

HUMAN RIGHTS VIOLATIONS IN INDIA: AN OVERVIEW

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ABSTRACT

Human rights are fundamental rights that every individual has by nature only by virtue of being a human being, as defined by Indian law. Thus, the concept of human rights is impartial and universal. These rights may be recognized by municipal, regional, national, or international legislation as legal rights or as natural rights. A number of legally binding treaties and conventions safeguard human rights. But nowadays, the word "human rights" is overused and misused. Numerous instances of human rights violations have gained attention. These incidents pointed out as key issues the lack of accountability for security personnel and the impunity for abusive policing, which includes "police inhumanity, unlawful executions, and humiliation." The "right to freely express oneself, the liberty of individual, the freedom of people, the liberty to possess assets, and fair chances" are among the fundamental rights that are occasionally violated, as well. Thus, there is a need for a thorough investigation of human rights, particularly for India, which is under tremendous pressure from a society that sees widespread human rights violations. Therefore, the term "Human Rights violation" denotes a relatively narrow interpretation of Fundamental Rights, although the research covers a wide range of topics pertaining to the meaning, comprehension, application, and extent of Human Rights in general. It provides an overview of fundamental rights by beginning with the jurisprudential principles of rights and connecting them to Natural Rights and Legal Rights.

Keyword: - Human Right, Fundamental Right, Civil and Political Right, Police inhumanity

1. INTRODUCTION

As per Douglas M (2015) [1] "Human Rights for everyone is the necessary foundation upon which all of us may build a world where everybody may live in peace and serenity and plenty." No matter our nationality, place of residence, sex, ethnicity, color, religion, language, or any other status, we all have inherent rights as human beings. Without exception, everyone has an equal right to exercise their human rights. All of these rights are inalienable, interconnected, and dependent on one another.

The fundamental liberties and safeguards to which all persons are entitled merely by virtue of their humanity are known as human rights. In the sense that they are universal and applicable anywhere and at any time, they are egalitarian in the sense that they apply to everyone equally. They place a duty on people to respect other people's human rights and call for empathy and the rule of law. They should not be taken away unless due process has been followed in light of particular circumstances. They also need to be free from wrongful detention, torture, and execution.

The human rights philosophy has had a significant impact on regional, international, and legal frameworks. Globally, state and non-governmental organization actions serve as the foundation for public policy. Human rights are the belief that "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights." Even now, discussions over the nature, content, and justifications of human rights are being sparked by the powerful claims made by the theory.

There is disagreement over which specific rights should be included in the general framework of human rights; some scholars argue that human rights should be a minimum requirement to prevent the worst-case abuses, while others see it as a higher standard. The precise meaning of the term "right" is contentious and the topic of ongoing philosophical debate. It is agreed upon that human rights encompass a wide variety of rights, such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech, or a right to education.

1.1 Universal Declaration of Human Rights (UDHR)

Many of the fundamental concepts that drove the human rights movement emerged in the wake of the Holocaust and World War II, and they were finally adopted by the UN General Assembly in 1948 when it met in Paris to adopt the Universal Declaration of Human Rights [2]. The United Nations General Assembly adopted the Universal Declaration of Human Rights on December 10, 1948. There are thirty articles in the declaration, including a

preamble. It is founded on the principles of the United Nations Charter, which emphasize the need of fostering global cooperation and upholding fundamental freedoms and rights for humanity.

According to the Universal Declaration of Human Rights, every person is entitled to three fundamental rights: the right to life, liberty, and security of person without interference with another person's honor or reputation; the right to housing; and the right to a fair trial by an unbiased tribunal in order to have one's rights determined. Additionally, the declaration upholds social and economic rights like the freedom to work and choose a job, to decent and safe working conditions, to unemployment insurance, and to equal pay for equal work, as well as civil and political rights and freedoms like the right to asylum and the freedom of conscience and religion. Without regard to any factor, including race, color, sex, language, religion, political opinions, national or social origin, property, birthplace, or any other status, everyone is entitled to these freedoms and rights. Although the Soviet Union did not vote on the Universal Declaration of Human Rights since it did not include any provisions for the adoption of specific measures to put the stated rights and freedoms into practice, it is nonetheless seen as a progressive document.

