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The Indian Version of Human Rights

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ABSTRACT

Human rights is Rights inherent to all human beings, regardless of race, religion, ethnicity, nationality, gender, sexual orientation, disability status or any other characteristic. India is a democratic country that guarantees certain rights to its citizens under the Constitution. . The Constitution of India is the supreme law of the land and it guarantees certain rights to its citizens. These rights include the right to equality, freedom of speech and expression, freedom of religion, and the right to life and liberty. This research paper will take you to a journey of human rights in india which will include historical developmet, the laws protecting human right,, NHRC establishment and its purpose.This paper will also tell people's role in human rights protection.

Keywords- human rights, constitution, fundamental rights, NHRC, Article 21.

II. INTRODUCTION

India, the world's largest democracy, is known for its diverse culture, ancient civilization, and rich history. However, despite the country's remarkable progress, India has struggled with numerous human rights issues that have been a matter of concern for the international community.

Human rights are basic rights and freedoms that are believed to belong to every person, regardless of their nationality, gender, religion, or any other status. These rights are fundamental to all human beings and are considered essential for individuals to live with dignity, freedom, equality, justice, and peace.

Human rights include civil and political rights, such as the right to life, freedom of expression, and the right to a fair trial. They also include economic, social, and cultural rights, such as the right to education, healthcare, and adequate living standards.

Human rights are protected by international law, which includes treaties, conventions, and customary international law. Governments have a responsibility to protect and promote human rights, and individuals can hold their governments accountable for human rights violations

India has a strong legal framework for protecting human rights. The Constitution of India is the supreme law of the land and it guarantees certain rights to its citizens. These rights include the right to equality, freedom of speech and expression, freedom of religion, and the right to life and liberty.

Part III of the Constitution of India (1949),reads from art 12-35A the provisions of fundamental rights. Article 12 and 13 doesn't include fundamental rights, Article 12 defines state and Article 13 says about laws inconsistent with or in derogation of the fundamental rights. With Article 14 the fundamental right starts in The Constitution of India. There are 6 kinds of fundamental rights(originally 7) -

- Right to Equality(Art.14-18)
- Right to Freedom(Art.19-22)
- Right against Exploitation(Art.23-24)
- Right to Freedom of Religion(Art.25-28)

- Cultural and Educational Right(Art.29-30)
- Right to Constitutional Remedies(Art.32)
- * *The Right to Property was repealed in the year 1978 by 44th amendment. It was defined under article 31.*

Over the years, human rights violations have been reported in several parts of India. These issues have been a source of concern for both the government and the international community. From discrimination based on caste, religion, or gender to police brutality, corruption, and lack of access to basic needs like healthcare and education, there are numerous issues that need to be addressed to ensure that every individual in India can live a life of dignity and respect.

The government has taken several steps to address human rights issues in the country. However, there is still a long way to go to ensure that every citizen of India can enjoy their fundamental rights and freedoms without fear of discrimination or prejudice.

* Before we move further i would like to point out the difference between human rights and fundamental right so that people does not get confuse between these two-

Human rights are a set of basic and universal rights and freedoms that are inherent to every individual, regardless of their nationality, ethnicity, race, gender, religion or any other status. These rights are recognized globally and are protected by international law. They include, but are not limited to, the right to life, the right to freedom from torture and slavery, the right to education, the right to freedom of thought and expression, the right to participate in cultural life, and the right to work and receive fair pay.

Fundamental rights, on the other hand, are specific rights that are recognized and enshrined in a country's constitution. They are the rights that are deemed essential for the development and progress of an individual and the society at large. In India, the Constitution

guarantees six fundamental rights to its citizens: the right to equality, the right to freedom, the right against exploitation, the right to freedom of religion, cultural and educational rights, and the right to constitutional remedies. These rights are protected by law and can be enforced by the courts.

While human rights are universal and applicable to all individuals, regardless of their nationality or citizenship, fundamental rights are specific to the country in which they are recognized and protected. They are an important aspect of a country's legal and political system and provide a framework for the protection and promotion of individual rights and freedoms. Together, human rights and fundamental rights play a crucial role in the protection and promotion of human dignity, equality, and justice.

