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HUMAN RIGHTS IN INDIA: A SOCIO-LEGAL CRITIQUE OF VIOLATIONS AND ENFORCEMENT

AUTHORED BY - PANKHUDI SINGH

1. INTRODUCTION

Human rights are the fundamental liberties and rights that every person is entitled to, regardless of their socioeconomic background, gender, caste, religion, or nationality. These fundamental, unalienable, and universal rights serve as the cornerstone of equality and human dignity. The defense and advancement of human rights are essential to the operation of the legal and constitutional systems in a democracy such as India. The Indian Constitution enshrines a number of protections meant to preserve the equality, liberty, and dignity of every citizen, especially through its Fundamental Rights and Directive Principles of State Policy.

In spite of these constitutional guarantees and a strong legal system, systematic and ongoing human rights abuses characterize India's real world. The full realization of human rights is still hampered by a number of issues, including caste discrimination, repression of dissent, marginalization of vulnerable groups, and gender-based and custodial violence. These infractions reveal the more profound socio-political and economic disparities embedded in Indian society, in addition to casting doubt on the effectiveness of the current legal system.

This assignment aims to examine the type and scope of human rights violations in India, identify the institutional and social obstacles that are present, and assess the function of the legal system, statutory authorities, and civil society in resolving these problems. The paper attempts to give a thorough grasp of the current state of human rights in India and offer workable reforms for strengthening the human rights regime through an analysis of significant cases, legislative provisions, and comparative insights.

2. CONSTITUTIONAL AND LEGAL FRAMEWORK IN INDIA

2.1 Human Rights and The Indian Constitution

One of the most complex fundamental laws ever enacted is the Constitution of the Republic of India, which went into effect on January 26, 1950, and contained 395 Articles and 8 Schedules. According to the Constitution, the Republic of India is a Sovereign, Socialist, Secular, and

Democratic one. The word "democratic" indicates that the people's will gives the government its power. It conveys the idea that everyone is on an equal footing "regardless of race, religion, language, sex, and culture." In order to ensure the dignity of every person and the unity and integrity of the country, the Preamble to the Constitution guarantees justice, social, economic, and political; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity; and fraternity to its citizens.

2.2 India and the Universal Declaration

India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed to the individuals in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights. The following chart makes it very clear:

Table 1.1 – Civil and Political Rights in the UDHR and Indian Constitution

No.	Name of Rights	UDHR Article	Indian Constitution Article
1.	Equality before law	Article 7	Article 14
2.	Prohibition of discrimination	Article 7	Article 15(1)
3.	Equality of opportunity	Article 21(2)	Article 16(1)
4.	Freedom of speech and expression	Article 19	Article 19(1)(a)
5.	Freedom of peaceful assembly	Article 20(1)	Article 19(1)(b)
6.	Right to form associations or unions	Article 23(4)	Article 19(1)(c)
7.	Freedom of movement within the borders	Article 13(1)	Article 19(1)(d)
8.	Protection in respect of conviction for offences	Article 11(2)	Article 20(1)
9.	Protection of life and personal liberty	Article 3	Article 21
10.	Protection of slavery and forced Labour	Article 4	Article 23
11.	Freedom of conscience and religion	Article 18	Article 25(1)
12.	Remedy for enforcement of rights	Article 8	Article 32
13.	Right against arbitrary arrest and detention	Article 9	Article 22
14.	Right to social security	Article 22	Article 29(1)

Table 1.2 – Economic, Social and Cultural Rights in the UDHR and Indian Constitution

No.	Name of Rights	UDHR Article	Indian Constitution Article(s)
1.	Right to work, to just and favorable conditions of work	Article 23(1)	Article 41
2.	Right to equal pay for equal work	Article 23(2)	Article 39(d)
3.	Right to education	Article 26(1)	Articles 21A, 45, and 51A(k)
4.	Right to just and favorable remuneration	Article 23(3)	Article 43
5.	Right to rest and leisure	Article 24	Article 43
6.	Right to an adequate standard of living for self and family	Article 25(1)	Articles 39(a) and 47
7.	Right to a proper social and international order	Article 28	Article 38

In *Keshavananda Bharati v. State of Kerala* the Supreme Court observed, "The Universal Declaration of Human Rights may not be a legally binding instrument but: it shows how India understood the nature of human rights at the time the Constitution was adopted."¹ India ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on March 27, 1979. The Optional Protocol to the International Covenant on Civil and Political Rights, 1989, however, was not ratified by India.

