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CONSTITUTIONAL FRAMEWORK OF JUDICIARY FOR PROTECTING HUMAN RIGHTS IN INDIA

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Abstract

The Indian Judicial system has been carved out of multiple law interpreting anecdotes and research by eminent legal leaders of our Country. It has been a long-drawn hardship which led to the development of such robust system which caters the needs of the diverse society of India. It must be kept in mind that the Judiciary plays a vital role in smooth running of the nation since it makes sure that the justice is not denied to even the poorest in the society. Our Judicial system makes sure that not only the rights that are being provided by the Indian Constitution are protected but it also ensures that the duties are fulfilled by the state authorities in order to maintain the idea of welfare state and uphold the principle of Laissez Faire.

This paper discusses the basic structure of our Judicial system from the lowest to the highest levels and their roles and responsibilities in brief in order to understand as to how they work and ensure the protection of Human Rights. Secondly, it discusses about the role of Supreme Court in detail and its powers which enables the enforcement of human rights and how it is incorporated in the Constitution of India.

1.1 OVERVIEW OF THE JUDICIARY IN INDIA

There is a multi-layer judicial system that works in India beginning from the District Courts at the lowest levels and the Supreme Court at the highest level. These levels ensure that the rights of the citizens are protected irrespective of the kind of right being violated since these judicial bodies have a set of guidelines which makes sure that the work is equally divided among the levels and speedy justice is provided to all. The powers and functions of all these Courts and their role in protecting Human Rights in India is discussed in brief below.

1.1.1 DISTRICT COURTS

The district judiciary is the judicial system at the district level in India. It is the first level of the judiciary, responsible for hearing and judging local cases. The district judiciary is made up of

district courts and other inferior courts that are presided over by district judges and other legal professionals.

The District Court or Additional District Court has original and appellate jurisdiction in civil and criminal cases filed in the district. Territorial and pecuniary jurisdiction in civil disputes is often established under relevant state civil court statutes. On the criminal side, jurisdiction is drawn only from the criminal process code. According to this code, the maximum sentence a Sessions Judge of district court can issue to a criminal is death punishment.

The district court has appellate authority over all subordinate courts in the district in both civil and criminal cases. On the civil side, the subordinate courts are as follows (in ascending order): Junior Civil Judge Court, Principal Junior Civil Judge Court, and Senior Civil Judge Court. Subordinate courts on the criminal side (in ascending order of hierarchy) are the First-Class Judicial Magistrate Court and the Chief Judicial Magistrate Court.

Certain criminal or civil proceedings cannot be heard by a court other than a district court. This grants the District Court initial authority over such proceedings. Appeals and revision orders originating from district courts are heard by the High Court of the relevant state.

The district judiciary plays a critical role in ensuring the rule of law. It contributes significantly to accomplishing the preambular ideal of justice by enabling litigants' access to justice. It is the most accessible court for litigants and acts as the primary link between the judicial system and the people. Some of the key features of the Indian District Judicial System is enumerated below:

1. Independence of District Judiciary:

The Supreme Court recognises the independence of the district judiciary as an essential component of the Constitution's fundamental structure. Access to justice, a preambular ideal, would be illusory in the absence of unbiased and independent judges at the grassroots.

2. No Longer "Subordinate":

The phrase "subordinate judiciary" was rejected because it misrepresented the constitutional standing of a district judge. The constitution recognises and protects district judges as essential members of the judicial system. The district judiciary and its contributions deserve more appreciation.

3. Recognition of District Judiciary's Importance:

The district judiciary plays an important role in protecting the rule of law and providing justice. Handles roughly 1.13 million cases each day, making it the most accessible court for litigants. Even throughout the epidemic, the system operated efficiently, ensuring that justice was delivered on time.

4. Recommendations and Directions:

Judicial officials will get increased salaries, pensions, and other retirement benefits. Judicial officials' compensation should be considered separately from that of political executives and legislators. To keep the judiciary working at its peak, incentives and chances for advancement are required.