The fundamental rights of people are given a strong and universal texture by the United Nations Organization's adoption of the Charter of Human Rights. Its Preamble declares:

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"

In the Indian context, "fundamental rights" refer to the fundamental or essential rights that the State guarantees to the Indian people and that can only be curtailed by a thorough constitutional amendment process as opposed to by regular legislation. A person can challenge the State on Fundamental Rights, but the Constitution explicitly lays out all the justifications for the State's ability to act in ways that restrict rights, including the power to impose restrictions on matters of social interest.

The UDHR contains three forms of rights:

Instead of being expressed positively as "rights to," civil and political rights are frequently expressed negatively as "freedom from." They try to protect the person, both by themselves and in groups, against the abuse of political power. See Articles 2 - 21 of the UDHR.

Governments must support their citizens' full participation in society in order to uphold economic, cultural, and social rights, such as the freedom to work and an education. Rather from being "negative," they are "positive." See the UDHR's Articles 22 through 27.

The rise of poor nations and their demand for a worldwide transfer of income and power is reflected in solidarity rights. Among the rights are the freedoms of political, social, and cultural expression as well as the pursuit of social and economic advancement. See the UDHR's Article 28.

1.2 Whose Rights have been violated?

In India, since 1999, the National Crime Record Bureau in New Delhi and the National Human Rights Commission in New Delhi, both under the Home Ministry of the Government of India, have attempted to compile information on specific cases where police excesses resulted in human rights violations, such as "illegal detentions," "fake encounters," "extortion," "torture," etc. The information is provided by the NCRB's Crime in India Report 2008 [3], which states that 253 incidents of police violations of human rights were documented nationwide in 2008. For these violations of human rights throughout the year, only 14 police officers received charge sheets, and only 8 of them were found guilty. However, the Asian Centre for Human Rights (ACHR) reports [4] in its most recent report, Torture in India 2009, that 1,184 people are believed to have died in Indian police custody during the last eight years, from April 2001 to March 2009. Within the first 48 hours of being placed under arrest, the majority of the victims died as a consequence of torture. According to official data accessible on TwoCircles.net, every second police contact in the nation is fictitious. State and municipal officials can regularly interfere in police operations according to regulations from the colonial era. They can even order police officers to cease investigations into known criminals and those with political ties, as well as harass or falsely prosecute political opponents. The public's confidence is damaged by these actions.

Table-1 Incidents of Human Right Violation by Police

Human Rights Violation by Police	No of Incidents
Fake encounters	1224
Communal riots/caste violence	432
Death in police custody	2320
Exploitation of women	4502
Exploitation of Dalit	17998

Sources: Data revealed to RTI activist Afroz Alam Sahil by NHRC 2009(TwoCircles.net) [5]

It is evidenced from Table 1 that, according to the NHRC, of the aforementioned, the Commission discovered that public employees had violated human rights in 224 instances. A total of 16784 cases were handled by the Commission in which there was no finding or affirmative recommendation about a demonstrated violation of human rights. This response, however, contradicted its previous response from November 27, 2008, regarding payment for fictitious interactions. Only seven of the 1224 fictitious interactions resulted in compensation orders from the commission. The NHRC states in the updated response that "the Commission has awarded compensation in 7 cases of encounter," whereas the November 2008 reply said that compensation was given in 16 cases.

The topic of human rights in India is made more difficult by the nation's immense size, immense variety, and dual status as a developing nation and a sovereign, secular, democratic republic. The Indian Constitution stipulates Fund. Rights include freedom of religion, but articles also guarantee freedom of speech, the division of powers between the government and the judiciary, and the right to travel both domestically and internationally. Human Rights Watch reported that India had serious human rights issues in their 2010 Freedom House report on global freedom.

