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DEMYSTIFYING THE PROTECTION OF HUMAN AND CIVIL RIGHTS AT A GLOBAL LEVEL

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ABSTRACT

Human rights are inherent rights and freedoms that belong to every individual by virtue of their humanity. They are universal, indivisible, and inalienable, meaning they apply to all people, cannot be taken away, and are interrelated and interdependent. Human rights are based on the principles of dignity, equality, and non-discrimination. However, the level of protection and enforcement of human rights can vary within countries, depending on various factors such as political will, societal attitudes, and the effectiveness of institutions. In some countries, human rights may face challenges due to ongoing conflicts, authoritarian regimes, or lack of resources for enforcement. Additionally, some countries may be criticized for their human rights records, as international pressure and advocacy play a role in addressing such issues on the global stage.

As for India it's important to note that the Indian government has taken steps to address some of these concerns and has established institutions such as the National Human Rights Commission and various legal frameworks to safeguard human rights. However, effective implementation, ensuring accountability, and addressing gaps and challenges in protecting and promoting human rights remain ongoing tasks for India. This article explores the importance of protecting human rights, key international instruments, ongoing challenges, and the collective efforts required to build a more just and inclusive world.

KEYWORDS: Human Rights, Civil Rights, Legal Arena, Protection, Exploitation

Introduction

In today's times the protection of human and civil rights of the citizens has become imperative and these thoughts of Elie Wiesel "Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant."¹ lay absolute emphasis and very- well establish the actual motive behind all the institutions set up to protect human and civil rights around the

globe. In the decades since the adoption of Universal declaration of Human Rights in 1948², human rights have become more recognized and guaranteed across the globe.³ adopted in 1789, by France's National Assembly, represents one of the basic charters of human liberties, containing the principles that inspired the French Revolution and forms the foundation of Human Rights at the global level. It further evolved with the introduction of the first three Geneva Conventions⁴ and the Hague

²Universal Declaration of Human Rights (1948)

³ Marquis de La Fayette The Declaration of the Rights of Man and of the Citizen, (1789)

⁴ International Committee of the Red Cross (2021) Updated commentary brings fresh insights on continued relevance of Geneva Conventions for treatment of prisoners of war, International Committee of the Red Cross. Available at: <https://www.icrc.org/en/document/updated-commentary-third-geneva-convention> (Accessed: 01 July 2023).

¹ A quote from the night trilogy (no date) Goodreads. Available at: <https://www.goodreads.com/quotes/99574-we-must-take-sides-neutrality-helps-the-oppressor-never-the> (Accessed: 01 July 2023).

Conventions⁵ expressing the deep concern of the public opinion and latest with the adoption of Universal Declaration of Human Rights.

The protection of human rights is a fundamental aspect of ensuring dignity, equality, and justice for all individuals around the world. Human rights encompass a broad range of principles and freedoms that are inherent to every human being, regardless of their nationality, ethnicity, gender, religion, or social status. While progress has been made, numerous challenges persist in safeguarding and promoting human rights on a global scale.

Importance of Human Rights

Human rights serve as a foundation for a just and equitable society. They encompass civil, political, economic, social, and cultural rights, protecting individuals from discrimination, torture, arbitrary detention, slavery, and other forms of human rights violations. Upholding human rights is crucial to fostering democracy, sustainable development, peace, and social cohesion. It empowers individuals, promotes diversity, and ensures that no one is left behind. They form and recognize the intrinsic worth and dignity of every human being, affirm that every individual has inherent value and should be treated with respect and fairness. Further, it safeguards individual freedom and autonomy. They protect people's rights to express themselves, participate in decision-making processes, and pursue their own goals and aspirations. It promotes equality and prohibits discrimination. They ensure that all individuals are entitled to the same opportunities, benefits, and protections, regardless of their background or characteristics. While providing a framework for the rule of law and holding governments and institutions accountable for their actions. They establish legal protections and mechanisms to prevent abuse of power and ensure access to justice. Hence providing a common set of principles and standards that guide the

international community in addressing global challenges. They form the basis for international treaties, agreements, and institutions that promote cooperation and solidarity. It plays a crucial role in protecting vulnerable groups, such as children, women, refugees, persons with disabilities, and marginalized communities and ensure their equal treatment, access to justice, and protection from discrimination and exploitation. They reflect fundamental humanitarian values, including compassion, empathy, and respect for human life and remind us of our shared humanity and the need to promote and protect the rights of all individuals. Overall, human rights are essential for the promotion of justice, equality, and human dignity, and they form the foundation of a just and inclusive society.