1.1.2 HIGH COURTS

The next stage in the Indian Judicial System is the High Courts. Majority of the States have their separate High Courts which exercise jurisdictions over their respective areas but there are some High Courts which along with their respective States also exercise Jurisdiction over other areas. The prominent examples among these are the High court of Bombay ¹which exercise its jurisdiction over the State of Maharashtra as well as the State of Goa. Similarly, we have the High Court of Kerala ²which exercise Jurisdiction over the State of Kerala and The Union Territory of Lakshadweep and the High Court of Calcutta which exercise Jurisdiction over the State of Kolkata as well as the union territory of Andaman and Nicobar Islands.

The High Courts in India exercise various Juridictions which are discussed below as follows:

1. Original Jurisdiction

The High Courts of Calcutta, Bombay, and Madras have original jurisdiction over criminal and civil proceedings filed in these cities. These High Courts have the sole power to hear civil claims involving property valued at certain amounts.

Fundamental Rights: They have the authority to issue writs in order to enforce fundamental rights. Also, all High Courts have original jurisdiction in issues involving wills, divorce, contempt of court, and admiralty. Election petitions can be considered in the High Courts.

¹ <https://bombayhighcourt.nic.in/index.php>

² <https://highcourt.kerala.gov.in/index.php>

2. Appellate Jurisdiction

In civil disputes, an appeal can be filed with the High Court against a district court ruling. If the disagreement is for more than Rs. 5000/- or involves a point of fact or law, an appeal can be filed immediately with the subordinate court. In criminal matters, it includes cases decided by Sessions and Additional Sessions Judges.

If the sessions judge has imposed a 7-year or longer sentence. High Courts in India have also been given enormous power which helps them in preserving the basic Human Rights and impart justice with greater ease. These powers are discussed below as follows:

- **HC as a Court of Record-** High Courts, like the Supreme Court, serve as courts of record. Subordinate courts can utilise records of High Court rulings to make decisions on cases. All High Courts have the authority to punish all instances of contempt by any individual or institution.
- **Administrative powers-** It supervises and governs all subordinate courts. It has the authority to request procedural information from lower courts. It makes regulations governing the operation of the subordinate courts. It has the authority to transfer any matter from one court to another, as well as decide the case itself. It can look into any subordinate court's records or any related papers. It has the authority to appoint administrative workers, as well as set their salary, allowances, and working conditions.
- **Power of Judicial Review-** High Courts have the power of judicial review. They have the power to declare any law or ordinance unconstitutional if it is found to be against the Indian Constitution.
- **Autonomy of the High Court-**
 1. **Appointment of Judges:** The appointment of High Court Judges is a matter for the Judges themselves and is not related to the Legislature or the Executive. Continuation of Judges:
 2. High Court Judges have until retirement which is 62 years.
 3. The High Court can only be dismissed by the President.
 4. **Salaries and Allowances:** Judges of the High Court receive good salaries, allowances and allowances which cannot be changed to their detriment except in cases of financial crisis. The expenses of the supreme court are paid from the consolidated fund of the state, which is not voted by the state parliament.
 5. **Powers:** parliament and state parliaments cannot abridge the powers and jurisdiction of the supreme court guaranteed by the Constitution.

6. Constitutionally guaranteed power of the Supreme Court Judges: The conduct of High Court Judges cannot be impeached in Parliament unless they are impeached.
7. Retirement: After retirement, High Court Judges cannot be employed by the Government of India. or that of the state. However, there is an exception to that paragraph where retired judges can be appointed on a temporary basis and in emergency situations with the approval of the Supreme Court of India.

