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FROM PRINCIPLES TO PROGRESS: HUMAN RIGHTS FRAMEWORKS AND SOCIAL TRANSFORMATION

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Abstract

Human Rights are inherent and inalienable rights which are available to all human beings just because they are humans. These rights are universally recognized irrespective of any race, nationality, religion, sex, ethnicity, language or any other status. Since the adoption of Universal Declaration of Human Rights on 10th December 1948, the Human Rights have been reframed and applied so as to suit the dynamism of the society. They are reshaped in order to bring equality and fairness among various classes of society. The main target is often been the vulnerable group who face the risk of social exclusion and discrimination. This paper analyses the definition of human rights, its role in bringing social change, the historical and constitutional provisions of human rights, the role of government and civil society in promoting human rights and the challenges faced in the present context of ensuring human rights protection

Key Words: Human Rights, Social Transformation, Equality, Freedom, Non-discrimination

1.1 Introduction

Human Rights have always been the central to the development of concepts like equality, justice and inclusivity in society. Every person enjoys human right which also depends upon respecting each other's rights. This also means that human rights give us the responsibility and duty towards other person specifically and the human community as a whole. Every individual has the responsibility of exercising their rights considering the rights of others. This idea about rights, responsibility and duty is not of recent origin and it has always been the part of civil society since time immemorial. At the end of World War II, there has been a unified effort by the nations worldwide to bring universal recognition for the rights of people and to set out standards for their promotion and protection.

Human Rights as enshrined under the Universal Declaration of Human Rights (UDHR) is a milestone text in the history of human rights

which has outlined fundamental human rights establishing set of common standards for all people in the world. It has guided international efforts in post-conflict reconstruction, protection of refugees and sustainable development. Global problems like climate change, genocide, environmental pollution, global warming and pandemics are shaped by the commitments to human rights. The human rights encompass economic, social and cultural rights like right to education, food, healthcare etc. these rights create an obligation on state to reduce inequality and poverty. Concepts like universal education, social security schemes and affirmative action policies are often inspired by human rights principles.

1.2 Historical development of Human Rights

The historical development of human rights can be traced from the city of Babylon, where the Cyrus the Great freed the slaves recognizing their right to religion and establishing racial equality. These rights were recorded in Akadian

language on a baked clay cylinder known as Cyrus cylinder. Even the Magna Carta signed by King John of England sets out the idea of rights that led to the rule of constitutional law. The petition of rights (1628), US Declaration of Independence (1776), the constitution of USA (1787), the Bill of Rights (1791), Declaration of the man and of the citizens (1789) and the Geneva Convention (1864) records the modern human rights development leading to the road map guaranteeing the rights to every individual under UDHR.⁷⁸⁴ The post war treaties like International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 along with UDHR form the International Bill of Human Rights. A new dimension of human rights arose with the movements like gender equality, child rights, LGBTQ rights, indigenous rights, rights of aged people and disability rights.

In India, the evolution of human rights can be traced back to ancient times with the texts like the Vedas, Upanishads and Manusmriti emphasizing on the Dharma, Compassion and Justice. The Islamic rulers and even the Mughals promoted the ideas of justice, religious tolerance and welfare policies though they were not applied consistently. The modern shape for human rights was only given under the British Rule through introducing several laws and regulations to protect the rights of people under their rule. These laws were however discriminatory and applied unequally. The Indian leaders like Raja Ram Mohan Roy, Dr. B.R Ambedkar and Mahatma Gandhi fought against freedom, caste discrimination, child marriage, women rights and untouchability. Government of India Act, 1919 and 1935 advocated for the expansion of civil liberties and Nehru Report of 1928 was considered to be the first document proposing a Bill of Rights for Indians. It was only after adopting Indian Constitution on 26th November 1949, the human rights found its place in Part III and Part IV

ensuring various rights, freedoms and duties for citizens. It also provides remedies in the form of writs in case of violations of fundamental rights and authorizes the High Courts and Supreme Court to entertain such applications. Even the provisions of PIL ensures that justice is accessible to all. A significant progress has been made in India embedding the rights into the legal and political framework but still efforts are needed to bridge the gap between law and society.

1.3 Definition of Human Rights and Constitutional Provisions

Human Rights have been defined in varied forms as they are the rights available every human being and rooted in the idea of human dignity, equally applied and value of every individual. It ensures freedom, justice and peace in the world.⁷⁸⁵

The Protection of Human Rights Act, 1993 also defines Human Rights as rights relating to life, liberty, equality and dignity of individuals.⁷⁸⁶

These rights are universally applicable and also specifically recognized under the constitution of respective States. The Indian Constitution enshrines the provisions of human rights both under Part III and Part IV of the Constitution which are adopted as Civil and Political Rights⁷⁸⁷ and Economic, Social and Cultural Rights under UDHR.

