

Tracing Human Rights: From Ancient Thought to Modern Indian Constitutionalism

By

ABHINAV SHARMA

RESEARCH SCHOLAR

DEPARTMENT OF LAW

HIMACHAL PRADESH UNIVERSITY

SHIMLA (HP)

Dr. RAJINDER VERMA

PROFESSOR

DEPARTMENT OF LAW

HIMACHAL PRADESH UNIVERSITY

SHIMLA (HP)

ABSTRACT:

The idea of human rights has evolved through centuries of intellectual, cultural, and legal development. Early notions of justice and dignity can be traced to ancient civilizations such as Babylon, where Hammurabi's Code emphasized fair treatment and legal accountability. Greek and Roman philosophers later advanced the concept of natural rights, grounding human freedom and equality in universal principles. These ideas gradually influenced significant historical documents including the Magna Carta, the American Declaration of Independence, and the French Declaration of the Rights of Man, each contributing to the global recognition of inherent human rights. The modern human rights framework emerged after the Second World War, with the adoption of the Universal Declaration of Human Rights (1948) and subsequent international covenants.

Indian constitutionalism reflects this global intellectual heritage. Drawing inspiration from international human rights norms, the framers incorporated fundamental civil and political rights in Part III and socio-economic goals in Part IV of the Constitution. Over time, Indian courts, particularly through expansive interpretation of Article 21, have recognized additional rights such as dignity, privacy, environment, health, and education. However, persistent implementation gaps, institutional limitations, and partial incorporation of international standards highlight the challenges that remain. Understanding this historical trajectory is essential for strengthening India's commitment to human rights.

Human Rights: Meaning and Evolution:

The very question before diving deep in the concept of human rights and their incorporation in Indian state is that; what human rights are? The answer is quite a simple one and still this concept has no universal definition. So, let's try to understand what '*Human right.*' These are those 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.¹

As these rights provide the very basic yet the most important conditions for every human soul to have a fulfilling life they came in operation at very moment when a child is born and even some of these rights became operative before it is born like in mother's womb. Due to their massive importance to humans, they are many times referred as *fundamental rights, rights of men, inherent rights, birth rights, etc.* Nowadays most of legal scholars agree that every human is entitled to some bare minimum rights to secure its existence in the world. So, due to this reason they are universally recognized rights. As once *Maurice Cranston* said "there are certain deeds which should never be done, certain freedoms which should never be invaded, something which is supremely sacred."²

According to C.J.I. *J.S.Verma* 'human dignity is the quintessence of human rights.'³ Also *World Conference on human rights* in 1993 in Vienna stated that in its declaration that all humans rights is driven from the dignity and inherent worth of a person, and so humans are the central subject of these rights. So, to secure these rights a large number of declarations and treaties were adopted by U.N., its agencies, and by several nations in which they pledged to achieve universal respect for and observe human rights and fundamental freedoms.

D.D Basu also in his book 'Human rights in Constitutional Law' defines Human Rights as those minimum 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 other considerations'⁴

Evolution of International Human Rights:

International human rights are a body of those rules and regulations whose main purpose is to promote and protect human rights at international as well as national level. So, it became quite important that to trace its evolution for the purpose of understanding it more precisely. So their evolution can be framed as:

- The concept of protection of rights of men may be traced back to Babylonian laws. *Hammurabi* the king of Babylonian issued a set of laws which is known as *Hammurabi's code*, this code declared fair wages, provided protection of property and required charges to be proven at trial.
- Some Greek and Roman philosophers also recognized the idea of natural rights. *Plato* was one of the earliest writers to advocate a universal standard of natural rights. *Ulpian* state 'according to law of nature, all men are equal, and by the same law all are born free.' *Sophocles* was one of the first jurist to promote the idea of freedom of expression against the state.

