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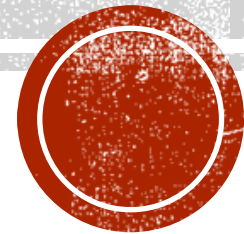
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# HUMAN RIGHTS MOVEMENT IN INDIA



# INTRODUCTION

- Human rights are commonly understood as "inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being." Human rights are thus conceived as universal (applicable everywhere) and egalitarian (the same for everyone).
- These rights may exist as natural rights or as legal rights, in both national and international law. The doctrine of human rights in international practice, within international law, global and regional institutions, in the policies of states and in the activities of non-governmental organizations, has been a cornerstone of public policy around the world.
- The idea of human rights states, "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights." Despite this, the strong claims made by the doctrine of human rights continue to provoke considerable skepticism and debates about the content, nature and justifications of human rights to this day. Indeed, the question of what is meant by a "right" is itself controversial and the subject of continued philosophical debate.



- Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.



- Human Rights in India India got its independence in the year 1947, just a year before the UDHR was adopted. The founding fathers of Indian constitution were all aware that India's freedom struggle had taken place in the context of the demand for basic human rights. Yet economic backwardness of the country would make it impossible to immediately satisfy all the aspirations of people. So, they adopted a pragmatic approach.
- They described certain rights as "fundamental rights" and laid down certain other rights as fundamental duties of a citizen were also enumerated. The Supreme Court of India is the guarantor of the rights according to the Constitution. The court takes into account fundamental duties while interpreting the constitutional right. Human rights in India is an issue complicated by the country's large size, its tremendous diversity, its status a sovereign, secular, democratic republic. as a developing The Constitution of country and India provides for Fundamental rights, which include freedom of religion.
- Clauses also provide for Freedom of Speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad. Human Rights Watch stated India had "significant human rights problems". They identified lack of accountability for security forces and impunity for abusive policing including "police brutality, extrajudicial killings, and torture" as major problems. An independent United Nations expert in 2011 expressed concern that she found human rights workers and their families who "have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged and under surveillance because of their legitimate work in upholding human rights and fundamental freedoms. All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights.



# DEFINIATION OF HUMAN RIGHTS

- Dr. Justice Durga Das Basu defines “Human rights are those minimal rights, which every individual must have against the State, or other public authority, by virtue of his being a member of human family irrespective of any consideration.” Durga Das Basu’s definition brings out the essence of human rights.
- The Universal Declaration of Human Rights (UDHR), 1948, defines human rights as “rights derived from the inherent dignity of the human person.” Human rights when they are guaranteed by a written constitution are known as “Fundamental Rights” because a written constitution is the fundamental law of the state. Section 2 (d) of the Act defines "human rights" as "rights relating to life, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India".
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# CHARACTERISTICS AND NATURE OF HUMAN RIGHTS

Following are the characteristics of Human Rights

1. **Human Rights are Inalienable-** Human rights are conferred on an individual due to the very nature of his existence. They are inherent in all individuals irrespective of their caste, creed, religion, sex and nationality. Human rights are conferred to an individual even after his death. The different rituals in different religions bear testimony to this fact.
2. **Human Rights are Essential and Necessary -** In the absence of human rights, the moral, physical, social and spiritual welfare of an individual is impossible. Human rights are also essential as they provide suitable conditions for material and moral upliftment of the people.
3. **Human Rights are in connection with human dignity –** To treat another individual with dignity irrespective of the fact that the person is a male or female, rich or poor etc. is concerned with human dignity. For e.g. In 1993, India has enacted a law that forbids the practice of carrying human excreta. This law is called Employment of Manual Scavengers and Dry Latrines (Prohibition) Act.



**4. Human Rights are Irrevocable:** Human rights are irrevocable. They cannot be taken away by any power or authority because these rights originate with the social nature of man in the society of human beings and they belong to a person simply because he is a human being. As such human rights have similarities to moral rights.

**5. Human Rights are Necessary for the fulfillment of purpose of life:** Human life has a purpose. The term “human right” is applied to those conditions which are essential for the fulfillment of this purpose. No government has the power to curtail or take away the rights which are sacrosanct, inviolable and immutable.