Hinderance to Human Rights

Despite international commitments and legal frameworks, the protection of human rights faces persistent challenges. Some of the key issues include lack of Awareness as masses are unaware of their rights or the mechanisms available for seeking redress when their rights are violated. There is Discrimination based on factors such as race, gender, religion, or sexual orientation that continues to undermine the enjoyment of human rights for many people worldwide. Structural inequalities and socio-economic disparities also pose significant challenges. Political instability like Armed conflicts, political unrest, and fragile governance systems often lead to widespread human rights abuses. Civilians, especially vulnerable groups such as women, children, and refugees, bear the brunt of such violations⁶. The restriction of freedom of expression, assembly, and association stifles democratic processes and curtails the ability of individuals to advocate for their rights.

⁵ Hague conventions of 1899 and 1907 (2023) Wikipedia. Available at: https://en.wikipedia.org/wiki/Hague_Conventions_of_1899_and_1907 (Accessed: 01 July 2023).

⁶ SNHR's 12th Annual Report: Most notable human rights violations in Syria in 2022 [en/ar] - syrian arab republic, ReliefWeb (2023), <https://reliefweb.int/report/syrian-arab-republic/snhrs-12th-annual-report-most-notable-human-rights-violations-syria-2022-enar> (last visited Jul 1, 2023).



Current laws in different countries

The laws and protections for human rights vary from country to country, as they are typically based on each nation's constitution, domestic legislation, and adherence to international human rights treaties. While there are some common themes across countries, the specific laws and mechanisms for protecting human rights can differ significantly.

In the United States, the protection of human rights is primarily governed by the U.S. Constitution and the Bill of Rights⁷. These foundational documents guarantee fundamental rights such as freedom of speech, freedom of religion, due process of law, and protection against cruel and unusual punishment. The U.S. also has federal laws, like the Civil Rights Act of 1964⁸ and the Americans with Disabilities Act⁹, which address issues of discrimination and equal protection. While the UK does not have a single written constitution but instead relies on a combination of statutes, common law, and international human rights treaties to protect human rights. The Human Rights Act 1998¹⁰ incorporates the European Convention on Human Rights (ECHR)¹¹ into domestic law, allowing individuals to seek redress for human rights violations in domestic courts. Germany protects human rights through its Basic Law (Grundgesetz)¹². The Basic Law includes provisions on human dignity, personal freedoms, equality, and access to justice. The Federal Constitutional Court has the authority to review laws for their compatibility with the Basic Law and the ECHR.

The Constitution of South Africa, adopted in 1996, enshrines a wide range of rights, including social and economic rights. The South African Human Rights Commission is an independent institution that promotes, protects, and monitors human rights in the country. While

Australia's human rights framework is primarily based on common law and legislation. The Australian Human Rights Commission¹³ plays a role in promoting and protecting human rights, and there have been discussions about incorporating a bill of rights at the federal level.

On the other hand, India's Constitution includes a comprehensive set of fundamental rights, known as Part III of the Constitution¹⁴, which provides protections such as the right to equality, freedom of speech, and the right to life and personal liberty. The judiciary has played a significant role in interpreting and enforcing these rights.

It's important to note that the level of protection and enforcement of human rights varies within countries, depending on various factors such as political will, societal attitudes, and the effectiveness of institutions. In some countries, human rights may face challenges due to ongoing conflicts, authoritarian regimes, or lack of resources for enforcement. Additionally, some countries may be criticized for their human rights records, and international pressure and advocacy play a role in addressing such issues on the global stage.

Is the World Drifting away from its goal?

But as we hit the milestone commemorating the 75th anniversary of the declaration on 10th December, 2023¹⁵ we must brood over the possibility of drifting away from the ultimate goal, for instance the country of Russia which had passed a law establishing a "human rights ombudsman"¹⁶, a position that is provided for, in Russia's constitution and a history of Presidential Human Rights Commission, which were some of the major steps taken in the history of Russia for the protection of rights of the citizens. The country is now witnessing a subdued phase with respect to the rights of the

¹³ Australian Human Rights Commission Act, 1986

¹⁴ INDIA CONST. (1947)

¹⁵ *Human Rights Day* (no date) *United Nations*. Available at: <https://www.un.org/en/observances/human-rights-day> (Accessed: 01 July 2023).

¹⁶ *European Ombudsman*. Available at: <https://www.ombudsman.europa.eu/en/speech/en/4926> (Accessed: 01 July 2023).

