
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

HUMAN RIGHTS IN INDIA: CONTEMPORARY DEVELOPMENTS AND CHALLENGES SINCE UDHR- Poonam¹ & Anuj²**Abstract**

Human rights are inherent and inalienable fundamental rights, inevitable to mankind. They are not gained easily rather they aspire the complex journey of upholding these rights for persons of all diversities irrespective of their differences and have embarked on the struggles of many decades of numerous countries, classes and persons across the world. This abstract briefly discusses the advent of human rights which finally served as the basis of UDHR and then summarizes India's progress, development and challenges in this domain. A strong foundation has been laid by incorporating UDHR principles in Part III and IV of the Constitution of India. These rights are not only written but also reinforced by the state through statutory advancement for securing social, political and economic justice. It encompasses labor welfare provisions, advancement of women, various gender laws for breaking the chains of patriarchal setup and social discrimination, juvenile laws, protection of infants and children's rights, laws against social discrimination, and many more. Notable judicial advancements which have a significant role in recognizing human rights such as the recognition of privacy as a fundamental right, decriminalization of homosexuality, recognizing the identity of LGBTQ+ community and many others are also discussed in this paper. Nonetheless, several challenges are still there such as artificial intelligence, data privacy, intellectual property rights, restriction of free speech, weak enforcement of environmental and gender laws. The state has implemented various schemes and laws like the Right to Education Act (2009) and the National Rural Employment Guarantee Act

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(2005), yet poverty and inequality remain pervasive. The rights of marginalized groups need to be protected. This abstract presents India's perspective on human rights in wholeness while tracing its development through statutes and judicial pronouncements while highlighting the challenges and the need for reforms. Hereby, through this paper the above themes are discussed and explored in depth.

Keywords: Human rights, Environmental right, gender, privacy, data protection etc.

Introduction and Historical Context of Human Rights:

Introduction & Meaning:

Human rights- inevitable and bedrock for the mankind, existed since immemorial time existence of a human which compile some basic freedoms which make his life worth as a true human being. Justice Krishna Iyer noted - "ultimately humanity has a commitment to history to make human rights a viable reality." Human rights are rights we have simply because we exist as human beings - they are not granted by any state. "These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty. (What are human rights?, 2025) Human rights are inalienable means they cannot be taken away, except in specific situations and according to due process, For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law" (What are human rights?, 2025)

According to the official website of the United Nations- "All human rights are indivisible and interdependent. This means that one set of rights cannot be enjoyed fully without the other, For example, making progress in civil and political rights makes it easier to exercise economic, social and cultural rights. Similarly, violating economic, social and cultural rights can negatively affect many other rights. (Human Rights, n.d.) The principle of universality of human rights is the cornerstone of international human rights law. This means that we are all equally entitled to our human rights. This principle, as first emphasized in the UDHR, is repeated in many international human rights conventions, declarations, and resolutions." (What are human rights?, 2025, p. 2)

Historical Context and Advent of Human Rights:

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Birth of human rights for the first time in history is traced in 539 BC when Cyrus the Great vanquished the head of Babylon and freed all the slaves and declared their right to opt their religion and thereby established equality among all despite racial parity existed earlier. These declarations becomes the first inspiration of UDHR, written on a clay- cylinder famously known as Cyrus Cylinder. (Sutto, 2019) Signing of the historic document the Magna Charta by King John in England laid another pivotal foundation for growth of human rights in 1215. Its promulgation represents a watershed moment in world history for defining Rule of Law and liberties of the people. . This document restricted the arbitrary power of king to levy heavy taxes on the common people of England and established that rule of law would be followed by the king while with public affairs of the country. It also safeguarded people from arbitrary arrest and action of the king. Later its concept was represented by the English Bill of Rights³ that was signed by William III and Mary II. It shifted the authority from the king to Parliament and set the stage for constitutional monarch. This evolution gradually increased after the Revolution⁴ that articulated the provisions which ignited the French Revolution. Thereby in France, rule of King Louis XVI; was abrogated and democracy was established. This document asserted the phrase "all men are born free and equal in rights" which was later incorporated in Article 1 of the UDHR. The period surrounding the Declaration marked the birth of civil and political rights. These rights known as 'first-generation rights' which limited the power of kings and protect citizens from abuse of various state rulers. (Sutto, 2019)

