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# **"HUMAN RIGHTS IN INDIA: A JOURNEY THROUGH INTERNATIONAL TREATIES, LEGAL FRAMEWORKS, AND CONTEMPORARY VIOLATIONS"**

AUTHORED BY - DURGA SRIRAM SAI SIDDARTHA

## **Abstract**

Human rights refer to the fundamental rights that are inherent to all individuals. It is not confined to a particular set of people or a particular class of people. Human rights represent a collection of standards that dictate how individuals and groups should be treated by both state and non-state entities, grounded in ethical principles that society deems essential for a dignified existence. These standards are embedded within both national and international legal frameworks, which outline the processes and mechanisms for ensuring accountability among those responsible and for offering remedies to individuals who claim to have suffered from human rights abuses. Though India is part of many international treaties for the protection of human rights but there were many human right violations that were happening in India. So this article focuses on the origin of the protection of human rights and treaties that India is part of and the violations that happened in recent times as per the report

## **Introduction**

Human rights are fundamental entitlements that belong to every individual, regardless of their nationality, gender, language, or any other distinguishing factors. These rights are fundamental to every human being and are both inalienable and universal. The concept of universality in human rights serves as the foundation of international human rights law. This principle was initially highlighted in the Universal Declaration of Human Rights in 1948 and has been reaffirmed in various international human rights treaties, declarations, and resolutions since then. It is now broadly recognized that states have the responsibility to promote and safeguard the human rights and fundamental freedoms of their citizens.

Universal human rights are often codified and protected by law through various instruments, including customary international law. In order to guarantee the advancement and defence of human rights, governments are required by international human rights legislation to either take particular measures or abstain from particular practices.

International human rights legislation has developed since 1945 as a result of numerous international human rights treaties and other legal documents. Additionally, regional instruments have been created to address specific human rights issues pertinent to particular areas, offering tailored mechanisms for protection.

International human rights law is primarily supported by international treaties and customary law; however, additional instruments like declarations, guidelines established at the international level also play a significant role in enhancing its interpretation, application. International human rights law created the compulsion on the state to protect the rights of people. States assume obligations under international law to uphold, and safeguard by ratifying international treaties. The States must avoid interfering with or limiting the enjoyment of human rights.

By ratifying international human rights treaties, Governments commit to implementing domestic laws and measures that align with their treaty obligations. In instances where domestic legal systems do not adequately address human rights violations, there are mechanisms and procedures for individual complaints or communications available at both regional and international levels to guarantee that international human rights standards are upheld, enacted, and enforced within the domestic context.

### **Intenational Treaties That Safeguard Human Rights**

#### **UDHR (Universal Declaration of Human Rights)<sup>1</sup>**

The Universal Declaration of Human Rights (UDHR) serves as a global framework for promoting freedom and equality, safeguarding the rights of every individual across the globe. This landmark document marked the first consensus among nations on the fundamental freedoms and rights that warrant universal protection, enabling individuals to live with freedom, equality, and dignity. Adopted by the newly formed United Nations on December 10, 1948, the UDHR was a direct response to the "barbarous acts which outraged the conscience of mankind" during World War II. The adoption of the document highlighted the significance of human rights as fundamental to freedom, justice, and peace. The process of drafting the Universal Declaration of Human Rights began in 1946, with a committee composed of representatives from a wide range of nations, including the United States and China.. This

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<sup>1</sup> UDHR (Universal Declaration of Human Rights)

committee was later expanded to incorporate representatives from Australia, Chile, France, the Soviet Union, and the United Kingdom, enriching the document with insights from various regions and their unique religious, political, and cultural backgrounds. The UDHR underwent thorough discussions among all members of the UN Commission on Human Rights before being officially adopted by the General Assembly in 1948. The Declaration enumerates 30 rights and freedoms inherent to all individuals, which cannot be revoked. These rights continue to serve as the foundation of international human rights law. Currently, the UDHR is a living document and is recognized as the most translated text globally. A total of 193 countries are parties of the UDHR. India signed the UDHR on January 1, 1942.