III. HISTORY OF HUMAN RIGHTS IN INDIA.

The history of human rights in India is a long and complex one. The country has a rich cultural heritage that places a high value on the dignity and worth of every individual. This is reflected in the ancient Indian texts and philosophical traditions that emphasize the importance of treating others with respect and compassion.

Human rights are not a foreign notion to Indian political philosophers and thinkers. The idea predates even ancient civilisation.

The Dharma principle served as the cornerstone of ancient Indian law. The epics Ramayana and Mahabharata teach us that Dharma was established to promote the welfare of all animals and to prevent them from harming one another. In The Bhagwad Geeta, righteousness is referred to be the core of Dharma. Dharma is referred to in the Upanishads as the universe's fundamental principle. VasudhaivKutumbakam is a notion that is mentioned in the Vedas and Smritis (the whole world as one family). The equality and dignity of humans are a central theme of all four Vedas.

A number of social, cultural, political, and religious rights were present in the pre-mughal era, but the Hindu population suffered greatly with the arrival of the Mughals. Human rights become obscured by darkness. Yet, with the advent of Akbar's (1526–1605) reign, social, religious, and political rights were once more given enormous consideration. He attempted to promote secularism and religious tolerance in his Din-E-Ilahi (divine-religion) theological doctrine. Similar to this, different religious movements like as Bhakti (Hindu) and Sufi (Islamic) contributed significantly to the development of human rights, which were occasionally suppressed by other Mughal Empires such as Aurangzeb, Babar, Humayun, etc.

During the colonial period, India was ruled by the British, who were responsible for numerous human rights violations. In addition to exploiting India's resources and people, the British also implemented policies that discriminated against certain groups based on their caste, religion, and gender. These policies led to widespread poverty, inequality, and social unrest.

The Indian independence movement, led by figures such as Mahatma Gandhi, was driven by the desire to secure fundamental rights and freedoms for all Indians. Gandhi's philosophy of non-violent resistance inspired millions of people to join the struggle for independence and helped to create a sense of national unity among the diverse peoples of India.

After independence, India adopted a Constitution that enshrines fundamental rights and freedoms. The Constitution of India is the primary source of human rights in the country. It enshrines several fundamental rights and freedoms that are essential for every citizen to live with dignity and respect. These include the right to life, liberty, and equality, as well as the right to freedom of speech and expression, freedom of religion, and freedom of assembly. The Constitution also prohibits discrimination on the basis of caste, religion, gender, or place of

birth.. In addition to the Constitution, India is also a signatory to several international human rights treaties and conventions. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, among others. As a signatory to these treaties, India has committed to upholding and protecting the basic human rights of its citizens.

III. THE LAWS PROTECTING HUMAN RIGHTS

The Constitution of India is perhaps the most significant document that protects human rights in the country. The Constitution guarantees a range of fundamental rights to Indian citizens, including the right to equality, freedom, and dignity. These rights are enshrined in various articles of the Constitution, such as Article 14 (right to equality), Article 19 (right to freedom of speech and expression), and Article 21 (right to life and personal liberty).

Apart from the Constitution, India also has several laws that specifically address human rights violations. The Protection of Human Rights Act, 1993, for instance, provides for the establishment of the National Human Rights Commission (**NHRC**) and state human rights commissions to investigate human rights violations. These commissions have the power to inquire into complaints of human rights violations and recommend appropriate remedial measures.

The Right to Information Act, 2005, is another law that seeks to promote transparency and accountability in governance. The Act empowers citizens to seek information from public authorities and provides for penalties in case of non-compliance. This law has been instrumental in promoting transparency and reducing corruption in the country.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is a law that seeks to prevent atrocities against members of scheduled castes and tribes. The Act provides for strict punishments for offenses such as

atrocities, harassment, and discrimination against members of these communities. This law has played an important role in protecting the rights of marginalized communities in India.

