

Handbook of Human Rights

AMIT VERMA



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Amit Verma





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CHAPTER 1

INTRODUCTION TO BASICS OF HUMAN RIGHTS

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ABSTRACT:

Human rights are independent, inalienable, universal, intertwined, and interdependent. Everyone should have the opportunity to exercise their human rights, regardless of their color, ethnicity, language, sex, gender, religion, or political views. In other words, human rights are inherent to every person by nature and are not granted by laws or constitutions; rather, they are only recognized and protected as belonging to every individual as an individual. In essence, we are individuals and as such have rights. The formal legal protection of human rights, on the other hand, shields individuals and groups from the government's and other people's actions that violate these rights. In essence, human rights relate to real people, both locally and globally. Human rights are a concept that protects each and every one of us, whether we are in a school, university, bazaar, hospital, street, family, or somewhere else. Human rights, then, are about us; they're about our worth, our security, and our freedom. Second, think about one of the major arguments in the theoretical area of human rights: "universality of principles and values of human rights versus relativity." Third, to provide a quick summary of a few important human rights, such as the freedoms of expression, thought, and religion. In summary, this chapter aims to provide a condensed and unusual introduction to the field of academic human rights research.

KEYWORDS:

Human Rights, Environmental Sustainability, Relative Rights, Universal Rights.

INTRODUCTION

The public has never questioned the universality of human rights or thought of them as a Western or Northern command. Frequently, their leaders were responsible for achieving this. Kofi Annan, the seventh UN Secretary-General. In order to comprehend the overall nature of human rights and the logic tying the diverse groups together, it is necessary to understand their characteristics and fundamental principles. Fundamental rights are in the first place human rights[1]. In other words, regardless of race, ethnicity, language, gender, religion, or political opinions, everyone on earth has the freedom to practice their human rights. In other words, everyone has a right to the preservation of their human rights, wherever they may be. Due to the fact that human rights are inalienable and integral to what it is to be a person, they cannot be taken away from us since they are intertwined with our very nature and reason for existing (What are Human Rights). German contemporary philosopher Ernest summarizes this as follows. Human rights, as they are commonly understood, are characterized primarily by their status as fundamental liberties. Because you're a Jew or a Christian, you don't have them. Human rights are universal, interrelated, and interdependent, which is the second key idea. It implies that a variety of other rights typically accompany human rights in packages. For instance, it is impossible to separate the right to life from the unequivocal prohibition against torture, and there are strong connections between the freedoms of conscience, thought, and speech.

Therefore, it is untrue, or at the very least misleading, to say that some categories of human rights are not "so important" and can be "sacrificed" in order for people to live without some rights. This implies that a variety of human rights are inextricably linked to one another and cannot be viewed independently of one another. To hold a certain right, one must also exercise a number of other rights (Council of Europe, 2017). Furthermore, if one right is violated, suspended, or denied, it may lead to the violation, suspension, or denial of another right. It's a very dangerous job.

The Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights in 1993, reinforced the idea that "all human rights are universal, indivisible, and interdependent and interrelated" (OHCHR, n.d.). Thus, the state, any political force, or any other sovereign cannot renounce, abolish, invalidate, or alter human rights. Some rights, however, can only be curtailed or suspended in extreme cases. In addition, as emphasized in the Vienna Declaration, all states must treat human rights on a global level fairly, equally, and with the same focus. In addition to taking into account the significance of national and regional particularities as well as various historical, cultural, and religious backgrounds, it is the duty of the states to advance and defend all human rights and fundamental freedoms, regardless of their political, economic, and cultural systems[2].

Various human rights organizations:

Different categories exist for human rights. One is the historical categorization method, which aims to distinguish between "classic" or "civil and political" rights and "social" rights. In the past, "civil and political" rights which safeguard the public against official actions were the first rights to be acknowledged. Therefore, civil rights are essential to shield people from both the government and other people. Rights that are referred to as "social" include social, economic, and cultural rights[3]. After then, human rights are categorized according to the contexts in which they apply. Political, economic, social, cultural, and group rights have also developed as a result. Civil rights, which primarily serve to protect people's lives, safety, and privacy; guarantee freedom of thought, speech, and conscience; and defend against discrimination.

Another technique to categorize human rights is to divide them into absolute and non-absolute categories. Even though the majority of academics who study human rights concur that these rights are universal, this does not imply that all human rights are unalienable. There is no need to restrict an unassailable right. Never should inalienable rights be restricted. Absolute rights, such as those to life, liberty, and security of person; equality and nondiscrimination; fair trials; freedom of speech and of religion; privacy and family life; health, education, and property; and the right to a living wage, cannot be suspended or waived in order to protect personal freedoms.

Dynamic and Growing Phenomenon:

Human rights laws are still being developed and have solid intellectual foundations. While some parts of human rights, like the categorical prohibitions against torture and slavery, are clearly defined, others, like the right to labor, are less so. The legal codification of the concept of human rights has also been greatly extended by the constant addition of "new" human rights[4]. For instance, there is now increased understanding of the relationship between environmental conservation and human rights. More and more people are realizing how crucial it is to safeguard the environment, spread environmental consciousness, and advance human rights. The most fundamental human rights, such as the rights to life, security, and health, are directly related to the right to a secure and healthy environment. The right to a safe and healthy environment is currently recognized in numerous national constitutions and international accords. Certain countries have added more specific rights, including the right to knowledge and the right to participate in environmental decision-making, to their legal systems. The idea that everyone has the right to a safe and healthy environment might be argued to be the cornerstone of environmental sustainability[5]. On the other hand, environmental sustainability is the cornerstone of sustainable development. Here, it is evident how the preservation of human rights, the environment, and sustainable development are all related.

DISCUSSION

Basic Human Rights Principles:

The universal right to certain protections is affirmed in all key international declarations dealing to human rights. This right arises from each person's humanity and intrinsic value. A human rights philosopher refers to this perspective as a Moral theory or philosophical notion of rights are preferred terms by those who think that we have rights simply because we are human. All humans have intrinsic rights, according to scientific, moral, or philosophical ideas and notions. Human rights are a natural result of being a human,

not something that is handed to us. In other words, the fundamental and main reason we are entitled to human rights is that we are creatures of the human race. In addition to establishing these rights, all domestic and international constitutions, laws, and other legal documents must uphold the necessity of defending human rights[6].

Even if the law doesn't provide enough protection for your human rights, you should still be able to exercise them, and even if society doesn't regard human rights equitably, it should still do so. Or, to put it another way, states and constitutions only recognize and uphold the fact that people already have human rights. According to the UN Committee on Economic, Social, and Cultural Rights, the obligations of the state with regard to human rights are regulated by the principles of respect, protection, and fulfillment. In turn, the responsibility to preserve human rights include obligations to facilitate, provide, and promote. According to a competing viewpoint known as the political view of human rights, politics is the primary function of human rights. More specifically, the notion of a particular political institution affects the notion of human rights. This view holds that the fact that human rights serve a specific political objective, such as restricting state sovereignty, establishes their fundamental nature. The political approach holds that it's critical to comprehend the special qualities of human rights in the context of their role or position in current international political activity. On the other hand, as scholars in the field of philosophy of human rights have emphasized, the political theory of human rights lacks the tools necessary to determine the substantive meaning of human rights and is to some extent flawed.

Regard for human dignity and rights:

The first article of the Universal Declaration of Human Rights declares that "all human beings are born free and equal in dignity and rights." The concept of human dignity and human rights are so closely related. Both concepts are bound together in a way that makes them incompatible. In general, the concept of human dignity is the cornerstone of the value of human rights and the responsibility to respect everyone's rights. In other words, it is thought that human dignity is the cornerstone of human rights. All initiatives to fight injustice, torture, and other harsh treatment (such as gender-based, ethnic, or racial discrimination) are founded on the concept of human dignity.

An overview of the human rights concept's history

Despite the fact that the idea of human rights has its roots in ancient philosophers, it is generally accepted that the political theory that gave rise to it is a relatively recent development. At the very least, discussions of the history of human rights typically bring up the 17 principles of natural law and natural rights. Furthermore, natural rights, which originated from natural law, can be considered as the forerunners of human rights; for a long time, this idea stood at the core of Western political theory[7]. The development of the idea of natural rights over many centuries was crucial to the development of the idea of human rights in the twentieth century, but as Gabriel Moran warns, it would be oversimplified and incorrect to think that "human rights" are just another name for what was once known as "natural rights." Natural law could be defined as the standard by which all other laws are evaluated in terms of higher-order morality. A person had to refute the unfairness of human-made law by arguing for the superior authority of God or natural law. The culmination of natural law's development is natural rights.

Natural law, on the other hand, provided as a foundation for limiting the authority of the state over society, whereas natural rights permitted people to make claims against the government. Natural law was supposed to have religious or secular roots. One of the most influential proponents of the Christian natural law tradition was the theologian Saint Thomas Aquinas, who was influenced by ancient philosophers. However, it is argued that a secular rather than a religious understanding of natural law is more historically relevant. The Greek Stoic philosophical tradition, which had an impact on Roman law and later Christian norms, provides a more solid historical foundation for natural law. Because without it, people would not have been able to develop natural law and natural rights, which in turn laid the foundation for the concepts of civil and political rights as well as the concept of social justice. Human reason or intellect plays a significant role in the development of natural law and natural rights.

Secular notions of natural rights were developed by Enlightenment and post-Enlightenment political theorists and intellectuals in an effort to establish restrained forms of representative democracy that would respect citizens' freedom. Hugo Grotius, John Locke, Thomas Hobbes, Thomas Paine, Georg Hegel, and others contributed to this process. For example, in Locke's theory, natural rights are the basic liberties that follow from the law of nature and encompass things like life, liberty, and property; yet, the power of the government must be restrained by the rule of law and the separation of powers. Natural rights are held in accordance with human nature rather than being the outcome of political, legal, or social convention.

However, in reality, the enforcement of natural rights was very particularistic. For instance, only a few Christian organizations received religious tolerance, women were 'naturally' excluded, and 'barbarians' were not accorded any natural rights. Because of this, the Enlightenment's conceptions of rights tended to focus on free, property-owning, white male citizens; they neglected to address the rights of women, who were considered to be dependent on men, children, who were considered to be the property of their fathers, slaves, and native Americans and Africans[8]. To put it another way, despite the Enlightenment's pivotal role in the development of the modern human rights agenda, many people were still perceived as not being eligible to enjoy all the liberties enshrined in the English, American, and French declarations of rights. For example, slavery persisted, the rights of indigenous people in European colonies were violated, sexual minorities were brutally persecuted in many places, and the civil rights of Jews were still denied even in the most pro-rights countries. Propertyless male citizens and all women were also treated as second-class or passive citizens. The logic of unalienable, equal, and universal natural rights has a tendency to rectify itself, though. It altered the standard of proof so that people whose rights are grounded in shared humanity must now present reasons as to why others are not entitled to the same rights.

During the industrial era of the nineteenth and early twentieth centuries, slavery was essentially abolished globally, and male suffrage was introduced in many industrialized countries. Women's rights were in their infancy, anti-Semitism and racism in general were still rampant, and child welfare was still a long way off. While some philosophers tolerated racism, renowned scientists also showed a propensity to fabricate data to support the idea that different races were treated unfairly. Examples include the biologist Charles Darwin and eugenicist Francis Galton, who tendentiously misunderstood and even manipulated their research to support racist attitudes. The groundbreaking developments in human rights weren't made until the second half of the 20th century, with the establishment of the United Nations organization and the adoption of international human rights treaties. One of the most important first stages was developing a vision for rights that all UN members could endorse. In the wake of the terrible horrors of the two World Wars, the Holocaust, and colonization, the idea of human rights was broadened to include all individuals, regardless of their origin, ethnicity, gender, socioeconomic status, and state allegiance.

However, all instances of state-sanctioned violence showed that there were times when the state became a citizen's deadliest enemy and outside protection was the person's best and last option. Thus, the biggest revolutionary invention of the 20th century was the development of a framework of truly universal human rights concepts. The UN General Assembly unanimously adopted the Universal Declaration of Human Rights on December 10, 1948, and it states that it is "a common standard of achievement for all peoples and all nations, with this aspiration having gained some real practical significance as a result of the development of international human rights law. The International Day of Human Rights is observed on December 10th, the day the Universal Declaration, the most significant statement of human rights in history, was adopted.

Relativity vs. the Universality of Human Rights Principles and Values

To assume that human rights are universal, however, raises the important question of "Are human rights truly universal or do they only apply to a specific culture or civilization? Human rights are global because they are independent of any specific theological or philosophical teaching. There are two main schools of thought when it comes to the issue of whether or not human rights are universal or specific; one is universalist and the other is relativist or particularist[9]. As a result, those who support the relativitarian

school of thought believe that the UDHR's definition of human rights, which has secular Western roots, inevitably means that these rights are not (or cannot be) truly universal or that they are (can be) truly universal. Is there a discussion about the relativity of human rights ideals based on moral relativism or cultural relativism, or whether human rights are genuinely universal. Moral relativism manifests itself in several ways. One academic definition of moral relativism states that it is the belief that moral principles only develop, exist, and have value within certain local cultures. In other words, moral relativism accepts all local moralities equally, regardless of how unjust, cruel, abusive, or absurd they may be. As a result, moral relativism disapproves of using any overarching, universal moral concept of joy, suffering, justice, or rights as a benchmark for comparing and contrasting civilizations. Aspects of cultural relativism may be present in moral relativism. Although not all forms of cultural relativism allow for moral comparisons and the evaluation of all local cultures in light of universal values, as Alderson points out, "moderate cultural relativism means respecting all other cultures to the extent of not judging them by standards set by one's own culture. Some religious Muslims or Christians (of some sects) may consider polygamy and patriarchalism as normal; as a result, they may disagree with some fundamental human rights values while supporting others. Unbalanced cultural relativism is a possible name for this kind of relativism.

There is a need for moderate, balanced cultural relativism that, on the one hand, respects all other cultures to the point of not judging them according to standards of one's own culture, and, on the other hand, acknowledges universal human rights principles and, as a result, condemns and opposes all forms of abuse of these values in all societies, including one's own. Unbalanced cultural relativism may accord unconditional respect to all cultures, even if they include traditions that violate human rights and engage in violent abuse. According to some academics, cultural relativism is quite similar to moral relativism. there is no objective "truth" in morality because different cultures have distinct moral codes, and right and wrong are merely questions of opinion that differ from culture to culture. The relativity of values (which can result from either moral relativism or cultural relativism; however, it depends on the definition of cultural relativism because the moderate version of cultural relativism respects and recognizes universal principles of human rights) can be loosely defined as the defense of the existence of different moralities/moral codes, all of which are at the same time supposed to uphold universal principles of human rights, even though there is no universally accepted definition for it.

For instance, child marriage, slavery, or polygamy may be regarded as status symbols in a specific local culture, and relativism the acceptance of the relativity of the principles and values of human rights, leading to the rejection of the universal principles and values of human rights is prepared to accept this local culture's morality as legitimate, appropriate, and decent in the modern world. Accepting the relativity of values (whether due to moral or cultural relativism means that one not only accepts this type of violation of fundamental human rights but also works to excuse and legitimize it. In summary, relativism promotes a contradictory form of tolerance that both justifies intolerant society and opposes universal rights. This is problematic when the rights of the most vulnerable are violated, such as when adults maltreat children. The concept of relativity of human rights values casts doubt on the possibility of universal human rights principles and values. According to the relativist perspective, human rights are only founded on 'Western' or 'European' ideals; as a result, the idea of human rights is purportedly a 'Western idea' and 'foreign' to many non-Western civilizations. Contrarily, the idea of human rights emphasizes the existence of universal human rights principles and ideals[10].

Relativism makes human rights, such as those of women, children, and people with disabilities, become abstract ideals rather than "reality in action." In general, moral relativism and keeping silent in the face of breaches of fundamental human rights (such those of women or children) are not impartiality; rather, they explicitly support the oppressors in positions of power. It is harmful and hazardous to believe that human rights ideals are relative. For instance, condoning slavery, child marriage, or physical punishment like beatings by claiming that it is acceptable according to a particular culture's morality inevitably ends in the devaluation of the foundational value of human rights, respect for human dignity. One debases or denies the value of human rights by asserting that they are a Western, foreign concept, a manipulative tool, or a

plan to undermine one's own culture, family, society, or religion. In actuality, though, violence and a disrespect for human rights may be the root of the majority of our vices and problems.

CONCLUSION

Human rights, according to academics, are moral, political, and legal standards and human requirements. According to the prevalent naturalistic or moral, philosophical conception of human rights, which maintains that all people are entitled to human rights merely by virtue of their nature as humans, human dignity is the axiological cornerstone of human rights (related to values, such as those of ethics, aesthetics, or religion). Respect for human dignity is seen as the foundation of the concept of human rights. Human rights are universal rights, regardless of how they are defined or what exactly their status as rights involves. This component seems to be vital in any situation. However, some people still refuse to grant basic human rights to persons who belong to racial, ethnic, or religious minorities, to women, to children, or to people with disabilities. The fundamental tenet of human rights is "to be who you want to be, and to be accepted for who you are." It recognizes that each human being is distinct and deserving of respect simply for what it means to be a fellow human. Human rights are ultimately essential for each of us to completely live our own lives, free from prejudice, the worry that we won't fit into any preconceived notions or stereotypes, and the stifling impact of our own concerns and subjective standards.

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CHAPTER 2

HUMAN RIGHTS PRINCIPLES AND THEIR GROWTH MARKERS: A DETAILED DESCRIPTION

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ABSTRACT:

This article discusses the notions of accountability and participation in the literature on governance and human rights. Rarely is the particular method that these ideas are used and understood highlighted. Donors and other players commonly employ imprecise language when referring to these ideas in governance and human rights programs, leading to implicit understandings of what accountability and participation are meant to mean. Human rights advocates do, however, frequently claim that ideas like responsibility and participation enhance plans for or actions pertaining to government. Conceptual clarity is necessary insofar as development policies are increasingly being influenced by human rights thinking. This is especially clear when efforts are made to develop metrics that assess how well human rights principles are being implemented. This article highlights the importance of human rights concepts in development in addition to outlining how indicators of such principles may be created. Development actors' human rights practices are frequently covered by other policy considerations, such as good governance or the rule of law, or they don't have any explicit, definite human rights policies at all. Nevertheless, there are indications that support for human rights problems is expanding in terms of donor policies, corporate and NGOs, as well as the judicial and governmental systems. This integration process is examined in the article, along with the potential benefits of incorporating human rights principles into governance and human development plans.