### **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)<sup>2</sup>**

The International Convention on the Elimination of All Forms of Racial Discrimination explicitly defines and denounces racial discrimination, obligating state parties to amend their national laws and policies that foster or sustain such discrimination. This Convention is considered one of the most significant UN instruments, as it seeks to fulfill a core objective of the United Nations: to promote and uphold universal respect for human rights and fundamental freedoms for everyone, irrespective of race, or religion. As the first human rights treaty to implement an international monitoring framework, one of the Convention's primary goals is to advance racial equality, enabling diverse racial, ethnic, and national groups to benefit from equal social development opportunities. Additionally, the Convention acknowledges that specific racial or ethnic groups may require special protection or assistance through targeted measures to achieve sufficient development. It stipulates that these measures should not be deemed as racial discrimination, provided they are discontinued once their intended goals have been met. Key provisions also mandate state parties to enact laws that criminalize and penalize the spread of ideologies rooted in racial superiority or hatred, incitement to racial discrimination, and violent acts against individuals of different races or ethnic origins, as well as to provide support for such activities. The framework of the Convention reflects the design of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Social Rights., Social and Cultural Rights, comprising a preamble and twenty-five articles organized into three sections. Part I (Articles 1–7) requires parties to work towards the eradication of all forms of racial

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<sup>2</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

discrimination and to foster understanding among all races. the Convention establishes a clear obligation for parties to eliminate racial segregation and the crime of apartheid within their respective jurisdictions (Article 3). Additionally, parties must criminalize the incitement of racial hatred (Article 4), provide judicial remedies for instances of racial discrimination (Article 6), and participate in public education initiatives aimed at fostering understanding and tolerance (Article 7).

Part II (Articles 8–16) outlines the procedures for reporting and monitoring the implementation of the Convention by the parties involved. It establishes the Committee on the Elimination of Racial Discrimination, granting it the authority to issue general recommendations to the UN General Assembly. Additionally, it introduces a mechanism for resolving disputes between parties (Articles 11–13) and permits parties to acknowledge the Committee's jurisdiction to address individual complaints regarding violations of the rights safeguarded by the Convention (Article 14).

Part III (Articles 17–25) addresses the processes of ratification, the commencement of the Convention, and its amendments. There are Signatories 86 and 175 Parties. India ratified the ICERD on 3 December 1968. India became part of it in 1968

### **International Covenant on Civil and Political Rights (ICCPR), 1966<sup>3</sup>**

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral agreement that obligates countries to uphold the civil and political rights of individuals. These rights include the right to life, the freedom of religion, the freedom of expression, and the right to due process and a fair trial. The Covenant was adopted by the United Nations General Assembly through a resolution on December 16, 1966, and it became effective on March 23, 1976, after receiving its thirty-fifth ratification or accession. As of June 2024, there are 174 parties to the Covenant, along with six signatories that have yet to ratify, including notable countries such as the People's Republic of China and Cuba; North Korea remains the only nation that has attempted to withdraw from the agreement. The ICCPR is regarded as a foundational text in the realm of international law and human rights, forming a crucial part of the International Bill of Human Rights, which also includes the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR). The

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<sup>3</sup> International Covenant on Civil and Political Rights (ICCPR), 1966

United Nations Human Rights Committee oversees compliance with the ICCPR by examining periodic reports submitted by state parties regarding the implementation of the rights outlined in the Covenant. States are required to submit their reports one year after joining the Covenant and subsequently whenever requested by the Committee, typically every four years. The Committee usually convenes at the UN Office in Geneva, Switzerland, and holds three sessions annually. India became part of it in 1979

#### **International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>4</sup>**

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral agreement established by the United Nations General Assembly on December 16, 1966, through Resolution 2200A (XXI), and it became effective on January 3, 1976. This treaty obligates its signatories to promote and ensure economic, social, and cultural rights (ESCR) for all individuals, including those residing in Non-Self-Governing and Trust Territories. The rights encompassed by the Covenant include labour rights, the right to health, the right to education, and the right to a sufficient standard of living. As of February 2024, there are 172 parties to the Covenant, with an additional four countries, including the United States, having signed but not yet ratified it. The International Covenant on Economic, Social, and Cultural Rights (ICESCR), together with its Optional Protocol, is a key component of the International Bill of Human Rights. This framework also encompasses the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), including its first and second Optional Protocols. The UN Committee on Economic, Social and Cultural Rights is responsible for monitoring the implementation of the Covenant. India part of it in 1979