The Protection of Women from Domestic Violence Act, 2005, is another law that seeks to protect women from domestic violence. The Act provides for a range of measures to prevent domestic violence, such as protection orders, residence orders, and monetary relief.

India has a rich history of landmark cases that have played a pivotal role in the protection and promotion of human rights. Here are a few examples:

Maneka Gandhi v. Union of India (1978)

The case of Maneka Gandhi v. Union of India was a landmark judgment that expanded the scope of Article 21 of the Indian Constitution. The Supreme Court of India held that the right to life and personal liberty under Article 21 is not limited to mere animal existence but includes the right to live with dignity. The court also established that the procedure established by law must be just, fair, and reasonable.

Vishaka v. State of Rajasthan (1997)

The Vishaka case was a watershed moment in India's fight against sexual harassment in the workplace. The Supreme Court of India laid down guidelines for preventing sexual harassment at the workplace and also recognized sexual harassment as a violation of a woman's fundamental rights under Articles 14, 19, and 21 of the Indian Constitution.

Naz Foundation v. Government of NCT Delhi (2009)

In the Naz Foundation case, the Delhi High Court decriminalized homosexuality in India. The court held that Section 377 of the Indian Penal Code, which criminalized consensual sexual acts between adults of the same sex, was unconstitutional and violated the right to privacy and dignity guaranteed under Article 21 of the Indian Constitution.

Puttaswamy v. Union of India (2017)

The Puttaswamy case was a landmark judgment that recognized the right to privacy as a fundamental right under the Indian Constitution. The Supreme Court of India held that the right to privacy is an intrinsic part of the right to life and personal liberty guaranteed under Article 21 of the Indian Constitution.

These landmark cases have played a crucial role in shaping India's human rights landscape and have set important precedents for the protection and promotion of human rights in the country.

IV. NHRC(National Human Rights Commision)

The National Human Rights Commission (NHRC) is an independent statutory body that was established in India in 1993 under the Protection of Human Rights Act. The main objective of the NHRC is to protect and promote human rights in the country by investigating complaints of human rights violations and recommending remedial measures. The NHRC has the power to inquire into complaints of human rights violations by both government and non-government entities including the police, the armed forces, and other government agencies. It can also recommend compensation for victims of human rights violations and has the power to recommend prosecution of those responsible for such violations.

The establishment of the NHRC was a critical step towards strengthening India's legal framework for the protection and promotion of human rights. The NHRC is a key institution that plays an important role in safeguarding the rights of Indian citizens. The Commission is responsible for investigating a wide range of human rights abuses, including police brutality, custodial deaths, torture, extrajudicial killings, violations of the rights of women, children, and marginalized communities.

Over the years, the NHRC has played a crucial role in promoting and protecting human rights in India. The Commission has investigated

several cases of human rights violations and has recommended measures to prevent such violations from occurring in the future. The NHRC has also been instrumental in raising awareness about human rights issues in the country and in advocating for the rights of vulnerable and marginalized communities.

In addition to investigating complaints of human rights violations, the NHRC also conducts research, studies, and training programs related to human rights. The Commission has collaborated with several organizations, both in India and abroad, to promote and protect human rights. The NHRC has also established state human rights commissions in different states of India to promote human rights at the grassroots level.

SHRC (State Human Rights Commission)-

By enacting various measures, the State Human Rights Commission safeguards human rights and prevents abuses. It has been given specific abilities to easily complete the work at hand.

- The State Human Rights Commission is given complete authority over the entire procedure.
- It has all of the same authorities as a civil court and conducts judicial processes in the same manner.
- The SHRC has been given the ability to request information from the Governor of the State or any other authority regarding the matter, as well as to request compensation for the victim.
- If a directive or order is sought, it may also approach the Supreme Court or the State High Court.

To this day, 26 states have established State Human Rights Commissions in their respective states and are actively fighting to preserve human rights.

V. OUR DUTY

Human rights are fundamental to all individuals and are considered essential for living with dignity, freedom, equality, justice, and peace. While the government has a responsibility to protect and promote human rights, individuals also play a crucial role in protecting and promoting human rights in India.