KEYWORDS:

Human Rights, Human Rights Responsibility, Human Development Plans, Inclusion, Institutionalization.

INTRODUCTION

Ten years ago, the five indicators that were needed to evaluate implementation processes and satisfaction levels in a variety of contexts and at various levels were the main area of agreement among those discussing human rights indicators. Since then, there have been discovered five initial areas of agreement:

1. Human rights indicators shouldn't be seen negatively; a focus on violations is not required.
2. Ranking various indicator kinds is not required because it is useless. Ranking national performance often sparks conflict and undermines the shared ownership of indicators among national stakeholders and outside groups.
3. The framework of human rights indicators developed by the Office of the High Commissioner for Human Rights of the United Nations is reliable and adaptable to different institutional and national contexts.
4. Quantification is a different choice to take into account. This enables surveys rather than expert assessments of human rights to be conducted.
5. No human rights organization has dealt with the issue of data scarcity successfully to date.

Overall, there has been progress, but there are still problems with the support for the achievement of human rights. Assessing human rights compliance on a country-by-country basis is difficult, but there are practically as many approaches used for programs and projects as there are NGOs and donors[1]. The fact that there are so many measurement methods demonstrates that human rights in development have not yet embraced its practices. The authors described three fundamental methods for incorporating human rights into development: coincidental and overlapping elements; human rights concepts; and legal requirements. Indicators of human rights utilized by development organizations. On a practical and substantive level,

human rights and development seem to serve similar and complementary goals. Furthermore, human rights and development both have an impact in this field. Integration is not sequential in this sense. A deeper level reveals a consensus around principles. These values include those related to accountability and participation, equality and non-discrimination, equity, inclusion, empowerment, and transparency, which are prerequisites for sustainable development[2].

It is possible to see, albeit in a subtle way, how laws and development interact. International legal obligations are not typically brought up in the development discussion, despite their significance for both development and human rights. In fact, the definition of development assistance in terms of obligations is still up for debate. A fourth category human rights-based methodological approaches which highlight the empowerment of right-holders and duty-bearer accountability is also added. The operational and indicator implications of each category are discussed in detail in the current paper. These distinctions will be further discussed in this essay[3]. However, there will likely be some overlap between the latter group and the category of human rights requirements. Donors and NGOs have been impacted by these methodological advancements both on a normative level and in the real world. The emphasis placed on agency, outreach, and empowerment is an excellent illustration of how human rights theories and methods are widely used.

Responsibility and the rule of law: The protection of human rights is the responsibility of states and other duty-bearers. In this regard, they are required to abide by the rules and laws outlined in human rights documents. Affected rights holders have the right to file a lawsuit for an adequate remedy in accordance with the laws' rules and procedures before a competent court or other arbitrator if they fail to do so. The following two points can be raised in opposition to these ideas: What caused them, and how do they impact how businesses operate?

Regarding the latter, a third question might be added: How are they assessed? It seems appropriate to take into account these principles' metrics and the standards that underpin them given that these principles are significant to development organizations, NGOs, and possibly even national governments, and that the OHCHR's groundbreaking framework on human rights indicators does not address how they are measured[4].

Several issues are included under the heading of participation rights in the International Covenant on Civil and Political Rights (ICCPR), such as freedom of assembly under article 21, freedom of association under article 22, and participation in public affairs under article. One of the numerous rights that the Covenant guarantees and which are required for participation rights are the freedoms of thought, conscience, and religion (article 18) and the unrestricted expression of opinions (article 19).

Other significant universal human rights treaties include the Convention on the Rights of the Child (CRC), the American Convention on Human Rights, the European Convention on Human Rights, regional human rights treaties like the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The Declaration of Human Rights, and others. Participation may also be safeguarded through provisions designed to advance other rights, such as the right to education under the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

States parties are required to "further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace," as stated in Article 13 of the constitution, which safeguards the right to education. In accordance with Articles 29 and 30 of the CRPD, individuals with disabilities are guaranteed the right to actively participate in political and public life on an equal basis with others, either directly or through representatives who have been voluntarily chosen[5]. This covers the freedom to vote and the chance for those with impairments to hold elective office. The CRPD also actively promotes an environment that allows persons with disabilities to engage fully and effectively.

DISCUSSION

It can be useful to start by defining "accountability" in the perspective of good governance. The World Bank claims that "accountability" necessitates two distinct stages: answerability and enforcement. The concept of "accountability" describes the obligation of the government, its agencies, and public officials to inform the general public and those institutions of accountability tasked with providing supervision of their decisions and acts, as well as to provide reasons for those decisions and actions. The phrase "enforcement" refers to the capability of the general public or the body in charge of accountability to punish the offender or cease the undesired activity. The significance of oversight mechanisms is highlighted in order for government acts to accomplish their stated objectives and satisfy the needs of the community they are intended to serve. According to this perspective, accountability is a political position that primarily consists of three elements: information, transparency, and oversight. The World Bank has classified the demand for good governance tools into the following major categories: information dissemination and demystification, participatory monitoring, participatory financial management, complaint handling, participatory decision making, and participatory management[6]. These major categories now include various social accountability measures. Impact analyses of these efforts to monitor public authorities and hold them responsible for their actions show some, but not all, examples of effective outcomes. The value of numerous tools is currently the subject of extensive investigation.

Let's now examine accountability from the standpoint of human rights. Accountability is at the center of the human rights framework as both an overarching objective and a fundamental tenet, as opposed to being a right. The following may serve as a summary of how human rights promote development. Possibly the biggest source of additional value is the emphasis the human rights approach focuses on the accountability of decision-makers and other actors whose actions have an impact on people's rights. Rights imply responsibilities, and responsibilities demand responsibility. The idea of accountability has gained more prominence in the development discourse as a result of the expansion of governance and anti-corruption initiatives, as well as rule of law and justice programs, under development cooperation. However, both in developed and developing countries, accountability has gotten greater in democratic policies. It is currently a key point of discussion in global governance debates. Accountability is the cornerstone of more recent efforts to engage in fragile states and conflict-affected regions as well as the demand side of good governance. Despite the breadth and significance of the convergence on accountability as a principle, it can be argued that the concept of legal accountability may be one of the most important differences between human rights and development discourses and frameworks, as well as defining one of the most significant contributions that human rights law can make to development.

One component of accountability that needs to be emphasized is the direct intersection of duty with national constitutional and legal frameworks as well as with international legal standards. Therefore, it is considered that the explicit mention of human rights almost always suggests a reliance on the law because it is binding, notwithstanding challenges with enforcement and compliance. Therefore, the core of what human rights legislation is understood to contribute parties under human rights treaties as well as by its applicability in domestic legislation, constitutions, and governing structures when such commitments are implemented is the power of international legal accountability through the obligations of States. This accountability generally requires a number of interrelated elements, such as the justification of States' performance in comparison to others, an assessment, oversight, or judgment of that performance against certain standards, and the potential imposition of consequences through redress and remedies if States fail to live up to the applicable standards[7]. On another level, the accountability concept supports the interaction between the right-holder and the duty-bearer: The accountability principle states that people are active subjects or claimants. What it means to have a right is to make a claim against another person, an organized social unit like the family or the state, or another individual.

In addition to emphasizing accountability as a key element of human rights, this viewpoint emphasizes legal accountability as something that, in and of itself, brings value. In evaluating the value offered of human rights-based approaches (HRBAs), Paul Gready noted that the most obvious and distinctive

contribution that human rights can make is through the leverage provided by the law. Beyond the obvious advantage of being legally binding, aspects of the 'value added' include the public and visible nature of the norms as international treaty obligations, the relative stability, predictability, and clarity of those norms, as well as the fact that states' publicly declared intentions as States parties are the subject of those norms (reservations, limitations, and derogations notwithstanding). The legal responsibility that supports human rights ideals defines the international rule of law, upon which a range of normative and instrumental frameworks are built, as well as the framework within which it might be pursued. Other ways that legal accountability is communicated include the results of treaty monitoring organizations' investigations and complaint processes under human rights treaties. The development of human rights indicators and evaluation techniques have improved these sources. By functioning on a range of scales, including global, national, and even little ones, these international standards increase value. Human rights treaties are frequently incorporated into national legal systems after being ratified, which can result in constitutional litigation aimed at safeguarding human rights. This is true even though different countries view their constitutional obligations under international law differently[8].

The value supplied by legal accountability is maintained despite the fact that there are other accountability mechanisms that are crucial for development, the law may be implemented directly or indirectly, and it is not the only way to hold people accountable. In view of the continued challenges with implementation and enforcement as well as the cynicism expressed by some over the genuine consequences of international human rights accords, it is also acknowledged that legal responsibility is defective. Since legal responsibility is not viewed as the primary or even dominant form of accountability for human rights in development, neither the potential contribution of human rights to development nor the MDGs are stated. Social accountability, measures to enhance demand-side governance, political mobilization, and grassroots movements that rely on the active participation of groups are all effective ways to promote human rights accountability in development. It is asserted that, in the context of development, legal responsibility and other forms of accountability are not mutually exclusive and may even strengthen one another. They can be applied jointly to advance the MDGs' accomplishment and have an impact on the goals and practices in the post-2015 era.

The integration of the ideas of human rights responsibility and involvement in development has been covered in this article. They are crucial to development because they are embraced by donors and NGOs. As the text makes clear, these concepts are shrouded in uncertainty. It is therefore unclear what they provide and how they may be evaluated. Furthermore, it is unclear how they were outlined, when they cross over with governance standards, and when they ought to be viewed in a different light. The essay's goal was to investigate how both legal and extralegal human rights ideas, practices, and tools might help to clarify the ground.

What benefits can the human rights ideas of accountability and participation provide to governance? According to the research, the factors that make participation as a human rights principle conceivable are freedom and procedural human rights. From a human rights standpoint, encouraging participation necessitates systemic attention to neglected and vulnerable areas, necessitating the need for disaggregated data and more advanced methods of doing so. Finally, a human rights-based approach to participation is linked to the degree of involvement and its institutionalization. People should be treated as citizens with rights, and their agency or empowerment should be encouraged. In this article, the integration of the concepts of human rights, responsibility, and participation in development has been discussed. They are essential to development because donors and NGOs support them.

The language makes it obvious that there is confusion surrounding these ideas. Therefore, it is unclear what they offer and how they may be assessed. Additionally, it is unclear how they were presented, when they overlap with governance principles, and when they require a distinct perspective. The purpose of the essay was to look into the possibility of ground clarification using both legal and extralegal human rights theories, practices, and methods. What advantages might the concepts of responsibility and involvement in human rights bring to governance? The study finds that freedom and procedural human rights are the

elements that make participation as a human rights principle plausible. Promoting participation from a human rights perspective requires systemic attention to underserved and vulnerable areas, necessitating the need for disaggregated data and more sophisticated techniques for doing so. Finally, the level of participation and its institutionalization are related to a human rights-based approach to participation. People should be treated as rights-assured citizens, and empowerment or agency should be promoted. Being a human is the only requirement for acquiring human rights; no other condition, qualification, or information is required. Humans may easily be distinguished from animals or plants in daily life because of their clear biological characteristics [9]. Determining when someone first becomes human and when they stop being human, on the other hand, is more difficult.

When do people become Truly Human

On the beginning of human life, there is no general agreement. Life is defined differently in different countries. Some believe it begins at birth, while others believe it begins when a kid is able to survive without its mother. When someone looks at a pregnant lady, they might simply see the woman herself, but another person might see the woman and her unborn child. There are two effects on human rights. The legality of ending pregnancies will first be determined by the legal definition. Second, as will be discussed in more detail in subsequent chapters, this definition has important implications for women's rights and reproductive health with regard to the question of the pregnant woman's right to choose what to do with the unborn child.

However, regardless of where a person is born or whether they are even aware of what human rights are, once they are born, they automatically inherit those rights. Another aspect of what it means to be human is illustrated by the topic of when someone's human rights end. Death is a clear-cut condition, and most people can tell a dead individual from a live one. But what if a person is determined to be brain dead, suffers from a serious mental disease, or has brain damage? When is it appropriate to consider keeping a person alive after they have suffered catastrophic injuries or become mentally incapacitated [10].

The key characteristics of being human are illustrated by your responses to these questions. It is a prevalent misconception that in order to be fully human, a person must have conscious and logical thinking. Life support systems are often only turned off when a person is deemed brain dead or incapable of thinking. The choice to do so frequently considers whether or not the patient can function as a person, while different States have different procedures for making this decision (sometimes requiring discussions between medical advice, the family's wishes, and the cost of medical treatment).

CONCLUSION

The integration of the accountability and participation in development concepts of human rights has been covered in this article.

These concepts are crucial to development, not least because donors and NGOs use them. These concepts, it has been stated in the text, are obscured by uncertainty. It is unclear how they were defined, when they overlap governance requirements and when they should be treated differently from them, and as a result, it is unclear what they deliver and how they may be quantified. The paper aimed to reflect on how human rights norms and practices, as well as legal and non-legal instruments, might aid in ground clarification.

What do the accountability and participation principles of human rights add to a governance perspective of such criteria? The analysis shows that freedom and procedural human rights are the means by which participation is made feasible in terms of participation as a human rights principle. From a human rights standpoint, participation calls for a systemic focus on marginalized and disadvantaged populations, necessitating the need for disaggregated data and more complex methods to facilitate participation. Finally, a human rights-based approach to participation is related to the quality of participation and its institutionalization. The treatment of people as citizens with rights and the provision of space for agency or empowerment are examples of quality attributes.

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CHAPTER 3

AN EMPIRICAL INVESTIGATION OF HUMAN RIGHTS AND INFLUENCES IN INDIA

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ABSTRACT:

For a person's total growth, human rights are crucial. Basic rights, also known as fundamental rights, are protected by the Indian Constitution for both citizens and foreigners. Specific and Unspecified Fundamental Rights are distinguished from one another. The International Covenant on Civil and Political Rights (ICPPR), an international instrument, and the rights guaranteed by the Constitution occasionally stand on equal footing. Instead of being applicable to individuals, the ICCPR is for States. Therefore, only once they have been incorporated into the State's internal law can the rights guaranteed therein become a state's obligation. Repressive legislation was employed by the government to stifle free speech and silence dissenters. The harassment and intimidation of human rights organizations and defenders persisted, and vigilante cow protection groups launched many attacks. Thousands of people demonstrated against the brutality and oppression Dalit communities endure. Many millions of people were against changing the labor regulations. The government's desire for rapid economic expansion frequently overlooked marginalized communities. After terrorists attacked an army base in Uri, Jammu & Kashmir, tensions between India and Pakistan grew. Authorities in Jammu And Kashmir State committed a number of human rights breaches over a period of months. Millions of people's lives were adversely impacted by a ban on the country's largest currency notes, which was implemented in an effort to combat the illegal market in India. In 1945, the UN Charter established a Commission on Human Rights under Mrs. Roosevelt and reaffirmed belief in fundamental human rights. This proclamation was the result of such discussions. Appropriately remarking, A.A. Even though the idea of human rights is challenging to define, it cannot be disregarded. The human rights movement cares about each person's sense of worth, or their level of self-respect, which protects their identity and fosters a sense of community among people.

KEYWORDS:

Fundamental Rights, Human Rights, International Covenant, Political Rights, Repressive Legislation, UN Charter.

INTRODUCTION

Without exception, each of us has an equal claim to our human rights. All of these rights are intertwined, interdependent, and undivided. Conventions, general principles of international law, customary international law, and other legal instruments frequently express and guarantee universal human rights. Governments are required by international human rights legislation to take specific actions or refrain from taking specific actions in order to advance and defend the fundamental freedoms of individuals or groups. Human rights in India: Their Development and Origin According to Nagendra Singh, the Buddhist teaching of non-violence in action and thinking, which dates back to the third century B.C., is the quintessential humanitarian teaching. Similar concepts were also found in Jainism[1]. According to the Gita, a person is dear to God if they have no animosity against any entity, are kind and compassionate, are free of egoism and self-sense, are even-tempered in both suffering and pleasure, and are patient. It also claims that the characteristics of nonviolence, truth, freedom from wrath, renunciation, aversion to finding fault, sympathy for living things, freedom from covetousness, gentleness, modesty, and steadiness qualities that a decent human being should possess represent divinity in humanity[2]. The history of ancient Bharat establishes beyond a shadow of a doubt that human rights were as widely practiced in the ancient Hindu and Islamic civilizations as they were in the ancient Christian civilizations of Europe. The history of human rights cannot be separated from Ashoka, Mohammed, and Akbar.

Rights of the Human in British India It might be claimed that the contemporary interpretation of human rights law was developed in India during the British colonial era. Indians were humiliated and treated unfairly by the British during the British occupation of India, which showed itself in demands for fundamental liberties and the people's civil and political rights. The struggle for civil rights and fundamental freedoms was aided by the freedom movement and the severe oppressive policies of the British monarchy. Human rights, democracy, and socialism were all frowned upon when Britain was in power. The British colonial era still serves as the Indian counterpart to the Dark Ages in terms of cultural history. Lord Macaulay denounced traditional legal traditions and their fundamental core as a vast apparatus of terrible absurdities and rejected the ancient Indian legal and political system as being a legacy of Brahmanical superstition[3]. Lord Cornwallis stated that it is an adage that every native of Hindustan is corrupt, while Lord Wellesley denounced the Indians as being vulgar, ignorant, rude, and foolish.

Indians were denied access to prominent positions and denied their political, social, and economic rights by the English East India Company. In the perspective of the Indians, it appeared as though their sacred, unalienable human rights and fundamental interests had been disregarded, rejected, and infringed upon for the benefit of England and its rulers. Under his direction, Mahatma Gandhi organized the Indian people and began his nonviolent battle to win for them self-government and fundamental rights. According to Lokmanya Tilak, freedom is an Indian citizen's birthright for which they must struggle. The Charter Act of 1813, which aimed to advance the interests and welfare of the local population of India, was only passed as a result of the fierce opposition from the Indian populace. The Government of India Act, 1833 was also passed to grant some political rights to Indians. Some public policy concepts that were analogous to fundamental rights were included in Queen Victoria's proclamation of 1 November 1858[4].