#### **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979<sup>5</sup>**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly in 1979, is often viewed as a global charter of rights for women. Comprising a preamble and 30 articles, it delineates the various forms of discrimination against women and establishes a framework for national initiatives aimed at eradicating such discrimination. The Convention defines discrimination against women as "...any differentiation, exclusion, or limitation based on gender that aims to impair or negate

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<sup>4</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR)

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

the acknowledgment and enjoyment of rights or exercise by women, regardless of their marital status, of human rights and fundamental freedoms on an equal basis with men in political, economic, social, cultural, civil, or any other domain." By ratifying the Convention, States pledge to implement a range of actions to eliminate discrimination against women in all its forms, including: - Integrating the principle of gender equality into their legal frameworks, abolishing discriminatory laws, and enacting appropriate legislation to prohibit discrimination against women; - Establishing tribunals and other public institutions to provide effective protection for women against discrimination; and - Ensuring the eradication of all discriminatory practices against women by individuals, organizations, or enterprises. The Convention serves as a foundation for achieving gender equality by guaranteeing women's equal access to and opportunities in political and public life—encompassing the right to vote and run for office—as well as in education, health, and employment. States parties commit to taking all necessary measures, including legislative actions and temporary special measures, to ensure that women can fully enjoy all their human rights and fundamental freedoms. Notably, the Convention is the only human rights treaty that explicitly recognizes women's reproductive rights and addresses cultural and traditional influences that shape gender roles and family dynamics. It affirms women's rights to. India became part of it in 1993

### **Committee on the Elimination of Racial Discrimination (CERD)<sup>6</sup>**

The Committee on the Elimination of Racial Discrimination (CERD) serves as a group of independent experts tasked with overseeing the adherence to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by its member states. Each state party is required to submit periodic reports to the CERD detailing the implementation of the rights outlined in the Convention. Initially, states must report one year after joining the Convention, followed by subsequent reports every two years. The Committee reviews each submission and provides the state party with its recommendations and concerns through “concluding observations. The Committee comprises 18 independent experts, elected for four-year terms by the state parties. Elections for nine of these members occur biennially, ensuring a balance between continuity and change within the Committee's composition. The primary functions of the CERD encompass the following: Reviewing the periodic reports submitted by States regarding their implementation of the obligations undertaken upon ratifying the Convention. CERD evaluates each report and communicates its concerns and

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<sup>6</sup> Committee on the Elimination of Racial Discrimination (CERD)

recommendations to the State party through "concluding observations." Addressing and evaluating individual complaints, referred to as "communications," from individuals alleging violations of their Convention rights by a State party. Assessing specific complaints lodged by one State party against another for non-compliance with the obligations established under the Convention. Issuing general recommendations and comments. Reporting its activities to the General Assembly. India became part of it in 1968

These are some of the treaties and bodies that safeguard the human rights of the individual and mass of people

