

Constitution of India & Human Rights

Dr Rambabu Thotakura

In Charge Department of Political Science, BOS CHAIRMAN V S UNIVERSITY, NELLORE D K
Govt. College for Women(A), Nellore, Andhra Pradesh, India-524003

Abstract

The Constitution of India serves as the primary legal framework for the protection of human rights in India, deeply influenced by the Universal Declaration of Human Rights (UDHR). It translates international human rights ideals into enforceable domestic law through a unique structure that balances individual liberties with social welfare. Part III of the Constitution enshrines Fundamental Rights, which are justiciable civil and political liberties (such as equality, freedom of speech, and the right to life) that protect citizens against state excesses. Complementing these are the Directive Principles of State Policy (Part IV), which, while non-justiciable, provide a moral and political mandate for the state to achieve socio-economic justice. Through proactive judicial activism, the Indian Supreme Court has further expanded these rights- most notably under Article 21- to include the right to privacy, education, and a clean environment. Ultimately, the Constitution acts as a "Social Document" designed to preserve human dignity and foster a just society through robust legal and institutional safeguards like the National Human Rights Commission (NHRC).

The core values of our constitutional philosophy indicated in the Preamble to the Constitution of India are 'dignity of the individual' and 'unity and integrity of the nation'. The two, obviously, co-exist, and are not incompatible. The message is clear. Every attempt must be made to strike a balance between the two in all state actions including legislation, its interpretation and implementation. This is the demand of the rule of law in the republican democracy. The Constitution of India by amendment of Article 359 expressly makes non-derogable Article 20 (protection against ex post facto penal law, double jeopardy and testimonial compulsion) and Article 21 (protection of life and personal liberty) even during national emergency. The Constitution of India respecting these basic human rights requires combating terrorism under the rule of law within the constitutional mandate.

The Constitution of India guarantees the Fundamental Rights in Part-III which include the right of equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and the right to constitutional remedies. Article 32 is the constitutional remedy in the form of original jurisdiction of the Supreme Court of India for the enforcement of these Fundamental Rights. This is the protection of the Supreme Court of India for the enforcement of these Fundamental Rights. This is the protection of individuals against invasion of their human rights. Part-IV of the Constitution contains Directive Principles of State Policy which are the principles fundamental in governance, to be observed by the State in the formulation of its policies. These include the duty of the State to secure a social order for the promotion of the welfare of the people, distributive justice, right to work, to education and social security, provision for just and humane conditions of work, promotion of interests of the weaker sections, duty to raise the level of nutrition and the standards of living and to improve public health, protection and improvement of environment, ecology and wild life etc., In

addition, the Fundamental Duties of every citizen covering a wide spectrum to strengthen the guarantee of Fundamental Rights is in Article 51A (Part IV A of the Constitution). In addition to Article 32 empowering the Supreme Court to enforce the Fundamental Rights, the High Court is empowered by Article 226 for the same purpose to exercise its writ jurisdiction. The primary duty of the higher judiciary to protect and enforce human rights is the constitutional mandate. Rule of law is a basic feature of our Constitution, as is judicial review.

Protection of Human Rights Act, 1993

The Protection of Human Rights Act, 1993 was enacted to provide for the constitution of National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto. 'Human rights' is defined in Section 2(1)(d) of the Act to mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. The functions of the Commission are enumerated in Section 12 which encompass a wide area to enable the Commission not only to enquire into the violations or negligence in prevention of violation of human rights but also to promote the human rights culture and perform any function necessary for the promotion of human rights.

Ever since its constitution in 1993, the National Human Rights Commission has been discharging a role complementary to that of the Supreme Court of India by performing those tasks which by their very nature the NHRC can perform better. e.g. monitoring any situation or functioning of an institution. The complementarity between these institutions has considerably improved the mechanism for the protection of human rights in the country, which is primarily a state responsibility.

The interpretation of the fundamental rights, particularly, Article 14 (right to equality) and Article 21 (right to life) by the Supreme Court, inter alia, by reading the requirements of directive principles into them, together with the impact of the Vishaka judgement enabling provisions in the international instruments being read into these guarantees has considerably enlarged the meaning and scope of human rights in India. The National Human Rights Commission also has interpreted its functions enumerated in Section 12 of the Act expansively to include therein monitoring of the functioning of the institutions of governance with a view to ensure better protection of Human Rights and to prevent their violation. The NHRC visualizes its role as that of a catalyst to improve the quality of governance with the firm belief that good governance in accordance with the Constitution and the rule of law alone can be effective for better protection of human rights. The linkage between the two is direct and clear.

The nature and extent of State's responsibility for the protection of human rights was indicated by the NHRC in its orders made in the case of recent Gujarat communal disturbances. The Commission observed:

"It is the primary and inescapable responsibility of the State to protect the right to life, liberty, equality and dignity of all those who constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts, or through abetment or negligence. It is a clear and emerging principle of human rights jurisprudence that the State is responsible not only for the acts of Vishaka Vs. State of Rajasthan, AIR 1997 SC3011

Its own agents, but also for the acts of non-state players acting within its jurisdiction. The State is, in addition, responsible for any inaction that may cause or facilitate the violation of human rights".

Linkage between Human Rights and Human Development

Emphasis on human dignity is laid not only in the UN Charter, the Universal Declaration of Human Rights and several other international covenants but also in the Constitution of India which mentions 'dignity of the individual' as a core value in its Preamble. The debate on the classification of human rights based on different generations of these rights is purely academic since all the must co-exist for full development of the human personality. Empowerment of the people through human development is the aim of human rights. The Human Development Index (HDI) is the new measure of development and it is said: "a nation's ability to convert knowledge into wealth and social good through the process of innovation is going to determine its future". There is now a paradigm shift towards emphasis on intangible intellectual assets as the index of wealth. That is why the 21st century is considered to be the century of knowledge. Economics of knowledge is the methodology of improving governance through human development knowledge has, therefore, come to be identified not only as a significant form of wealth but also as power. Acquiring knowledge and making its profitable use to convert it into wealth and social good has to be the goal. Human development must be linked with human rights to achieve this end.

The Human Development Reports in the last decade have analyzed and focused on the new vistas of human rights while integrating human rights with human development as the true measure of progress. The four essential components of human development paradigm indicated in the Human Development Reports are: Productivity- economic growth with people's participation in income generation; Equity – people's access to equal opportunities; Sustainability – access to opportunities must be not only for the present generations but also for future generations to all forms of capital i.e., physical, human environmental; and Empowerment – opportunity with developed capabilities of all people to participate in policy and decision making processes that shape and affect their lives.

Conclusion

It is, therefore clear that the essence of good governance is the respect for human rights of every individual so that the human resources are augmented by full development of each individual with his empowerment. Human Rights and human development share a common vision and serve a common purpose. The dignity of the individual assured in the Constitution along with unity and integrity of the nation emphasizes in the Preamble to the Constitution. The provisions in the Constitution indicated above, particularly the Directive Principles of State Policy determine the nature of polity in which dignity of the individual is central and the focus of governance. Elaboration of the nature of constitutional governance envisaged and its modalities would follow.

References

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