The nationalist movement, which coincided with the founding of the Indian National Congress in 1885, logically led to the demand for concrete fundamental rights. A constitution guaranteeing fundamental human rights like freedom of expression, the inviolability of one's own home, the right to property, and equality before the law was made possible by the Indian National Congress' Constitution of India Bill 1895, also known as the Home Rule Document. In order to uphold the demands for fundamental rights, the Government of India Act, 1915, ensured equality of opportunity in public services. Between 1917 and 1919, the National Congress passed a number of resolutions that reiterated the desire for civil rights and status parity with the English. Human Rights and the Constitution of India One of the most comprehensive fundamental laws ever passed is the Constitution of the Republic of India, which went into effect on January 26, 1950 and contains 395 Articles and 8 Schedules. India is proclaimed to be a Sovereign, Socialist, Secular, and Democratic Republic in the Preamble of the Constitution. Democratic refers to a system in which the people's will serves as the foundation of government power. It conveys the idea that everyone is on an equal footing, regardless of race, religion, language, sex, or culture. The Preamble to the Constitution promises equality of status, of opportunity, and of fraternity, assuring the dignity of the person and the unity and integrity of the nation to assist its residents. It also promises social, economic, and political justice; freedom of opinion, speech, belief, and worship[5]. The Universal Declaration of Human Rights was ratified by India. The clauses of the Universal Declaration of Human Rights are similar to a number of the essential rights that are guaranteed to people under Part III of the Indian Constitution.

DISCUSSION

Minorities and Human Rights: A Study

Numerous violations of human rights were carried out by armed groups in Jammu & Kashmir, northeastern states, and central India. In states including Chhattisgarh, Jharkhand, Odisha, Maharashtra, Bihar, and Andhra Pradesh, the Communist Party of India (Maoist) armed organization was suspected of extortion, kidnapping, and unlawful killings, including of local government officials and alleged police "informers". According to reports, the gang employed a lottery system to enlist young people in Jharkhand[6]. It also targeted mobile towers and mining and road construction equipment-using trucks. Armed organizations in northeastern states including Assam, Manipur, and Meghalaya have been charged with extortion,

kidnapping, and murder. In an alleged attack by the National Democratic Front of Bodoland (Songbijit faction) armed group in Kokrajhar, Assam, 14 persons were killed in August. Also suspected of killing individuals in Jammu and Kashmir were armed gangs. One civilian and seven members of the security forces were killed when suspected Jaish-E-Mohammed militants attacked an air force facility in Pathankot, Punjab province, in January.

Violence and caste-based discrimination

Abuse against Dalits and Adivasis persisted on a large scale. More than 45,000 crimes against Scheduled Castes members and over 11,000 crimes against Scheduled Tribes were registered in 2015, according to official statistics issued in August. In a number of states, Dalits were discriminated against when attempting to use public services as well as denied access to social and public venues. The death of Dalit student Rohith Vemula in January sparked protests and discussions about the prejudice and violence Dalits experience in higher education across the country. When faculty members and students at the University of Hyderabad, where Rohith Vemula had studied, quietly protested in March, the police detained them. Widespread demonstrations came out in Una, Gujarat state, in July as a result of four Dalit males being publicly flogged by a vigilante cow protection organization for skinning a dead cow, which is a customary job for some Dalits. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Rules, which outlined the remedy options accessible to victims of caste-based violence, were passed by the central government in April[7].

Rights of children

According to statistics made public in August, there were 5% more reports of crimes against minors in 2015 than there were in 2014. Juvenile court authorities ruled that youth aged 16 to 18 be treated as adults in situations of serious offences under new regulations that went into effect in January. A Delhi juvenile justice board mandated in June that a 17-year-old be tried as an adult in a case involving accused hit-and-run driving. Another 17-year-old in Delhi was ordered to be tried as an adult in an alleged rape case in August. A child labor law was changed by Parliament in July to forbid the employment of children under the age of 14, although it provided an exception for kids who work in family businesses. The modifications also permitted youngsters between the ages of 14 and 18 to work in non-"hazardous" occupations. The modifications, according to many child rights organizations, will promote child labor and disproportionately harm girls and children from underrepresented groups. The central government unveiled a draft of a national education policy in August, but it omitted any reference to human rights education.

Ethnic and communal violence

In the pretext of maintaining laws that forbid the killing of cows, vigilante cow protection groups have harassed and harmed people in places including Gujarat, Haryana, Madhya Pradesh, and Karnataka. Two Muslim cattle dealers' bodies were discovered hanging from a tree in Jharkhand in March. Members of a Haryana cow protection group forced two Muslim men they thought were meat transporters to consume cow poo in June. A woman in Haryana said in August that two men who accused her and her 14-year-old cousin of eating beef gang-raped them. In a case involving a beef restriction law, the High Court of Bombay declared in May that prohibiting persons from consuming a specific food could go against their right to privacy. A committee established to reexamine closed cases connected to the 1984 Sikh massacre identified 77 instances for additional research and issued witness summonses. There was still little openness in how the team operated. In many cities, black people experienced racial harassment, prejudice, and violence. A Tanzanian woman was attacked and stripped by a mob in Bengaluru, Karnataka state, in February. A man from the Democratic Republic of the Congo was killed by a group of men in New Delhi in May after being beaten to death[8].

Company Responsibility

Despite authorities not having secured the free, prior, and informed consent of impacted Adivasi tribes, the Ministry of Environment allowed the expansion of a coal mine in Kusmunda, Chhattisgarh state, run by the

state-owned enterprise South Eastern Coalfields, in February. Using the Coal Bearing Areas Act, which permits for the purchase of Adivasi land without agreement, the central government continued to acquire territory. A central land acquisition statute was revised by the Gujarat government in April to remove a number of projects from consulting impacted households and undertaking social impact studies. In the same month, the UN Special Rapporteur on adequate housing said that India was where most forcible evictions took place in an unchecked manner. A case challenging the 2013 decision of 12 village assemblies to deny approval for a bauxite mine run by a state-owned enterprise and a subsidiary of Vedanta Resources was denied by the Supreme Court in May. For the fourth time, the US-based Dow Chemical Company and its subsidiary Union Carbide Corporation neglected to show up in court in Bhopal in July to answer to charges stemming from the disastrous gas leak in 1984. In Jharkhand, police shot and killed four people in response to a protest against a state-owned coal mine in October and three men protesting against a power project in August.

Executions without a Court Order

A former Manipur state police officer revealed to media in April that between 2002 and 2009, he participated in more than 100 extrajudicial killings in the region. In a case involving more than 1,500 arbitrary murders in Manipur, the Supreme Court ruled in July that military officers should not have "blanket immunity" from prosecution in civil courts and that the charges need further investigation. 47 police officers were found guilty in April by the Central Bureau of Investigation of the extrajudicial killing of 10 men in Pilibhit, Uttar Pradesh, in 1991. In Chhattisgarh throughout the year, security forces were accused of carrying out a number of extrajudicial killings. An alleged extrajudicial killing by Chhattisgarh police resulted in the death of an Adivasi man in February in Bastar, Chhattisgarh. In the same month, a purported extrajudicial execution in Rayagada, Odisha, resulted in the death of an Adivasi man. The victims in both cases, according to the authorities, were Maoists. In Kandhamal, Odisha, security personnel shot and killed five persons in July, among them an infant. The deaths, according to the security forces, happened in crossfire during a clash with Maoist organizations[9]. After breaking out of jail in November, eight pre-trial detainees were shot and killed by Madhya Pradesh police close to Bhopal.

Liberties in Connection

The Foreign Contribution (Regulation) Act (FCRA), which prohibits civil society organizations from obtaining foreign funds, was nevertheless used by the central government to harass NGOs.

The government put Lawyers Collective's FCRA registration on hold in June and then revoked it in December. Without providing any justification, the government declined to renew the FCRA licenses of 25 NGOs in October. Seven further NGOs, including Greenpeace India, Navsarjan, Anhad, and two operated by human rights advocates Teesta Setalvad and Javed Anand, had their licenses revoked in December.

Government sources were cited by the media as suggesting that the NGOs had gone against "national interest" in their actions. The limits imposed by the FCRA, according to the UN Special Rapporteur on the rights to freedom of association and peaceful assembly, are not in accordance with international law, standards, or principles. The Indian government was urged to repeal the FCRA by the UN Special Rapporteurs on human rights defenders, freedom of expression, and freedom of association in June.

Freedom of Speech

People who lawfully utilized their right to free speech continued to be punished by regressive laws. Three Jawaharlal Nehru University students were detained by Delhi police in February on suspicion of sedition after they allegedly shouted "anti-national" slurs. In the same month, Delhi police also detained a professor for sedition after he allegedly shouted "anti-India" epithets at a private gathering. The sedition law was also used to detain persons who published "anti-national" Facebook messages in Kerala, printed a map in Madhya Pradesh that did not include the entirety of Kashmir, and organized a protest in Karnataka demanding improved working conditions for police officers.

Police in Karnataka filed a sedition charge in August against unidentified Amnesty International India representatives for allegedly holding an "anti-national" gathering regarding human rights abuses in Jammu and Kashmir. The same month, an actress was accused of sedition in a Karnataka court for debunking a minister of the federal government's claim that "visiting Pakistan was like going to hell." The law governing information technology in India was applied to punish persons[10]. Two men were detained in March in Madhya Pradesh for allegedly posting a mocking photograph of a Hindu nationalist organization.

Human Rights Activists

Human rights advocates, attorneys, and journalists were attacked and harassed without consequence. Journalist Karun Mishra was killed by gunmen in Sultanpur, Uttar Pradesh, in February. He was allegedly singled out by the state police because of his reports on unauthorized soil mining. RajdeoRanjan, a journalist in Siwan, Bihar, was assassinated in May after receiving threats from political figures due to his writing. Journalist Malini Subramaniam was compelled to flee Bastar in February as a result of a home invasion and police pressure on her landlord. Another journalist, Prabhat Singh, was detained after posting an online joke against a top Bastar police official. In Bastar, vigilante groups intimidated and harassed researcher and activist Bela Bhatia. Unidentified attackers threw a poisonous substance in the face of adivasi campaigner SoniSori. In Jagdalpur, Chhattisgarh state, a group of human rights attorneys who gave free legal assistance to Adivasi pre-trial detainees were also pressured by the authorities to vacate their residence.

CONCLUSION

Article 15 of the Indian Constitution forbids the State from discriminating against any citizen on the basis of religion, race, caste, sex, or place of birth. It also forbids any restriction on any citizen's access to any public place, including wells and tanks. Article 14 of the Indian Constitution declares the general right of all persons to equality before the law.

Article 16 guarantees all citizens equal chance in areas of public employment. Untouchability is outlawed under Article 17 and its practice is made illegal and penalized by law. Due to the need for very special treatment for advancement, castes and tribes recognized in the Constitution (known as the Scheduled Castes and Scheduled Tribes) are allowed to make special provisions under Articles 15 and 16 of the Constitution. All non-military and non-academic titles are abolished by Article 18.

All citizens are guaranteed the right to freedom under Article 19, which includes the freedoms of speech and assembly without the use of force, the right to form associations or unions, the freedom to move around India without restriction, the right to reside, and the freedom to engage in any occupation, trade, or business. The right against self-incrimination, the principle of *autrefois convict*, and protection against *ex post facto* criminal statutes are all included in a person's protection from conviction under Article 20. Article 21 of the Indian Constitution, which is the cornerstone of all fundamental rights protections, states that no one may be deprived of their life or their personal liberties unless doing so in accordance with a legal process.

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CHAPTER 4

ROLE OF NGOS IN ENFORCEMENT OF HUMAN RIGHTS IN INDIA

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ABSTRACT:

Human rights must be fought for and used. For a guy to live a self-respecting life, this is crucial. However, there are specific circumstances where exercising human rights to liberty, security, etc., is not possible. They are violated and repressed. Naturally, there are constitutional protections for the use and defense of human rights. The government is required by the constitution to defend citizens' human rights. There are numerous national and state commissions dedicated to defending human rights. However, there are some restrictions on the protection of human rights by these institutions. Non-governmental organizations (NGO's) work to promote human wellbeing. These groups work to defend human rights as well. Numerous NGO organizations are trying to preserve human rights on a national and worldwide scale. We are mostly interested in researching certain well-known Indian NGOs that promote human rights.

KEYWORDS:

Chipko Movement, Human Rights, Human Rights Defenders, Non-Governmental Organizations.

INTRODUCTION

The protection of human rights and the eradication of human rights violations are top priorities for numerous organizations throughout the world. Their success depends on public support and criticism of violations, as human rights organizations are most successful when their calls for reform are backed by fervent public activism. One example of these organizations is a non-governmental organization. There are "Non-Governmental Organizations" (NGOs) working around the clock to record the injustices meted out to women, children, and the underclass, who make up the bottom rung of society, in every region of the world. They actively advocate to remind governments to keep their word so that the objectives outlined in numerous national and international human rights accords can be put into practice. There are reportedly between 1 million and 2 million NGOs in India. The democratic apparatus of the government must work in tandem with nongovernmental organizations (NGOs), which are a means of democratic empowerment for those who are weaker and less advantaged because the government apparatus and its authorized institutions are not always sufficient to ensure the protection of human rights[1].

NGOs are voluntary organizations, or non-governmental organizations. They are created by persons who desire to work for the wellbeing of all people, but especially for the less fortunate and underprivileged. The provision of social services including means of subsistence, opportunities for education, and health care to those in need is constrained by both the federal and state governments. Some of the challenges the government faces in offering welfare programs to citizens include a lack of resources, a labor shortage, protests from the general population, and pressure from political parties. However, NGO's have a greater network of human resources. Business entities provide financial assistance for these organizations. NGO's also have direct access to people at the local level. Members of these groups who are activists have positive relationships or rapport with the public. Consequently, they are able to better serve the public than government representatives in areas like as education, the defense of human rights, health, child welfare, environmental protection, the rehabilitation of displaced persons, etc[2].

Activities of NGOS to Improve Human Wellbeing

1. The Social Welfare Role, where providing aid and doing good deeds are essential. In this capacity, NGOs might be thought of as starting internal programs and projects.

2. The Mediating Role, in which the ability to communicate is crucial for growth and social activity. In this capacity, an NGO may be perceived as taking on or engaging in external activities and projects.
3. The Consultative Role, where the transmission of knowledge and information and the documenting of support are crucial.
 1. In this capacity, NGOs might be thought of as participating in cooperative programs. Local resource people, professionals, and specialists play a key secondary
 2. 4 .NGO's can operate educational facilities for the benefit of students. By running training institutes, they can also give people the training they need to become experts and technicians.
4. Voluntary organizations struggle to defend peoples' human rights. They are able to submit petitions in court to protect people's basic rights.
5. NGOs can engage in a range of initiatives to safeguard the natural environment. They have the power to raise people's awareness of environmental problems and the value of environmental protection.
6. These non-profit organizations can concentrate on promoting the nation's rural development. They can plan and carry out various activities that will promote the development of agriculture and its related fields in order to achieve this goal.
7. Non-governmental organizations can offer sick people medical aid and other health services.
8. NGO activists can organize child welfare activities, particularly for street children, physically disabled people, people with mental disabilities, and those who are undernourished [3].
9. NGOs assist the government in monitoring the welfare initiatives it carries out. However, NGO's challenge the government and pressure it to act in the interests of the people when its actions conflict with those of the people. As a result, these groups promote the welfare of people by assisting them in developing positive opinions towards personal, social, political, and environmental issues. NGO's are sometimes referred to as the eyes and ears of the people because they approach things from the perspective of the average person.

Issues that NGO's are facing.

The following issues affect NGOs as they provide selfless services to people.

1. Collecting accurate information about government plans, programs, and initiatives proved to be exceedingly challenging for NGOs.
2. Despite having the full support of business groups, financial institutions, etc., these nonprofit organizations lack the funding necessary to manage a range of welfare activities.
3. NGO's have trouble obtaining the services of professionals and technicians due to a lack of funding.
4. These voluntary organizations lack access to adequate infrastructure.
5. NGO's find it challenging to describe their aims in detail due to the evolution of people with varied interests [4].
6. These groups find it difficult to coordinate the many tasks they carry out.
7. NGO's cannot tolerate political meddling in their daily operations.

Despite all of these challenges, NGOs continue to work relentlessly to advance the interests of those who are less fortunate. Here, our main focus is on understanding and analyzing how NGOs contribute to the protection of human rights, including civil, political, and economic rights as well as socio-cultural rights, rights of those who are underprivileged, the right to development, and environmental rights[5].

DISCUSSION

PUCL, or People's Union for Civil Liberties

This NGO is based in Delhi. It is important to understand the circumstances in which Jayaprakash Narayan, a legendary Gandhian leader, founded the PUCL in 1976. He first established a nationwide organization called Citizens for Democracy (CFD) in 1974 in opposition to the dictatorial operations of the Indian

government, along with comparable organizations in Delhi, Madras, Mumbai, and Kolkata. The government later proclaimed a state of emergency. People's civil freedoms and basic rights were curtailed during the emergency, which led to the 1980 passage of the National Security Act. Under the guise of national security, this oppressive statute introduced preventive detention of individuals. This statute prompted the PUCL to be revived in 1980. It emphasized the need to safeguard people's civil freedoms at all costs. Additionally, it vowed to fight against any form of discrimination that infringes on the civil freedoms of the society's most vulnerable groups, such as children, women, and others. The JP Memorial Lecture is presented annually on March 23 by the PUCL. On this date in 1977, India's state of emergency was abolished[6].