Table 1.3 – Comparison of ICCPR Articles and Indian Constitution

No.	Fundamental Rights	ICCPR Article	Indian Constitution Article
1.	Forced labour	Article 8(3)	Article 23
2.	Equality before law	Article 14(1)	Article 14
3.	Prohibition of discrimination	Article 26	Article 15
4.	Equality of opportunity in public service	Article 25(c)	Article 16(1)
5.	Freedom of speech and expression	Article 19(1) & (2)	Article 19(1)(a)
6.	Right to peaceful assembly	Article 21	Article 19(1)(b)

¹ *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

No.	Fundamental Rights	ICCPR Article	Indian Constitution Article
7.	Freedom of association	Article 22(1)	Article 19(1)(c)
8.	Right to move freely within the territory of a State	Article 12(1)	Article 19(1)(d)
9.	Protection in respect of conviction of offences	Article 15(1)	Article 20(1)
10.	Protection from double jeopardy	Article 14(7)	Article 20(2)
11.	Right against self-incrimination	Article 14(3)(g)	Article 20(3)
12.	Right to life and liberty	Article 6(1) & 9(1)	Article 21
13.	Right to child education	Article 26(1)	Article 21A
14.	Protection against arrest and detention	Article 9(2), (3), (4)	Article 22
15.	Freedom of conscience and religion	Article 18(1)	Article 25

2.3 Fundamental Rights and Human Rights in India: A Constitutional Foundation

Human rights, being inherent, inalienable, and universal, are the foundation of a democratic and equitable society. In India, these rights are enshrined in the Constitution as Fundamental Rights under Part III of the Constitution (Articles 12 to 35). These include civil and political rights such as the right to equality (Article 14), freedom of speech and expression (Article 19), protection of life and personal liberty (Article 21), and protection against exploitation (Articles 23–24). These rights are enforceable against the State and act as constitutional safeguards to ensure individual liberty and dignity. Unlike ordinary legal rights, Fundamental Rights are inviolable. Article 13 states that any law repugnant to Part III is void². In *Golak Nath v. State of Punjab*, the Supreme Court held that Parliament had no power to amend Fundamental Rights under Article 368, thus establishing their unchangeable nature³. This conception was further entrenched in *Kesavananda Bharati v. State of Kerala*, wherein the Court enunciated the Basic Structure Doctrine, holding that Fundamental Rights are an integral part of the Constitution that cannot be obliterated even through constitution amendment⁴.

² Constitution of India, Article 13

³ *Golak Nath v. State of Punjab*, AIR 1967 SC 1643

⁴ *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

This conception was further entrenched in *Kesavananda Bharati v. State of Kerala*, wherein the Court enunciated the Basic Structure Doctrine, holding that Fundamental Rights are an integral part of the Constitution that cannot be obliterated even through constitutional amendment⁵. In *D.K. Basu v. State of West Bengal*, the Court set guidelines to avoid custodial torture, associating human dignity with protection under Article 21⁶. Likewise, in ***Vishaka v. State of Rajasthan***, the Court interpreted Articles 14, 15, 19, and 21, along with international conventions, to establish guidelines against sexual harassment at the workplace⁷.

