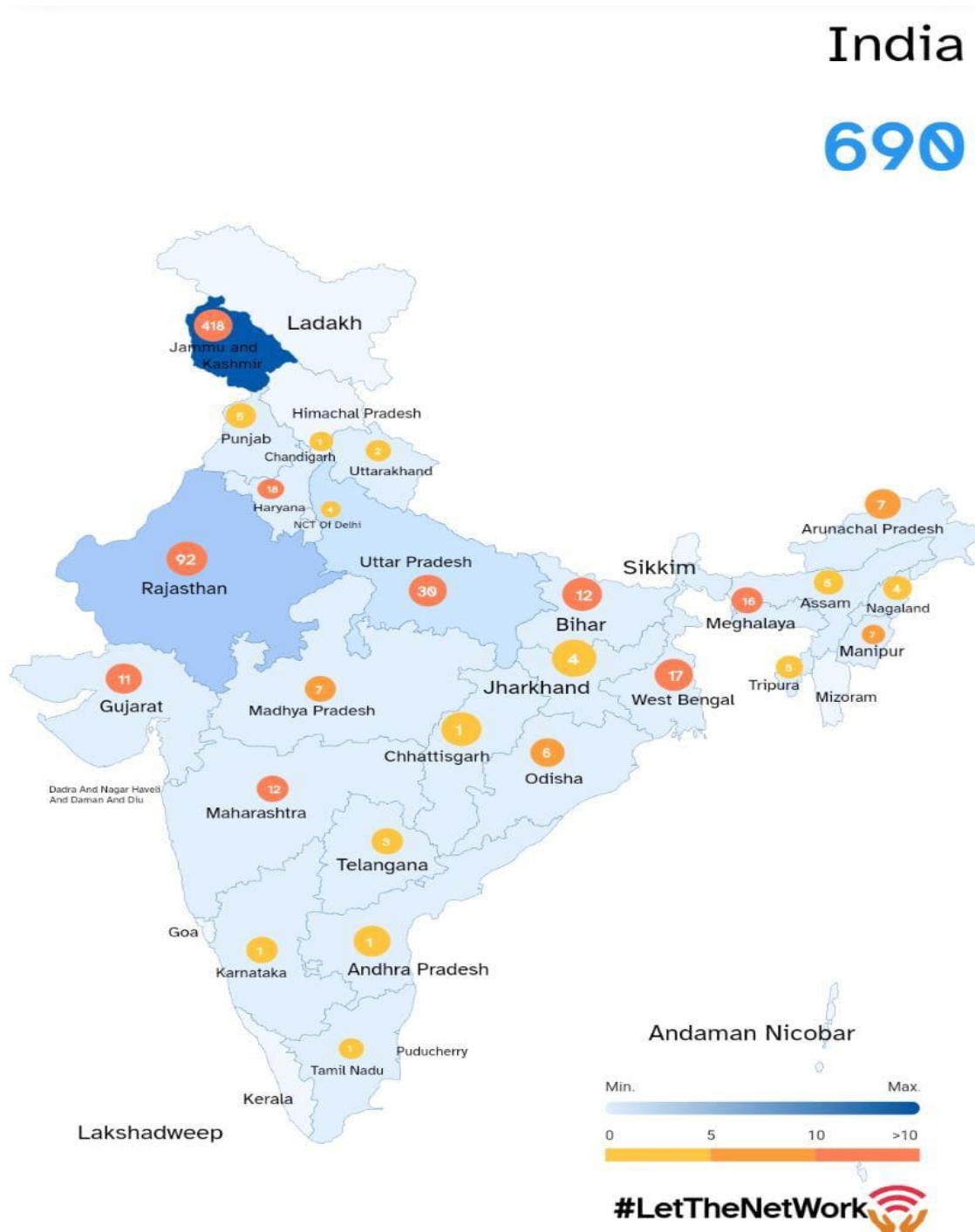
¹³ Poverty, World Bank report, last update on 30 Nov. 2022

¹⁴ The World Bank In India, last update 04 Oct. 2021.

¹⁵ Kesvananda Bharati v. State of Kerala

violations of human rights in India. It publishes a monthly report on cases related to Human Rights violations. In December 2022, NHRC has disposed of 7685 cases like custodial death in police and judicial custody, bonded labor, etc¹⁶.