### **Origin of Protection for human rights concept in India**

The protection of human rights originated from ancient times when we can see the scripts of the dharmaśāstra and dharma sūtras. The core idea revolves around Dharma, which primarily emphasizes the importance of social order. The underlying principle is "Dharma," regarded as the highest value that unites rulers and their subjects, as well as men and women. Human rights acquire significance solely in the presence of an autonomous judiciary capable of upholding these rights. And not only these there are many rules from different religions that gave importance about the protection of human rights. A new chapter in the history of the Mughal Empire in India, particularly under the reign of Akbar, marked significant advancements in human rights due to his policy of 'Universal Reconciliation and Tolerance. The contemporary framework of human rights law can be traced back to India during the period of British colonial rule. As the British governed India, opposition to foreign domination emerged through calls for essential freedoms and the civil and political rights of the populace. Indians faced humiliation and discrimination under British authority. The struggle for independence, coupled with the severe repressive tactics employed by the British, fueled the pursuit of civil liberties and fundamental rights. The "Home Rule Document" created by the Indian National Congress laid the foundation for a constitution that ensures fundamental human rights for all citizens, including freedom of expression, the sanctity of one's home, the right to property, and equality under the law. And the Constituent Assembly integrated the principles of rights established and endorsed by the General Assembly in the Universal Declaration of Human Rights into the Constitution of India. Additionally, on December 10, 1948, during the drafting of the Constitution, the General Assembly proclaimed and adopted the Universal Declaration of Human Rights, which undoubtedly had a significant impact on the formulation of India's Constitution. The Constitution of the Republic of India, which took effect on January 26, 1950,

comprises 395 Articles and 8 Schedules, making it one of the most comprehensive fundamental laws ever established. The Preamble asserts that India is a Sovereign, Socialist, Secular, and Democratic Republic. The term 'democratic' signifies that the Government derives its power from the people's will, fostering a sense of equality among all individuals, regardless of religion, language, or gender. Furthermore, the Preamble commits to ensuring justice—social, economic, and political—along with liberty of thought, expression, belief, faith, and worship. It emphasizes equality of status and opportunity, as well as fraternity, thereby upholding the dignity of each individual and promoting the unity and integrity of the nation for all its citizens. Article 14 of the Indian Constitution establishes the fundamental principle of equality before the law for all individuals. Article 15 explicitly prohibits the State from discriminating against any citizen based on religion, race, caste, sex, or place of birth, and it ensures that no citizen faces restrictions in accessing public spaces, including wells and tanks. Article 16 guarantees equal opportunity for all citizens in public employment. Article 17 abolishes untouchability and designates its practice as a punishable offense under the law. Furthermore, Articles 15 and 16 empower the State to implement special provisions aimed at advancing socially and educationally disadvantaged groups, specifically those recognized as Scheduled Castes and Scheduled Tribes, who require targeted support for their development. Article 18 eliminates all non-military and non-academic titles. The right to freedom, as enshrined in Article 19, includes various freedoms such as speech and expression, peaceful assembly without arms, the formation of associations or unions, free movement throughout India, the right to reside anywhere, and the freedom to engage in any profession, trade, or business. Article 20 provides protections for individuals concerning criminal convictions, including safeguards against ex post facto laws. Article 21, which is central to the fundamental rights framework in the Indian Constitution, states that no individual shall be deprived of their life or personal liberty except through a procedure established by law. The National Human Rights Commission of India (NHRC) is a statutory entity established on October 12, 1993,. Its legal foundation was solidified by the Protection of Human Rights Act, 1993 (PHRA). The NHRC's mandate encompasses the safeguarding and advancement of human rights, which the act defines as "rights pertaining to life, liberty, equality, and the dignity of the individual, as guaranteed by the Constitution or enshrined in the International Covenants and enforceable by Indian courts." The National Human Rights Commission (NHRC) has the authority to investigate complaints regarding human rights violations in India, either on its own initiative or upon receiving a petition. It is empowered to intervene in any judicial proceedings that involve allegations of human rights infringements. The NHRC can conduct visits to any prison or institution managed

by state governments to assess the living conditions of inmates and can provide recommendations to the relevant authorities based on its findings. Additionally, the NHRC is tasked with reviewing constitutional provisions that protect human rights and can propose necessary corrective measures. It also encourages research in the field of human rights and promotes awareness and education through various media across different sectors of society. The NHRC holds the power to recommend appropriate actions to both Central and State Governments to prevent human rights violations in India. Furthermore, the President of India receives an annual report from the NHRC, which is presented to both Houses of Parliament.