Expanding Human Rights in the 19th and 20th Centuries: No doubt that in 19th century people demanded for basic freedoms and these efforts laid to the foundation of democracy in many countries. Despite this, a lot of discrimination, inequalities and exploitation continued on the ground of race, color, caste and gender. Women were still abused and they were denied basic rights. Therefore various waves of feminism specially the first wave and second wave advocated the political rights of women and voice was raised against gender biased laws and patriarchy notions. It guaranteed equal pay for equal work and political rights to the women. Credit for the same goes to Marry Wollstonecraft and Simone De Beauvoir. These efforts witnessed the women suffrage in UK in the year 1918, reforms in factories and labor laws which limited the

³ in 1689

⁴ French Revolution 1789

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working hours and banned child labor. In 19th and early 20th centuries, Initiatives were also witnessed to prohibit the slave trade, trafficking and regulating the working hours of the labors, marked a significant step forward.

In the late 19th, first Geneva Convention was adopted which laid the foundation of the ILO. It focused upon the concerns of workers and common people rights saw the adoption of the first Geneva Conventions and the establishment of the ILO⁵. Other Geneva Conventions focused on focused on the human dignity and rights of wounded soldiers during wartime. Later it laid the brick for establishing Red Cross society.

Foundation of UDHR:

World War II's unprecedented atrocities, especially against women aged citizens and poor workers awakened all the nations to the significance of human rights. In response, UN was founded in 1945, with a primary goal to promote peace and to protect human rights. Signatory parties declared some basic human rights and freedoms of all persons regardless of their nationality which cannot be abrogated by any legislature or state amendments. These declarations collectively called "Universal Declaration of Human Rights (UDHR)" which were adopted in December 1948. This adoption enshrined some non- negotiable principles which encompasses individual freedoms, equality, non- discriminatory provisions and inherent human dignity embodied as in forms of various articles under UDHR.

Advancements of Human Rights in India:

I. Constitutional Framework

The Preamble of the Constitution unequivocally states India a Sovereign, Socialist, Secular, Democratic and Republic (SHAJIMON). “The term 'democratic' denotes that the Government gets its authority from the will of the people, and the preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to ail its citizens.” (SHAJIMON, p. 61)

⁵ International labor Organization

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Many provisions in fundamental rights and DPSPs are enshrined from UDHR such as right to equality, freedom, right to life and dignity, right against discrimination, right to choose and profess own religion, right against arbitrary arrest, right against ex post facto laws; and in part – iv there are right to free legal aid, right to health and maternity benefits, right against inhuman labor provisions and equal pay for equal work, right to compulsory education, right to form organizations are there with every citizen of India (J.N.Pandey, 2024).

In Kesavananda Bharti case, Supreme Court observed, "The Universal Declaration of Human Rights may not be a legally binding instrument but it shows how India understood the nature of human rights at the time the Constitution was adopted." (SHAJIMON)

II. Legislative Developments

- The State has not only made the human rights just declarations in the constitution but also enforced them by way of numerous legislative acts. "To secure the political rights of citizens the Representation of the People Act 1951 to ensure fair elections, Protection of Civil Rights Act, 1955 to combat discrimination; Right to Information Act 2005 to ensure fair elections; Nari Shakti Vandan Adhiniyam for ensuring women political representation, 2023; panchayats and municipalities laws in different states for politically empowering marginalized sections, reservations provisions for SCs and STs have been enacted so far" (J.N.Pandey, 2024).
 - To secure social and economic justice of women legislations to eradicate social evils and for their advancements have been enacted, as Dowry Prohibition Act 1961; "Protection of Women from Domestic Violence Act, 2005 to address the issue of any kind of violence which a woman faces within the walls of her own house and by her own relations" (ncw, n.d.); "The Commission of Sati (Prevention) Act, 1987 (3 of 1988) to curb the sinful practice of sati" (ncw, n.d.) ; "The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013 to provide a safe and secure workplace of work and protecting her dignity" (ncw, n.d.) and the list includes many other socio welfare legislations especially for women's rights"
 - Also to enforce socio-economic rights of general public apart from women's following legislations have been enacted as – "The Workmen's Compensation Act, 1923; The
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Employees' State Insurance Act, 1948; The Employees' Provident Funds & Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961; Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; The Industrial Disputes Act, 1947;" (List of Acts Governing Various Aspects of Labour and Employment, n.d.).