¹<https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

²The theory and practice of human rights' (1985) p.7

³ 'The New Universe of Human Rights' p.3

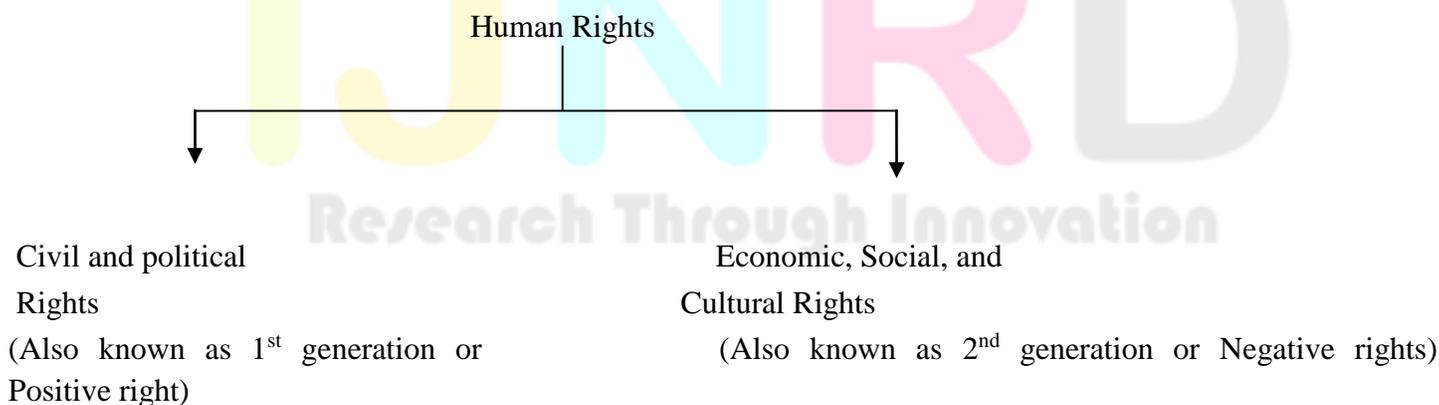
⁴ Dr. H.O.Agarwal, "International Law and Human Right", 17th Edn.2010, Central Law Publications, Allahabad at p.731

- The Magna Carta granted by king John of England to English barons on 15 June, 1215 became one of the first written guarantees by a sovereign authority to recognize the rights of its subjects. Later this took the shape of *BILL of Rights, 1689* which ultimately established parliamentary superiority over the crown.
- The Declaration of thirteen United States of America, 1776 for very first time used the expression ‘fundamental rights of man.’ Later followed the French Declaration of ‘Rights of Man and the Citizen, 1789’ which stipulate Ulpian’s ideology of men are born free and equal in rights.
- In modern times, during 19th and early 20th century the principle of state sovereignty prevailing, but later the recognition to international human rights were given by way of many conventions, treaties, declarations such as establishment of International Labor organization,1919, International Slavery convention, 1926, etc. After the end of WW1 *league of Nations* was formed to keep pace and to promote human rights in the world.
- The failure of league of nation resulted in WW2 and at the end of WW2 the nations combined to form *United Nations* on 24 October,1945 in San Francisco California, U.S.. THE U.N.in 1946 delegated the work of formation of *International Bill of Rights* to Economic and social council , the council due to varying opinions divided the bill into three parts firstly *Universal Declaration of Human Rights,1948* ; secondly *International Convention on civil and political rights,1966* ; and lastly *International Convention on economic, social and cultural rights,1966*.

So, today the human rights which we have took a long journey to get its present shape and the interesting thing is it is still a developing concept.

Types of Human Rights:

The United Nations system says human rights are of two kinds, these are as



International Human rights and Indian Constitution:

India got its independence on 15th august 1947, and the task of preparing the constitution was entrusted to the constituent assembly which met for the first time on December 9,1946 and completed its work and gave final shape to constitution on November 26,1949 and it came into force on January 26,1950. But before framing the constitution in the very 1st speech in constituent assembly *Nehru* said, “The first task of this Assembly is to free India through a new constitution, to feed the starving people, and to clothe the naked masses and to give every Indian the fullest opportunity to develop himself according to his capacity.”⁵

This gives us a very clear picture that with which mind frame the framers of our constitution starting working on a document which were going to be the guide for world’s largest democracy.

India has always supported the concept of human rights from the old Vedic days; Rig Veda cites three civil rights that of

- Tana - Body,
- Skridhi - Dwelling Place
- Jibhasi- Life.

Concept of Dharma, rights and duties of individuals, communities have been described in our Scriptures and texts. So, while framing Indian constitution, framers of Indian constitution had a difficult task ahead of them on one hand they had to draft a constitution which provides every possible right to its citizens and on the other hand does not put unnecessary burden on back of a fragile Indian state. To balance the both sides it took long 3 years to complete our constitution.