1.1.3 THE SUPREME COURT

The Supreme Court of India is the country's highest judicial body, responsible for maintaining the Constitution and interpreting legislation. It was established on January 28, 1950, and is based in New Delhi. The Supreme Court is made up of the Chief Justice of India and a maximum of 34 justices.³

It has appellate authority over decisions made by the High Courts and other tribunals, as well as constitutional, civil, and criminal disputes. The Supreme Court's rulings bind all lower courts and agencies in India.

The Court also plays an important role in protecting people's basic rights and liberties, frequently serving as the last judge in national-level disputes. It has played an important role in establishing India's legal and social landscape, with historic decisions on subjects ranging from civil liberties to environmental protection and socioeconomic rights.

The jurisdiction of the Supreme Court of India is extensive and covers a wide range of matters. Here's a breakdown of its main areas of jurisdiction:

1. Constitutional Jurisdiction:

The Supreme Court has original jurisdiction in disputes between the Union government and one or more states, or between two or more states. It has the power to interpret the Constitution of India and adjudicate on the constitutionality of laws and executive actions. The Court hears writ petitions related to the enforcement of fundamental rights guaranteed by the Constitution.

³ <https://main.sci.gov.in/>

2. Appellate Jurisdiction:

The Supreme Court is the highest court of appeal in both civil and criminal matters. It hears appeals from decisions of High Courts and certain tribunals across the country. The Court also hears appeals from various special leave petitions (SLPs) seeking permission to appeal against any judgment or order passed by any court or tribunal in the country.

3. Advisory Jurisdiction:

The President of India can seek the opinion of the Supreme Court on any question of law or fact that has arisen or is likely to arise. The Governor of a state can also seek the opinion of the Supreme Court on similar matters.

4. Special Leave Petitions (SLPs):

The Supreme Court has the discretion to grant special leave to appeal from any judgment, decree, determination, sentence, or order in any cause or matter passed or made by any court or tribunal in the territory of India.

5. Public Interest Litigation (PIL):

The Court can entertain PILs filed by any citizen or organization seeking judicial intervention in matters of public interest.

6. Review Jurisdiction:

The Supreme Court has the power to review its own judgments or orders on certain grounds. Overall, the jurisdiction of the Supreme Court encompasses a broad spectrum of legal matters, ensuring the uniform interpretation and application of laws across the country.

1.2 FOUNDATIONAL PRINCIPLES: INCORPORATION OF HUMAN RIGHTS IN THE CONSTITUTION

The incorporation of human rights within the Indian Constitution reflects a profound commitment to upholding the dignity and freedoms of every individual. Embodied in the Preamble, which serves as the guiding light of the Constitution, are the ideals of justice, liberty, equality, and fraternity, which form the bedrock of human rights protection in India. Furthermore, the Constitution explicitly guarantees a comprehensive array of fundamental rights to its citizens and non-citizens alike. These rights, enshrined in Part III of the Constitution, encompass civil,

political, economic, social, and cultural freedoms, ensuring that every person enjoys essential liberties and protections. The inclusion of fundamental rights such as the right to equality, right to life and personal liberty, and freedom of speech and expression reflects the framers' vision of a just and egalitarian society.

The Constitution prohibits discrimination on various grounds, including race, religion, caste, sex, or place of birth, further reinforcing the principles of equality and non-discrimination. Through the incorporation of these foundational principles, the Indian Constitution lays the groundwork for a robust legal framework that safeguards human rights and promotes the well-being and dignity of all individuals within the country's borders.

1.2.1 FUNDAMENTAL RIGHTS: GUARANTEES AND PROTECTIONS FOR CITIZENS AND NON-CITIZENS

Fundamental rights, enshrined in Part III of the Indian Constitution, serve as pillars of protection for both citizens and non-citizens, ensuring the realization of essential human rights. These rights provide individuals with safeguards against arbitrary state action and guarantee freedoms vital to human dignity and autonomy. Among these fundamental rights are provisions such as the right to equality before the law⁴, prohibiting discrimination on grounds of religion, race, caste, sex, or place of birth, which align closely with international human rights standards.