Article 32 empowers the citizen to go directly to the Supreme Court for enforcement of Fundamental Rights. "The heart and soul of the Constitution," this remedy speaks to the gravity of these rights, according to Dr. B.R. Ambedkar. High Courts are also authorized under Article 226. In *ADM Jabalpur v. Shivkant Shukla*, the majority improbably upheld the suspension of Article 21 during the Emergency. But Justice H.R. Khanna's dissent highlighted that the Constitution does not grant the right to life and liberty but it is intrinsic in human beings.⁸ So, the Indian judiciary has always interpreted Fundamental Rights as natural and human rights based on constitutional wordings and reinforced by international commitments, particularly India's adherence to the Universal Declaration of Human Rights.

3. MAJOR FORMS OF HUMAN RIGHTS VIOLATIONS IN INDIA

3.1 Custodial Violence and Extra-Judicial Killings

Custodial violence is still among the worst forms of human rights abuse in India. In spite of constitutional protections under Articles 20 and 21, ensuring the right against self-incrimination as well as the right to life and personal liberty respectively, cases of torture, assault and death in police custody keep appearing. As per the National Human Rights Commission (NHRC), in excess of 1,600 custodial fatalities were witnessed from 2017 to 2022 alone⁹.

⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

⁶ *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.

⁷ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁸ *ADM Jabalpur v. Shivkant Shukla*, AIR 1976 SC 1207.

⁹ NHRC Annual Report 2021–22, National Human Rights Commission, India.

The Supreme Court in the case of D.K. Basu v. State of West Bengal established certain guidelines to avoid custodial abuse, but enforcement is not uniform¹⁰.

Failure to ratify the UN Convention Against Torture (CAT) despite it being signed in 1997 further erodes the legal framework. Extra-judicial police or armed forces' killings, commonly referred to as "encounters", are also common, especially in regions of conflict such as Kashmir and the Northeast. The Manipur Extrajudicial Killings case, which involved the Supreme Court directing a CBI probe into more than 1,500 encounter killings, speaks volumes about the extent of impunity¹¹.

3.2 Discrimination Against Women and Marginalized Communities

In spite of equality promises enshrined in the Constitution under Articles 14 to 16, deep-seated discrimination against women, Dalits, Adivasis, and religious minorities continues. Rape, domestic violence, and honour killings against women continue to plague society. The 2012 Nirbhaya gang rape case triggered reforms such as the Criminal Law (Amendment) Act, 2013, but gender violence runs unchecked¹².

Dalits and Adivasis are frequently subjected to atrocities varying from social exclusion to physical harm. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was established to safeguard them, but its enforcement has been plagued by low conviction and under-reporting.

In Subhash Kashinath Mahajan v. State of Maharashtra, the Supreme Court watered down provisions of the Act, eliciting nationwide protests before Parliament restored its initial potency¹³.

Religious minorities are also subjected to targeted violence and discrimination. Lynching of Muslims for suspected cow slaughter or beef consumption has intensified, with insufficient state response and mounting hate speech only worsening the issue¹⁴

¹⁰ D.K. Basu v. State of West Bengal, AIR 1997 SC 610.

¹¹ Extra Judicial Execution Victim Families Association v. Union of India, (2017) 3 SCC 1.

¹² Nirbhaya case, State v. Ram Singh & Ors., (2013).

¹³ Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454.

¹⁴ Amnesty International India, "Hate Crimes Tracker Report", 2020.

3.3 Child Labour and Trafficking

India possesses the second-largest number of child labourers globally, even after the Child Labour (Prohibition and Regulation) Act, 1986 and its amendments. As per the 2011 Census, more than 10 million children were working¹⁵. Most of them are compelled to work in risky industries like mining, garment manufacturing, and farming. Child trafficking is yet another serious issue. Children are trafficked to be forced into labour, sexual exploitation, and even organ removal. Ineffective law enforcement and failure to coordinate between states further worsen the issue. In *Bachpan Bachao Andolan v. Union of India*, the Supreme Court ordered detailed measures for the rescue and rehabilitation of trafficked children¹⁶.

Poverty, deprivation of education, and weak child protection systems are the reasons for this violation. The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) has slowed down child labour to a certain level, yet loopholes persist—particularly in informal economy.