Indeed, the impact of World War II, the framing of Universal Declaration of Human Rights 1948 and the Nuremberg Trials of 1945-46 that highlighted crimes against humanity and drafts of the European Convention on Human Rights 1950 left their impact on the formation of the Constitution of India.⁶ So, in order to achieve the protection of human rights of Indian citizens, the constitution laid down implementation procedure in part III (fundamental rights) and in part IV (Directive principles of state policy). Former guarantees certain basic rights to individuals and latter gives direction to state to state to keep in view of certain rights while framing its policies. India has ratified both the covenants of 1966 on march 27,1979, this ratification has bound the Indian state to observe the rights given in UDHR and its two covenants on civil and political rights and Economic, social, cultural rights. So, to understand the relation between international human rights and its place in Indian constitution, we have to study the provisions of Indian constitution with reference to two covenants: -

1. *Constitution and covenant on civil and political right*
2. *Constitution and covenant on economic, social, cultural rights*

Constitution and Covenant on Civil and Political Right:

The rights given in civil and political covenant is mainly given in part III of Indian constitution. The rights given here are called 1st generation rights as they are the primary rights and states are prohibited to violate these rights and also to protect those citizens whose rights are violated. These rights differ from other rights as these are inviolable. These rights are binding on legislature as well as executive. In *A.D.M. Jabalpur v. S. Shukla*⁷,

⁵Official Reports, Vol. II, Jan. 20-25, 1947, at 316-17 (1947)

⁶ Developing Human Rights Jurisprudence: A Third Judicial Colloquium on the Domestic Application of International Human Rights Norms, Vol. 3, (The Commonwealth Secretariat, 1991), p.134

⁷AIR 1976 S.C.1207, at P.1293

Beg, j observed that ‘the object of making certain general aspects of rights fundamental is to guarantee them against illegal invasion of these rights by executive, legislative and judicial organs of state.’

Many rights given in civil and political covenant are identical to fundamental rights given in part III. *Table showing them are as:*

Rights	Covenant on Civil and Political Rights	Indian Constitution
Right of life and liberty	Art.6(1) &9(1)	Art.21
Protection from prosecution and punishment	Art.14(7)	Art.20(1)
Protection against arrest and detention in certain cases	Art.9	Art.22
Equality before law	Art.14(1)	Art.14
Prohibition of discrimination	Art.26	Art.15
Equality of opportunity in public services	Art.25	Art.16(1)
Freedom of speech and expression	Art.19	Art.19(a)
Right for peaceful assembly	Art.21	Art.19(b)
Right to form associations	Art.22(1)	Art.19(c)
Right to move freely	Art.22(1)	Art.19(d)
Freedom of conscience and religion	Art.18(1)	Art.25
Protection from forced labour	Art.8(3)	Art.23

The laws which are incorporated in the constitution and common to the covenant has the force of law and can be enforced in the municipal courts by the help of Article 32 of constitution which provide enforcement mechanism of these fundamental rights.

These rights embody in constitution shows that they were available to all the citizens of country way before it ratified the Covenant on civil and political rights. Most of these rights are generally available to citizens but some of them are also given to all the persons. As, in *chairman, Railway Board v. Chandrima⁸Das*, it was held that “*Even those who are not citizens and come here merely as tourists or in any other capacity will be entitled to the protection of their lives in accordance with constitutional provisions. They also have right to life in this country.*”

Human Rights not Incorporated in Part III:

The Indian Constitution have not given explicit recognition to certain international human rights standards. They are known as ‘constitutionally not specifically incorporated human rights’ and are not enforceable as such. The reason behind non enforceability is that they do not form part of domestic law of land and as in *Bimra v. State of Rajasthan⁹* it was clearly held that ‘Treaties which are part of international law does not become part of law of land unless expressly made so by legislature.’

Also, in *George Verghese v. bank of Cochin¹⁰* KRISHNA IYER, J reiterated;

⁸2000(1) S.C.C.P.280

⁹AIR1951 Rajasthan p. 127

¹⁰AIR 1980 S.C.470

'Dualism and asserted that the positive commitment of the state parties ignites legislative action at home but does not automatically make a covenant enforceable in India.