The key issues they identified were the absence of accountability for security forces and the impunity for abusive policing, which included extrajudicial killings, torture, and police brutality. The legitimate work that human rights workers and their families do to uphold fundamental freedoms and human rights has led to them being killed, tortured, mistreated, threatened, arbitrarily arrested and detained, falsely accused, and under supervised, according to an independent UN Expert who voiced concerns about this situation in 2011. Thus, a thorough examination of human rights is imperative, particularly for India, which is under tremendous strain from a society that routinely violates people's rights. Human rights violations should be made public in a number of instances. It is also necessary to investigate potential corrective actions in order to resolve this issue. Therefore, it will be beneficial if we can provide some corrective actions through this article to stop the infringement of these rights.

1.3 Objective of the Study

The present study is addressed to examine the following objectives:

- To examine the present status and position of human rights in India.
- To know the torture and violation of human rights by police in India.
- To find out the cases of violations taken place in India.
- To suggest some remedial measures for reducing the case of violations of human rights

Hypothesis: The current state of human rights in India is deteriorating as a result of common people's rights being violated.

2. METHODOLOGY

This work uses a descriptive methodology, and the necessary data were gathered from a variety of secondary sources, including books, periodicals, research articles, and various official documents.

2.1 Practices leading to human rights violations:

2.1.1 Human rights violation by police

More than a thousand people have died in Indian police custody over the last eight years, according to a new report on torture in India published by the Asian Centre for Human Rights in 2009. The results highlight the government's inability to enforce adherence to the Supreme Court's rulings regarding extrajudicial executions and torture. According to the Asian Centre for Human Rights' (ACHR) most recent report, Torture in India 2009, 1,184 people are thought to have died in Indian police custody between April 2001 and March 2009, the eight-year period. Within the first 48 hours of being placed under arrest, the majority of the victims died as a consequence of torture.

2.1.2 Jammu and Kashmir

The Armed Forces Special Protection Act (AFSPA) effectively shields security personnel guilty of grave human rights violations from prosecution, despite a decrease in violence in the northern state of Jammu and Kashmir. Requests for DNA testing of 2,730 corpses discovered in unmarked graves at 38 locations in North Kashmir in July 2011 by a police investigative team were turned down by the state administration in September. It is thought that victims of government security's extrajudicial executions and forced disappearances from the 1990s are buried at some of the gravesites.

2.1.3 Killings by the Border Security Forces at the Bangladesh Border

In March 2011, the government issued an order for restraint and gave BSF personnel rubber bullets after a human rights study revealed that BSF personnel stationed at the Bangladesh border had shot and murdered over 900 Indians and Bangladeshis without cause or distinction during the previous ten years. After the policy changed, the number of killings decreased significantly but is still present. Some BSF personnel have persisted in intimidating and physically abusing border locals in an attempt to stop illicit operations, like as the smuggling of drugs and cattle. So far, no BSF soldier has been charged with any of the killings or other mistreatment.

2.1.4 Women's Rights

In 2012, there were more reports of sexual assaults, particularly those involving people with disabilities, and violence against women and girls persisted. Sexual abuse in police custody has not yet been thoroughly investigated or prosecuted by the authorities. Renowned athlete Pinki Pramanik was detained in June 2012 due to accusations of sexual assault. She was mistreated by male police officers during her detention, and authorities violated her rights to privacy, dignity, and permission by having "gender determination" tests. A video that captured portions of the harsh examination was released to the public.