3.4 Communal Violence and Hate Crimes

India boasts a woefully long record of communal riots. The failure of the state to prevent and control mob attacks is best illustrated by the 1984 anti-Sikh riots, the Gujarat riots of 2002, and, more recently, the Delhi riots of 2020. These mobs often result in mass displacement, destruction of property, and targeted violence against religious communities. Religion-based, caste-based, and ethnicity based hate crimes have increased alarmingly. As per data compiled by civil society groups, such crimes are on the increase and often acquire political and ideological colors. Hate crimes have not been allocated a separate category by the National Crime Records Bureau (NCRB), which makes it difficult to ascertain the complete extent of the issue.

The judiciary has also stepped in at times, as evidenced by the *Tehseen Poonawalla v. Union of India* case when the Supreme Court released guidelines to stop mob lynching¹⁷. The criminal continues to act with impunity because of ineffective law enforcement, political patronage, and a slow justice system.

¹⁵ Census of India, 2011.

¹⁶ *Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1.

¹⁷ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

3.5 Suppression of Free Speech and Internet Shutdowns

The freedom of speech and expression as guaranteed under Article 19(1)(a) has been increasingly threatened. Journalists, activists, and dissidents are repeatedly arrested under harsh laws such as the Unlawful Activities (Prevention) Act (UAPA) and Sedition laws (Section 124A IPC). India ranks low on the World Press Freedom Index by Reporters Without Borders, reflecting a worsening atmosphere for free expression¹⁸.

Internet shutdowns are now a standard way of managing information. India has the highest number of internet shutdowns in the world, particularly in politically volatile areas such as Jammu & Kashmir¹⁹. The 2019-2020 internet shutdown in Kashmir, after the repeal of Article 370, was for more than seven months and was held to be unconstitutional in *Anuradha Bhasin v. Union of India*, whereby the Supreme Court held that access to the internet forms a part of the right to freedom of speech²⁰.

Decline of the space for civil society, abuse of surveillance technology, and increased intolerance towards opposing voices reflect an alarming trend towards democratic backsliding.

4. CHALLENGES TO HUMAN RIGHTS ENFORCEMENT IN INDIA

India, with a strong constitutional and institutional setup to protect human rights, still has considerable hurdles in implementing these rights. These have arisen from a mix of legal, administrative, political, and societal issues.

The subsequent sections point out the key hindrances preventing effective implementation of human rights in India.

4.1 Ineffective Implementation of Laws

Despite a well-articulated legal infrastructure, enforcement agencies repeatedly fail to effectively implement human rights laws. Abuses remain unpunished due to delayed investigations, untimely collection of evidence, bureaucratic inefficiencies, and administrative apathy. For instance, the Supreme

¹⁸ Reporters Without Borders, World Press Freedom Index 2024.

¹⁹ Access Now, Shutdowns Tracker Optimization Project (STOP), 2023.

²⁰ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637

Court laid out elaborate regulations for arrest and detention in the *D.K. Basu v. State of West Bengal* case to avoid misuse,²¹ yet enforcement remains unequal.

4.2. Political Interference and Lack of Accountability

Law enforcement institutions in India are often subject to political influence, undermining their neutrality. This results in selective enforcement of the law and impunity for some individuals or groups. For instance, during the 2020 Delhi riots, different human rights organizations complained about biased police investigations and the quelling of minority voices²². The lack of an independent oversight mechanism makes it challenging to hold officials accountable.

4.3. Judicial Delays and Access to Justice

The Indian judiciary, while working hard to safeguard rights, labors under a gigantic backlog of cases. As of 2024, more than 4.5 crore cases are pending before Indian courts, according to the National Judicial Data Grid. Delayed justice usually translates into the denial of justice. In addition, legal aid services remain underutilized due to ignorance and inaccessibility, particularly in the case of the poor and marginalized groups²³.