Additionally, the PUCL grants the "Journalism for Human Rights" Award. The award was established in 1980 to educate journalists and everyday people about civil liberties and human rights. Despite having its headquarters in Delhi, the PUCL is a national NGO. It has locations in several Indian cities. It releases a monthly bulletin in both Hindi and English. It is referred to as the PUCL bulletin and informs individuals about the legitimate strategies for asserting, exercising, and defending their human rights. Everyone has the right to live. The right to food and a livelihood is also included in this. This led to the PUCL filing a Public Interest Litigation (PIL) at the Supreme Court in 2001. A severe drought affected the six Indian states of Orissa, Maharashtra, Gujarat, Rajasthan, Himachal Pradesh, and Chhattisgarh. People were starving in these states. The state administrations continued to fail to provide food for the populace. These drought-stricken folks were unable to buy food grains. The Supreme Court ordered the respective state government to offer free food to the people afflicted by the drought on the basis of the PIL filed by the PUCL. People's right to life was so safeguarded. The Court further ordered the state governments to come up with a plan to ensure that no one goes hungry. The PUCL works to draw attention to instances of human rights violations. It also ensures that human rights violations are corrected; the PUCL's operations demonstrate that strengthening a weak democracy requires safeguarding people's civil freedoms[7].

The People's Union for Democratic Rights (PUDR) was founded in 1976–1977 as the Delhi chapter of a bigger national forum. On February 1, 1981, it changed its name to PUDR. The organization has investigated hundreds of cases of democratic rights abuses over the past 25 years, spanning the majority of the nation and affecting the rights of many different social groups. Through broad campaigns, publications, and legal interventions, PUDR also addresses general concerns that have an impact on people's rights. These include caste persecution, agrarian warfare, killings, rapes, and torture while in police custody, as well as undemocratic legislation, particularly the several iterations of the "terrorist act" (TADA and POTA), among others.

The Chipko Movement

Sunderlal Bahuguna and Chandiprasad Bhat launched this movement in 1970. It expanded over the Garhwal region of the Himalayas, which is where famous rivers like the Yamuna and the Ganga get their start. Environmental issues in the Uttar Khand included soil erosion and the drying up of water supplies brought on by the removal of trees. Trees were first being taken down for profit. Additionally, the soil was harmed by this. Consequently, it became crucial to protect the ecology from additional deterioration brought on by deforestation. The Chipko Movement was the initial manifestation of this movement. 'Chipko' roughly translates as cuddling or embracing trees. Shri Bahuguna began by hugging the trees and preserving them. This is the largest movement of its sort that was founded with the goal of preserving forests and trees. When wood companies began felling trees for profit, S. Bahuguna initiated the effort to safeguard trees. He was adamantly against the woodcutters. Locals passionately backed Bahuguna, a renowned environmentalist. They followed the same strategy of embracing the trees to stop tree cutting. The initiative gained enormous traction as a result of the people's tremendous response. The Chipko Movement was initially founded in Dasohli, a town. The woodland was being recklessly cleared by the woodcutters. This led to a drastic reduction in the area's natural resources and loss of forest wealth. Gaura Bai was against clearing forests and cutting down trees. Tribal women enthusiastically joined in the initiative that was formed specifically to preserve forests under her leadership. Forests covering hundreds of hectares were spared. Worldwide

admiration was shown for this distinctive agitation. The organization currently has over 4000 groups striving to safeguard the environment and forests[8].

Safeguarding human rights.

Human rights protection is another goal of the Chipko movement. Tribal people who live in hilly or forested areas make a living by harvesting and selling forest items. They have a right to life, which includes a right to food and a means of support. Additionally, they have a right to a clean environment. Additionally, the Chipko movement has persistently fought to defend tribal members' economic and environmental rights. As a result, the chipko movement, which began as a campaign for environmental protection, has now been defending people's human rights.

The NBA (Narmada BachaoAndolan)

One of India's major construction projects is the Sardar Sarovar project. A project with multiple goals is this one. It was started in 1946 for the purpose of giving people access to drinking water, agricultural water, and energy production. The project entailed building a huge number of both small and large dams. Because to the size of this operation, thousands of hectares of agricultural and forest area as well as hundreds of settlements were submerged. Millions of people were displaced as a result. They are primarily tribal people. The project's failure to adequately compensate these displaced people for the loss of their homes, jobs, and property was its most regrettable aspect. They were not given access to alternate sources of income or job prospects[9].

Their rehabilitation was completely disregarded, and the most fundamental human rights like the right to life, which includes the right to food and a means of subsistence were also breached. Their right to civil freedoms was restricted. Additionally, citizens were denied their basic liberties when they protested against the government's forced acquisition of land.

The NBA: Human Rights Defender.

The NBA was founded by renowned social activist Medha Patkar against this backdrop. She oversaw the protest and fought for the rights of those who had been uprooted by the project. She organized individuals to fight against the abuse of project participants' human rights. She filed a petition with the Supreme Court in 1994 protesting the rising in the height of the Narmada dam. She opposed it mostly due to the environmental harm the dam would produce and the disregard for tribal people's rehabilitation. The Supreme Court ordered the project's administrators to obtain approval from the environmental and rehabilitation authority before moving forward with the construction of the Narmada dam.

The court ordered the construction of a dam up to 90 meters because it was pleased with the rehabilitation efforts made by the governments of Gujarat, Madhya Pradesh, and Maharashtra for displaced persons. A notable social reformer named Baba Amte and a famous author named Arundhati Roy both joined the NBA at this time. Baba Amte criticized the Supreme Court's decision and urged K.R. Narayan, India's president at the time, to intercede on behalf of the populace. He contends that the President of India has the authority to reconsider a Supreme Court order when a sizable number of people are having their fundamental rights violated. Therefore, even though the NBA first started as an environmental preservation movement, it eventually evolved into a human rights protection movement.

BandhuaMuktiMorcha: In India, a voluntary organization called the Bonded Labour Liberation Front (BLLF) is fighting to abolish bonded labor. It was established in New Delhi in 1981 by Swami Agnivesh, who serves as its chairman today. Bonded labor was officially outlawed in India in 1976, but despite lax state government enforcement, it is still a problem today. The problem is variously estimated. According to BMM, there are 65 million bound child laborers worldwide and more adults than the official estimate of 251,000 from 1993. The Child Labour (Prohibition and Regulation) Act of 1986, which is credited with ending child labor in India, was passed as a result of BMM's work. Human Rights Watch claimed in 2003 that there was a serious issue with bonded child labor in the silk business.

The Sulabh Movement is a significant national social movement that advocates for the freedom and social integration of scavengers in general and Dalits in particular. Campaign against Child Labor (CACL): Tere des Hommes (Germany) India Program and Youth for Voluntary Action (YUVA), Pune, together launched the CACL campaign. The Campaign, which is now backed by the ILO, is actively working to eliminate child labor in a progressive manner through the provision of education, the organization of awareness campaigns, the promotion of legislative changes, and the rescue of enslaved children and victims of abuse. Saheli and Chetna Organizations: Saheli and Chetna actively work to defend women's rights. In order to protect women's rights from discrimination and gender bias, they offer free legal assistance. The list of NGOs is in no way complete. There are other additional organizations advancing the cause of human rights. The work of 11 organizations is just described here as an example.

NGOs' role in defending human rights through the courts and the NHRC:

NGOs have contributed significantly to the defense of human rights. Without assistance from the judiciary, they are unable to do their duties effectively. The NGOs offer support and guidance to the victims of human rights violations. For the protection of human rights, NGOs have brought lawsuits, writ petitions, and public interest litigations on behalf of victims and the general public. The NGOs have campaigned against the system of bonded labor, phony police contacts, the defense of the rights of women and children, violence and death in custody, the avoidance of torture, and other inhumane activities[10]. On a petition by the NGOs, the judiciary issued the proper order and awarded compensation to the victims. The NHRC supports NGOs working on behalf of human rights. Additionally, the NGOs file complaints about violations with the NHRC and state human rights bodies.

CONCLUSION

According to Theo van Boven, "peace, development, and human rights are fundamentally interconnected, interdependent, and indivisible." The NGO plays a significant role in becoming a concrete representation of the voice at the world, national, regional, and local level to support and speak up for people who are unable to do so. Every person has a right to a particular set of fundamental human rights, which are safeguarded by the UN and its specialized organizations without any form of discrimination. The judiciary's human rights commissions are responsible for defending human rights in India, but non-governmental organizations also play a significant part in this effort. In order to defend human rights, non-governmental organizations work locally, nationally, and internationally. We have only touched briefly on the work that NGOs are doing to improve people's lives in this essay. NGO's also had to deal with a few issues. Despite these issues, NGOs struggle to safeguard human rights and the natural environment. We have also seen how the twelve well-known NGOs in India including the Narmada BachaoAndolan, the Chipko Movement, and the People's Union for Civil Liberties are essential to the defense of human rights in that country. NGOs play a crucial role in a variety of areas, including the prevention of HIV/AIDS, training vulnerable groups, providing care for children, preventing child labor and other forms of forced labor, educating about women's and children's rights, and combating sex tourism.

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CHAPTER 5

RIGHT TO EDUCATION AND HUMAN RIGHTS IN INDIA: A CRITICAL ANALYSIS

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ABSTRACT:

All of the rights that are part of our current society are referred to as human rights. In our current culture, one cannot exist as a human being without human rights. Human rights are fundamental rights that cannot be denied to anyone, regardless of race, caste, gender, faith, religion, or any other background. The Indian Constitution's Part III outlines rights as fundamental freedoms. The right to equality, the right to freedom, the right against exploitation, the right to freedom of religion, the right to cultural and educational freedoms, and the right to constitutional remedies are the six essential rights that the Constitution guarantees to Indian citizens. The most potent instrument for influencing both an individual's and a nation's future is education. A fundamental human right under the freedom clause is the right to education. It is essential to achieving other human rights as well. The Indian Constitution contains clauses that guarantee the state will educate all of its children. When the Indian Constitution was first enacted, education was designated as a state list topic. Education was added to the concurrent list of subjects via the 42nd Constitutional amendment in 1976, allowing the federal government to legislate it in a way that is appropriate for it. In 2002, Parliament approved the 86th constitutional amendment, which made education a fundamental right and added article 21A to the Constitution. A statute enabling the execution of the fundamental right, the Right of Children to Free and Compulsory Education Act (RTE Act), was approved by Parliament in 2009. Beginning on April 1, 2010, both the new law and the constitutional amendment went into effect. The present study emphasizes the fundamental human rights and the children's entitlement to education on a constitutional basis.

KEYWORDS:

Compulsory Education Act, Human Rights, Fundamental Rights, Gender Equality.

INTRODUCTION

Every person is worthy of respect. Humans developed the fundamentals of human rights as a means of ensuring that each person's dignity is properly and equally valued. All of the rights that are part of our current society are referred to as human rights. In our current culture, one cannot exist as a human being without human rights. Human rights are fundamental rights that cannot be denied to anyone, regardless of race, caste, gender, faith, religion, or any other background[1]. Human rights are typically viewed as fundamental, basic rights that cannot be denied to a person by another person or by any authority simply because that person is a human being. In his historic address to Congress in 1941, US President Franklin D. Roosevelt introduced the term "Human rights" for the first time and emphasized that the world should be based on four fundamental freedoms: freedom of expression, freedom of religion, freedom from lack, and freedom from fear. The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948. This contained 30 papers, the majority of which Rene Cassin, who eventually won the Nobel Prize in 1968, had written. The most notable and important turning point in the development of the idea of human rights worldwide has been this Universal Declaration of Human Rights. Together, the Declaration's 30 articles make up an extensive statement that addresses economic, social, cultural, political, and civil rights. Human Rights Day is observed on December 10 each year.

Numerous issues with respect to human rights exist that cannot be resolved without addressing the right to education as the gateway to gaining access to other human rights. In the 1948 Universal Declaration of Human Rights (UDHR), which declares that "Everyone has the right to education," the right to education is

unequivocally recognized[2]. At the very least, the fundamental and elementary levels of education must be free. The first grade must be completed. The general availability of technical and professional education is required, and merit-based access to higher education is required for all. Education must focus on fostering respect for fundamental freedoms and human rights as well as the complete development of the human personality. It will advance UN efforts for the maintenance of peace and encourage mutual respect, tolerance, and goodwill among all nations, racial or religious groups. One of the essential rights enshrined in Article 26 of the UDHR is the right to education. The Declaration views it as a way of fostering peace and broad respect for human rights and fundamental freedoms as well as a right in and of itself.

Constitution of India and Human Rights

Rights are assertions that are necessary for a person's survival and growth. There will be a vast list of rights in that sense. While all of these are acknowledged by society, the State and the Constitution both uphold some of the most significant rights. These are referred to as fundamental rights. These liberties are essential for two reasons. First, the Constitution mentions them as guarantees, and second, they are justified, or enforceable through the courts. Being justifiable means that the person may seek protection from the courts in the event that they are violated[3]. Any law passed by a government that limits any of these rights will be ruled unconstitutional by the courts. The Indian Constitution's Part III contains provisions for these rights. The following six fundamental rights are guaranteed to Indian people under the Constitution: rights to freedom, equality, and thirdly, protection against exploitation Rights to cultural expression, education, and constitutional remedies are listed in order from (IV) to (VI). The Constitution originally had seven Fundamental Rights. In addition to the six rights listed above, there was also the Right to Property. This Right was eliminated from the list of Fundamental Rights in 1978 by the 44th constitutional amendment because it posed numerous obstacles to achieving socialism and a fair distribution of resources. We still have the right to acquire, keep, and dispose of property after its elimination. This right may still be exercised by citizens at will.

Perspectives on Indian Constitutional Issues and Education

Sincere efforts are made to uphold the global and international covenant on education, and crucial amendments to the Indian constitution are made to protect every citizen's right to an education in accordance with this idea. The Indian constitution has clauses that guarantee the state would provide public education to all of its residents. When the Indian constitution was first enacted, education was designated as a state subject. Education was added to the concurrent list of subjects via the 42nd Constitutional amendment in 1976, allowing the federal government to legislate it in a way that is appropriate for it. The Indian Constitution's Fundamental Rights and Directive Principles of State Policy (DPSP) and Fundamental Duties provide the framework for these rights.

1. Human Fundamental Rights and the Right to Education (Part III)

The Right of Children to Free and Compulsory Education Act, or RTE (Right to Education), is outlined in Article 21A. The Right of Children to Free and Compulsory Education Act, also known as the Right to Education Act or RTE, was passed by the Indian Parliament on August 4, 2009, and it outlines the requirements of Article 21A of the Indian Constitution, which states that children between the ages of 6 and 14 in India have a fundamental right to free and compulsory education[4]. When the act went into effect on April 1, 2010, India joined a list of 135 nations that consider education to be a fundamental right of every child. "All children between the ages of six and fourteen shall receive free and compulsory education from the State in such manner as the State may by law determine."

2. The Right to Education and the Overarching State Policy Principles (Part IV)

Article 41: In some circumstances, the right to employment, education, and public aid. In accordance with its economic capability and level of development, the State is required to put in place adequate measures to guarantee the right to work, to an education, and to public assistance in the event of unemployment, old age, disease, or disability, as well as in other situations where there is unjustifiable need.

Article 45: All children have the legal right to early childhood care and education (ECCE) up until the age of six. This paragraph is regarded as a guiding concept of public policy. The Constitution specifies that "The State shall endeavor to provide, within ten years of the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." Through the amended Article 45 (as per the 86th Amendment of December, 2002 and passed by Parliament in July 2009), which states that "the State shall endeavor to provide Early Childhood Care and Education for all children until they complete the age of six years," the Government of India has included ECCE as a constitutional provision[5].

Article 46: Advancement of Scheduled Castes, Scheduled Tribes, and other Weaker Sections' Economic and Educational Interests: The State is required to safeguard the weaker groups of the population from social injustice and all sorts of exploitation while also promoting their economic and educational interests, especially those of the Scheduled Castes and Scheduled Tribes. The promotion of the educational and economic interests of the weaker segments of the population with special attention and their protection against social injustice are stated in Article 46 as a directive principle of State policy. Any special measures taken by the State for the social, economic, or educational improvement of any disadvantaged group of individuals may not be contested on the grounds of discrimination. The education of the underprivileged classes is the focus of special efforts. Scholarships, hostel accommodations, ashram residential schools, reduced admission requirements, and seat reservations are all attempts to provide universal education for underprivileged groups.

DISCUSSION

Human rights Education's Importance in Indian Society

Since the beginning of human civilization, education has been crucial in awakening, educating, and equipping people to carry out a variety of tasks in society. Since people can enhance their quality of life through education, it is widely accepted as a sign of human development and as a means of bringing about the necessary changes in social, cultural, and economic policies and practices. Human dignity, including its recognition, fulfillment, and universalization, is the conceptual foundation of human rights education. The social, political, and economic circumstances most likely to produce the environment and procedure for social cohesiveness and peaceful conflict resolution because human rights are most easily adapted to the study of positive peace. Furthermore, The Vienna Declaration (2001) states that States should work to end illiteracy and should focus education on fostering respect for fundamental freedoms and human rights as well as on the complete development of the human personality[6]. The World Conference on Human Rights demands that human rights, humanitarian law, democracy, and the rule of law be included as subjects in the curricula of all educational institutions, both formal and informal.

Human rights education is a crucial component of the right to education and is now more widely acknowledged as a fundamental human right. According to the Indian Constitution, one of the primary tools for ensuring that every person's rights are respected is awareness of one's own and other people's rights and freedoms. The fundamental tenet of human rights education is that education should not only aim to produce skilled professionals but also to instill ideals of tolerance and peace in support of greater goals. In order to realize a feeling of social justice for the underprivileged, disadvantaged, and weaker segments of society, human rights education attempts to give people and students the skills to accomplish and make societal changes as well as respond to social realities (NHRC 2007).

Human Rights Education

Human rights education refers to initiatives to create a global culture of human rights through the dissemination of information and the development of skills and attitudes. Education of human rights should focus on:

Human rights education places an emphasis on a person's personality development, not only in terms of literacy but also in terms of creating a society free from discrimination, exploitation, and humiliation. It is

acknowledged that the human development metric has fallen short in capturing the distributional features of human progress. It is because of inequality, exclusion, and discrimination that large discrepancies in the population as a whole, particularly in marginalized groups like sex, race, religion, caste, and handicap, are concealed by these averages. As a result, the notion is that individuals should be involved in making decisions that affect their lives in a way that fosters peace and balances the affairs of a multicultural society without hatred or violence [7].