(C) Internet Shutdown in India



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India had the most internet blocks ever recorded between January 2012 and June 2022, when

¹⁶ <https://nhrc.nic.in/complaints/human-right-case-statistics>

¹⁷ <https://internetshutdowns.in/>

690 shutdowns were imposed by the government¹⁸. India received a mediocre 55 points out of 100 on the Freedom of the Internet parameters, placing it in the category of a partially free democracy, according to the 2019 Freedom House Index ratings.

- According to Ookla 's Speed test global Index, India recorded 105th position in November month. The UK-based organization did research and found that India has the fifth position in the lowest cost of Internet in the world¹⁹. The Internet is a sign of development that helps in many ways. India's IT sector boost because of high speed and low-cost Internet.

(D) Equal opportunity for all

India is doing better in the business. According to Economist Intelligence Unit (Asia Outlook 2023), India surpasses China and secured the 52nd position in the EIU global business environment ranking²⁰. This development is a positive sign that India is providing fair competition and giving everyone equal chance to progress in the business.

(E) Foreign policy a way forward to human rights

India follows an independent and non-alignment Foreign policy since its Independence. It was among the initial signatory members during the UN formation and gave an important place to the Human rights declaration in its constitution.

- It didn't keep any relation with the south until the apartheid gets abolished. India was an active supporter of the anti-apartheid revolution around the world²¹.
- It was the first Non-Arab State to recognize the Palestine Liberation Organization (PLO) as the sole and legitimate representative of the Palestinian people. India also funded the construction of two schools namely, Jawaharlal Nehru Secondary School for Boys in Abu Dees and Jawaharlal Nehru Secondary School for Girls in Ashira Al-Shamaliya²².
- Asylum to Dalai Lama even at the cost of a strain relation with China.
- India supported the freedom movement of Bangla-speaking people by giving support for Independence from the cruel military force in 1972. Both have shared history and culture. It was the first country to recognize the independence of

¹⁸ <https://internetshutdowns.in/>

¹⁹ <https://www.cable.co.uk/mobiles/worldwide-data-pricing/>

²⁰ Explained: Why India now ranks above China in global business, Dec 27, 2022, 21:23 IST, The Times of India

²¹ https://www.mea.gov.in/Portal/ForeignRelation/India-SouthAfrica_Relations.pdf

²² https://mea.gov.in/Portal/ForeignRelation/Updated_Note_on_India_Palestine_Relations_for_MEA_Website.pdf

Bangladesh²³.

- Under India's month-long presidency, the UN Security Council adopted a resolution on Afghanistan in August that urged the Taliban to allow humanitarian access, uphold human rights, and ensure safe passage for Afghan nationals seeking to leave the country²⁴.

VI. JUDICIARY'S ACTIVE ROLE IN SECURING HUMAN RIGHTS IN INDIA

India has an independent judiciary that secures the rights of citizens whenever there is a violation.

- Apex court observed that every executive action of the government, whether in pursuance of the law or otherwise, must be reasonable. It should be in the public interest²⁵. The court restricts the arbitrary power of government through judicial review.
- In a landmark case, SC held that the constitution obligates the state to ensure an adequate means of livelihood for its citizens and to see that the health and strength of workers and women, are not abused and that exploitation, moral and material, shall be extradited²⁶.
- SC also observed that a person's right to privacy is respected under article 21 of the Indian Constitution²⁷.
- The chairperson of the National Human Rights Commission is an ex-CJI of India or Judge of SC.

India is a diverse country that gives equal rights to all its citizens without discrimination. But India was criticized for violating human rights in the US Human Rights Report and the Freedom in the World Report. However, these violations; credibility can be questioned.

²³ https://www.mea.gov.in/Portal/ForeignRelation/Bangladesh_July_2014_.pdf

²⁴ <https://www.ndtv.com/world-news/under-indias-presidency-un-security-councils-resolution-on-afghanistan-2525489>