4.4. Vulnerability of Human Rights Institutions

Statutory institutions like the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs) are criticized for their weak powers. The NHRC cannot enforce its suggestions and is significantly reliant on the executive for implementation. In addition, the selection process is not always transparent, and it raises questions about independence and credibility.²⁴

4.5. Digital Surveillance and Shrinking Civic Space

Over the last few years, heightened surveillance, internet shutdowns, and deployment of seditious or anti-terror laws against dissent voices have been raising serious eyebrows. Detention of people without trial for long periods under the Unlawful Activities (Prevention) Act (UAPA) has

²¹ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

²² Human Rights Watch, "India: Government Fails to Protect Vulnerable in Delhi Riots," March 2020.

²³ National Legal Services Authority (NALSA), "Annual Report 2022–2023."

²⁴ Amnesty International India, "NHRC: A Toothless Watchdog?", 2019.

been roundly criticized. Internet shutdowns, such as the one in Jammu & Kashmir after the abrogation of Article 370, have also been criticized by global observers as an infringement on freedom of expression and access to information.²⁵

4.6. Social Inequality and Discrimination

Social inequalities rooted in the system persist in hindering the complete realization of human rights. Dalits, Adivasis, women, religious minorities, and LGBTQ+ continue to be structurally excluded from justice, education, and employment. Honour killings and caste-based discrimination are widespread despite legal protection such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989²⁶.

5. ROLE OF NATIONAL AND INTERNATIONAL INSTITUTIONS IN THE PROTECTION OF HUMAN RIGHTS

Protection and promotion of human rights in India is augmented through a system of national institutions as well as backing from international schemes.

These institutions are a key facilitator of accountability, redressal as well as the development of standards for human justice and dignity.

5.1. National Human Rights Commission (NHRC)

The NHRC, constituted through the Protection of Human Rights Act, 1993, is the highest national institution entrusted with the protection and promotion of human rights in India.

It inquires into allegations of violation of rights, examines laws in force, and organizes campaigns for the promotion of awareness about human rights. It can recommend action and compensation but its recommendations are non binding, which curtails its potential effectiveness. However, it has been a determining force in sensitive cases like custodial deaths and bonded labour atrocities²⁷.

²⁵ Internet Freedom Foundation, "Internet Shutdowns in India 2023 Report."

²⁶ *State of Madhya Pradesh v. Ram Krishna Balothia*, (1995) 3 SCC 221.

²⁷ *Protection of Human Rights Act*, 1993.

The NHRC's suo motu jurisdiction and intervention in cases before courts are important instruments.

Nevertheless, its reliance on the machinery of government for investigations and limited jurisdiction over cases related to armed forces are issues of continuing concern.

5.2. State Human Rights Commissions (SHRCs)

SHRCs work at the state level and operate in a manner just like the NHRC. They are mandated to inquire into violations at the state level, scrutinize state-level legislation, and organize awareness programs. Most SHRCs, however, are plagued by shortages of human resources, budgets, and infrastructure, which significantly inhibits their outreach and effectiveness²⁸.

5.3. National Commissions for Vulnerable Groups

Specialized commissions such as the National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for Women (NCW), and the National Commission for Protection of Child Rights (NCPCR) take on the task of empowering specific marginalized communities. These commissions look into grievances, suggest policy changes, and work with the government to provide targeted safeguards²⁹.

For example, the NCW has taken suo motu cognizance of gender-based violence cases and worked closely with the judiciary and police in improving responses to crimes against women³⁰.

5.4. Judiciary as Guardian of Rights

The Indian judiciary plays a central role in the safeguarding of fundamental rights. Landmark cases like *Maneka Gandhi v. Union of India* and *Vishaka v. State of Rajasthan* have stretched the definition of human rights in India. The mechanism of public interest litigation (PIL) has enabled civil society and individuals to approach the courts on behalf of the voiceless.

²⁸ Amnesty International India, "NHRC: A Toothless Watchdog?", 2019.

²⁹ Commonwealth Human Rights Initiative, "State Human Rights Commissions in India: Evaluation Report", 2022.