A Movement for Human Rights Education

Human rights education has evolved into a multifaceted, constantly evolving movement that responds to changes in global society and, to some extent, to new discoveries and insights in research and development. Human rights education is taught in primary and secondary schools and is covered in teacher preparation programs at universities. It is also known as conflict resolution, multicultural education, development education, world order studies, and, more recently, environmental education, ADR education, and restorative justice education. Each of these strategies addresses a specific group of issues that have been identified as the root causes of social inequality, strife, and war. Each of these might also be categorized as "preventive education" because they aim to stop the occurrence of the issues that led to them. More importantly, each accepts that it is meant to be a method to the implementation of a set of societal values by conceptualizing it as education for seeking peace through safeguarding the human rights of the stakeholders involved in disputes. Both peace researchers and activists as well as human rights scholars and advocates can agree that violence in all its forms is an assault on human dignity, even though each relates to constructing and structuring peace in the sense of social cohesion and the avoidance of the form of violence to which it responds. Human rights education models: There are three different models that are used widely throughout the world, including India [8].

Model of Values and Awareness

Based on its philosophical-historical approach, the ideals and Awareness Model aims to spread "basic knowledge of human rights issues and to foster its integration into public values." When it comes to human rights, this model is what most people picture, with the general population as the intended benefit and topics like international human rights and more culturally specific issues.

This approach takes into account consumer rights in routine market transactions as well as environmental awareness, health, and hygiene.

Model of Accountability

The Accountability Model is linked to the legal and political framework for human rights, in which the model's beneficiaries the learners are already active through their occupations. The concept is implemented through networking and training, encompassing themes like court cases, ethics codes, and how to interact with the media, with elements for transparency, accountability, justice, and the right to knowledge.

Model of Transformation

The psychological and sociological facets of human rights were emphasized in this style of human rights education. Topics like children, women, minorities, and dalit rights are ones where vulnerable populations and individuals with first-hand experience with the issue are present. The concept seeks to empower the person, including abuse and trauma sufferers. The concept is designed to identify instances of human rights abuse, but it also emphasizes components of conflict resolution and prevention.

India Needs More Human Rights Education

We have adopted a very utilitarian approach of schooling in our Indian society. The majority of Indians pursue schooling in order to acquire a well-paying career. As a result, parents place excessive pressure on their children and their teachers to perform well on exams. Schools now promote the number of rank holders and professional college placements after succumbing to this one-dimensional viewpoint. Through

this process, education has lost its soul in terms of quality and its capacity to maximize each child's potential, foster self-esteem, and foster capacities for full participation in society as citizens and, more importantly, as good human beings.

The school's educational policy has recently made headlines. Understandably, we have discussed this topic in the past with the goal of educating children in the most effective way possible without interfering with their youth. However, each time we just managed to increase the number of books and the bags' weight. There are still, in the opinion of some, no answers as to why even some of today's so-called highly educated people are unable to match the language and math prowess of a metric pass from the post-Independence era. Or, for that matter, why a child of a vegetable vendor, sitting next to his father at the shop, is quick with math and has a higher IQ than a child attending a top public school? What use does it serve for youngsters to have textual knowledge of so many different things if it won't actually help them in their daily lives? As a response to this question, the argument over whether to fail a student, promote him under the "continuous and comprehensive evaluation policy," or do away with it, is mostly irrelevant. The learning process and its practical application should be the main focus rather than the learning's final results, such as grades or marks, which are ultimately based on the marks. The focus should be on providing a setting where children can engage in role plays and real-world scenarios that will either directly or indirectly demand them to refer to and comprehend a variety of topic areas. There are also further significant human rights concerns (NHRC 2015). An incidence involving the savage killing of a school teacher in the nation has prompted significant concerns about our educational system, which has lost value in this area.

"Nothing is more upsetting than the bullying of teachers by students. A recent event involving the savage murder of a schoolteacher in Chennai by a 15-year-old male student who was upset about receiving criticism for his subpar performance in class has raised troubling issues regarding parenting, education, and social and cultural mores. According to all reports, the teacher did nothing out of the ordinary. She made notes in the boy's school journal after he performed poorly in the Hindi class she was teaching so she could alert his parents. However, in this case, the child went considerably further, plotting the assassination and waited for the right time to attack. Students in similar situations do tend to harbor resentment toward the teacher. It is obvious that the murder was an extreme result of a regular circumstance. What may have ordinarily resulted in a routine student practical joke on the teacher led to a startling, puzzling act. Because of this, it is nearly hard to prevent such violence from occurring again in a developing nation like India.

The aforementioned incident is a reflection of the nation's education system's deteriorating moral and ethical standards. The students must be given the tools they need in this situation to handle the demands and strains of life. We cannot ignore our passions and feelings if we seek a holistic education since feeling is a fundamental part of being human[9]. We need to become a culture that is more attentive to one another's emotions in both words and deeds. Human rights education for creating a good human being in the New Millennium would, in turn, represent our humanity and humanness (Public Opinion Survey 2012).

However, some fruitless attempts to advance human rights education in India were first made in the middle of the 1980s. In order to go in this direction, the University Grants Commission (UGC) created a committee on human rights education in 1980, with Mr. Justice S.M. Sikri serving as its chairman. The Sikri Committee published a thorough report in 1985 with the title "Blueprint for Promotion of Human Rights in India at All Levels." The Report made recommendations for a curriculum for human rights instruction in schools, colleges, and universities as well as in adult and continuing education facilities. To start further investigation, the Sikri Committee Report was sent to NCERT and several universities. However, till the late 1980s, neither the UGC nor NCERT nor the institutions took any meaningful corrective action. In 1985, the Human Rights Centre of Jawaharlal Nehru University, New Delhi, hosted a nationwide symposium with assistance from UNESCO and the UGC in an effort to introduce human rights teaching in all universities. The Symposium offered a number of suggestions for how human rights education should be taught, from basic school through professional levels at colleges and universities[10]. The suggestions from that report were then released and widely disseminated to all colleges and educational institutions. The

University Grants Commission was persuaded to implement human rights education at the collegiate level. As a result, over 35 universities and colleges nationwide as well as the National Law Schools currently offer human rights education.

CONCLUSION

There is no question that education plays a significant role in the defense and advancement of human rights. HRE is regarded as one of the most important strategies for preventing violations of human rights. Everyone should have an education so they can appreciate the value of human rights. The Convention on the Rights of a Child's general principles include respecting children's opinions and equality as the main factors in decisions involving children. The learners will be better aware of their beliefs and how to apply them in daily life if they receive human rights education in their home tongue. The values of social and cultural diversity ought to be taught from an early age. Languages and environmental studies are pertinent courses at the elementary level for integrating human rights. It will be necessary to choose poetry, songs, and short stories that promote human rights principles. Gender equality, human rights respect, and respect for all should be taught in schools.

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CHAPTER 6

COMPARATIVE ANALYSIS OF NEWS MEDIA COVERAGE OF HUMAN RIGHTS ISSUES IN INDIA

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ABSTRACT:

The media is an effective weapon for social change because it raises people's awareness of their rights and obligations. The media is essentially regarded as an ombudsman, a defender, and an agenda-setter in a democracy. In other words, the media can make sure that governments hear the voices of the society's marginalized groups. The crucial role that news media organizations play in raising public awareness cannot be understated, even though they can only cover a small number of issues related to human rights violations due to organizational constraints and the ideological tone of their respective organizations. When human rights news is prioritized by print media, it ignites and becomes a topic of interest to the general population. The current study aims to investigate, comprehend, and describe the content of numerous human rights-related topics in two major national English newspapers, The Hindu and The Times of India, while keeping in mind the significance of the media agenda. Through the use of the framing analysis technique, the study also investigates the current frames in the news discourse. It has been discovered that the newspapers under investigation focused more on the negative side of human rights-related problems. However, when reporting on news involving human rights violations, there has been a modest difference in reporting styles between the two newspapers under investigation.

KEYWORDS:

Human Rights, Indian Freedom Struggle, Ombudsman, New Media Coverage, Social Change.

INTRODUCTION

The press played a significant role in the Indian freedom struggle, influencing public opinion and inspiring people to fight the British Raj. With the aid of the press, the great independence fighters Tilak, Gandhi, and Nehru opened up new avenues for overthrowing the British authority. When it came to igniting nationalism in the minds and emotions of Indians during the liberation. Gopal Krishna Sahu and Afaq Ahmad struggle, periodicals like Kesari, Harijan, and National Herald were unmatched. They succeeded without being impacted by the British regime's punitive tactics to restrain their works, which included accusing and convicting them in numerous sedition cases[1].

The fundamental rights were taken away by the then-Indian government with the imposition of gag orders during the 21-month emergency that was enacted under Article 352 of the Constitution from 1975 to 1977. When there was a crisis, the press was equally restrained. The declaration of an emergency was actually a blessing in disguise for the Indian press, since it led to the emergence of numerous news magazines like India Today, Sunday, Onlooker, etc., which have fiercely competed with the daily newspapers. The procedure cleared the way for investigative reporting following the emergency and helped print media transform journalism on a professional level.

Early in the 1980s, the Sunday magazine reported on crimes against Bhagalpur Jail inmates as a sign of a new beginning. The journal featured a front-page article on the situation of Bhagalpur Jain's prisoners. The entire nation was stunned by this revelation, which compelled academics and activists to consider human rights issues in depth. This was the first significant case of human rights abuses to ever be covered by the media, and it shed light on the concerning conditions in the nation's prisons[2]. It is depressing to see that Indian media downplays human rights concerns in the age of globalization and liberalization. The issue is made worse by ongoing modifications to the global economic paradigm that started with the creation of the

World Trade Organization (WTO). From a global viewpoint, the US-led invasion of Iraq has also fundamentally altered the financial and economic equations, where "human survival" may have been given more weight than "respect for human rights." Nowadays, newspapers are viewed as manufactured goods, with the marketing (also known as "Response") division in charge of operations. The editor is being reduced to a "hired laborer," completely employed under contract. As a result, the editor chooses human rights articles after taking the financial factors of their particular newspapers into account. Because of this shift in management philosophy, some newspapers are less likely to offend the government by publishing news about human rights abuses for fear that doing so will prevent them from receiving government advertisements from the Directorate of Advertising and Visual Publicity (DAVP). Newspapers' denial of information pertaining to human rights breaches is a flagrant violation of the ethics of news reporting and shows a complete disdain for the principles of human rights[3].

Curative medicine was the most prominent frame used to frame news, and higher-risk behavior was the least prevalent frame used. Additionally, they discovered that compared to the government-owned daily, the private publication covered more stories about HIV/AIDS-related issues and used a wider range of news frames. Compared to their peers in the private press, journalists at the government-owned publication used the "solutions" frame more frequently. A multidisciplinary viewpoint on news framing is offered in the book *Doing News Framing Analysis Empirical and Theoretical Perspectives*, which collated and edited. The chapters in this edited volume provide light on frame analysis concepts, techniques, and real-world applications. The article gives readers a basic grasp of news frames, including what they are, how to spot them in news stories, and how framing effects are discovered and supported in cultural, social, and individual contexts. Sahu and Rao used a content analytic method to follow down the coverage of the Telangana issue in *The Deccan Chronicle* and *The Times of India*, two important English newspapers in the then-undivided Andhra Pradesh. They discovered that the majority of the news stories in both newspapers focused on political events or leaders' utterances. The writers argued that instead of siding with the truth, the media embraced a business strategy that protected the feelings of all state residents. The news articles and their headlines appear to be written in a matter-of-fact manner without the appropriate emphasis or background information on the subject. The severity of the situation in Telangana was not taken into account by the newspapers. They might not have had the Telangana issue on their agenda. This illustrates how, over time, the news media has become less grounded in actual events and has lost credibility[4].

Gopal Krushna Sahu and Afaq Ahmad Jenssen looked at potential distinctions in how news is presented in professional news pieces and news weblogs. According to the author, framing cannot be used to determine potential distinctions in the way news is published in weblogs and online newspapers. The findings of this study show that there are several frames, although framing is independent of publishing type. A comprehensive viewpoint on framing analysis is offered. Frame analysis entails looking at how a text interacts with an audience that is actively negotiating meaning. This entails interviewing journalists, sources, and audience members rather than restricting ourselves to media items. The framing paradigm has the potential to inform and expand these techniques by linking the behavioural and critical, quantitative and qualitative approaches. According to Goffman, the researcher has the ability and desire to reinforce the veracity of news frames by including concrete, real-world activities in them. Sports, games, rituals, experimentation, practice, dreams, fantasies, experiments, deceit, charity, demonstration, and other daily activities all involve rapidly shifting frames that elegantly establish the existence of a specific frame in order to make frame analysis real. After carefully analyzing the book, it is clear how differently chess can be set up and how the frame's figures may reflect diverse interests and genres[5]. A researcher may fulfill the diagnostic, cognitive, or any other role.

DISCUSSION

Organizing human rights issues into categories

The 96 and 77 stories published in *The Hindu* and *The Times of India*, respectively, contained many reports of rape, murder, malnutrition/starvation, and sexual harassment. The newspaper content was divided into

different categories to better understand various issues pertaining to human rights. However, the category of "state sponsored violence" had the greatest number of stories. Neither newspaper during the study period had published a single story about bonded labor, transplantation of human organs, perpetrated sedition charges, older people's rights, or women's health and reproductive rights[6].

The Times of India did not print any stories in this area, while The Hindu published just one piece on child marriage, taking up 48 cm² of space. Two articles about child labor and juvenile crime appeared on the front pages of The Hindu and The Times of India, respectively, with spaces of 128.4 cm² and 60 cm². Stories involving child abuse or molestation also showed up in the data, although in very little amounts. The Times of India published one story, taking up 153.3 cm², while The Hindu published two pieces, each taking up 36 cm². Other stories about human rights violations, such as child malnutrition, food deprivation, starvation, and food poisoning, were published in The Hindu with one story taking up 375.9 cm² of space, and in The Times of India with two stories taking up 528 cm² of space. These stories received slightly more attention than those about child abuse and molestation.

The Hindu published six pieces about discrimination and violence against dalits on a page measuring 1319.29 cm², while The Times of India published eight stories on a page measuring 1548.4 cm². In neither of the publications was there any coverage of bonded labor. The Times of India and The Hindu each published four pieces about money laundering and extortion, but neither publication covered the topic. Additionally, two abduction/kidnapping tales with a combined space of 125.29 cm² appeared in The Hindu, while a story with a combined space of 103.32 cm² appeared in The Times of India.

State-sponsored violence, suicide, molestation/sexual harassment, violence, murder, and rape were prominent among the issue categories. These stories occurred a lot more frequently, indicating that they were repeated. Death threats, suicide attempts, and suicide stories were included in the data collected, which covered a space of 392.24 cm² with seven articles from The Hindu and a space of 1,064.76 cm² with nine stories from The Times of India. The Times of India published four pieces in this area on 755.24 cm² of space, compared to The Hindu's eight reports taking up 938.1 cm² in this category.

Under the heading of "state-sponsored violence," The Hindu produced 16 stories over 1420.56 cm², and The Times of India published 09 pieces over 772.12 cm². In The Hindu, religious violence/communal hatred/hate speech received 45.98 cm² of space with two stories (one on the front page and one on the inside page), and The Times of India published a total of four stories on the front page, taking up 351.54 cm². The Hindu used 438.6 cm² for four stories about the killing or detention of agitators, while The Times of India used 448.02 cm² for two stories.

The Times of India devoted 951.47 cm² of space by publishing seven stories, and The Hindu devoted 956.52 cm² of space by publishing eight stories on naxal terror, terrorist brutality, and the killing of naxalite/terrorists. The stories of actual murder, attempted murder, and killing were also the stories that came in second place among the categories of problems throughout the study period, just below state-sponsored violence. This category took up a total of 1,733.5 cm², with 16 stories published in The Hindu and 19 stories published in The Times of India, each measuring 2,287.38 cm².

The Hindu published a single story on an honor killing that took up 20 cm² of space, whereas The Times of India published one piece that took up 280 cm². The Hindu published a single article on a farmer's suicide that was 52.29 cm² in size; The Times of India did not publish any articles in this category. One story was published in The Hindu using 176.4 cm² of space, and one story was published in The Times of India using 169.48 cm² of space in the category of Forcible Eviction of Families/Displacement. The Hindu produced nine stories on the topic of harassment and intimidation that took up 784.26 cm² of space, while The Times of India published eight stories that took up 1,517.02 cm² of space.

The Times of India provided significantly more space under this section with its publication of eight stories that included eight stories on the front page that comprised 853.12 cm² spaces and eight stories on the inside page that comprised 961.22 cm². The Hindu published seven stories on rape/rape-cum-murder that

took up 259.59 cm² of space. In order to ensure more significance than *The Hindu*, *The Times of India* published 16 stories on a total of 1,814.32 cm² of space. In addition, two stories on sexual abuse or violence against women were published in *The Hindu* with a space measurement of 44.8 cm², and nine stories were published in *The Times of India* with a space measurement of 1,702.44 cm². *The Hindu* published two items with a space of 168.15 cm² related to the rights of the disabled and mental health, however *The Times of India* did not provide space to print news in this category. Regarding manual scavenging, neither newspaper published a piece under this heading.

Once more, neither newspaper ran an article on crimes against tribal people. *The Times of India* and *The Hindu* both carried two stories totaling 112.53 cm² and 271.65 cm² of space, respectively, about prisoners' rights. *The Times of India* published one piece on human trafficking that took up 191.36 cm² of space, compared to 80 cm² for *The Hindu's* one story. There was no coverage of women's health or reproductive rights in either newspaper. *The Times of India* published one dowry death tale that was 33 cm² in size, however *The Hindu* did not print any stories in this category. *The Times of India* did not print any stories about migrant workers, however *The Hindu* published two items on the topic with a space of 50.8 cm². Older people's rights, acts of insurrection, and the illegal organ trade were not given any space in either journal. *The Hindu* published one story on refugee rights that took up 294 cm² of space[7]. There were no stories covered by *The Times of India*.