- Apart from the abovementioned, various other laws which directly affects our basic rights and freedoms has been enacted by the legislature so far. The list is long to embrace laws relating to labor and basic rights at the workplace, law relating to public health and sanitation, environmental laws and reformatory penal laws, intellectual property laws etc.

III. Government Initiatives for Protection of Rights

Several significant initiatives have been taken by government for safeguarding human rights and upholding the dignity of the people. Among them, the most prominent step is to establish a NHRC (National Human Right Commission) in 1993 under the Protection of Human Rights Act, this body will serve independently to see and investigate the instances to violation of human rights across the nation. Then a transformative measure has been taken in 2009 for upholding a measure human right that is right to education via Right to Education Act 2009 which obliged state to provide free and compulsory education for children aged six to fourteen. For this the constitution has also been amended to include Article 21A which ensures access to education as a cornerstone of human dignity and to reduce educational disparities especially among marginalized section of society.

Similarly, to secure right to work and livelihood the scheme of NREGA has been made by the government by enacting Mahatma Gandhi National Rural Employment Guarantee Act, 2005. Its nomenclature has been changed from MGNREGA to NREGA which guarantees a 100 days of wages employment per year to the rural people including women to secure their right to earn and livelihood. However its effectiveness was hampered due to non-availability of work and delay in making the payment to the laborers for the work performed by them. But still these are significant steps in securing and strengthening the socio- economic rights provided under UDHR.

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Role of Judiciary in Empowering Human Rights:

It is often that subordinate courts hesitate to act a protector of human rights showing their unwillingness to break the paradigm that protection of human right is the task of higher judiciary and alternatively consider them to be the constitutional court (Pant, 2025) At odds with this, in enforcing human rights the subordinate courts has a pivotal rule since a common man in seek if justice at first seek the assistance of these lower courts (Pant, 2025).

In “Kesvananda Bharti v. State of Kerala 1973 SC”, the theory of basic structure has been established and held no amendment in the constitution be made to allow the violation of the rights which are inevitable to them.

Supreme Court hailed the state for custodial deaths and torture thereby setting guidelines for the state to prevent the citizens from arbitrary arrest and detention (D K BASU v. State of West Bengal, 1997)⁶.

In [Nilabati Bahera V. State of Orissa](#) (1993) Cri. LJ 2899, the Supreme Court ordered the amount of damages be given to women for the death of his young child caused by the state machinery (police). The court fixed the liability not based in tort rather based on the principle of strict liability for the evil done the state agencies.

Similarly in Olga Tellis and Ors v. Bombay Municipal Council 1986 AIR 180, court recognized right to livelihood under the right to life. Court directed the officials to provide basic source of livelihood to all the citizens.

In the renowned case Justice K.S. Puttaswamy (Retd) v. Union of India 2017, the court ruled “The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by [Article 21](#). It is a “right to be let alone”. A citizen has a right to safeguard the privacy of his home, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent — whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into

⁶<https://indiankanoon.org>

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controversy or voluntarily invites or raises a controversy. The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [[Article 19\(2\)](#)] an exception must be carved out to this rule, viz., female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicized in press/media.” (Justice K.S.Puttaswamy(Retd) And Anr. vs Union Of India And Ors. on 24 August, 2017, 2017)