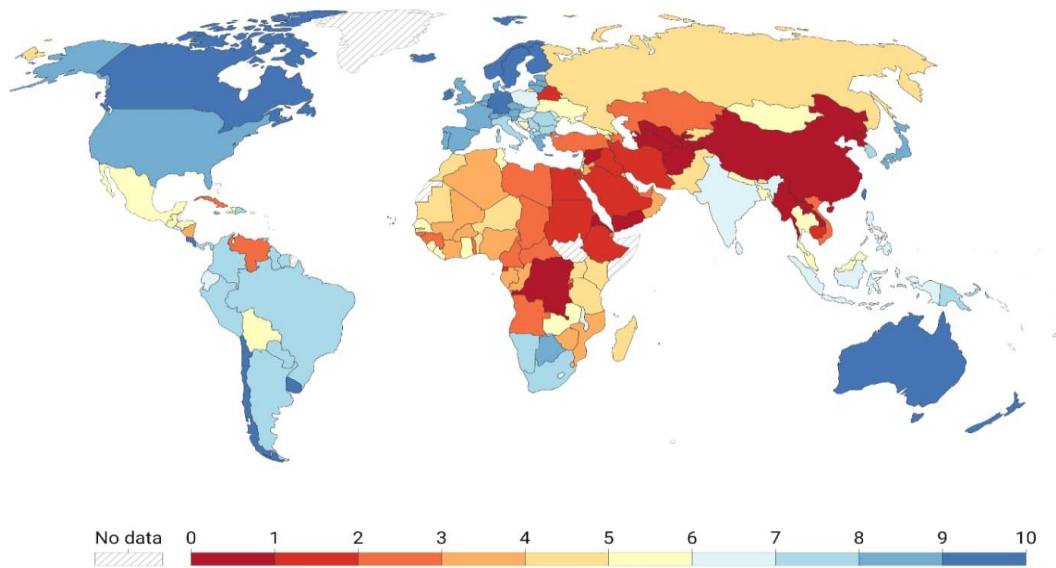
²⁵ *Kasturi Lal v. State of U.P.*

²⁶ *Fateh Chand v. State of Maharashtra*

²⁷ *K. Puttaswamy v. Union of India*

Civil liberties, 2021

Based on the expert assessments and index by the Economist Intelligence Unit (2022). It ranges from 0 to 10 (most liberties).



Source: Economist Intelligence Unit (2022)

OurWorldInData.org/democracy • CC BY

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VII. SUGGESTIONS TO EASE VIOLATION OF HUMAN RIGHTS

- **What is a violation of human rights?**

It refers to the denial of the freedom of thought and movement to which all human beings are legally entitled. While individuals may violate these rights, society's leadership or government frequently marginalizes marginalized individuals. As a result, these people become trapped in a vicious cycle of poverty and oppression. This cycle is then perpetuated by people who approach life with the mindset that not all human lives are equally valuable.

- **Solutions:-**

1. Protecting legal, medical, and healthcare professionals, journalists, and human rights advocates.
2. Education about human rights; standards of behavior and morality for business and public officials.
3. Promoting strategies for dealing with, monitoring, and preventing social conflicts; and revising and amending laws that encourage violations.
4. Lawful implementation: To safeguard human rights in India, numerous laws,

²⁸ <https://ourworldindata.org/grapher/civil-rights-bit>

rules, and regulations have been enacted. However, the underlying cause of human rights violations is the misuse of laws by law enforcement agencies.

5. If the provisions violate human rights, the government must therefore modify them. Legislation weaknesses must be addressed through modification or, if necessary, repeal.
6. Ensuring that military and security forces are under civilian control.
7. Ensuring impartiality, fairness, and due process in legal proceedings.
8. Enhancing the independence of the judiciary.

VIII. CONCLUSION

When we look at the wider view of countries, England has a ruling and racist nature, French has political nature, and Russia is known for revolution but when we see India, it has a natural tendency to freedom. During ancient times, the concept of absolutist, monarchies had always been rejected and the supremacy of Dharma(law) and spirit were postulated. In Mahabharata, Bhishma Pitamah states Dharam to Yudhishtira that Dharma helps in the upliftment of living being. India is a land progressive in human rights. During the Medieval period, Akbar comes with Din-i-Ilahi which means divine religion or gods religion. He wanted to promote new religion for the people. He felt that under this religion people will enjoy more freedom and rights. The modern duties of a welfare state, first to legislate to ensure social, economic, and political justice, second, to provide essential services to society through its departments or institution by way of implementing the policies and programs as directed by the constitution and third, law, to regulate and control the activities of individuals, and fourthly, the ensuring justice. An Analysis of all four points India shows all the responsibilities. India gave the right to vote to every citizen while the USA took almost 150 years to give right to vote to women. A Jews leader said that Jews were persecuted in the whole world but they get shelter in India. The Parsi community of Iran is only left in India and not anywhere in the world. India gave reservations to bring equality between rich and poor. The constitution of India unites all the people of India and gives chance to progress as he or they wish. In our opinion, India has not lost its moral right over Human rights, on the contrary, India has entered into a proactive phase of human rights advocacy even at the cost of strained relations with neighbors. With the spirit of “Vasudhaiva kutumbakam” along with the weapon of “Satyamev jayate”, India has its head high on human rights.