Although the coverage of human rights concerns appears to be adequate, it is depressing to note that neither of the two newspapers under consideration published any editorials, letters to the editor, special stories, or columns throughout the time period. In comparison to other human rights issues, crime, violence, murder, molestation, and harassment received more attention. For instance, the study's newspapers made no mention of bonded labor, violence against tribal communities, women's reproductive rights, the condition of elderly people, etc. The majority of news stories that dealt with child abuse, child labor, and justice for rape victims were skimmed over or provided at the very end. Rape and attempted rape predominated the news stories, followed by crimes brought on by negligence. The two main sources of news were court proceedings and police reports. Families, communities, and professionals like social workers and psychologists have received less emphasis as providers of news and information[8].

Newspapers emphasized human rights concerns, although they tended to take a pessimistic stance and confined those articles to the inside pages. In comparison to *The Hindu*, which included 12 out of 105 articles on its front page, *The Times of India* covered 28 out of 109 human rights stories. The findings also show that the newspapers' ideological slants slightly influenced how they framed the articles in their publications. *The Times of India* has exhibited a more pragmatic perspective when framing reports on human rights problems than *The Hindu*. Contrary to popular belief, *The Hindu* featured more negative news articles than *The Times of India*[9]. *The Times of India*, however, has a bias towards oppressors, sensationalism, and media trial frames. The majority of industrialists own and run the established national media outlets, and profit is their only goal. Under these circumstances, journalists who work for these organizations have a restricted amount of freedom to express their opinions on many matters. Newspapers must alter their policies to make them more receptive to the coverage of these topics since they should play a significant role in the defense and advancement of human rights[10]. When reporting on human rights violations, journalists must have empathy.

CONCLUSION

The study shows that print media monitors human rights concerns. Although the coverage of human rights concerns appears to be adequate, it is depressing to note that neither of the two newspapers under consideration published any editorials, letters to the editor, special stories, or columns throughout the time period. In comparison to other human rights issues, crime, violence, murder, molestation, and harassment received more attention. For instance, the study's newspapers made no mention of bonded labor, violence against tribal communities, women's reproductive rights, the condition of elderly people, etc. The majority of news stories that dealt with child abuse, child labor, and justice for rape victims were skimmed over or

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CHAPTER 7

VIOLENCE AGAINST WOMEN IN INDIA: AN ANALYSIS OF CONSTITUTIONAL PROTECTIONS

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ABSTRACT:

By acting as the moral center of the family, women have been fundamental in forming society. One measure of national development is the position of women, who make up half of the nation's human capital. In terms of politics, the workforce, and even personal power, women have made significant progress. There was a point in history when women were unable to participate in politics since they could neither vote nor run for office. Today, there are multiple women running for president. Now that both men and women can earn a living, stereotypes about women's roles are steadily eroding, and both spouse parents are sharing the duties associated with taking care of the home and family. They represent Shakti, the force that both creates and exterminates the human species. It must be acknowledged that women shape and develop the future of their country. Every successful man has a lady by his side because women are his companion and soul. However, it is regrettable that they are the most forgotten and underprivileged group in society. A daughter is typically seen as a liability and raised to feel that she is beneath men and their authority. Sons are revered and honored. A typical Hindu wedding blessing is "May you be the mother of a hundred sons." Women's empowerment is frequently seen as a remedy to gender inequality. It is now universally accepted that empowering women by giving them equal rights, opportunities, and responsibilities in the decision-making process will significantly reduce the gender inequality that currently exists.

KEYWORDS:

Human Rights, Gender Inequality, National Development, Violence Against Women, Women's Rights.

INTRODUCTION

In any community, developed or impoverished, women hold a special status. This is especially true given the diverse roles they perform as daughters, wives, mothers, sisters, and other family members throughout different periods of their lives. Despite her contributions to and role in the lives of all people, she nonetheless belongs to a social class or group that is disadvantaged due to a number of obstacles and hindrances. She was the wronged party. Dr. Jayashree Bez accuses the dominant men in society of tyranny. Comparing Indian women to their counterparts around the world, their situation isn't any better. On the one hand, she is revered by all, held in the highest regard, and seen as the epitome of virtue and tolerance. On the other side, woman has endured tremendous suffering, hardships, and horrors as a result of the male-dominated culture. By acting as the moral center of the family, women have been fundamental in forming society[1]. One measure of national development is the position of women, who make up half of the nation's human capital. In terms of politics, the workforce, and even personal power, women have made significant progress.

There was a point in history when women were unable to participate in politics since they could neither vote nor run for office. Today, there are multiple women running for president. Now that both men and women can earn a living, stereotypes about women's roles are steadily eroding, and both spouse parents are sharing the duties associated with taking care of the home and family. They represent Shakti, the force that both creates and exterminates the human species. It must be acknowledged that women shape and develop the future of their country. Every successful man has a lady by his side because women are his companion and soul. However, it is regrettable that they are the most forgotten and underprivileged group in society. A daughter is typically seen as a liability and raised to feel that she is beneath men and their authority. Sons are revered and honored. A typical Hindu wedding blessing is "May you be the mother of a hundred sons."

Women's empowerment is frequently seen as a remedy to gender inequality. Nowadays, it is commonly accepted that empowering women by giving them equal rights, opportunities, and responsibilities in the decision-making process will significantly help to stop the practice of gender discrimination[2]. A woman's area of influence is a special one that males cannot imitate. Women have a significant role to play in building the earthly kingdom of God because of their impact. However, constitutional protections were established in independent India, stating that everyone is treated equally before the law and that discrimination based on factors such as sex, caste, or ethnicity is against the law.

The Constitution has special provisions for women that take into account their place in society. The general clause addressing equality as such was included in Articles 14, 15, 16, and Article 23, which deal with human trafficking. The Directive Principles (Articles 39 and 42) that deal with women receiving maternity benefits and equal pay for equal labor with men came next. Additionally, there are succinct descriptions of the Fundamental Duties towards women and an election rule that forbids discrimination based on sex, among other things. Other such protections from discrimination and gender bias exist for women. The theoretical commitment to gender equality has, regrettably, not been translated into actual reality.

Protection of Women's Rights in the Constitution:

Over the past few millennia, there have been numerous changes to the position of women in India. Today, women in India take part in all spheres of life, including politics, the media, the arts and culture, the service industry, science and technology, etc. Men and women have equal rights under our constitution. The fundamental tenets of justice, equality, liberty, and fraternity form the foundation of the Constitution. There are several provisions for the empowerment of women in it. Equal rights and freedom from discrimination for women are regarded as justifiable fundamental rights. Affirmative action programs for women are clearly stated by the Constitution to be compatible with the concept of no discrimination based on sex. The protection and advancement of women's human rights have always been highly valued by the Indian government, and this goal is one that it is dedicated to attaining. National plans and programs have continuously reflected a view of progress that places a priority on the realization of human rights, freedoms, and wellbeing for all rather than a narrow vision of progress limited to raising earnings. The Constitution's creators were well aware of the historical prejudice and unfair treatment of the more attractive sex. They contained both general and specific provisions for improving the status of women. In some locations, they specifically guaranteed equality of status and opportunities for women and men who were Indian nationals, while doing so implicitly in all other locations[3].

It is true that India's original Constitution did not sufficiently address issues of gender equity as one may have expected. It prohibits discrimination based on sex (Articles 15 and 16), but it makes no mention of discrimination based on gender. It is not a favor to grant women certain rights as payment for their reproductive function; rather, it is a duty. Although the Indian Constitution's Article 15 clause 3 states that the state may establish special provisions for women, this is a protectionist tactic rather than an equalization measure. In order to help women overcome the disadvantage they experienced under the patriarchal system, the state should offer affirmative action programs. Since all essential rights are centered on men, women have no chance of achieving equality. However, this fundamental law of the land thrives for securing gender justice and putting women on par with men through various provisions, especially those outlined in the Preamble, Part-III dealing with Fundamental Rights, and in Part IV dealing with Directive Principles of State Policy.

Preamble:

The Preamble of the Indian Constitution states that all of its people shall benefit from social, economic, and political justice, which means that neither males nor women should be denied the benefits of equity. According to one definition, social justice entails acknowledging the greater good for a wider group without denying someone their legal rights. As a result, it is expected that the state will take proactive steps to safeguard the weaker members of society, including women, in order to uphold the constitutionality of such actions. The phrase "social and economic justice" asserts the idea of distributive justice by aiming to

eliminate economic inequities and correct injustices done to the underprivileged in society. Once more, the Preamble to the Indian Constitution lists a number of objectives, among them "the equality of status and opportunity" for all Indians. This specific objective was included to grant women and men equal rights in terms of status and opportunity. Many pieces of legislation, such the Modern Hindu Laws, which seek to grant women equal status and rights, have been based on it[4].

Fundamental Rights: Although all of the fundamental rights listed in Part III Articles 12-35 apply to all citizens, regardless of gender, several fundamental rights have provisions that specifically and positively protect the rights of women. No one in the state will be denied equality before the law and equal protection under the law, according to Article 14. As a result, women in Indian society are given the same protections and rights as males, as stipulated by the Constitution. Clause 1 of Article 15 states that "the state shall not discriminate against any citizen on grounds only of religion, caste, race, sex, place of birth, or any of them," which outlaws all forms of discrimination against women.

Nothing in this Article shall prohibit the State from providing a Special Provision for Women and Children, according to Article 15(3). This clearly implies that the state will not hesitate to address any requirements that develop owing to the distinctive characteristics that women possess by passing laws specifically for them. This was the objective of the Constitution's writers, and this specific clause has been added to help women's conditions by providing special protection. Honorable Justice S. Manohar defended it by saying: "The introduction of paragraph (3) of the Article-15 with regard to women is acknowledgement of the reality that women in this country have been socially and economically disadvantaged for generations[5].

Because of this, they are unable to equally engage in the nation's socio-economic activities. Article-15(3) is included in Article-15 in order to eliminate the socioeconomic illiteracy of women and empower them in a way that would result in real equality between men and women. Its goal is to advance and develop women's status, according to *Government of Andhra Pradesh v. P. B. Vijay Kumar* (AIR1995 SC 1648, P. 1651). When the need for special treatment for women emerges, it is further argued that they should be recognized as socially and educationally backward as provided for in Article 15(4) of the Constitution.

DISCUSSION

Since Article 16(1) states that "there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state," Article 16 provides equal opportunity in matters of public employment. In this situation, it may be appropriate to make reference to the case of *C.B. Muthamma v. Union of India*, AIR 1979 SC 1868, in which it was determined that the rules requiring female employees to obtain permission before getting married and denying married women the right to employment were discriminatory and in violation of Article 16 of the Constitution. After stating that this regulation violates Article 16 of the Constitution, Justice V. R. Krishna Iyer added, "If a married man has right to a married lady other things being equal, stands on no poorer footing. This subordinate attitude is a holdover from the macho tradition of intimidating the weaker sex, which makes us forget that our fight for national freedom also involved the fight against the enslavement of women. That our foundational principles, which are contained in Articles 14 and 16, should have been cruelly disregarded in relation to the female half of India's population, is a sobering illustration of the gap between the Constitution as written and the law as it is applied. The author continued, "We do not mean to universalize or dogmatize that men and women are equal in all occupations and situations, and we do not exclude the need to be pragmatic where the requirements of particular employment, the sensitivities of sex, the peculiarities of societal sectors, or the handicaps of either sex may compel selectivity. However, even in cases when differentiation may be clearly seen, the norm of equity must be followed[6].

Justice Jeevan Reddy put it best when he said: "In short, the object behind 16(4) is empowerment of the deprived backward communities to give them a share in the administrative apparatus and in the governance of the community." Article 16(4) of the Constitution provides for the reservation of appointments or posts in favor of any backward class of citizens.

The topic of whether women belong in the "deprived backward community" is now in contention. They nearly entirely fit the bill for an impoverished backward group, given the status and position they have as well as the manner they are disregarded. They are viewed as being behind males in all social, economic, and educational areas since they belong to a different class. Because of this, it was believed that women shouldn't be treated unfairly and that every effort should be made to fulfill the Constitution's mandate to equalize the status of men and women.

All citizens, male and female, are guaranteed "the right to freedom of speech and expression" by Article 19. Therefore, it is everyone's fundamental right to have a personal viewpoint on any matter of public interest. Everyone's right to life and personal liberty, regardless of gender, is guaranteed by Article 21 of the Constitution, which states that "No person shall be deprived of his life or personal liberty except in accordance with the procedure established by law." The right to life is one of the most important fundamental rights guaranteed to people. The term "Life" provided by this Article does not refer to just existing as an animal or to continuing to toil through life. Its scope is much broader. In *Menaka Gandhi's* case, the Supreme Court has also given the broadest interpretation possible to the phrase "personal liberty," which exists in the same Article. The case had a significant influence since it drew the boundaries of Article-21 around a number of rights by adding the idea of reasonableness into the legal process[7].

The Constitution expressly forbids the trade in humans in Article 23. In this sense, "Devadasi System" refers to human trafficking. (Air 1990 SC 1412, *Vishal Jeet v. Union of India*). India has a long history of widespread human trafficking, which takes the form of prostitution and the sale and purchase of people for a price comparable to that of vegetables. The Suppression of Immoral Traffic Act, 1956 (now known as The Immoral Traffic (Prevention) Act), which attempts to outlaw prostitution and other types of trafficking, was passed by the legislature on the basis of Article-23(1) of the Constitution. This law was passed in accordance with the international agreement to stop immoral traffic that was signed in New York on May 9, 1950. The Devadasis (Prohibition of Dedication) Act, 1988 was recently passed by the Andhra Pradesh legislature to outlaw the practice of devoting women as Devadasis to Hindu Deities, idols, temples, etc., which inevitably leads to evils like prostitution.

In "*Peoples Union for Democratic Rights vs. Union of India*," AIR 1982 SC 1473, it was determined that the exchange of labor and services for less than the minimum wage constituted compelled labor and was therefore against Article 23. According to Article 25 of the Indian Constitution, everyone, male or female, of any caste or creed, is equally entitled to freedom of conscience and the right to profess, practice, and spread any religion in accordance with public order, morality, and community health. The above-mentioned fundamental rights for women, which are inscribed in Part III of our Constitution, undoubtedly serve to advance the interests of women and to ensure their wellbeing. When Justice Krishna Iyer said: "The fight is not for women's status but for human worth," he elegantly inserted the equality clause, which broadens the scope of women's fundamental rights. The goal is to restore universal justice, not to eliminate gender inequity. The appeal is for cosmic harmony, which won't arrive unless women do, not loaves and fishes for the oppressed gender. Woman is the soul of man, and without her, there is no goodness or strength remaining.

In addition to the Fundamental Rights, the Constitution's Part-IV Directive Principles of State Policy instructs the government to take specific corrective actions for the welfare of women. According to Article-37, it is the responsibility of the state to use these directive principles while enacting legislation. Therefore, even if specific laws must be passed, these principles will be obeyed. There are special provisions for women in Article-39, which commands the state to maintain social order and advance the welfare of the populace. "That the citizens, men and women equally, have the right to an adequate means of livelihood," states Article-39(a).

According to Article-39(d), "equal pay for equal work is guaranteed to both men and women." It was decided that female professors are entitled to the same salary as male teachers at the same institution in the case of *Uttarakhand Mahila Kalyan Parishad vs. state of UP*. The Equal Remuneration Act of 1976 was

once more passed by the state to put these Directive principles into practice. Article 39 (e) expressly instructs the state not to take advantage of the workers' physical and mental well-being, both men and women. Because of this, the Constitution requires the state to take measures to prevent abuse of the strength and health of employees, men and women, and young children, as well as to prevent individuals from being compelled by economic need to pursue a career that is inappropriate for their age or strength. The Supreme Court ruled in the case of the Solal Hydro Project laborers v. State of Jammu and Kashmir that construction work is dangerous employment and that children under the age of 14 cannot be employed in such a type of work[8]. The Constitution includes an essential clause for women's rights in Article 42. It instructs the state to create arrangements for maternity leave and reasonable and humane working conditions. The Maternity Benefit Act, 1961 was enacted by the state in an effort to carry out this mandate.

A consistent civil code must be established for the country's citizens, according to Article 44. In pursuit of gender equity, this particular objective. The judiciary has acknowledged the need for uniformity in the application of civil laws such as the law of marriage, succession, adoption, and maintenance, among other cases, even though the state has not yet made efforts to introduce a uniform civil code in India. Union of India v. Sarala Mudgal. The state is also required to "promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation," according to Article-46. As we've already seen, women are considered to be socially and educationally backward, thus they need extra protection in accordance with the provisions of this Article[9]. All other articles of the Constitution, with the exception of these particular clauses, apply equally to men and women. It demonstrates unequivocally the desire of the Constitution's drafters to elevate women's social, economic, educational, and political status so that they can be treated equally with men.

Essential Functions:

Certain fundamental obligations for citizens are listed in Part-IV-A of the Constitution and are required of them in both performance and respect[10]. Clause (e) of Article 51 (a), which deals with such obligations, specifically relates to women. It reads, "It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending in religious, linguistic, regional, and sectional diversities, to renounce practices derogatory to the dignity of women."

CONCLUSION

Women seek assistance from their own families or neighbors first, according to research on violence against women conducted in India and elsewhere, and informal, local level networks are vital in providing a first point of contact for people facing domestic violence. Even though the formal responses of Indian state and legal institutions have improved, studies show that most Indian women reserve reporting and prosecuting domestic abuse as a last choice. In addition to these, it has been noted that some of the more effective and possibly long-lasting responses to domestic violence in India include the growing prevalence of informal community-based initiatives like the mobilization of women at the grassroots level, mock funeral processions of dowry victims, public shaming of perpetrators, street theater, and local dispute resolution techniques. Very little information on these community responses to domestic abuse has been documented, despite the fact that they have been discovered and acknowledged in earlier studies.

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CHAPTER 8

PROBLEMS AND SOLUTIONS RELATING TO ENVIRONMENTAL CONCERNS IN INDIA

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ABSTRACT:

India ranks very low on air and water pollution levels compared to the rest of the world, which leads to higher rates of infant mortality and shorter life expectancy rates. This is despite the country having a long and rich history of environmental regulations that date back to the 1970s. The issue harming the health of common Indian population is made worse by poor sewage management and sanitary conditions. The reasons for this discrepancy between progressive environmental laws and high levels of pollution can be attributed to lax enforcement of current environmental laws, differences in the environmental regulations that businesses must abide by between the federal and state levels of government, and the existence of numerous SMEs that lack the financial resources and technical expertise to comply with the existing environmental laws. This report makes a number of recommendations based on substantial secondary research to assist the nation in achieving safe air and water pollution levels that will benefit the health of its population. The foundation of the recommended course of action for environmental improvements is a collaborative arrangement that brings together the various government agencies, the populace, SMEs, large domestic companies, and NGOs to participate in a collaborative arrangement to educate, streamline effective policies, develop the required institutional infrastructure, and provide adequate funding for environmental improvement.