Some of rights not incorporated in constitution are as:

- a) UDHR states that everyone has the right security of person but e Indian Constitution does not recognize 'security of person' directly.
- b) Article 5 of the UDHR states that no one shall be subjected to torture which is not expressly provided by the Constitution.
- c) Article 12 of the UDHR provides for a right against arbitrary interference with one's privacy, family, home or correspondence, and attacks upon one's honour and reputation but constitution does not provide for as such.
- d) Article 13 (2) of the UDHR gives the right to leave any country, including his own, and to return to his country which is not expressly recognized by the Constitution.
- e) UDHR gives all children, whether born in or out of wedlock, shall enjoy the same social protection which is not expressly recognized by the Constitution.;etc.

However, a number of rights which are not the part of constitution are inserted by judiciary by way of judicial activism by various decisions some of these are as: -

1. RIGHT TO LIVE WITH HUMAN DIGNITY:

In ***Bandhua Mukti Morcha v. Union of India***¹¹ Court declared that the 'right to life included the right to live with human dignity, and this right derived its "life breath" from the Directive Principles. Accordingly, the Court ordered the State to release and rehabilitate bonded laborers and ensure that they received minimum *wages*.

Also, in some cases of trafficking and prostitution, it is necessary to adopt comprehensive victim-centered legislation which provides for a protection and relief scheme for victims to facilitate their rehabilitation and reintegration and labour related provisions and help them to gain their dignity.

2. RIGHT TO FOOD:

In ***People's Union for Civil Liberties v. Union of India***¹² court held;

'Scope of Article 21 of the Constitution is so wide that this seminal clause can pro-create every necessities of an individual and transform it in the form of right and right to food is inherent to life with human dignity.'

3. RIGHT TO A CLEAN ENVIRONMENT:

In ***M.C. Mehta v. Union of India***¹³ court reuttered that;

'Life in Article 21 meant a quality life, the Court held that a person's right to live with human dignity would be violated if he were compelled to live in a polluted, unhygienic, and unhealthy environment.'

Also, the 42nd Amendment provided the conferment of a new duty on the State to protect and improve the environment under article **Art.48-A** led to the greening of the nation and to the further expand protection of broad social interests under the Article 21.

¹¹AIR 1984 SC 802

¹²W.P(c) No. 196/2001

¹³AIR 1987 SC 1086

4. RIGHTS OF THE CHILD:

The cases of trafficking of children in India are large, and mostly sex trafficking of minor girls of north east region. It has been estimated that around 5,000 women are trafficked from Nepal to India each year and the majority of prostitutes in India are minors from Nepal and Bangladesh¹⁴. So, to tackle this abuse of child rights supreme court in many judgments pronounced steps and rules to stop such practices. In *Laxmikant Pandey v Union of India*¹⁵ also the apex court held that ‘the welfare of children must be of paramount importance.’ It is also to be taken into account that even unborn child is entitled to human right.

Constitution and Covenant on Economic, Social, Cultural Rights:

Part IV of the Constitution incorporates the Directive Principles of economic and social justice and certain ideals which the State should strive to achieve and this part of Indian constitution contain similar laws as to economic, social and cultural covenant, the table showing that is as:

Rights	Covenant on Economic, Social and Cultural Rights	Constitution of India
Equal pay for equal work	Art.7(a)(i)	Art.39(d)
Maternity relief	Art.10(2)	Art.42
Right to work	Art.6(2)	Art.41
Humane and safe condition for work	Art.7(b)	Art.42
Compulsory education to children	Art.13(2)(a)	Art.45
Living wages	Art.7(a)(ii)	Art.43
Adequate standard of living	Art.11	Art.47
Right to child education	Art.13(1)	Art.21-A

These rights being in part IV of constitution primarily enforceable, but recently S.C. has declared some of these rights as fundamental ones by enlarging the scope of part III. This has been done specially by help of Article 21. Using the flavor of Directive Principles to enrich the content of the right to life, it formed new dimensions of social and economic rights, including:

- The right to live with dignity,
- Right to a livelihood
- Right to free legal aid,
- Right to a clean environment,
- Right to education,
- Right to health and medical care,
- Right to shelter,
- Right to food; and
- Right to sleep. etc.