**6. Human Rights are Universal –** Human rights are not a monopoly of any privileged class of people. Human rights are universal in nature, without consideration and without exception. The values such as divinity, dignity and equality which form the basis of these rights are inherent in human nature.

**7. Human Rights are never absolute –** Man is a social animal and he lives in a civic society, which always put certain restrictions on the enjoyment of his rights and freedoms. Human rights as such are those limited powers or claims, which are contributory to the common good and which are recognized and guaranteed by the State, through its laws to the individuals. As such each right has certain limitations.



- **8. Human Rights are Dynamic** - Human rights are not static, they are dynamic. Human rights go on expanding with socio-economic-cultural and political developments within the State. Judges have to interpret laws in such ways as are in tune with the changed social values. For eg. The right to be cared for in sickness has now been extended to include free medical treatment in public hospitals under the Public Health Scheme, free medical examinations in schools, and the provisions for especially equipped schools for the physically handicapped.



# HUMAN RIGHTS IN INDIA

- **Human rights** in India is an issue complicated by the country's large size, its tremendous diversity, its status as a developing country and a sovereign, secular, democratic republic. The Constitution of India provides for Fundamental rights, which include freedom of religion. Clauses also provide for Freedom of Speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad.
- According to the United States Library of Congress, although human rights problems do exist in India, the country is generally not regarded as a human rights concern, unlike other countries in South Asia.
- Based on these considerations, the 2010 report of Freedom in the World by Freedom House gave India a political rights rating of 2, and a civil liberties rating of 3, earning it the highest possible rating of free In its report on human rights in India during 2010, Human Rights Watch stated India had "significant human rights problems".
- They identified lack of accountability for security forces and impunity for abusive policing including "police brutality, extrajudicial killings, and torture" as major problems.



- An independent United Nations expert in 2011 expressed concern that she found human rights workers and their families who "have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged and under surveillance because of their legitimate work in upholding human rights and fundamental freedoms.



# CHRONOLOGY OF EVENTS REGARDING HUMAN RIGHTS IN INDIA

- **1829** – The practice of sati was formally abolished by Governor General William Bentick after years of campaigning by Hindu reform movements such as the Brahmo Samaj of Ram Mohan Roy against this orthodox Hindu funeral custom of self-immolation of widows after the death of their husbands.
- **1929** – Child Marriage Restraint Act, prohibiting marriage of minors under 14 years of age is passed.
- **1947** – India achieves political independence from the British Raj.
- **1950** – The Constitution of India establishes a sovereign democratic republic with universal adult franchise. Part 3 of the Constitution contains a Bill of Fundamental Rights enforceable by the Supreme Court and the High Courts. It also provides for reservations for previously disadvantaged sections in education, employment and political representation.
- **1952** – Criminal Tribes Acts repealed by government, former "criminal tribes" categorized as "denotified" and Habitual Offenders Act (1952) enacted.



- 1955 – Reform of family law concerning Hindus gives more rights to Hindu women.
- 1958 -Armed Forces (Special Powers) Act, 1958-[5]
- 1973 – Supreme Court of India rules in Kesavananda Bharati case that the basic structure of the Constitution (including many fundamental rights) is unalterable by a constitutional amendment.
- 1975–77 – State of Emergency in India – extensive rights violations take place.
- 1978 – SC rules in Menaka Gandhi vs Union of India that the right to life under Article 21 of the Constitution cannot be suspended even in an emergency.
- 1978- Jammu and Kashmir Public Safety Act, 1978 [6][7].
- 1984 – Operation Blue Star and the subsequent 1984 Anti-Sikh riots 1984 - 2006 Extrajudicial disappearances in Punjab by the police.
- 1985-86 – The Shah Bano case, where the Supreme Court recognised the Muslim woman's right to maintenance upon divorce, sparks protests from Muslim clergy. To nullify the decision of the Supreme Court, the Rajiv Gandhi government enacted The Muslim Women (Protection of Rights on Divorce) Act 1986.
- 1987 - Hashimpura massacre during communal riots in Meerut.