KEYWORDS:

Environmental Regulations, Human Rights, Institutional Infrastructure, Sewage Management, Waste Energy Conversion.

INTRODUCTION

Environmental problems are not exclusive to India. Climate change, water pollution, and air pollution are all more global challenges that need for international cooperation to address. The world may experience more ocean acidification, ice sheet melting, sea level rise, and so-called tipping points in climate effects much sooner than previously anticipated, according to a report by the Intergovernmental Panel on Climate Change (IPCC) in "Climate Change Science Compendium 2009". Although there are global environmental challenges, each nation has authority over its own territory and is in charge of its own environment. As a result, each nation should be in charge of governing, monitoring, and passing rules to protect its environment. India is also affected by this. According to the Copenhagen Accord, it is up to individual nations to create and implement the rules required to fulfill their obligations to fight global warming by lowering greenhouse gas emissions[1].

It is challenging to enforce environmental standards on countries from a global perspective due to the country-specific nature of environmental control and monitoring. Each country should be prepared to view environmental issues as potentially contributing to the overall global degradation of the environment and take action to control them through laws and the involvement of its industrial sector. A global association or organization that uses the global network, technological know-how, and resources to be a contributing partner to this group in assisting the environment (like the Kyoto Protocol of 1997 and Copenhagen Accord on climate change) could also be a possibility for each nation. Sometimes it causes challenges when non-governmental organizations (NGOs) and international organizations try to assist specific nations with environmental issues. Researchers discovered that in India it is frequently difficult for international

organizations and NGO's to align their interests with those of the state, particularly when it comes to upholding human rights norms, according to a study financed and supported by the World Bank [2].

The following are some of the main environmental issues that India is currently dealing with:

1. Air pollution from vehicle emissions and industrial effluents;
2. Energy-related environmental issues like chemical and oil pollution and greenhouse gas emissions;
3. Water pollution from raw sewage, poor sanitation, and nonpotable water throughout the nation;
4. Overpopulation and its strain on natural resources;
5. Agricultural factors such as runoff of agricultural pesticides, overgrazing, short cultivation cycles, slash and burn practices, destructive logging practices, and deforestation of timber reserves for fuel, all contribute jointly to the problem of municipal solid waste management (MSWM) in India

The collection and disposal of municipal solid waste (MSW) is a significant urban environmental issue in India. India is not the only country with this issue; it appears that several developing nations and a small number of developed nations are also concerned about the environmental effects of MSW. However, the disposal of MSW is the major issue in India. In India, the waste that municipalities collect is merely dumped outside of metropolitan areas. The MSW also releases carbon dioxide and methane, which intensify the effects of greenhouse gases[3].

Given that it is widely acknowledged that pollutant concentrations are excessively high in many developing countries, India bears a larger load in terms of environmental difficulties and concerns (Chen et al., 2013). Since developing nations like China and India are expected to experience the majority of the growth in greenhouse gas (GHG) emissions, these two nations are likely in charge of how the globe will develop in the future. According to the most recent statistics available, ambient particulate matter concentrations in China and India are each seven times higher than those in the United States. It's interesting to note that nations have been releasing commitments regarding the amount of emissions they are willing to reduce in the upcoming decades in front of the Paris Conference on climate change, which is set to begin on November 30. The two nations with the highest air pollution in the world, India and Brazil, have not yet committed to bringing resolutions to the Paris Conference [4].

Indian environmental issues: results and impacts

Many of India's present environmental issues, including air pollution, greenhouse gas emissions, chemical and oil pollution, etc., have far-reaching effects on the country's population. Low life expectancy and high infant mortality rates are the two main issues that policymakers are concerned about. According to Table 1, in India, for the year 2013, for every 1,000 live births, roughly 41 will pass away before they turn five. Comparatively, just two people perish in China, and only two people in Singapore and Japan live past the age of five. India is placed 139th out of 194 countries in terms of life expectancy, with people typically living to be 66 years old. In contrast, the average life expectancy in China is 75, Singapore's is 83, and Japan's is 84. It is simple to trace the relationship between environmental issues, how they affect people, and how this affects both human life and the economy. The cost to humans and the economy increases in direct proportion to the degree of environmental degradation. It depicts the relationship between environmental problems, their impacts, and the cost to a nation's economy and population[5].

DISCUSSION

The Indian government has demonstrated some environmental forethought by passing laws aimed at preserving the environment. According to www.cpreec.org, India has 200 laws pertaining to environmental preservation. The 1970s saw the beginning of environmental restrictions in India. The Water Act of 1974 was the first significant legislation passed, and it was followed by the Air Act of 1981. These laws established the Central Pollution Control Board (CPCB), which is in charge of gathering data and enforcing regulations. Additionally, it created thorough guidelines for central government environmental compliance. State Pollution Control Board (CPCB), a second control board at the state level, was also established concurrently to gather data and for state-level policy enforcement. Other environmental protection

legislation came after these ones. The national forest policy from 1988, the policy statement for pollution reduction from 1992, and the national conservation strategy and policy statement on environment and development from 1992 oversee India's primary environmental protection policies[6]. Therefore, it is evident that India's current environmental issues are not the result of a lack of regulation; rather, it appears that there are other forces at play.

The Indian Environmental Regulations' Effectiveness

The Kyoto Protocol, adopted in 1997 by 37 developed nations and the European Union, set a reduction target for greenhouse gas emissions of 5.2% below 1990 levels for the years 2008 to 2012. India, the world's third-largest GHG producer, is under intense pressure from the international community to achieve these goals. The numerous environmental rules of India don't seem to be doing much to lessen the negative consequences of pollution, MSW, and GHG emissions. Researchers have determined that there are numerous causes for this, including:

The Indian government is reluctant to enforce its own rules on air and water pollution for fear of halting development initiatives that support job creation and economic improvement. Although many of India's environmental laws regarding air and water pollution are comparable to the current norms in other industrialized nations, the lack of their enforcement has outraged the international business community because it appears to give Indian businesses a significant cost advantage. In a similar vein, environmental campaigner Rama Kumar claims that uneven and spotty implementation of present legislation. Effective control has fluctuated, particularly among smaller businesses. For instance, industrial effluent discharge into the Bandi riverbed in Rajasthan appears to be the primary cause of ground water contamination in the region, which has led to the destruction of other natural resources, such as land, soil, and vegetation, are causing problems with salinity and sodicity in soils, which has led to a drop in herbal biomass (Khan, 2001). According to Enrico Polastro, vice president and senior industry specialist at global management consulting firm Arthur D. Little, environmental control standards differ between large companies and small to medium sized businesses (SMEs).

Small businesses are more likely to have outdated processes, and reducing emissions is more expensive compared to fine-tuning the newer technologies used by global players. Environmental restrictions that are strictly enforced could drive these businesses out of business and lead to enormous unemployment, which the Indian government wishes to avoid; The government is also reluctant to punish SMEs harshly because they have helped so many Indians escape poverty; In order to make a variety of managerial decisions, corporations can now identify and quantify the environmental costs, benefits, investments, assets, and liabilities into mainstream accounting and reporting standards. As a result, the global reporting criteria for environmental issues have been tightened and enhanced. Large corporations in India have not yet included these methods into their standard reporting practices. The issues the Indian government has with upholding the nation's environmental regulations and protecting its citizens' health are summarized in the discussion above[7].

Pollutants, GHGs, and other environmental hazards have not been reduced in India despite extensive environmental monitoring and regulation. There is unquestionably a need for India to investigate alternative strategies for resolving the environmental issues. How to protect the environment without severely compromising the country's economic growth and employment levels is a big challenge for emerging countries, including India. According to some experts, most governments will always be constrained politically and economically in their ability to monitor and regulate the environment while also pressuring businesses to take proactive steps to reduce air and water pollution. When the government and the private sector collaborate as partners, it seems to have had success in countries that have environmental challenges under control. As there may be financial rewards for businesses who embrace such methods, it is crucial for the government to emphasize and the industry sector to acknowledge the advantages of safe environmental practices. According to research, environmental investments do significantly boost operational performance in terms of cost, quality, and flexibility for manufacturing facilities in static

industries with low entrance and exit costs. If the external variables do not support or aid the industrial sector, regulation alone might not always be effective. The fact that not everyone understands the role of the government in enacting change in the area of environmental issues and the people directly affected by it only serves to exacerbate this predicament.

The government's new environmental restrictions may have a negative impact on livelihoods. To implement the necessary behavioral adjustments in such circumstances, it is considerably preferable to deal with the individuals immediately impacted by rules. The examples that follow illustrate the limitations of environmental rules in addressing concerns like greenhouse gas emissions, bettering the quality of the air and water, lowering municipal water waste disposal challenges, etc. A European-wide carbon tax would place an unbalanced cost on industries and nations, researchers found in a study of the manufacturing sector in the member states of the European Union. Researchers discovered that the post-tax energy subsidies at the global and regional levels are significantly higher than previously assumed, having a negative impact on the environment, in a study by the International Monetary Fund. Similar findings were made in their study of the New Zealand wine sector, which discovered that companies with a larger commitment to exporting (external pressures) were more likely to adopt safe environmental practices[8].

Regulation alone will not be sufficient to halt or even slow down the environmental devastation of our world, according to policymakers, international organizations, and academics. In addition to regulations, the environment appears to be impacted by the education and economic levels of a nation's citizens. Education and income were found to be significantly positively correlated with people's environmental concerns in a study of Indian homes. It seems that environmental laws alone are less effective, but when industry and the private sector cooperate and share responsibility with government agencies, they seem to result in a more effective management of the environment, based on the success of a few countries in managing environmental concerns. The studies that follow demonstrate the value and significance of using a collaborative approach to resolve many of the global environmental issues[9].

In a study of the Dutch paper and board industry, researchers found significant contributions in the areas of waste water and energy efficiency through the involvement of the industry associations; in a study of the U.S. dairy industry, researchers discovered that improving the industry's production efficiency, including management practices, nutrition given to animals, and reproduction methods, help reduce air quality and water pollution issues. Similar to this, a study on the role of insurers in the Nordic countries demonstrates the crucial part that the insurance sector plays in promoting the development and utilization of environmentally sound technologies by urging the industries that they insure to adopt such technologies; There are a few instances of such collaborations between the government and the industry even in India. A study on the topic of energy use efficiency in the Indian cement sector, for instance, revealed that environmental regulation has a reinforcing effect on energy use efficiency.

It is recommended that a similar cooperation might be more successful to enhance the air and water quality in India based on the success of government and corporate partnerships that have proved to improve the implementation of environmental regulations. The strategy's guiding premise is to create a symbiotic relationship between the nation's citizens, the particular government entities in charge of environmental issues, the industry sector, and NGO's. The essential actions here are:

1. Make environmental concerns and issues more widely known, especially to farmers and small enterprises. It is crucial that the populace comprehends the problems, is educated and informed about them, and is aware of things like the effects of runoff from agricultural pesticides, the consequences of air and water pollution, etc. In this situation, the government can use its network to connect with the populace, the private sector can contribute its expertise in mass media, and NGOs can offer examples of successful environmental initiatives from other nations.
2. To address the most important environmental issues facing the nation, government ministries such as Commerce and Industry, Environment, Forest, and Climate Change, Micro, Small, and Medium Industries, and Rural Development should first develop a streamlined and coordinated plan. They

should then engage in a conversation with important business leaders to solicit their input on monitoring and controlling the issues they have identified. Additionally, the various ministries want to request the aid of big businesses that have effective methods for controlling air and water pollution so that they can impart their expertise to the SMEs.

3. Establish specific objectives to be met in the areas of air and water pollution through meetings with the CEOs of major Indian corporations and NGOs.
4. Request support from NGO's and the business sector for technologies, management strategies, and financing to implement tried-and-true environmental management techniques that reduce pollution.
5. Provide incentives to businesses or sectors that want to test out cutting-edge technology that have been shown to reduce GHGs and other pollutants, especially when doing so requires significant upfront costs;
6. Provide incentives to major businesses who voluntarily help SMEs lower their carbon footprint.

The aforementioned series of actions is thought to have the potential to lead India's populace toward a healthier and safer environment. Additionally, India might benefit from other nations' experiences in attempting to turn municipal solid waste (MSW), which is a big issue, into electricity. Any proposed method for turning MSW into energy must be technically possible, socially acceptable, and financially viable, according to research. Any process that transforms waste material into energy, such as the production of electricity or alternative fuels, is referred to as energy recovery[10]. Aerobic composting can be used to decompose biodegradable trash, and plastic and other non-biodegradable garbage can be processed to recover energy. The process of waste valorization, which includes sorting garbage at the source together with material recycling and waste to energy conversion (WtE), is being promoted by the European Union. According to the Portuguese government's experience, it appears that the gasification process has proven to be a practical method for converting trash into energy.

CONCLUSION

The poor and hazardous environmental conditions brought on by India's rapid economic expansion are having an impact not just on the population of India but also on the rest of the world. The high population density and growth rates in India make this situation much worse. Despite the fact that the current environmental laws address a wide range of environmental issues, they appear to be ineffectual due to a lack of enforcement, a lack of resources, and the technological difficulties that many Indian businesses, particularly SMEs, confront. To maintain its possibilities for ongoing economic growth under these circumstances, India must take some sustainable measures to address the various problems the nation is currently dealing with, including environmental deterioration. The key to India's and the world's future lies in sustainable development, which entails both a flourishing economy and a healthy environment and is in many ways the objective of varied interests in the field of environmental challenges. Sustainable development entails balancing the competing interests of a thriving economy with the preservation of a pristine environment. We advise India to embrace a fresh approach in the fight against environmental degradation based on a thorough literature review. The shared and collaborative participation of the populace, the government, business, and NGOs are the main component of this new project. This strategy looks to have been successful for a few nations, and it appears to be a workable alternative for India as well. It is suggested to take a number of actions that could improve the environment and benefit the Indian populace at the same time. Additionally, it is advised that India use tested waste-to-energy conversion methods that the European Union has implemented in order to lessen the expanding MSW problem.

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CHAPTER 9

VIOLENCE IN PRISONS AND HUMAN RIGHTS: A CONSTITUTIONAL VIEW

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ABSTRACT:

If history is a testament to anything, it is the truth that abuse of authority results in the worst possible breaches of human rights. When those who are not suitable to have it are given unrestrained power, an unfair power dynamic results that allows such individuals to misuse that power. Unchecked power includes acts of violence while a person is in police custody. This essay explores the origins of custodial abuse in the British Empire and demonstrates why, more than 70 years later, we have yet to find a lasting solution. This essay intends to provide the reader with a thorough grasp of how complex the issue of custodial abuse is, how the constitution tries to protect you, and what the judicial viewpoint is. The truth is that without independent organizations to uphold these rights and offer channels for redress, prisoners' rights while in the custody of the police have no real value. To remove the threat of custodial violence, the judiciary and law enforcement must collaborate. Senior officers can set a good example by ensuring that no one is held improperly and that they are not brutalized while in police custody. The investigating police must be instructed in proper and legitimate interrogation techniques.

KEYWORDS:

Constitutional Defenses, Custodial Violence, Human Rights, Illegal Incarceration, Prisoners' Rights.

INTRODUCTION

The Hon. Justice Krishna Iyer asked us a basic issue back in 1980: "Who will police the police?" Sadly, this subject is still open to debate. The Constitution is the ultimate loser when abuse in detention, torture, or fabricated encounters are equated with justice. The right to life and the right to personal liberty are inherent to every living thing. All people who reside within India's territorial limits have a right to life and personal liberty, according to the Indian Constitution. According to both the Indian Constitution and the Universal Declaration of Human Rights, a person cannot be denied their legal rights simply because they are being held, regardless of the reason they are being held[1].

Custodial violence, agony, and custodial passing are commonplace in today's society since it has become so routinely accepted by the police, the government, and even ordinary citizens. Custodial violence can be defined as cases of murder, rape, torture (both physical and mental), illegal arrest and imprisonment, false accusation, disappearance from police custody, staged confrontation, and other atrocities committed by police. The problem of police reforms is currently urgently needed due to the rising number of incidences of custodial violence. Police changes have always been a "red herring" for policymakers, with the exception of situations where the same can be particularly justified. The people of India have a long history of standing up for and supporting parliamentary democracy, which gives them access to a fairly free press, an elected representative-controlled military, and a judiciary that operates impartially and independently without being influenced by the elected representatives or active political or civil organizations. Despite these facts, violence committed by law enforcement officials while in detention is commonplace across the nation. Torture, including rape and other forms of ill-treatment, remains a stain on the face of parliamentary democracy and has now progressed to the point where it may even be described as endemic, spreading throughout the entire nation.

There have reportedly been hundreds of deaths while in police custody. Even though the media and the public tend to disregard the issue of police brutality, it is well known that it happens frequently and in the open in India. The purpose of the current essay is to analyze and critically evaluate the use of physical force against detainees by police officers[2].

Meaning of Custodial Violence:

In modern nations, the development of parliamentary democracy and the advancement of human well-being are both hampered by the flagrant abuse of police authority by the law enforcement authorities themselves. Torture that occurs while a person is being held by the police has an adverse effect on both their physical and mental health, as well as how well they function as a person, family, or even society as a whole. Physically, it is exceedingly challenging for the victims to move on from the suffering, humiliation, hostility, and trauma they experienced while in detention. As a result, they struggle to lead regular lives in many areas of the world and are perpetually terrified.

In a growing nation like India, the threat of custodial violence takes on challenging and more complicated dimensions. The majority of these cruelty situations are actually caused by systemic compulsions rather than an individual's aberration, which is another truth. During the British era, when Indian citizens were exposed to various sorts of police brutality, humiliation, and torture, the practice of police brutality was more pervasive. Even while there is occasionally no tacit backing from high police officials, bureaucrats, politicians, or the judiciary, these acts of police violence have gone unchecked since British times and are still being carried out as a noble legacy. The general public's misguided assumption that police brutality is vital for the proper upkeep of peace and order contributes to its wickedness.