¹⁴Ranciscan International, Congregation of our lady of charity of the Good Shepherd, "Human Rights in India", 13th Session, Human Rights Council, Universal Periodic Review, Geneva dated November, 2011

¹⁵AIR 1984 SC 469

Implementation of Human Rights in India:

A number of conventions have been concluded under the supervision of the United Nations to protect the human rights of vulnerable groups and to prevent the commission of inhuman acts. However, they shall be binding only on those States which have become parties to the treaties. This principle has been incorporated in a Latin maxim which is '*pacta tertiis nec nocent nec prosunt*' which means that a 'treaty does not create either obligations or rights for a third State without its consent'. The rule has also been incorporated under *Article 34 of the Vienna Convention on the Law of Treaties (1969)*. The consent of a State to be bound by a treaty may be expressed by

- signature,
- exchange of instrument constituting a treaty,
- ratification,
- acceptance,
- approval or accession or by any other means if so agreed.

So, it is obvious that India has also become a party to a number of human rights conventions which are as follows:

1. ***International Convention on the Elimination of All Forms of Discrimination (1965)***. India signed on March 2, 1961 and ratified by India on December 3, 1968, but with a reservation with regard to Article 22 of the Convention which relates to the settlement of disputes by the International Court of Justice.
2. ***International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)***, was ratified by India on September 22, 1977.
3. ***Convention on the Prevention and Punishment of the Crimes of Genocide (1951)***, was ratified on August 27, 1959.
4. ***Convention on the Rights of the Child (1989)*** was ratified on December 11, 1992.
5. ***Optional Protocols to the Convention on the Rights of the Child on to Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography*** were ratified on November 30, 2005 and August 16, 2005 respectively.
6. ***Convention on the Elimination of All Forms of Discrimination Against Women (1979)*** was ratified on July 9, 1993 with reservation.

India by becoming a party to a number of such conventions has shown to the World that it has faith in the promotion and it actively want protection of human rights. The ratification of these conventions also signifies that it intends to be an active contributor to human rights movement. The ratification of these conventions obliges India to honour the obligations imposed by the conventions by virtue of Article 51 of the Indian Constitution which states that India shall endeavor to....., (c) foster respect for International Law and treaty obligations in the dealings of organized peoples, with one another¹⁶.

Enforcement of the Rights Provided in the Conventions:

Indian Constitution provides, distinction between *the treaty making power* and the *implementation of the treaty obligations*. While the treaty making power is the executive power of the Government an executive branch, the Parliament has the power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any country or countries or any decision made at any international conference, convention. So, it became quite clear that treaties don't acquire the character and force of law unless incorporated in our legal system by way the parliament.

¹⁶ Dr. H.O. Agarwal, "International Law and Human Right", 21st Edn. 2017, Central Law Publications, Allahabad at p.979

The clear view was expressed by apex court in *Vishakha and others v. State of Rajasthan*¹⁷, stated that “the Government of India has ratified the Convention on the Elimination of All Forms of Discrimination Against shall be of significance and regard must be had to them for construing domestic law but that is *not material in the present context. Thus, ratification of the treaties alone is not enough for the courts to enforce the provisions of the conventions.*”

But a loop hole is created by S.C. in *Apparel Export Promotion Council v. A.K. Chopra*¹⁸, Supreme Court held that-

“In cases involving violation of human rights, the courts must forever remain alive to the international instruments and conventions and apply the same to a given case when there is no inconsistency between the international norms and the domestic law occupying the field.”

Thus, it became clear that recognition of fundamental rights and freedoms in the municipal law on a universal basis is an essential condition for the recognition of human rights.

The attitude of the Government towards the implementation of the rights is very lethargic and incompetent. The result is that a huge number of violations of human rights occur despite the ratification of human rights conventions. For instance, India is a party to the Convention on the Rights of the Child and other conventions of the International Labour Organization dealing with the Child labour, but the problem remains elusive. It has been estimated that more than two million children are working in hazardous sectors which is prohibited, also the child prostitution which has long been prevalent among certain communities in certain parts of the country.

It is required that a separate department is created for the *promotion and protection of human rights* to help the Government to discharge its various duties relating to human rights in an effective manner. For instance, it can assist to incorporate the human rights values in the foreign policy and also in the national laws keeping in view the various considerations including those of national security, economic considerations, moral obligations as well legal ones which may be discharged by the Government .