2.1.5 Death Penalty

The lone gunman from Pakistan who survived the November 2008 Mumbai attacks, in which ten members of the terrorist organization Lashkare-Taiba, based in Pakistan, murdered over 160 people, was hung in India in November 2012. His name was Ajmal Kasab. After an eight-year unofficial moratorium, it was India's first execution since 2004. According to India, the death penalty is applied in only the "rarest of rare" circumstances. Thirteen prisoners had their death sentences mistakenly upheld by the Supreme Court over the previous nine years. In July of 2012, fourteen retired judges petitioned the president to commute these sentences. This came after the court acknowledged that these death sentences were issued per incuriam, or accidentally or ignorantly. The "rarest of rare" test has not been applied consistently over time, the Supreme Court acknowledged in November 2012, and the criteria for determining what qualifies as a "rarest of rare" crime require "a fresh look." We have therefore learned about the current state of human rights in India as well as the actions that result in these rights being violated. Now, we shall move to some

2.2 Actions to be taken or Remedial measures

Actions to be taken or remedial measures that may prevent violation of human rights to a certain extent. In Indian culture, there has always been a persistent emphasis on upholding human dignity and promoting social harmony and peace. Over time, various civilizations and faiths that came into contact across the vast Indian subcontinent have been assimilated to create Indian culture. The need of bolstering domestic human rights institutions is becoming increasingly apparent to the international community

2.2.1 Solution to the problem

2.2.1.1 Torture Bill 2008 a shame

It is regrettable that the Indian government is introducing the Prevention of Torture Bill, 2008 [6]. There are just three substantive articles in all, and they deal with the definition of torture, its penalty, and the circumstances under which an offense can be recognized. The obligations that the states ratifying the Convention against Torture (CAT) must fulfill are substantially not met by the Bill. It gives a "narrow and restrictive definition of torture" and makes no mention of torture-related deaths. In contrast to the penalties stipulated for similar offenses under the Indian Penal Code, it offers moderate punishment for torture. Furthermore, the proposed Bill's six-month statute of limitations for recognizing offenses is in conflict with the 1973 Criminal Procedure Code.

2.2.1.2 Asian Centre for Human Rights recommendations

- The D.K. Basu ruling's rules should be modified by the Supreme Court to take effect immediately upon a police summons or while the person is being held by the police in their official capacity.
- Statistics from the NHRC should differentiate between fatalities that occur in custody due to natural causes and deaths that occur in custody as a result of violations of human rights.
- To make sure the Prevention of Torture Bill, 2008 complies with the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the government should forward it to the Parliamentary Standing Committee for a public hearing.
- The UN Special Report on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment should be invited to India, and the government should ratify the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and its Optional Protocol.

3. FINDINGS

Our understanding of the current state of human rights in India is quite dismal, as the aforementioned analysis has shown. Individuals are denied their fundamental rights. Regulations are often broken, and India's overall record on civil, social, political, and economic rights is dismal. Here, the study's goals as stated above are achieved. Additionally, the hypothesis is accepted, i.e., it is evident that India violates human rights.

4. SUGGESTIONS

Numerous suggestions and initiatives from the federal and state governments, as well as from media outlets, non-governmental organizations, self-help groups, and commissions like the National Human Rights Commission (NHRC). Only then can we hope to see an enhanced and operational Human Rights position in India.

5. CONCLUSION

The establishment of an effective, trustworthy, and professional police force is necessary to give regular people a sense of security and to address their complaints. The conclusions of numerous commissions and committees, the complaints that human rights commissions received, press reports, and the experiences of regular people on the street all point to the fact that there is no such police force in India. Reforming the police is clearly necessary and urgent. Reforms in the police must be conducted concurrently in two ways. One is to create institutional arrangements through statutes that will guarantee that state governments' authority to supervise their police forces results in law-abiding police performance. The alternative is to make every effort to enhance and fortify law enforcement within the parameters of the current framework. Raising the standing of the constabulary should be the first step toward improving the living and working conditions of lower-level police officers in addition to improving recruitment, training, and leadership standards. The position of the people is crucial for a democratic and prosperous India. India is rising to prominence in science and technology, yet the vast majority of people there still face significant barriers to obtaining even the most fundamental of rights. Therefore, appropriate action needs to be done from all angles to strengthen the status of human rights.

4. REFERENCES

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