### **World report 2024**

World report will be given by the human rights watch organization. In the report of 2024 it produced different areas where human rights violations happened some of them are Jammu and Kashmir

Indian authorities have persistently imposed limitations on free expression, peaceful assembly, and various other rights in Jammu and Kashmir. Throughout the year, there were ongoing reports of extrajudicial killings carried out by security forces. Critics and advocates for human rights encountered arrests and searches based on unfounded terrorism claims. On March 22, Khurram Parvez, a well-known Kashmiri human rights activist who had been in detention since November 2021 on terrorism charges, was further accused of financing terrorism under the Unlawful Activities (Prevention) Act (UAPA). Additionally, on March 20, Irfan Mehraj, a journalist previously affiliated with Parvez's human rights organization, was arrested in connection with the same case. UN human rights experts have consistently urged for Parvez's release and have denounced the application of the UAPA against civil society and human rights advocates.

#### ***Lack of Accountability for Security Force Misconduct.***

Allegations of torture and extrajudicial killings continued to emerge, with the National Human Rights Commission documenting 126 deaths in police custody, 1,673 deaths in judicial custody, and 55 reported extrajudicial killings during the first nine months of 2023.

The Indian government has rejected a request to prosecute soldiers implicated in the deaths of six coal miners in the Mon district of Nagaland state in December 2021. In June 2022, state police brought charges against 30 soldiers, including a major, following findings from a special investigation team that indicated the military had shot the miners, the intention to kill was

evident. However, the central government refused to provide the required approval for prosecution, as stipulated by the colonial-era Armed Forces Special Powers Act (AFSPA) for civilian legal cases.

### **Communal violence**

On May 3, clashes broke out in the northeastern state of Manipur between the predominantly Meitei community and the minority Kuki Zo group. By November, the violence had resulted in over 200 fatalities, the displacement of tens of thousands, and the destruction of numerous homes and churches. In response to the unrest, authorities imposed an internet blackout in the region. Prime Minister Modi addressed the situation nearly three months later, following the release of a video on July 20 that depicted a Meitei mob assaulting and parading two Kuki women on May 4.

### ***Women's rights protection***

Indian authorities postponed the inquiry into claims of sexual abuse involving Brij Bhushan Sharan Singh, a member of parliament from the ruling BJP and president of the Wrestling Federation of India, despite ongoing protests from athletes lasting several weeks. In April, a total of six women and one child lodged complaints of sexual abuse against Singh with the police. It was only after the complainants submitted a petition to the Supreme Court that the police commenced their investigation

### ***Gender Identity***

In October, the Supreme Court chose not to legalize same-sex marriages, opting instead to accept the government's proposal to establish a panel that would evaluate the possibility of extending specific marriage-related benefits to same-sex couples.

### ***Refugee Rights***

On July 24, law enforcement in Uttar Pradesh apprehended 74 Rohingya refugees, comprising women and children, for violating immigration regulations due to the absence of valid documentation. Earlier, on July 18, a large group of Rohingya refugees in Jammu staged a protest against their prolonged detention, which included a hunger strike. In response, Indian authorities deployed tear gas and resorted to physical force. Tragically, two days following this event, a Rohingya infant reportedly succumbed to complications arising from exposure to tear gas.

These are some of the areas where the report raises concerns about the violations of human rights.

### **Conclusion**

Safeguarding human rights transcends a mere ethical duty; it serves as a foundational element for establishing equitable, just, and fair societies. Upholding the intrinsic dignity and equality of every individual is vital for fostering global peace, stability, and prosperity. Although notable advancements have been achieved through international agreements, domestic legislation, and grassroots movements, persistent challenges such as addressing discrimination, protecting freedom of expression, and defending at-risk populations continue to exist. It is imperative for governments, international bodies, and civil society to work together in strengthening legal structures and fostering environments where human rights are honoured universally. Education, awareness, and accountability are also essential in empowering individuals to advocate for and defend their rights. Ultimately, the comprehensive realization of human rights will not only enhance individual well-being but also contribute to a more harmonious global community, where the ideals of justice, equality, and freedom are universally upheld. The path toward the protection of human rights is a continuous Endeavor that demands ongoing commitment from all segments of society. Through united efforts and steadfast dedication, we can ensure that future generations inherit a world where human rights are protected, and the dignity of every individual is respected.

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