- **1989** – Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is passed.
- **1992** – A constitutional amendment establishes Local Self-Government (Panchayati Raj) as a third tier of governance at the village level, with one-third of the seats reserved for women. Reservations were provided for scheduled castes and tribes as well.
- **1992** – Babri Masjid demolished by Hindu mobs, resulting in riots across the country.
- **1993** – National Human Rights Commission is established under the Protection of Human Rights Act.
- **2001** – Supreme Court passes extensive orders to implement the right to food.
- **2002** – Violence in Gujarat, chiefly targeting its Muslim minority, claims many lives.
- **2005** – A powerful Right to Information Act is passed to give citizen's access to information held by public authorities.
- **2005** – National Rural Employment Guarantee Act (NREGA) guarantees universal right to employment.
- **2005** – Disappearance of Jaswant Singh Khalra by the Punjab Police (Khalra brought to light the extrajudicial disappearances in Punjab)



- 2006 – Supreme Court orders police reforms in response to the poor human rights record of Indian police.
- 2009 – Delhi High Court declares that Section 377 of the Indian Penal Code, which outlaws a range of unspecified "unnatural" sex acts, is unconstitutional when applied to homosexual acts between private consenting individuals, effectively decriminalizing homosexual relationships in India.
- Homosexuality in India Use of torture by police The Asian Centre for Human Rights estimated that between 2002 and 2008, over four people per day died while in police custody, with "hundreds" of those deaths being due to police use of torture.
- According to a report written by the Institute of Correctional Administration in Punjab, up to 50% of police officers in the state have used physical or mental abuse on prisoners. Instances of torture, such as through a lack of sanitation, space, or water have been documented in West Bengal as well.



- Several international agencies and the UN have reported human rights violations in Indian-administered Kashmir. In a recent press release the OHCHR spokesmen stated "The Office of the High Commissioner for Human Rights is concerned about the recent violent protests in Indian-administered Kashmir that have reportedly led to civilian casualties as well as restrictions to the right to freedom of assembly and expression." A 1996 Human Rights Watch report accuses the Indian military and Indian-government backed paramilitaries of "committ[ing] serious and widespread human rights violations in Kashmir." One such alleged massacre occurred on January 6, 1993 in the town of Sopore. TIME Magazine described the incident as such: "In retaliation for the killing of one soldier, paramilitary forces rampaged through Sopore's market setting buildings ablaze and shooting bystanders. The Indian government pronounced the event 'unfortunate' and claimed that an ammunition dump had been hit by gunfire, setting off fires that killed most of the victims." In addition to this, there have been claims of disappearances by the police or the army in Kashmir by several human rights organizations.
- Many human rights organizations such as Amnesty International and the Human Rights Watch (HRW) have condemned human rights abuses in Kashmir by Indians such as "extra-judicial executions", "disappearances", and torture; the "Armed Forces Special Powers Act", which "provides impunity for human rights abuses and fuels cycles of violence. The Armed Forces Special Powers Act (AFSPA) grants the military wide powers of arrest, the right to shoot to kill, and to occupy or destroy property in counterinsurgency operations.



- Indian officials claim that troops need such powers because the army is only deployed when national security is at serious risk from armed combatants. Such circumstances, they say, call for extraordinary measures." Human rights organizations have also asked Indian government to repeal the Public Safety Act, since "a detainee may be held in administrative detention for a maximum of two years without a court order.". One 2008 report determined that Indian Administered Kashmir, was 'partly Free', (whereas Pakistan administered Kashmir was determined 'Not Free').
- Freedom of expression According to the estimates of Reporters Without Borders, India ranks 122nd worldwide in 2010 on the press freedom index (down from 105th in 2009). The press freedom index for India is 38.75 in 2010 (29.33 for 2009) on a scale that runs from 0 (most free) to 105 (least free). The Indian Constitution, while not mentioning the word "press", provides for "the right to freedom of speech and expression" (Article 19(1) a). However this right is subject to restrictions under subclause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence". Laws such as the Official Secrets Act and Prevention of Terrorism Act (POTA) have been used to limit press freedom. Under POTA, person could be detained for up to six months before the police were required to bring charges on allegations for terrorism-related offenses. POTA was repealed in 2004, but was replaced by amendments to UAPA.