Formation of Human Right Commission in India:

The setting up of a national institution is one of the most effective ways to perform the various functions relating to the implementation of human rights. The domestic institution of human rights may also influence the legislators to preserve human rights by incorporating it in domestic law. It may also keep check on government compliance with treaty commitments.

The idea of formation of an impartial institution of human rights in the States was initiated by the UNESCO in 1946. The Secretariat in its Memorandum *Supervision and enforcement of Human Rights' in 1947* suggested for the creation of such a body in the States.¹⁹

In 1966, the General Assembly adopted a resolution for viewing the effectively of the proposal for the creation of a national commissions on human rights to perform certain functions pertaining to the observance of the Covenant on Civil and Political Rights and the Economic, Social and Cultural Rights.

Since the adoption of the ‘*Vienna Declaration*’ and ‘*Programme of Action*’ adopted at the *World Conference*, by a number of countries. They have established such institutions. The majority of existing national institutions for this purpose may be grouped in two categories :

- a) **Human Rights Commissions and**
- b) **Ombudsmen.**

In addition to the above there are specialized national institutions in many countries which protect the rights of vulnerable groups. In cases where such institutions have been established by the Governments, they enjoyed an

¹⁷AIR 1997 S.C. 3011

¹⁸AIR 1998 S.C. 625

¹⁹U.N. Doc. E/CN A/AC/ 1/12, pp. 2-3.

important degree of autonomy from the executive and legislature and they also took full account of international human rights standards.

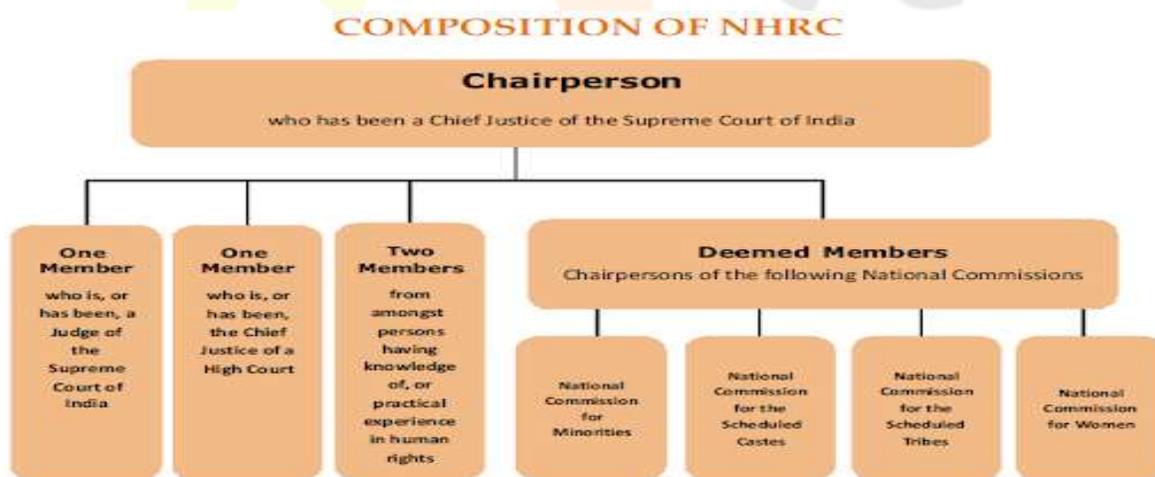
India has shown keen interest in establishing or strengthening national institution for the promotion and protection of human rights before the 3rd Committee of the General Assembly. Wherein it has emphasized the importance of the independence of such national institutions.

In early 1990s India felt the need of establishing a Commission as a positive response to unrest and violence in Punjab, Jammu & Kashmir, North-East and Andhra. In addition to that pressure from the foreign countries as well as from the domestic front tied the hand of government to do something. All this led, Government to enact a human Rights Commission.