1.4 Challenges in Promoting Human Rights

The challenges to human rights can be viewed from many dimensions considering the socio-economic and political conditions on one hand and the religious and legal conditions on the other hand. The key challenges are deeply rooted in the system of caste, discrimination based on religion and gender, lack of access to basic needs and awareness about rights, restrictions on rights, enforcement or implementation of laws and societal norms. Sometimes it is also difficult to ensure basic

⁷⁸⁵ Preamble of UDHR

⁷⁸⁶ § 2(d)

⁷⁸⁷ Art 14-32 (Indian Constitution)

⁷⁸⁴ Adopted by UN General Assembly on 10th December 1948

human rights like health care, education etc. in regions with widespread poverty. Issues like child labour/forced labour exist in countries with low income and weak labour protection. In countries which are prone to conflicts, human rights abuses are quite common. Offences like torture, rape and killings are more in such regions. War displacements or violence often create refugee crises and rights like shelter, education and safety of people are unmet. There are also some traditions and religious practices which conflict with international human rights standards like rights of women, privacy rights, LGBTQ community rights etc. These problems arise due to the cultural differences. These challenges are of course addressed to some extent through the intervention of judiciary and also by the legislature by passing suitable laws for promoting and protecting human rights.

1.5 Role of Judiciary and Legislature in bringing Social Transformation through Human Rights

Human Rights have always played a role in bringing social transformation and it has been instrumental in addressing various forms of discrimination, inequality and injustice caused to individuals. In bringing social transformation judiciary has addressed various issues of human rights and strived to promote equality, liberty, non-discrimination,⁷⁸⁸ empowered marginalized group,⁷⁸⁹ recognized labour rights,⁷⁹⁰ ensured freedom of speech and expression,⁷⁹¹ right to education, right to health,⁷⁹² access to justice and legal aid,⁷⁹³ right to environment and social responsibility etc.⁷⁹⁴ The contribution in this regard is distinct but they are interdependent to each other. It has been a way forward for shaping the legal and moral framework of present society. through Public Interest Litigation (PIL) various issues affecting the marginalized sections of the

society is addressed and has often enforced socio- economic rights. The courts have also taken proactive steps to initiate and bring the social reforms. These decisions have tended to shift the societal attitudes towards reform. The Apex court has also taken initiative to uphold the religious, ethnic, gender and minority rights thereby ensuring equality and justice for all.

The legislature too has played a pivotal role in protecting the human rights and bring about social transformation. It has institutionalized social reforms through comprehensive legislation. It reflects the will of the people and can bring change by forming committee, set reform through debating rights-based policies. It has often ensured that rights reflect contemporary values and needs. Laws relating to **Protection of Women from Domestic Violence Act, 2005** and the **Sexual Harassment of Women at Workplace Act, 2013**; The **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**; The **Right to Education Act (2009)**, **Equal Remuneration Act, 1976**; **Legal Services Authorities Act, 1987** and even the **National Health Policy, 2017** have been the driving force in bringing social transformation. The legislature has highlighted the human rights violations and hold executive accountable in case of failure to address the issue. The elected representatives also play an important role in shaping public discourses like gender justice, freedom of speech and expression and secularism. The legislature creates the framework for human rights protection, whereas it is the judiciary which ensures fair application of these rights in order to render justice. Legislations like **SC/ST Act, 1989**; **Right to Education Act, 2009** has always been strengthened through judicial interpretation. This balancing of law-making process and interpreting process is an essential component for social transformation.

1.6 Suggestions and Conclusion

Human Rights are the powerful tool for social transformation. They shape justice, equality and

⁷⁸⁸ Kesavananda Bharathi v State of Kerala, AIR 1973 SC 1461

⁷⁸⁹ Navtej Singh Johar V Union of India, AIR 2018 SC 4321

⁷⁹⁰ Vishaka V State of Rajasthan, (1997) 6 SCC 241

⁷⁹¹ K.S Puttaswamy V Union of India, AIR 2017 SC 4161

⁷⁹² Paschim Banga Khet Mazdoor Samity V State of West Bengal, (1996) AIR SC 2426

⁷⁹³ Hussainara Khatoon v Home Secretary, State of Bihar, 979 SCR (3) 532

⁷⁹⁴ M.C Metha V Union of India, AIR 1987 SC 965

progress in society. Over the years, there has been human rights movement which have facilitated progress in various areas, right from gender equality to protection of environment. The legal reforms, the legislature and judiciary have brought realization of these rights, reshaped them and created inclusive and equitable society. But still the continued efforts of civil society and government is needed to address these issues so that they can be made more suitable for changing societal norms. Even the media can also be a human rights watchdog. It can expose injustice, pressure authorities and mobilize the public opinion on violations of human rights and create awareness among public. Expanding access to legal aid in case of violations of rights and initiating PIL in case of injustice can promote social justice. In order to increase transparency, enhance global advocacy and initiate grassroots movements, digital platforms can be used to document and report human rights abuses. In order to ensure timely action on violations of rights and prevent impunity statutory organs like state human rights commission and National Human Rights Commission should be strengthened. To promote awareness at young age, to build tolerance, empathy and civic responsibility in young minds, human rights education should be part of school and college curriculum. Government should strive to align policies like education, gender equality and health care in consonance with UN Sustainable Development Goals. To build a holistic ecosystem for rights protection and reform collaboration among judiciary, legislature, civil society and other bodies is necessary. It is only through these initiatives through which India can truly be a democratic nation which imbibes the idea of secularism in its constitution.

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