The right to life and personal liberty⁵ encompasses a broad spectrum of human rights, including the right to a dignified existence, protection against arbitrary arrest or detention, and access to justice. Freedom of speech and expression⁶ ensures the ability of individuals to voice their opinions and participate in public discourse, essential for the functioning of a democratic society. These fundamental rights extend not only to citizens but also to non-citizens residing within the territory of India, affirming the principle of equality and non-discrimination.

While the Constitution allows for reasonable restrictions on these rights in the interest of sovereignty, security, and public order, the judiciary plays a crucial role in ensuring that such limitations do not unduly infringe upon the core principles of human rights and constitutionalism. Through its interpretations and interventions, the judiciary has consistently reaffirmed the

⁴ Article 14, The Constitution of India, 1950

⁵ Article 21, The Constitution of India, 1950

⁶ Article 19, The Constitution of India, 1950

primacy of fundamental rights in safeguarding human dignity and promoting the values enshrined in the Constitution.

1.2.2 DIRECTIVE PRINCIPLES OF STATE POLICY: WELFARE MEASURES AND SOCIAL JUSTICE

The Directive Principles are provided in Part IV of the Indian Constitution and they constitute a set of guidelines for the State for policy making and aim at achieving a just and equitable society. These principles are not legally enforceable but they provide a moral and ethical pivot for governance and to make sure that welfare of the citizens is the priority of the government. Certain such principles can be compared directly with the Human Rights. This ensures that the human dignity and the well being of the people is maintained along with the social as well as the economic rights.

For example, Article 39 states that equal pay for equal work is secured and the economic justice and gender equality is nurtured. Similarly, Article 41 mandates the state to provide public assistance and social security to ensure a decent standard of living for all citizens, particularly the marginalized and vulnerable sections of society.

Article 42 emphasizes on the right to work and the provision of just and humane conditions of work which recognises the inherent dignity of labour and the importance of decent working conditions for human flourishing. These socio-economic objectives makes it clear that the Directive Principles underscore the integral relationship between human rights and socio-economic justice, highlighting the state's obligation to create enabling conditions for the realization of fundamental human rights, including the rights to work, education, health, and an adequate standard of living.

1.2.3 RIGHT TO CONSTITUTIONAL REMEDIES: MECHANISMS FOR ENFORCEMENT AND REDRESSAL

The Constitutional Remedies are provided under Article 32 of the Indian Constitution which plays an elemental role in the preservation of the Human rights. This Article gives an immediate access to the citizens to approach the Hon'ble Supreme Court of India and enables to ensure that their basic rights are protected and preserved which are provided under Part III of the Constitution.

This article guarantees that persons have access to prompt and effective legal remedies in the event of a breach or infringement of their rights. This ultimately acts as an important protection against the governmental actions of abuses of human dignity. The judiciary can make orders to preserve and enforce basic rights by way of the following writs namely:

- i. Writ of Habeas Corpus
- ii. Writ of Mandamus
- iii. Writ of Prohibition
- iv. Writ of Quo Warranto
- v. Writ of Certiorari

The Right to Constitutional Remedies not only empowers individuals to seek redressal for violations of their rights but also reinforces the supremacy of the Constitution and the rule of law. This ensures that no person is deprived of their rights without due process and recourse to justice. Further, by providing a mechanism for judicial review and oversight, Article 32 strengthens the constitutional framework for the protection of human rights, reaffirming the judiciary's role as the guardian of constitutional morality and the ultimate adjudicator of justice in society.

1.2.4 SEPARATION OF POWERS: ROLE OF JUDICIARY, LEGISLATURE, AND EXECUTIVE IN HUMAN RIGHTS PROTECTION

The doctrine of separation of powers, a foundational principle of the Indian Constitution, delineates distinct roles and functions for the three branches of government—the judiciary, the legislature, and the executive—to ensure checks and balances and prevent the concentration of power. In the context of human rights protection, each branch plays a crucial role in upholding and promoting fundamental rights.