The Human Rights Commission Bill was introduced in the Lok Sabha on May 14, 1992. The Bill was referred to the Standing Committee of the Parliament, however, due to the pressure from foreign countries and from the domestic front, the President of India on *September 28, 1993* promulgated an Ordinance for the creation of a National Commission on Human Rights (NCHR) and Commissions at State level. Accordingly, the National Human Rights Commission was established on *Oct. 12, 1993* and this is celebrated as **Foundation Day**. The Bill became an Act after receiving the assent of the President on *January 8, 1994* which is known as the Protection of Human Rights Act. Chapters II to IV of the Act, 1993 deals with the **National Human Rights Commission**.

A. Composition:

Chapter II of the Act deals with the Constitution of the National Human Rights Commission. Section 3 of the Act lays down that the Central Government shall constitute a body to be known as the '*National Human Rights Commission*' which shall have eight members and will be headed by a Chairperson who has been the former Chief Justice of the Supreme Court.



The Chairperson and the members shall hold office for a period of 5 years. They shall be eligible for re-appointment for another term²⁰. A person can serve at the Commission until the age of 70 years. The Chairperson or any other member of the Commission can be removed by the hand of President on ground of misbehavior or incapacity after the Supreme Court, on reference being made to it by president has on inquiry found charge to be true.

²⁰Sec.6

B. Powers and functions of commission:

1. The Commission can inquire *suomotu* or on a petition presented to it by a victim or any person on his behalf, into complaints of
 - (a) violation of human rights ; or
 - (b) negligence in the prevention of such violation by a public servant or authority.

The Commission has taken cognisance of the communal disturbances in Gujarat commencing on February 27, 2002 and its aftermath.

2. The Commission may intervene in any proceeding involving an allegation or charge of violation of human right pending before any court with the approval of such court.
3. The Commission has power to visit, after intimating to the Government, any jail or any other institution under the control of the Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon.
4. The Commission shall review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights, and shall submit a report regarding this to parliament.
5. The Commission will undertake and promote research in the sphere of human rights.
6. The Commission shall encourage the efforts of NGOs and similar institutions working in the field of human rights.
7. It shall spread human rights literacy among various sections of society and promote awareness for the protection of those rights through publications, the media, seminars and other available means.
8. It shall study the treaties and other international instruments on human rights and make recommendations for their effective implementation to government.
9. The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency that it cannot be waited till submission of the annual report.²¹
10. The Commission shall perform functions pursuant to the directions issued by the Supreme Court in exercise of the jurisdiction under Art. 32 of the Constitution.

The S.C. in *Premjit Kaur v. State of Punjab*²² stated that

'The Commission would function pursuant to the directions issued by this Court and not under the Act under which it is constituted. In deciding the matters referred by this Court, National Human Rights Commission is given a free hand and is not circumscribed by any conditions. Therefore, the jurisdiction exercised by the National Human Rights Commission in these matters is of a special nature not covered by enactment or law, and thus acts *sui generis*.'

²¹Sec.20

²²A.I.R. 1999 S.C. 340.

C. Procedure of filling application to NHRC:

There are 2 ways of filling application with NHRC :²³

- i. **Online Complaint with NHRC:** Firstly a victim has to visit “<http://164.100.51.57/HRCComplaint/pub/NewHRCComplaint.aspx>” to open the website of the National Human Right Commission and then go to complaints. Under complaints section, there is an option of complaint registration and by clicking that Online complain registration form will appear. Simply, fill the form and register it.
- ii. **Offline Complaint with NHRC:** National human right commission provide application form for complain on their website “<http://nhrc.nic.in/nhrc.htm>”. A victim just need to print the application form under complains. Fill the form and submit it to NHRC within the prescribed period of time by:
 - **By post:** National Human Rights Commission ManavAdhikarBhawan Block-C, GPO Complex, INA, New Delhi – 110023
 - **By fax:** (011) 23386521
 - **By email:** covdnhrc@nic.in (general)/ jrlaw@nic.in (for complaints)
 - Complaints can be made in the 24 hours mobile number of the Commission: +91 9810298900

D. Recommendations of the Commission:

The commission has submitted many recommendations over the year to central government and also to state governments. Some of the main recommendations are as:

