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An Overview Of Constitutional Provisions Of Human Rights In India

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Abstract: Actually human rights are commonly considered as inalienable fundamental rights to which a person is inherently and entitled being a human being. It is a common universal fact that all human beings are equal in dignity and rights by birth. Therefore, nobody has any right to practice social discrimination in any society. India being a diverse country with its multi-cultural, multi-ethnic and multi-religious population needs to ensure effective implementation of human rights in the changing global scenario. The present topic is a burning issue today and it is very important for developing countries like India. The experience of last five decades in the area of human rights has become a matter of key concern due to violation of human rights in different ways. However, India has constituted Human Rights Commission in 1993, nevertheless we can't ignore the fact that still there are some drawbacks in the implementation of human rights in India. The present research paper makes an overview of constitutional provisions of human rights in India in the current scenario.

Keywords: Constitution of India, Human Rights, Weaker Sections, Social Justice.

Introduction: Most of the scholars and activists agree with the fact that Human Rights are commonly understood as inalienable fundamental rights to which a person is inherently entitled being a member of society. These rights may exist as natural rights or legal rights. These rights are legally guaranteed in a set of binding treaties and conventions. They cover all fields such as political, social, economic and cultural rights. Moreover, human rights are universal, individual, and interdependent

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and inter-related to each other. The first major international human rights document was The Universal Declaration of Human Rights – 1948. This document laid out all the basic rights and freedom for all people in its universal form. India made the provisions of fundamental rights in form of human rights in the constitution in different articles.

Why do We Need Human Rights?

Everybody has a right to live with freedom, with equality and without any discrimination in India. The Government of India has made some important provisions for the better implementations of human rights in different laws. The constitution of India ensures better implementation of human rights in form of fundamental rights in various articles. Being a democratic country it is our duty to preserve the peace and harmony among the people. It is said that the welfare of the whole society leads to peace and harmony among all people living in this universe. Therefore, it is an urgent need to ensure the better implementation of human right in any country. Most of the scholars are agree with the fact that today we need to ensure implementation of human rights on the following grounds:

- Ensure primary education for all children.
- Ensure the establishment of social justice.
- Ensure the implementation of right to speech and freedom.
- Eradicate gender discrimination in the society.
- Protect women's rights.
- Provide a safe guard to marginalized sections of the society.
- Provide better living condition to the people of all sections of the society.
- Remove child labor and child abuse.
- Remove hunger and poverty from Indian Society.
- Remove the bondage labor from the society.

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Constitutional Provisions: The framers of the Constitution of India have drafted around the same time all basic principles of the universal declaration of human rights. Actually the Indian constitution is based on the principle that guided India's struggle against British imperialism and colonialism which was marked by the violation of political, civil, social, economic and cultural right of the people. That is why; the framers of our constitution provided some fundamental rights to the citizen in the part 3 of the constitution. We may define these rights as basic human freedom for a proper and harmonious development of personality of every citizen. Our constitution has ensured fair and free application of fundamental rights to all citizens without any consideration of caste, creed, color, sex, race and place of birth. These rights are also enforceable by the courts. It is true that the framers of the constitution of India were inspired by Bill of Rights-1679, the US Bill of Rights-1787 and France Declaration of the Rights of Man – 1789. However, the regime of Lord Curzon was marked by the violation of basic human rights of individuals in India. Therefore, the leaders of Indian Freedom Movement were not only fighting for the independence; but they were also fighting for the basic human rights of the Indian people. However, the British Government restricted for public gathering and censored the media; nevertheless there were some constitutional developments and reforms in form of different reports laid down by the British Government. When the Nehru Commission Report of 1928 came out; it proposed for constitutional reforms for India. In 1931 the Indian National Congress passed many resolutions for the protection of fundamental civil rights and socio-economic rights. Karachi resolution is known as major landmark in the history of Indian freedom movement as it demanded to include the economic freedom with political freedom. After achieving independence the task of framing a constitution was completed by the constituent assembly. The assembly included fundamental rights in the draft constitution.

