

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted IMoot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

THE EFFECTS OF GLOBALIZATION ON HUMAN RIGHTS

AUTHORED BY - SAKSHI SHARMA

LLM (Criminal Law), School of Law, Manav Rachna University

ABSTRACT

This research study investigates the various consequences of globalisation on human rights, looking at both the positive and bad aspects of this complicated relationship. Because globalisation allows the connectivity of economies, cultures, and political systems, it has the potential to improve human rights through increased knowledge, advocacy, and the spread of international standards. However, it also presents substantial concerns, such as exacerbating disparities, eroding local traditions, and the possibility of corporate misconduct in developing countries.

This paper examines case studies from various geographical locations to show how globalisation affects human rights practices and views. Through a critical lens, the paper emphasises the importance of a nuanced understanding of globalization's role in defining human rights frameworks, finally advocating for policies that capitalise on globalization's benefits while reducing its negative effects. The findings emphasise the importance of collaborative global governance in ensuring the values of human rights are protected in an increasingly interconnected society.

The study begins by situating globalisation within historical and theoretical frameworks, noting critical characteristics such as economic liberalisation, technological advancement, and cultural interaction. It critically examines how these dimensions have both strengthened and weakened human rights protections. On the one hand, globalisation has permitted worldwide lobbying and the formation of transnational networks to promote human rights, resulting in increased awareness and accountability. Conversely, it has created inequality, marginalised vulnerable communities, and eroded state sovereignty, allowing both state and non-state actors to violate human rights.

This paper explores the contradictions of globalisation through a number of case examples, including the impact of global supply chains on labour rights, the power of social media in amplifying voices for justice, and the role of international organisations in advancing human rights norms. It demonstrates how local factors impact the experience of globalisation, which frequently results in diverse outcomes for human rights protection.

HYPOTHESIS

The term "globalisation" refers to a variety of cross-border changes in labour, capital, commodities, and services that have a transnational character. International human rights have expanded more quickly as a result of globalisation. They have an impact that extends beyond national borders and political structures to a global level. They are now a hot topic of discussion in practically every society, addressing the issues that affect institutions, communities, powerful and marginalised people, and individuals themselves.

A detailed view of link between human rights and globalization :-

A time of tremendous transformation has been brought about by the process of globalisation, which has transcended national boundaries and drastically altered the global economic landscape. The basic concepts of human rights, enshrined in international agreements and the Indian Constitution, transcend national boundaries and cultural disparities and are thus inalienable. The social, political, cultural, civic, and economic facets of these rights are vital to one's overall wellbeing.

Around 1870, globalisation started, but it picked up speed following World War II as nations loosened limits on capital flows and commerce. It may be influenced by political, cultural, and economic variables.

The purpose of this research paper is to examine the intricate relationship between globalisation and human rights, with a focus on India. India, one of the most well-known developing nations in recent memory, is a perfect case study for analysing how globalisation affects human rights, particularly the implications of multinational businesses.

Research Questions

- 1) Understanding Human Rights in India
- 2) Understanding Globalization and its impact on Human Rights
- 3) Understanding the need of Globalization and whether its favouring in a good way or bad.
- 4) Understanding the Technology and Globalization
- 5) Basic elements of Globalization
- 6) Case studies for the brief understanding

Literature Review

Defining Globalization:-

The term "globalisation" refers to a variety of cross-border changes in labour, capital, commodities, and services that have a transnational character. International human rights have expanded more quickly as a result of globalisation. They have an impact that extends beyond national borders and political structures to a global level. They are now a hot topic of discussion in practically every society, addressing the issues that affect institutions, communities, powerful and marginalised people, and individuals themselves.

The term "globalisation" refers to the increasing connectivity and interdependence of the world due to trade and technological advancements. The scope of globalisation include the resulting social and economic transformations as well¹¹. One way to visualise it would be like the strands of a massive spider web that have grown in quantity and range over millennia. These silken links have carried ideas, money, material items, people, sickness, and even devastation and all at a faster and larger rate than ever in the modern era.

Characteristics of Globalization: -

- 1) Free Trade- With little intervention, globalisation has improved the volume of trade between countries. The explanation for this is that governments do not micromanage every little detail of commercial dealings. Countries that have embraced globalisation have also seen considerable increases in GDP, which has led to increasing affluence. Better government cooperation has also been the outcome, which promotes more trade improvement.