- 1) It has recommended for the amendments to the Protection of Human Rights Act, 1993 to ensure more autonomy and power to the Commission so that it can grant relief to the victim or to his family members.
- 2) The Commission recommended for the ratification to the *Convention Against Torture and other forms of Cruel, Inhuman and Degrading Treatment or Punishment adopted by the United Nations in December, 1984 which came into force on June, 1987.*
- 3) The Commission recommended to educate the police. It recommended that serious action be taken on the *Second Report of the Police Reforms Commission, 1979* including those suggesting the removal of the investigative function of the police from political pressure.
- 4) Commission recommended that in order to make people more aware of their human rights, there is a need for the movement which can be bring into existence by a large number of NGOs.
- 5) That the constructive dialogue between policy makers, the security forces, and human rights proponents be sustained for it can contribute greatly to action in dealing with insurgency and terrorism.
- 6) Door darshan and AIR should increase their involvement in enhancing human rights awareness.
- 7) The Commission in its 1999-2000 report recommended that reports of the Commission are as soon as possible should place before the Parliament and same should be allowed to be released to the public.

²³<https://blog.iplayers.in/nhrc-complaint/>

8) It also recommended to improve certain aspects of the administration of criminal justice in India.

But sadly, no action has been taken on such recommendations till date; this is the misfortune of our nation that we have a tiger with tooth.

Conclusion:

The Constitution of India is inspired by the UDHR and accordingly it has incorporated certain civil and political rights as Fundamental Rights, and economic, social and cultural rights as Directive Principles of State Policy as much as possible while giving due regard to economic and social situation of nation. However, the Constitution, still not give recognition to certain important international human rights standards such as

- right to privacy,
- right to compensation,
- right to fair trial, right to dignity,
- right to livelihood,
- right to decent environment,
- right to found a family,
- right against inhuman and degrading treatment.

Although, by the way of judicial activism many of these has been incorporated in the constitution under Art.21 by an indirect mode, but still no written guarantee is there to ensure these rights.

Moreover, Chapter VI of the Act,1993 under Sections 30 and 31 makes the provisions for creation of *Human Rights Courts in each district*. The setting up of Human Rights Courts in every district of the country for the speedy trial of offences arising out of violation of human rights is a most spirited provision of the Act. **Section 30** of the Act provides that Human Rights Courts may be set up by the State Government, with the concurrence of the Chief Justice of the High Court, by notification, specifying for each district a Court of Session to be a Human Rights Court. **Section 31** of the Act provides for appointment of a Public Prosecutor or an advocate who has been in practice as advocate for not less than seven years for the purpose of conducting cases in the Human Rights Courts. Such a person shall be called a Special Public Prosecutor. But sadly, many districts in our nation does not have such courts in existence.

Also, there is no fixed legislation to guide that what cases should be dealt by these courts and what procedure should be followed. To remove such difficulties commission many time requested parliament to form a law on this issue , but they have turned deaf year to the issue.

No doubt, the NHRC has made an inquiry into 1000s of complaints of the violations of human rights, it has also investigated a number of serious cases of human rights violations, and it has submitted many reports to the Government, but the Commission has been least effective to protect human rights; *It is so because the Commission is simply an investigative and recommendatory body*. After making enquiry, it recommends to the appropriate authorities to take action against the person who has violated the human rights or to provide relief to the victim of the human rights violations.

Furthermore, the inquiry made by the Commission is not always impartial because of the fact that the Commission is not equipped with an independent investigative agency. Its own investigative wing is not at all effective to make investigations of numerous cases of human rights violations.

Suggestions:

To improve the situation of human rights in India it is the need of hour to take certain strong actions. Some of these are as:

1. Incorporation of more human rights in our constitution, in 1947 the Indian state was not economically strong to provide every human right facility to its citizens but now we have come too far and its needed now more than ever to include new human rights in part III of constitution.

2. Mandatory creation of separate Human Right Courts in every district and also for passing a legislation to the effect.
3. Rescinding, reservations made by India in many treaties which block the access of individual to an international body directly.
4. Improving criminal justice system of nation.
5. Work towards having a uniform civil code specially from women's and children's perspective to enable them to have equal rights irrespective of their religion to ensure a secular justice system.
6. Work towards time bound implementation of Right to Education Act with regulation to check private schools and to ensure that no unnecessary burden by way of excessive fees should be put on the shoulders of students.
7. Ratify all important treaties regarding human right with the true spirit of implementing them.
8. To spread the awareness especially in rural and indigenous places by camps, seminars, etc.

These are some suggestions if followed properly can change the aspect of human rights given at international level and their implementation in the Indian state.