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All the fundamental rights included in the constitution give a guarantee to all citizens of India. Our constitution makes the provisions of the fair implementation of fundamental rights from article 12 to 35. The fundamental rights included in the constitution are very common and they are: equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion and the right to constitutional remedies for the protection of civil rights. All the fundamental rights make the provision of abolishing the practice of un-touch ability and prohibit all types of discrimination on the grounds of religion, caste, race, sex and place of birth. Moreover, they also prohibit trafficking of human beings and forced labor. They also protect educational and cultural rights of minorities of Indian society. In essence there are six fundamental rights in our constitution. Our constitution makes the provisions of fundamental rights in different articles as under:-

- Article – 14 describes that all citizens of India are equally before the law.
- Article – 15 makes the provision that there shall be no discrimination on the basis of caste, color, sex, language etc. however state may ensure some special provisions for the women, children and marginalized section of the society.
- Article – 16 states that there shall be no discrimination with anyone in the matters of employment. However, there may be some exceptions under the law in this regard.
- Article – 17 abolishes the practice of un-touch ability and it makes severe punishment in case of its violation.
- Article – 18 prohibits state from conferring any title and the citizens of India cannot accept any title from a foreign state. However, military and academic distinctions have been excluded from this provision.

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- Article – 19, 20, 21 & 22 provides the right to freedom including the freedom of press, freedom of assembly peacefully without arms, freedom to form associations, freedom to move freely throughout India, freedom to reside and settle in any part of Indian Territory, freedom to practice any profession or to carry any occupation. However, state may impose some restrictions in the interest of public order, morality and the sovereignty and integrity of India.
- The Constitution of India also guarantees the right to life and personal liberty under Article-20 and 21. Article 20 states that no individual can be awarded punishment without the established process of law. Article- 21states that no citizen of India can be denied from liberty except by law. Article-21 (a) provides that all the children in the age group of 6 to 14 years shall be given free and compulsory education by the state.
- Article-23 & 24 states that exploitation is prohibited by law. It ensures the abolition of trafficking and forced labor and abolition of employment of children below the age of 14.
- Articles – 25 to 28 of the Indian constitution are related to the freedom of religion. These articles ensure and maintain secularism. The constitution of India considers all people equal on the ground of religious freedom.
- Article – 29 & 30 provide special measures to protect the rights of minorities. State cannot discriminate any citizen on the religious and linguistic ground. All the minorities, religious or linguistic can setup their own educational institutions in order to preserve and develop their own culture.
- Article – 32 is related to the right to constitutional remedies and it empowers the citizen of India to seek a court of law in case of any denial of the fundamental right by providing some writ petitions such as :- Habeas Corpus, Mandamus, Prohibition, Quo Warrantor and Certiorari. However, this right can

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be suspended in case of any national or state emergency as provisions have made in the India Constitution.

Conclusion: To concludewecan say that there are some specific courses of human rights discourse in Indian context. Nevertheless we can't ignore the fact that it is not a peaceful resolution of the problem. Likewise, women, children and marginalized sections of the Indian society are facing the problem of Human rights violations. The late 60 and 70 is known as the years of various movement and political formations due to the growing disappointment with the state. Meanwhile the Government of India imposed emergency on 26 June 1975.Custodial violence, arbitrary detention and police atrocities have caused some serious violations of human rights in different parts of India. In the last 20 years the movement for civil and political right has become more lucid and extensive. The Sikh massacre in 1984 and communal rights in Gujarat in 2002 was the violation of human rights in India. Likewise activities in Jammu & Kashmir are still important in the perspective of human right violation. Likewise Maoist activity in North-Eastern states and Naxalist activities in some part of India may be considered as the violation of human rights. Therefore it is the duty of the state and central governments to remove the problem from different parts of India. Recently Rohinga Muslims community is facing the problem of human rights violation in India. Therefore, it is an urgent need that India should review its policy on terrorism in Jammu & Kashmir. However, the Govt. of India has implemented its program to swipe out all the terrorists from the territory of Jammu & Kashmir.

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