- The Official Secrets Act 1923 is abolished after right to information act 2005 For the first half-century of independence, media control by the state was the major constraint on press freedom. Indira Gandhi famously stated in 1975 that All India Radio is "a Government organ, it is going to remain a Government organ..." With the liberalization starting in the 1990s, private control of media has burgeoned, leading to increasing independence and greater scrutiny of government. Organizations like Tehelka and NDTV have been particularly influential, e.g. in bringing about the resignation of powerful Haryana minister Venod Sharma. In addition, laws like Prasar Bharati act passed in recent years contribute significantly to reducing the control of the press by the government.
- Human trafficking Human trafficking is a \$8 million illegal business in India. Around 10,000 Nepali women are brought to India annually for commercial sexual exploitation. Each year 20,000–25,000 women and children are trafficked from Bangladesh. Babubhai Khimabhai Katara was a Member of Parliament when arrested for smuggling a child to Canada.
- Religious violence Communal conflicts between religious groups (mostly between Hindus and Muslims) have been prevalent in India since around the time of its independence from British Rule. Among the oldest incidences of communal violence in India was the Moplah rebellion, when Militant Islamists massacred Hindus in Kerala. Communal riots took place during the partition of India between Hindus/Sikhs and Muslims where large numbers of people were killed in large-scale violence.



- The 1984 Anti-Sikh Riots was a four-day period during which Sikhs were massacred by members of the secular-centrist Congress Party of India; some estimates state that more than 2,000 were killed.[33] Other incidents include the 1987 Hashimpura massacre during communal riots in Meerut, 1992 Bombay Riots.
- Dowry Deaths In India, the families of young women are expected to pay a dowry to a young man's family when they become engaged. It has been a long-time tradition in the country that the girl's family pays the boy's family a dowry when they get married. Some people say that this tradition is due to the fact that unmarried women are a drain on families and have no earning power of their own. Over the years, families have come to expect a lot of dowry money and they get very upset if they get less than they want. A dowry and a wedding usually add up to over a million rupees, or about \$35,000 American dollars. This is a huge amount of money when the average Indian makes \$3,500 a year.
- A bride's new in-laws sometimes respond with violence if they don't receive what they think they deserve. One of the most common things to do is to pour kerosene on the bride and then light her on fire. These deaths are called "stove bursts" and are blamed on a kitchen accident. Last year the deaths of 7,000 women were attributed to dowry death. Since 1961, dowries have been illegal in India, but many families, especially those in rural areas, still follow the custom. Parvathi Menon in the Hindu publication, Frontline, reports that out of 730 cases seen by the special prosecutor, 58 ended in acquittal and only 11 in conviction.



- The UN stated in 2011 that the caste system of India will be declared a human rights abuse. The UN's Human Rights Council, meeting in Geneva, is expected to ratify draft principles which recognizes the scale of persecution suffered by 65 million 'untouchables' or 'Dalits' who carry out the most menial and degrading work.
- Amnesty International says "it is the responsibility of the Indian government to fully enact and apply its legal provisions against discrimination on the basis of caste and descent. DE notified tribes of India, along with many nomadic tribes collectively 60 million in population, continue to face social stigma and economic hardships, despite the fact Criminal Tribes Act 1871, was repealed by the government in 1952 and replaced by Habitual Offenders Act (HOA) (1952), as effectively it only created a new list out of the old list of so-called "criminal tribes." These tribes even today face the consequences of the 'Prevention of Anti-Social Activity Act' (PASA), which only adds to their everyday struggle for existence as most of them live below poverty line.
- National Human Rights Commission and UN's anti-discrimination body Committee on the Elimination of Racial Discrimination (CERD) have asked the government to repeal this law as well, as these former "criminalized" tribes continue to suffer oppression and social ostracization at large and many have been denied SC, ST or OBC status, denying them access to reservations which would elevated their economic and social status.



# MAIN SOURCE OF HUMAN RIGHTS IN INDIA

- There are many sources of Human Rights in India. The main Sources of Human Rights in India are follows
- UN Charter
- Universal Declaration of Human Rights 1948
- International Covenant on Civil and Political Rights
- 1st and 2nd Optional Protocol to the International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention against Torture
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment



# INSTITUTIONS WHO PROTECT HUMAN RIGHTS IN INDIA

- There are mainly three agencies in India who Protects the Human Rights
- National Human Rights Commission
- State Human Rights Commission
- NGOs related to National Human Rights Commission