³⁰ National Commission Reports, Ministry of Social Justice and Empowerment, 2023.

Through Article 32 and Article 226, the Supreme Court and High Courts are given the power to grant writs for the enforcement of fundamental rights. Judicial activism through this has proved pivotal in environmental rights, prisoner rights, and rights at work.

5.5. International Institutions and Conventions

India is a signatory to important international human rights treaties, including:

- The Universal Declaration of Human Rights (UDHR), 1948
- International Covenant on Civil and Political Rights (ICCPR), 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)

While these instruments are not directly applicable in Indian courts unless domesticated into Indian law, they strongly shape judicial interpretation. For example, the Supreme Court of India used CEDAW to establish guidelines against sexual harassment at work in *Vishaka v. State of Rajasthan*³¹.

UN agencies such as the Human Rights Council (UNHRC) and treaty reporting bodies assess India's compliance with its commitment and present periodic reports and recommendations. Civil society organizations and NGOs also provide shadow reports identifying areas of lack of government action.³²

6. LANDMARK JUDICIAL DECISIONS ON HUMAN RIGHTS IN INDIA

The Indian judicial system, and more so the Supreme Court, has performed a crucial function in configuring the discourse of human rights through path-breaking verdicts. These judgments have not merely had the effect of broadening the definition of basic rights contained in Part III of the Constitution, but have also reaffirmed India's adherence to international human rights norms.

6.1. Maneka Gandhi v. Union of India (1978)

In this landmark case, the Supreme Court enlarged the ambit of Article 21, the guarantee of the right of life and personal liberty. Without assigning

³¹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

³² United Nations Human Rights Council, "Universal Periodic Review: India (2022 cycle)".

reasons, the passport of the petitioner was seized, which was a contravention of her right of personal liberty. The Court declared that procedure laid down by law should be reasonable, fair, and just, thus situating Articles 14, 19, and 21 in a golden triangle of rights.³³

This ruling was a milestone in the liberal reading of constitutional provisions.

6.2. Vishaka v. State of Rajasthan (1997)

The case was based on the gruesome gang rape of Bhanwari Devi, a field worker. The Court delivered detailed guidelines for tackling sexual harassment at the workplace in the absence of domestic law, calling upon Article 14, 15, 19, and 21, as well as international treaties such as CEDAW³⁴.

The Vishaka Guidelines were the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

6.3. D.K. Basu v. State of West Bengal (1997)

In order to check custodial violence, the Supreme Court provided elaborate guidelines that have to be strictly complied with while effecting arrest and detention, giving primacy to Article 21. It declared that custodial torture was a blatant contravention of the right to life and liberty, and the accountability of the police was essential to avoid a misuse of power³⁵. The Court also accepted that compensation was payable for breach of fundamental rights.

6.4. Olga Tellis v. Bombay Municipal Corporation (1985)

The petitioners, who were slum dwellers, were facing eviction. The Court held that the right to livelihood falls within the right to life under Article 21, recognizing that the right to live encompasses the means of subsistence. This case led to socio-economic rights under the realm of civil liberties³⁶.

6.5. People's Union for Democratic Rights v. Union of India (1982)

Also referred to as the Asiad Workers Case, this PIL dealt with the exploitation of workers in construction. The Court reiterated that non-payment of the minimum wage constitutes forced labour, which contravenes Article 23, and ordered the state to safeguard the rights of

³³ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

³⁴ Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

³⁵ D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.

³⁶ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

unorganized sector workers³⁷.

It reaffirmed the State's obligation to secure fundamental rights even in private employment situations.

6.6. K.S. Puttaswamy v. Union of India (2017)

In a unanimous ruling, the Supreme Court held that privacy is a constitutional right under Article 21. The Court overthrew previous rulings that excluded privacy as a constitutional right, paving the way for contesting state surveillance, data abuse, and violations of personal autonomy³⁸.