The judiciary, vested with the power of judicial review, serves as the guardian of the Constitution and the protector of human rights. Through its interpretative authority, the judiciary ensures that laws and executive actions conform to constitutional principles and do not violate fundamental rights. Landmark judgments by the Indian courts have expanded the scope of human rights protection, setting precedents and guiding principles for the safeguarding of individual liberties. The Legislative bodies play a vital role in making policies and enacting the laws which promotes the human rights which are raised in the society. They take care of the needs of the people in this dynamic world. After 2014, even a dedicated department was made known as the NITI

Aayog⁷ which helps in making policies and promotes the smooth functioning of the society. Legislative bodies also serve as a forum for public debates as the representatives in the Parliament raise their voices for the people and advocate for implementation of the Human rights.

The Executive branch which is headed by the government is responsible for implementing laws and policies enacted by the legislature. It plays a crucial role in enforcing human rights and ensuring that the state institutions and agencies comply with the Constitutional mandates and respect the rights of individuals. The executive is given with the task of executing judgments and orders issued by the judiciary, as well as implementing welfare measures and social programs aimed at enhancing human dignity and well-being of the citizens.

Therefore, the separation of powers ensures that each branch of government acts as a check on the others, safeguarding against abuses of authority and protecting the rights and freedoms of individuals. By fulfilling their respective roles in the protection of human rights these three pillars contribute to the preservation of constitutional democracy and the promotion of a just and equitable society.

1.3 ROLE OF JUDICIARY IN PROTECTING HUMAN RIGHTS

Judiciary has been given authority to demarcate the functions of the three organs of the government and if judiciary will transgress on the power of another organ, people may lose faith on judiciary. The judiciary is having certain limitations, it has to act according to statutes which are framed by the legislature. Judiciary becomes strong only when people repose their faith on it and consistent activism and the zeal of the judges to perform the of another may make judiciary lose its sanctity.

Through the development of concepts like fundamental structure and public interest litigation (PIL), it has played a creative and helpful role. The increasing prevalence of judicial activism in India can be attributed to a number of factors, including the pervasive corruption and self-serving nature of politicians.

In these conditions, the Indian people's faith in our constitution and the survival of Indian

⁷ National Institute for Transforming India

democracy have both benefited greatly from judicial activism.

While celebrating the virtues of activism, we must remember that judges' main job is to interpret and represent the law, not to make it. When necessary, judicial activism should be utilised sparingly.

Activism and self-control are two prominent dichotomies used to describe judicial decisions. Seldom do those who classify things in this way specify these categories. The imprecision and inconsistency associated with these phrases make it extremely difficult to define them precisely. However, it's important to always keep in mind that discretion is the only situation in which the issue of activism or self-control comes up. A judge does not display activism or restraint when he bases his decision on the provisions of the statute.

1.4 CONCLUSION

As it has been rightly said by Mr. Nelson Mandela, “to deny people their human rights is to challenge their very humanity”, it should be hence made sure that the human rights of each and every individual is protected in the state and the first most responsibility of ensuring these rights vests with the Judiciary of the State.

In this modern era, even the definition of Human Rights is changing and now we must endeavour not only to protect the first and the second-generation human rights but should also ensure that the third and the fourth-generation human rights are also taken care of which includes but is not limited to right to access of Internet and data, digital rights and biometric rights. In order to achieve this, even the Judicial system needs to get updated and more tech friendly. One such commendable step that is worth recognising is the introduction of NJDG i.e., National Judicial Data Grid which brings all the data related to cases in India at a single platform and ensures that how many cases are pending and for how long they have been pending in a court of law.

Human Rights and its protection is a debatable issue and can be approached both positively and negatively by the national as well as international organisations and governments but the important thing is to analyse that what steps are being taken by them in order to strengthen the state's machinery and people are contented.