Again in 2018 court observed “the distinguished identity of transgender as a third gender has been ruled in [National Legal Services Authority v. Union of India](#) and others, popularly (2014) 5 SCC 438 known as NALSA case, Radhakrishnan, J., after relying on the catena of judgments and International Covenants, observed, gender identity is one of the most fundamental aspects of life which refers to a person’s intrinsic sense of being male, female or transgender or transsexual person. A person’s sex is usually assigned at birth, but a relatively small group of persons may be born with bodies which incorporate both or certain aspects of both male and female physiology.” In this historic case the court provided a legal recognition to the unions of homosexuals and decriminalized⁷ the consensual cohabitation between queer couples. (Navtej Singh Johar vs Union Of India Ministry Of Law And ... on 6 September, 2018, n.d.), court placed its reliance on the earlier rulings of [Shakti Vahini v. Union of India and others](#)⁸ wherein an individual’s right to choose his life- partner has considered as a facet of dignity and protected under [Articles 19](#) and [21](#) of the Constitution (Navtej Singh Johar vs Union Of India Ministry Of Law And ... on 6 September, 2018, n.d.)⁹. Therefore in numerous case our court of law has ruled in expanding the amplitude of human rights for every section whether it may be pertaining to women or transgender or it may be relating to labor rights.

⁷ section 377 ipc

⁸ 2018

⁹ indiankanoon

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Apart from the abovementioned rights, judiciary has contributed also in safeguarding environment rights on many occasions. Right to clean & unpolluted air and water has held fundamental for human existence and thereby recognized within the facet of right to life in *Subhash Kumar v. State of Bihar*¹⁰. In a recent pronouncement of *MK Ranjitsingh v. Union of India* (2024), the supreme court has admitted the right against adverse effect of climate change is conceded as a part of Article 21 embedded in the constitution. (Daily Updates, 2024).

Challenges regarding Human Rights and The Way Forward:

No doubt exist that recognition of human rights is a recent trends yet its essence exist since human civilization. It is a dynamic concept which needs to be changed and modified according to the needs of generations.

In India, Facets of human rights have recognized, evolved and changed from 1950 to present day. But lower courts are hesitating to uphold the rights of civilians.

Despite significant legislative and judicial developments there are multiple challenges exists regarding human rights in India. “Painting a broader picture, we must endeavor to ensure proper sitting arrangement, hygienic toilets, lackadaisical role of lower Courts in Protection of Human Rights, sanitation, safe drinking water, adequate protection and amenities must be addressed to meet vagaries of nature” (Pant, 2025); and the corrupt practices rampant in court yard should be given a way to protect the people from exploitation (Pant, 2025). Emerging technologies, such as artificial intelligence and many software programs data privacy is a major concern. It possess the risk of violation of digital and data privacy and freedom due to the inadequate regulatory frameworks and regulations to deal with the issues.

Also despite many environmental laws the enforcement mechanism and execution of environment rights yet a dream and till date environment law still a weak law in India. Intellectual Property rights often has limited access to essentials resources only. Again the schemes launched by the governments fit protection of rights has weak enforcement at the ground level, lot of hindrances such as corruption, excess paper work, non- access to the marginalized groups, insufficient grants for the welfare schemes are still need to be addressed.

¹⁰ 1991 AIR 420

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It can be achieved by empowering lower courts to deal with the issues of human rights.

Furthermore to address the challenges exist, we need to robust our data protection framework in clear terms. Government need to provide with more discretion and autonomy to the NHRC and SHRCs then to make them a mere spectator. More grants need to be supplied for welfare schemes to strengthen the rights of labors, women, infants and of other marginalized classes of the society. Emphatically our legislature & higher judiciary has acted a significantly by catena of rulings such as recognition of homosexual union before law, rights against marital rape, right to privacy, digital rights and data protection, right to be forgotten, right to clean environment and sustainable development, intellectual property rights are the new emerging rights which needs to be safeguarded by the legislature of India. Protection of these new emerging human rights is inexorable for fullest realization of the human potential and innate characteristic which nature has bestowed upon him as his being a human.

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