6.7. National Legal Services Authority v. Union of India (2014)

This ruling acknowledged transgender individuals as the 'third gender' and granted them all basic rights under the Constitution. The Court ordered the administration to offer reservations, identification documents, and welfare programmes, upholding equality, dignity, and the absence of discrimination³⁹.

7. RECOMMENDATIONS AND WAY FORWARD

India's vision of constitution and global obligations call for a robust, rights-oriented governance structure. Even in the wake of judicial activism and legislative reforms, systemic violations of human rights are on the rise. Hence, an overall set of recommendations to fill the lacunae between theory and practice is called for.

7.1. Strengthening Legal and Institutional Frameworks

India needs to bolster its legal system to adopt and implement human rights fully:

- Enactment of an all-embracing Torture Prevention Law as per the UN Convention Against Torture, which India has signed but not ratified.
- Affirmations to current laws (like the Unlawful Activities (Prevention) Act and AFSPA) to ensure conformity with international standards on human rights.
- Strengthening of powers and autonomy of institutions of human rights like the NHRC, SHRCs, and NCW, including making appointments non-political and adequately funded.

³⁷ People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.

³⁸ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

³⁹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

7.2. Police and Judicial Reforms

For redressal of custodial violence, arbitrary detention, and access to justice:

- Enforcement of Supreme Court directions in *Prakash Singh v. Union of India* regarding police reforms.
- Setting up fast-track human rights courts in each district for prompt redressal of grievances.
- Greater training of police and judicial officers in human rights standards and dealing with vulnerable groups.

Strengthen legal aid mechanisms, especially under the National Legal Services Authority (NALSA), to provide poor and marginalized citizens with access to justice.

7.3. Digital Rights and Freedom of Expression

With rising restrictions on speech and internet access:

- Develop unambiguous guidelines to govern internet shutdowns, in line with the Supreme Court judgment in *Anuradha Bhasin v. Union of India*.
- Safeguard whistle-blowers and journalists through effective enforcement of the Whistle Blowers Protection Act.
- Encourage protection of data and privacy through effective enforcement of the Digital Personal Data Protection Act, 2023.

7.4. Inclusive Development and Social Equity

Structural inequalities give rise to ongoing human rights deprivations:

- Affirmative action schemes need to be properly enforced and reviewed at regular intervals for SCs, STs, OBCs, and minorities.
- Implement wide-ranging gender-sensitive policies, such as universal childcare, maternity pay, and domestic violence protection.
- Invest in children's and women's education, healthcare, and nutrition to eliminate underlying causes of child labour and trafficking.
- Implement the Right to Education Act and MGNREGA effectively in rural and tribal districts to ensure basic socio-economic rights.

7.5. International Cooperation and Monitoring

India needs to engage energetically with the global human rights community:

- Submit regular reports to UN treaty bodies and UPR processes and act on their recommendations.
- Ratify core human rights treaties outstanding, including the Convention against Enforced Disappearances.
- Work with civil society and UN agencies in developing and tracking national human rights plans.

7.6. Human Rights Education and Awareness

Protection of human rights is impossible without awareness and participation of citizens:

- **Include human rights education in school and college curricula to educate a rights-aware citizenry.**
- **Initiate public awareness campaigns at the grassroots level through panchayats, municipal authorities, and social media.**
- **Foster civil society engagement in rights monitoring, grievance redressal, and policy formulation.**

8. CONCLUSION

Human rights, rooted in the Indian constitutional ethos and enshrined in international documents, are central to human dignity and democratic rule. Even with constitutional protection and interventionist judiciary, India is yet to overcome serious human rights issues that include custodial brutality and gender discrimination on one hand, and stifling of free speech and socio-economic exclusion on the other.