⁷ CONSTITUTION OF US, 1789

⁸ Civil Rights Act, 1964, 1964 (U.S.A)

⁹ Americans with Disabilities Act, 1990, 1989 (U.S.A)

¹⁰ The Human Rights Act, 1998

¹¹ European Convention on Human Rights, 1950

¹² The Basic Law (Grundgesetz), 1949

citizens, these violations which are committed by state security organs in the course of implementing security policy¹⁷, as well as in the name of the security of the socialist state have proved to be detrimental. Such instances provide for a moment for us to rethink the current position of institutions that protect the human and civil rights or even the basic human dignity.

Some other parts of the world or the so-called third world countries are putting up continuous efforts to improve on the situation of protection of the rights of the citizens. An eminent example of such improvement is the Protective Discrimination, which is the affirmative action program, most visible in both the US and India, where there has been a history of racial and caste discrimination but it's most prominent in India, where it has been enshrined in the constitution and institutionalized.

The Indian state of affairs can well be summed-up by a statement given by Mahatma Gandhi 'All humanity is one undivided and indivisible family, and each one of us is responsible for the misdeeds of all others.'¹⁸ India is a signatory to myriad of major treaties and most importantly has constituted the National human rights commission which is the authority for citizens for the protection of rights.

The human rights situation in India is a complex and multifaceted issue. While India has a constitutional framework that guarantees a range of fundamental rights and has ratified several international human rights treaties, challenges persist in the implementation and protection of these rights. For example, Freedom of expression in India is protected under Article 19¹⁹ of the Constitution. However, there have been instances of restrictions on freedom of speech, including arrests and prosecutions of individuals for expressing dissenting views or

criticizing the government. Concerns have also been raised about restrictions on press freedom and self-censorship. The right to privacy has been recognized as a fundamental right by the Indian Supreme Court²⁰. However, issues related to surveillance, data privacy, and the use of biometric identification systems like Aadhaar²¹ have raised concerns about privacy violations and data security. In recent years as a shift in power and trends is noticed, its effect can also be determined on Protection of Human and civil rights in the coming years as they pose as both opportunities and threats to the institutions. Analysis of trends such as population growth, poverty levels, urbanization, technological advancements, etc. demand for better organized institutions at the global level with a single power to control it and mark the importance of considering rights and opinion of Public before formulating policies and framework in the near future. Protection of human rights is extremely essential at this stage of Human civilization to ensure equality and safety of all as it is rightly said by His holiness the Dalai Lama that, Peace can only last where Human Rights are respected, where people are fed, and where individuals and Nations are free²².

Conclusion

Protecting human rights is an ongoing and collective endeavor that demands commitment and action from governments, organizations, and individuals worldwide. Upholding human rights not only respects the inherent dignity of each person but also lays the foundation for a more inclusive, just, and peaceful world. By prioritizing human rights, we can work towards eliminating discrimination, inequality, and oppression, creating a future where the rights of every individual are safeguarded and respected. Addressing human rights challenges

¹⁷ Violetta Fitsner Daria Korolenko, Fitsner, V. and Korolenko, D. (2022) *What the UN is doing about human rights abuses in Russia?*, *OpenDemocracy*. Available at: <https://www.opendemocracy.net/en/odr/un-special-rapporteur-human-rights-council/> (Accessed: 01 July 2023).

¹⁸ *Forbes*. Available at: <https://www.forbes.com/quotes/author/mahatma-gandhi/> (Accessed: 01 July 2023).

¹⁹ India Const. art 19 (1949)

²⁰ K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1

²¹ K.S. Puttaswamy (Aadhaar-5J.) v. Union of India, (2019) 1 SCC 1

²² (Service, T.N.) *Peace can only last where human rights are respected, where people are fed, where individuals and nations are free.* - dalai lama, *Tribuneindia News Service*. Available at: <https://www.tribuneindia.com/news/thought-for-the-day/peace-can-only-last-where-human-rights-are-respected-where-people-are-fed-where-individuals-and-nations-are-free-%E2%80%9494-dalai-lama-180889> (Accessed: 01 July 2023).

requires a collective effort involving governments, civil society organizations, human rights defenders, and individuals alike. Some crucial steps include Strengthening Legal Frameworks like Governments should adopt and enforce laws that protect human rights and align with international standards. They should establish independent institutions to monitor and investigate human rights violations. Efforts must be made to raise awareness about human rights, educate individuals on their rights and responsibilities, and empower marginalized communities to advocate for their rights. Encouraging International Cooperation, Collaboration among nations, international organizations, and civil society groups is crucial in addressing human rights issues. States should fulfill their obligations under international treaties and cooperate to hold violators accountable. Governments should create a safe and enabling environment for human rights defenders, ensuring they can carry out their work without fear of reprisals or persecution.

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