¹ <https://www.piiie.com/microsites/globalization/what-is-globalization>

- 2) Liberalization- Globalisation has improved the business environment for firms, which is one of its key features. It has aided company owners in establishing companies and conducting transactions both domestically and internationally. Because of globalisation, there is a major easing of laws and regulations for businesses, enabling increased trade across nations. Trade laws that are too flexible force governments to give in to business interests even more. Globalisation and liberalisation are mutually reliant.
- 3) Increase in Employment- All industries are accountable for producing jobs, both direct and indirect. Additionally, a rise in production benefits employment. Companies can expand their operations globally and boost their manufacturing capacity thanks to globalisation. Additionally, it increases employment prospects in the nations where these companies have established themselves.
- 4) Increased connectivity between nations- Trade ties between nations have improved as a result of globalisation. It has improved communication between consumers and companies. Increased economic growth and a higher standard of living for the populace are further benefits of improved connection.
- 5) Urbanization- The rise of metropolitan areas is one effect of globalisation. When numerous local and foreign enterprises establish themselves in a certain location, it becomes a hub of economic activity. The infrastructure of those companies—which includes housing, transportation, retail stores, and other establishments—is necessary for the employees who work there. Urban centres are being built in and around industrial areas as a result of globalisation.
- 6) Outsourcing- The ability for businesses to hire other parties to handle particular operations is one of the features of globalisation. They take this action in an effort to lower internal expenses, raise service quality, or do both. For many nations with abundant human resources seeking to create jobs, outsourcing is a blessing. Because of this technique, nations like the Philippines and India have greatly benefited.

Globalisation Effect on Human Rights:-

International human rights have expanded more quickly as a result of globalisation. They have an influence that extends beyond national borders and political structures to a global level. They are now a hot topic of discussion in practically every society, addressing the issues that affect institutions, communities, powerful and marginalised people, and individuals themselves. Maintaining a cohesive society necessitates protecting each person's intrinsic value

and respect, as violating this dignity can have serious consequences for both the individual and the group.

Because of their humanity, every person has inherent rights, and it is crucial that these rights are upheld. These rights are frequently referred to as fundamental, natural, or basic rights. They are collectively known as human rights. While the name "human rights" dates back to the 20th century, the idea behind these rights has been there since the dawn of human civilisation. It has taken a considerable amount of time and steady evolution for the concept of human rights to arrive at its current condition.

The UN General Assembly approved the Universal Declaration of Human Rights in 1948 as a reaction to the lessons discovered during World War II. Further agreements were made in the form of the Optional Protocol to the International Covenant on Civil and Political Rights 1966, the International Covenant on Economic, Social, and Cultural Rights 1966, and the International Covenant on Civil and Political Rights 1966. Since then, the majority of countries have come to terms with the idea that people are rational creatures with inherent, unalienable rights known as human rights because of their humanity.

Human rights are inalienable rights that apply to every person, regardless of their nationality, location of residence, language, gender, ethnicity, religion, or any other characteristic that makes them unique². ²These fundamental human rights are equitable and belong to every person; discrimination is not a valid reason for denying them. These rights are inextricably intertwined, dependent on one another, and unalienable. Globalisation is "not merely an economic process but has social, political, environmental, cultural, and legal dimensions which have an impact on the full enjoyment of all human rights," according to the U.N. General Assembly.

The following elements of globalization have the potential to impact human rights jurisprudence:-

- 1) The States' Changing Position and Role: Globalisation challenges state sovereignty by compelling governments to prioritise the interests of transnational businesses over those

² UNGA Res 55/102 Globalization and its impact on the Full Enjoyment of All Human Rights (2000)

of their constituents. States may find it more difficult to protect human rights as a result, especially if they are under pressure from other countries and businesses.