This task has explored the different types of human rights violations, difficulties in their enforcement, and the contributions of national and international institutions to addressing these challenges. It has also brought to the fore critical judicial dicta that have helped shape a strong rights-based jurisprudence in India. Yet, the fact of rights existing on paper is no assurance that they will be realized in reality. It takes structural changes, active governance, and the awareness of the people to translate the constitutional ethos into the realities of life for all people—particularly the most vulnerable. Through its on-going democratic experience, India must reassert its determination to exercise the values

of freedom, equality, and justice so that human rights are not mere legal rights, but realities to which all people have access. The solution lies in a multi-stakeholder strategy, uniting the judiciary, legislature, executive, civil society, and international community together to create an inclusive, equitable, and rights-sensitive society.

BIBLIOGRAPHY

➤ List of Books Referred:

1. S.Subramanian, Human Rights. International Challenge. Vol.1 (New Delhi: Manas Publication. 1997) 56.
2. Paramjit S. Jaswal and Nishtha Jaswal, Human Rights and the Law, 1st ed. (New Delhi: Ashish Publishing House, 1995) 5.
3. S.K. Kapoor, Human Rights under International Law and Indian Law, Central Law Agency
4. **Upendra Baxi** – *The Future of Human Rights*, Oxford University Press
5. **Dr. H.O. Agarwal** – *International Law and Human Rights*, Central Law Publications

➤ List of Reports and Articles Referred:

1. NHRC Annual Report 2021–22, National Human Rights Commission, India.
2. Amnesty International India, "Hate Crimes Tracker Report", 2020.
3. Census of India, 2011.
4. Hate Crime Watch, IndiaSpend, 2021.
5. Reporters Without Borders, *World Press Freedom Index 2024*.
6. Access Now, *Shutdowns Tracker Optimization Project (STOP)*, 2023.
7. Human Rights Watch, "India: Government Fails to Protect Vulnerable in Delhi Riots," March 2020.
8. Amnesty International India, "NHRC: A Toothless Watchdog?", 2019.
9. Internet Freedom Foundation, "Internet Shutdowns in India 2023 Report."
10. Commonwealth Human Rights Initiative, "State Human Rights Commissions in India: Evaluation Report", 2022.
11. National Commission Reports, Ministry of Social Justice and Empowerment, 2023.
12. National Commission for Women (NCW), Annual Report 2022–2023.

13. United Nations Human Rights Council, “Universal Periodic Review: India (2022 cycle)”.

➤ **List of Cases Mentioned:**

- i. Kesavananda Bharati v. State of Kerala
- ii. Golak Nath v. State of Punjab, AIR 1967 SC 1643
- iii. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
- iv. D.K. Basu v. State of West Bengal, AIR 1997 SC 610.
- v. Vishaka v. State of Rajasthan, AIR 1997 SC 3011.
- vi. ADM Jabalpur v. Shivkant Shukla, AIR 1976 SC 1207.
- vii. Extra Judicial Execution Victim Families Association v. Union of India, (2017) 3 SCC 1.
- viii. State v. Ram Singh & Ors., (2013).
- ix. Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454.
- x. Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1.
- xi. Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.
- xii. Anuradha Bhasin v. Union of India, (2020) 3 SCC 637.
- xiii. Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
- xiv. Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.
- xv. People’s Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.
- xvi. National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

➤ **List of Tables:**

- i. Table 1.1 – Page no.3, shows the tabular form of **Civil and Political Rights in the UDHR and Indian Constitution**
- ii. Table 1.2 – shows the tabular form of **Economic, Social and Cultural Rights in the UDHR and Indian Constitution**
- iii. Table 1.3 - shows the tabular form of **Comparison of ICCPR Articles and Indian Constitution**

➤ **List of Legislations Mentioned:**

1. Constitution of India (Part III)
2. Universal Declaration of Human Rights
3. Protection of Human Rights Act, 1993.

14. Indian Penal Code, 1860
15. Juvenile Justice (Care and Protection of Children) Act, 2015
16. Child Labour (Prohibition and Regulation) Act, 1986
17. Information Technology Act, 2000
18. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
19. Right to Education Act, 2009
20. The Dowry Prohibition Act, 1961
21. Domestic Violence Act, 2005