One way to protect human rights is to educate oneself about human rights and the laws that protect them. Individuals can start by reading about the Constitution of India, the Protection of Human Rights Act, and other relevant laws. This will give individuals a better understanding of their rights and the legal framework for protecting them.

Another important step is to speak out against human rights violations. If one witnesses a human rights violation or knows of one happening, they should speak out against it. They can report it to the appropriate authorities, such as the police or the National Human Rights Commission. Individuals can also raise awareness about human rights issues by sharing information on social media or talking to people in their community.

Volunteering with human rights organizations is also an effective way to protect and promote human rights. There are several organizations in India that work to protect and promote human rights, and individuals can consider volunteering with one of these organizations or donating to support their work. They can also participate in rallies and demonstrations to raise awareness about human rights issues.

Supporting marginalized communities is another important way to protect human rights. Discrimination based on caste, religion, or gender is still a major human rights issue in India. Supporting marginalized communities and advocating for their rights is an important way to protect human rights. Individuals can do this by supporting businesses owned by members of marginalized communities, participating in rallies and demonstrations, and

educating others about the importance of equality and justice for all.

Holding the government accountable is also vital in protecting and promoting human rights. Governments have a responsibility to protect and promote human rights, and citizens can hold them accountable for human rights violations by voting in elections, writing to their elected representatives, and participating in public forums. By doing so, citizens can help to ensure that their government is taking steps to protect and promote human rights for all citizens.

In conclusion, individuals can contribute to the protection and promotion of human rights in India by educating themselves about human rights, speaking out against human rights violations, volunteering with human rights organizations, supporting marginalized communities, and holding the government accountable. Human rights are universal and apply to everyone, regardless of their nationality, ethnicity, religion, or any other status. Therefore, it is crucial to raise awareness and take action to protect and promote human rights for all.

VI. CONCLUSION

India has a strong legal framework for protecting human rights. Its Constitution guarantees fundamental rights and freedoms, and the country has several laws that specifically address human rights violations. The National Human Rights Commission and State Human Rights Commissions are actively working to safeguard human rights and prevent abuses. While the government has a responsibility to protect and promote human rights, every individual also has a crucial role to play in protecting and promoting human rights in India. By educating themselves about human rights, speaking out against human rights violations, volunteering with human rights organizations, supporting marginalized communities, and holding the government accountable, individuals can contribute to the

protection and promotion of human rights in the country. Human rights are universal and apply to everyone, regardless of their nationality, ethnicity, religion, or any other status, and it is crucial to raise awareness and take action to protect and promote human rights for all.

REFERENCE LIST-

A. Internet

- <https://www.toppr.com/guides/civics/the-indian-constitution/rights-and-fundamental-rights/>
- <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights>
- <https://www.drishtias.com/to-the-points/Paper2/human-rights-22>
- https://www.ihra.co.in/uploads/pdf/Human_rights_law_in_India.pdf
- <https://www.iosrjournals.org/iosr-jhss/papers/Vol.%2022%20Issue6/Version-9/A2206090106.pdf>
- <https://www.legalserviceindia.com/legal/article-4430-the-history-and-development-of-human-rights-in-india-comparative-study-between-india-and-usa-s-human-rights-laws.html>
- https://www.mha.gov.in/sites/default/files/Protection%20of%20HR%20Act1993_0.pdf
- <https://www.legalservicesindia.com/law-india/Human-Rights-law-in-India.htm>
- <https://nhrc.nic.in/>
- <https://byjusexamprep.com/upsc-exam/state-human-rights-commission-shrc>

B. Cases

- Maneka Gandhi v. Union of India, AIR (1978) SC 597.
- Vishaka & Ors. v State of Rajasthan & Ors. (1997) 6 SCC 241.
- Naz foundation v government of nct delhi, 160 Delhi Law Times 277.
- Justice K.S. Puttaswamy vs. Union of India (2017) 10 SCC 1.

C. Constitution

- INDIAN CONST art. 12-35A (Part-III)