- 2) The increasing prevalence and expanding influence of multinational companies (MNCs): Multinational companies already hold considerable political and economic sway, but they are not legally bound to uphold human rights standards in a clear and unambiguous manner. They have a big say in how policies are formulated in important areas, and although while they can benefit consumers, they are also involved in violations of human rights and have a negative impact on the environment.
- 3) Globalisation and technology: Globalisation is greatly influenced by technology, which has a variety of effects on human rights. While technology encourages collaboration and the global exchange of knowledge, it also raises issues like privacy. Future years of human rights may be impacted by economic factors in the development and dissemination of technology, perhaps benefiting some groups over others.
- 4) Dependence on free markets: The expansion of the global economy depends on free markets and economic efficiency, both of which can help or hurt human rights. It is uncertain whether free market ideas can successfully serve human rights given the disagreement between trade law and human rights.
- 5) Consumerism: Globalisation is predicated on consumption, although it frequently prioritises corporate profits over the needs of customers, skewing their decisions and disregarding their health and safety, so violating their human rights.
- 6) Globalisation and Women: Women now have more employment options because to globalisation, which has increased family freedom and income but also exposed them to abuse. Human rights breaches and acts of violence, particularly against women migrant workers who are frequently drawn from marginalised communities and wind up in dangerous circumstances overseas.
- 7) Indigenous community Rights: After years of indifference, the world community is starting to express concern over violations of indigenous rights. The United Nations began considering a declaration of their rights after the North American Free Trade Agreement of 1994 and the Indian uprising in Chiapas, Mexico, brought attention to violations of economic and social rights.
- 8) Rights of Workers and Globalisation: In the new economy, having cheap labour becomes a competitive advantage, which leads to appalling working conditions and breaches of workers' rights in developing nations.

Human Rights in India:-

Human rights are given priority in India, the largest democracy in the world. The Indian Constitution clearly recognises and values these rights, demonstrating the nation's dedication to democracy. Civil, political, social, economic, and cultural rights are all included in the Universal Declaration of Human Rights. Indian Constitution protects most of these rights.

All civil and political rights are covered by Part III of the Indian Constitution under the heading "Fundamental Rights," while social, cultural, and economic rights are covered by Part IV under the heading "Directive Principles of State Policy." In order to safeguard and maintain human rights in India, all legislation must adhere to the Constitution. The judiciary is ultimately responsible for upholding human rights. It has broadened the scope of basic rights by interpreting them, in addition to safeguarding rights guaranteed by the Constitution³. As a result, people have both numbered and unnumbered rights.

Including unnumbered human rights under Article 21 of the fundamental rights, such as the "right to health, right to livelihood, right to shelter, right to rehabilitation, right to food, right to medical aid, right to equal pay, right to education, and many other issues pertaining to children and women," the judiciary has been instrumental in addressing a wide range of issues related to globalisation and its impact on fundamental rights.

Case Studies:-

1) Perumatty Grama Panchayat v. State of Kerala:-

In Plachimada, Kerala, Hindustan Coca-Cola Beverages Private Ltd. established a facility in 1999. Every day, it removed 510000 litres of water, contaminating groundwater and producing hazardous trash. Plant closure was sought by local demonstrators. In 2003, the Perumatty Panchayat refused to renew the licence, claiming resource misuse. After Coke filed an appeal, the Kerala High Court reversed the decision. In 2005, the Supreme Court gave the firm permission to take out 500,000 gallons of groundwater every day. 2004 saw the plant locked down. at 2004, Coca-Cola declared it would no longer produce at Plachimada and gave up its licence. The right to water is seen as a fundamental human right, and the excessive extraction of groundwater has a negative impact on the quantity and quality of water. The local community was

³ Amartish Kaur, 'Protection of Human Rights in India: A Review' (2017) 2(1) Jamia Law Journal

negatively impacted by the pollution and contamination that the plant's activities created. The right to the best possible level of bodily and mental health is involved, which implies the right to health⁴. People's livelihoods were negatively impacted by the negative effects on the environment and agricultural production, which inadvertently violated their rights to food and employment as well as to a sufficient quality of life. The local community's desire to be involved in choices that impact their health and environment is reflected in their activities and demonstrations. According to Article 21, which asserts that everyone has the right to live in dignity, this contradicts the right to knowledge and the freedom to participate in public affairs.

2) Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest:-

In this instance, Vedanta Alumina Ltd. requested environmental approval for a proposal to build an alumina refinery in Orissa. Although the permission was given, questions regarding its effects on the Dongria Kondh tribe, environmental harm, and inadequate clearances surfaced. Vedanta was not allowed to continue with the project when the Supreme Court rescinded the approval. Nonetheless, the court permitted Vedanta to resubmit its plan with protections, and in 2008, it was eventually approved. The Dongria Kondh staged rallies in response, and they received international backing. In its 2013 ruling, the Supreme Court made a connection between indigenous rights, the protection of STs under the Constitution (Article 244), and religious freedom (Articles 25 & 26). The Supreme Court's ruling emphasises the necessity for real growth that does not degrade the standard of living and establishes a precedent for initiatives with social and environmental ramifications.

The court was instrumental in interpreting unenumerated rights, which include human rights that are in line with international human rights norms, by virtue of its judicial activism and power. This interpretation ensures that these rights are maintained and honoured within India's constitutional framework by broadening their area of protection and recognition. The judiciary gave these unnumbered rights more legal weight and significance by acknowledging them as basic rights. This brought India's constitutional structure into compliance with international human rights norms and standards by enabling individuals to seek legal remedies and redress when their rights are infringed.

⁴ Universal Declaration on Human Rights (adopted 10 December 1948) 217 A(III) (UNGA), art 25

Potential Solutions and Recommendations:-

Several proposals and solutions have been put up to solve the intricate relationship that exists in India between globalisation and human rights. In the context of fast globalisation, this all-encompassing approach seeks to achieve a balance between protecting human rights and advancing economic development. The necessity of bolstering legislative changes, international collaboration, education, and regulatory frameworks is emphasised. Stricter laws should be created for resource extraction, pollution control, and working conditions all of which are fundamental human rights while regulatory structures enforcing labour and environmental standards should be reinforced.

Human rights safeguards, such as those for vulnerable groups impacted by globalisation and indigenous communities, require legislative changes. Public education initiatives aimed at government officials, companies, and the general public should stress how important it is to uphold human rights.

Ensuring business compliance with environmental and human rights standards requires the reinforcement of government supervision and enforcement measures.

Addressing cross-border problems brought on by globalization's effects on human rights requires international cooperation and information exchange. Initiatives for research and monitoring are required to evaluate the continued effects of globalisation on human rights. Reducing the detrimental effects of globalisation on the environment requires the implementation of sustainable development strategies, such as sustainable agriculture, renewable energy, and conservation initiatives. It is also crucial that poor and marginalised populations have access to justice.

By putting these policies into practice and encouraging collaboration between governments, multinational companies, civil society, and international organisations, India can strive towards a more harmonious coexistence in the globalisation era between economic advancement and the protection of human rights.

CONCLUSION

This study demonstrates that human rights are significantly impacted by globalisation, particularly in developing countries like India. The article recognises that human rights are universal and that they safeguard everyone's well and dignity, irrespective of their location, country, or culture. It highlights the impact of multinational corporations on the world economy as well as the challenges associated with striking a balance between economic expansion and human rights.

To safeguard these rights, the court must actively interpret the Indian Constitution's unnumbered rights as basic rights. International human rights rules are strengthened by this interpretation, which enables people to seek redress for infringement of their rights.

The Vedanta Alumina project and the Plachimada Coca-Cola factory serve as examples of how business operations can infringe against basic and human rights. The intricate link between globalisation and human rights is addressed through thorough answers and recommendations. By putting these policies into place and promoting stakeholder cooperation, India and the rest of the globe can strike a balance between human rights and economic progress.

The objective of this strategy is responsible, sustainable development that upholds human dignity and well-being.

Journals and Articles:-

1. Shalmali Guttal, 'Globalisation' (2007) 17(4/5) Development in Practice <<https://www.jstor/stable/25548249>> accessed 13 October 2023
2. Katke S.M., 'Globalisation and Human Rights: An overview of its Impact' (2018) 5(4) IJRAR <<https://www.researchgate.net/publication/343775509>> accessed on October 14 2023
3. Shelton D., 'Protecting Human Rights in a Globalized World' (2002)
4. 25(2) Boston College International and Law Review <<https://dashboard.lira.bc.edu/downloads/595a4390-7a25-4056-bfb4-e641e71ae56b>> accessed 12 October 2023