The term "custody" refers to any period of time when a person's freedom of movement has been restricted by law enforcement authorities. When people are arrested, charged, sentenced, or confined in a correctional facility, there is a risk of custody violence and human rights violations. Custodial violence is the name given to acts of violence by law enforcement against those who are detained. Custodial violence can thus be described as an inhuman act that springs from a conviction or desire to inflict misery notwithstanding the fact that the person who is being held has no way to respond. It could also be a straightforward demonstration of physical strength and superiority over the weak. Custodial violence is defined by the Law Commission of India as an offense committed by a public employee against a person who is being held or arrested. Torture can take many different forms, such as unlawful use of force, harassment, third-degree violence, and even incidents of rape. Other tactics could include the use of demeaning language, protracted illegal incarceration, sleep deprivation, denying access to needs like food and water as well as family members or legitimate legal advice[3].

However, the most prevalent and common type of police-inflicted violence during detention is physical torture, sometimes known as third degree torture. The problem is made worse by the fact that it is perpetrated within the boundaries of law enforcement while wearing the guise of "uniform and authority." Additionally, it is considered a horrific offense because it is carried out by the very institution that is seen as the protector of the community and its members. To safeguard prisoners' human rights, it is important to stop police from abusing their authority and using violence while in custody. Custodial violence that results from a police officer abusing their authority is troubling for both the victim and society as a whole. One of the most serious violations that frequently goes unreported is this one. In order to understand the rights guaranteed by our Constitution and the Universal Declaration of Human Rights, it is important to approach this subject on a war footing. By regularly engaging in such excesses, law enforcement is simply encouraging terrorism by cultivating an environment that is conducive to it[4].

No modern civilized society will accept the metamorphosis of a law enforcement official into a ferocious animal engaging in acts of custodial violence. Due to the popularity of this technique in varied degrees throughout the past few years, there have been occasions where the public's perception of police has been irreparably damaged. It is a big problem to take away someone's freedom. *State of Uttar Pradesh v. Joginder Kumar*, 1994 It is worse than a gamekeeper turning into a poacher. *State of Punjab v. Bhagwan Singh and others*, 1992 It is a fairly despicable method of research and a crude means of detecting wrongdoing to torture someone who is both defenseless and unable to defend themselves. Law enforcement should be in charge of upholding the law and conducting ongoing investigations. The means and the end itself are both equally vital in every situation[5].

(Shayk Ibrahim v. Public Prosecutor, 1964) Custodial death and other forms of custodial violence must be addressed if a "police-raj" is to be avoided firmly, if necessary, and with a hefty hand to restrain it. State of Uttar Pradesh v. Gauri Shanker Sharma, 1990 Police cannot carry out actions that are illegal and against public order in plain sight behind closed doors. It should not be permitted to use antiquated, illegal, and occasionally inhumane practices like third-degree torture. State of Punjab v. Bhagwan Singh and others, 1992

DISCUSSION

Even though there are several awareness efforts today against in-custody abuse and violence, there remains a nagging propensity among some law enforcement officials in higher positions to view this as a means of getting results quickly. In a society, the law is absolute supreme, thus if there is any sign that an individual could resist being arrested by the police, no force at all could be justified in the process of bringing him into custody. Human rights are frequently violated in an effort to get information or elicit confessions, as has been commonly recognized[6]. People who are in custody are just as entitled to live as any other regular citizen. The goal of an effective inquiry should be the focus of the interrogation rather than causing harm. In order to carry out their tasks effectively and legally, the authorities must endeavor to stay within the bounds of the authority that has been granted to them. They must be held responsible for their failure to perform if they do so. In incidents involving violence or fatalities committed while in custody, we have infrequently observed evidence of the complexity of police personnel. Due to their close bonds with one another, people frequently choose to keep quiet or, more often than not, to tell lies to protect their friends rather than file a first information report or request a departmental investigation so that those responsible can be held accountable.

The bleak truth is shown by data from the National Campaign Against Torture's (NCAT) Annual Report on Torture 2018. According to data, there have been 1,569 deaths overall, 111 of which have been directly under police custody. According to reports, 74.4% of these deaths occurred while the subjects of physical and emotional abuse by the police. In addition, 55 people committed suicide in 2018 rather than suffer future detention torture.

Violence in Custody: A National Perspective

Custodial abuse and the misuse of legal authority by law enforcement agencies, such as the police, are not only strange but also regrettably rather often in democratic nations. Because the problem is worldwide and universal, a majority of the world's population is concerned about it. When crafting our criminal laws, the colonial British rulers aimed to make confessions given to the police authority inadmissible in court. The choice was made since it was noted even then that there was a natural propensity to obtain confessions by whatever means. However, despite our independence and the Constitution's values of life, liberty, and the rule of law, there are still instances of incarceration violence that damage our society's moral fabric and undermine its ability to function[7]. Public confidence in law enforcement. Such heinous incidents have caught the attention of the media, judiciary, legislature, general public, and organizations like the National Human Rights Commission over the previous ten years.

However, the challenge of preventing torture in detention and upholding human dignity has been taken up by public awareness of one's fundamental rights, an active judiciary, vibrant media covering cases of detention excesses, initiatives taken by the National Human Rights Commission, and Civil Society Intervention. However, these offenses committed while in detention have not only multiplied, but are also increasingly being used as a standard interrogation technique today. India has a history of police brutality and in-custody torture, which frequently culminates in the victims' deaths, much like any other country in the globe. In an effort to obtain evidence and confessions from the suspects, the police engage in physical and psychological abuse of the victims while disguising their actions as "interrogative measures."

One of the most horrific types of human rights abuse is commonly acknowledged to be torture committed when a person is in the custody of the police. The use of such instruments in investigations and

interrogations has previously been expressly prohibited by the Indian Constitution through provisions protecting the rights of the arrested party and eminent institutions like the Supreme Court and NHRC. On December 10, 1948, the United Nations enacted the Universal Declaration of Human Rights, which forbids torture and other cruel, inhuman, or degrading treatment of anybody. Even though India has signed this act, the police administration does not appear to care about these organizations or their rules. According to article 1 of the UDHR, regardless of whether a person has committed a crime or not, they shall be treated similarly in front of the law and have equal rights. In a similar vein, the 1966 International Covenant on Civil and Political Rights declares. The aforementioned declaration and covenant have already been ratified by India. Despite this ratification, the offenses committed while in custody remain unchecked.

The concerning aspect of such situations that are brought into the public eye is not only the physical harm and suffering, but also the mental anguish and suffering that the person experiences while being held in a prison. The Status of Policing in India Report 2018 (Common Cause with Center of Developing Societies) provides some insight into the explanation. It demonstrates how, in Bihar, about 2 out of every 5 police officers polled and 1 out of every 5 in the other six States studied, no human rights training was ever given to them. In a recent encounter in Hyderabad, four suspects were brought to the crime scene by the police early in the morning in order to recreate the sequence of events as part of the investigation. This is an instance of police using excessive force and violating human rights. The Hyderabad police officers shot and killed all four of the defendants. According to the police, two of the defendants grabbed their firearms and started shooting at the police. The cops then shot and killed each of the accused in an effort to control them.

The case of P. Jayaraj and J. Bennicks in Tamil Nadu was another incident that caused social conscience to be shaken. The people were detained on June 19, 2018, for allegedly breaking the policy at the time by reportedly opening their stores during the lockdown phase. However, there were several accounts of the two being cruelly tortured and subjected to physical, sexual, and other assaults in the days that followed. Both victims subsequently died as a result of their wounds. Unfortunately, this is only one of many cases where people have claimed that police have abused their authority by torturing or physically assaulting regular civilians under the guise of following safety rules. The most defenseless members of society, such as food sellers, small-business owners, or regular individuals going to the store for supplies, bear the burden. Police beating civilians with "lathis" to enforce the lockdown phase has been reported frequently. In certain instances those performing crucial service tasks were spared[8].

What is horrifying is that these incidents are widespread across the nation, which demonstrates the ubiquitous and deeply ingrained practice of ongoing physical violence by law officers as a means of performing their duties. In the current situation, it appears that police authorities are more answerable to the political parties in power than to the general public or a court of law. People have given up on the concept of pursuing any legal action against these atrocities because to the tiresome and drawn-out process of suing police officers. For fear of more harassment and abuse by the police, people frequently hesitate to even speak out against them. Even after someone files a lawsuit against a police officer, the police themselves act very uninterestedly and drably in their endeavor to look into the situation against their own colleagues. All of these elements contribute to the police's false sense of security and sense of power that they have bestowed upon themselves while leaving all of the crimes they have performed unaccounted for. The Supreme Court acknowledged that there isn't a separate body for complaints against the police. In 2006 ordered the States to establish a Police Complaint Authority (PCA). Many states didn't follow these instructions from the supreme court, even after they were given.

A Presidential Ordinance created the National Human Rights Commission to counter police brutality. The Law Commission of India's directions were not followed by the police, according to the NHRC. The NHRC held a number of workshops and seminars across the nation to help the police develop the habit of behaving in compliance with the law. Police officers are being asked by the NHRC to develop compassion and discipline. Additionally, the NHRC has underlined the requirement that police departments teach human rights as a separate subject.

Among the worst crimes ascribed to the police are fatalities in custody. Police violence and deaths in custody are on the rise despite the NHRC's steadfast efforts. The National Human Rights Commission's authority is, in actuality, constrained for a number of reasons. First, the Commission lacks its own internal independent investigation apparatus. The Commission must rely on investigators employed by the federal or state government and working under the Director General of Police's direction. Second, the Commission's authority is restricted to requesting the Government of India submit a report on any instances of torture, cruel treatment, or deaths occurring while under its custody. The terrible aspect is that the government is under no responsibility to implement any recommendations the Commission may make[9].

Constitutional Defense against Violence in Prison

The rights and dignity that convicts are entitled to as citizens have been recognized by the Indian Constitution. The Supreme Court has ruled repeatedly in a number of cases that being imprisoned does not strip a person of their core human rights, that a prisoner does not cease to be a human being, and that human dignity should not be violated. An individual who has been arrested does not lose their rights. The largest danger to the operation of the court system is the use of third-degree and other forms of torture. Police officers' abuse of authority needs to stop. Violence committed in the custody resulted in blatant violations of human rights. Use of excessive force ought to be forbidden. The following are the rights guaranteed by the Indian Constitution:

1. Article 14: It requires the state to give everyone, including those who have been arrested or incarcerated, with equality before the law and equal protection of the law.
2. According to Article 20(1), a person can only be found guilty of crimes that contravene the laws in effect at the time of the offense and that cannot be punished criminally with retroactive effect.
3. According to Article 20(2), a person may be charged with and punished for the same offense again even if they have already been tried and convicted of it previously.
4. According to Article 20(3), an accused person cannot be forced to testify against himself.
5. According to Article 21, a person may only be deprived of their life and liberty in accordance with a legal process. Everything needed to live with human dignity is covered by this article, including protection from violence in the workplace.

In accordance with Article 22(1), the person who has been arrested must be informed of the reason(s) for their arrest as soon as possible[10]. They also have the right to speak with any attorney of their choosing.

Section 22(2): It states that everyone who has been arrested or taken into custody must appear before the local magistrate within 24 hours of their arrest, and no one may be held in custody for a period of time longer than 24 hours without the magistrate's approval.

CONCLUSION

Custodial violence, to put it simply, is when law enforcement commits horrible crimes against suspects, convicts, and detainees, including physical and sexual assault, psychological torture, and, in the worst cases, staged interactions. Custodial violence is on the rise, which is a threat to the values of our welfare state as outlined by the Constitution and ideals like the guarantee of life and individual freedom. The graph's rising tendency has to be analyzed, and corrective action needs to be taken with the cooperation of all parties involved.

To ensure that police are held accountable for their treatment of people, significant measures must be taken, and norms must be set up to stop their cruel and inhumane working methods. Every district and state must establish police complaint authorities that have the authority to look into and discipline police officers who engage in illegal activity or violate human rights. A special emphasis should be placed on the training procedures that police officers go through, and adjustments should be made to adapt their handling of both suspects and civilians. To uphold and enforce the law in any nation, a well-equipped and accountable police force is crucial. And rapid reforms are required if India is to attain this euphoria and regain the public's trust in the police.

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CHAPTER 10

INDIA AND INDIGENOUS PEOPLE'S RIGHTS: AN OVERVIEW

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ABSTRACT:

The Indian government officially rejects the idea that any particular group of its citizens qualify as "indigenous people" as the term is used in the UN. Instead, the government refers to all of its citizens as indigenous. However, those groups of people who have been designated as belonging to the official category of "Scheduled Tribes" (STs) are regarded as indigenous peoples in many of its dealings. Despite the fact that STs and the socially and historically accepted terms "Adivasi" (meaning indigenous or original people) or "tribal" are not synonymous, it is generally acknowledged that the STs primarily refer to "indigenous peoples" in the Indian context. The constitution and legislation clearly state this "indigenouness," which is also acknowledged as separate from "regionalism" and different. This study will concentrate on STs despite the fact that not all indigenous peoples are STs and vice versa.

KEYWORDS:

Economic, Human Rights, Indigenous People, Inherent Rights, Social Rights, Scheduled Tribes.

INTRODUCTION

The phrase "Scheduled Tribe" is used administratively to "administer" certain constitutional protections, advantages, and privileges for a certain group of people who have traditionally been marginalized and backward. Scheduled Tribes are described as "such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution" under Article 366(25) of the Indian Constitution. The Scheduled Tribe status grants the tribe, or a portion of it, a constitutional standing that entitles them to the protections stipulated in the Constitution in their respective states/UTs. A person is granted the Scheduled Tribe status based on their birth into a Scheduled Tribe. The general official refrain has been that the identification of Scheduled Tribe (ST) is done on the basis of the following characteristics: (i) primitive traits; (ii) distinctive culture; (iii) geographical isolation; (iv) shyness of contact with the community at large; and (v) backwardness. However, no clear criteria have been developed for the purpose[1].

Policy and Legal Frameworks

The Indian Constitution: This extremely complex constitution, which consists of 395 Articles and 12 Schedules, serves as the cornerstone of both the nation's legal and political structures. Only the Parliament may modify the Constitution's provisions via a specifically defined process. In the previous 65 years over 94 statutes have been amended. In a landmark decision, the Supreme Court ruled that the Preamble and other parts of the Constitution's "basic structure" cannot be changed. Rules, Government Notifications, and Acts of the Parliament and State Legislatures: The Constitution offers comprehensive guidelines for legislating, including precisely drawn divisions between the Central and State Legislatures. All laws must also uphold the fundamental rights, and if they do not, they will be ruled invalid.

Judicial Precedent: The Constitution acknowledges that judicial decisions are a significant source of law. Therefore, all High Courts and lower courts must abide by the Supreme Court's rulings. High Court rulings are typically enforceable in the state where they have authority. However, decisions made by inferior courts do not set a precedent for law.

Customary Law: According to Article 13 of the Constitution, "custom or usage having the force of law in the territory of India" is a type of law. If it has a long history, is rational, complies with statute law, is

followed openly and freely (as opposed to being enforced), and is in line with morals and public policy, then these are some essential requirements for their acceptance as customary law[2]. Religious scriptures are also recognised as a secondary source of law in some areas of personal law, such as marriage, divorce, and inheritance.

Native Americans "consider themselves different," have experienced historical injustices as a result of being colonized and deprived of their lands, territories, and resources, and "are organizing themselves for political, economic, social, and cultural enhancement and to put an end to all forms of discrimination and oppression." Additionally, their "inherent rights" are "affirmed in treaties, agreements, and other constructive arrangements with States" and "derive from their political, economic, and social structures as well as from their cultures, spiritual traditions, histories, and philosophies, especially their rights to their lands, territories, and resources[3] . For "peace, economic and social progress and development," they also want "to maintain and strengthen their institutions, cultures, and traditions" and "the demilitarization of the lands and territories." They "contribute to sustainable and equitable development and proper management of the environment" through their "knowledge, cultures, and traditional practices." Additionally, they "possess collective rights that are essential to their existence, well-being, and integral development as peoples." When it affirms the aim of "Equality of status and opportunity" as a crucial component of the aspiration of a newly independent state, the Preamble of the Indian Constitution makes a commitment to the idea of equality of all people before the law. According to certain legal scholars, the right to equality is a component of the "basic structure" of the Constitution and cannot be changed, not even by a constitutional amendment [4].

Unsurprisingly, the Fundamental Rights Chapter of the Constitution (Part III) goes into some detail about the idea of equality. The right to equality before the law and equal protection under the law is acknowledged in Article 14 and made available to all people, both citizens and non-citizens. The provisions of the Constitution and various legal precedents clearly state that a simple "formal" equality approach has been rejected. Instead, the Constitution makes it clear that in order for equality to be truly meaningful, a "substantive" approach must be taken[5]. As a result, the Constitution mandates that the state not only reject historical discrimination against particular groups and classes, but also take concrete action to undo its current effects. Only through such a substantive or affirmative strategy will equality be truly attained. Thus, through a number of legal examples, the idea of substantive equality has been included into Article 14.

In keeping with this perspective on equality, Article 15 of the Constitution recognizes the right against discrimination and forbids the state from treating any citizen differently on the basis of their religion, race, caste, sex, place of birth, or any combination of these. The Article insists that specific provisions for "socially and educationally backward classes of citizens or for STs" constitute affirmative action in the form of this right.

DISCUSSION

A number of sections of the Directive Principles of State Policy also convey the right to equality as recognized by the Constitution. The Supreme Court has ruled in various decisions that the right to life and dignity guaranteed by Article 21 is guided by these values. Two of these in particular are crucial because they are thought to express the idea of "distributive justice": As stated in Article 38, the state has a responsibility to "secure a social order in which justice, social, economic, and political, shall inform all the institutions of the national life," with a focus on reducing income disparities and eliminating status disparities between individuals and groups of people. As stated in Article 39, the state has a crucial responsibility to direct its policy towards what has come to be known as "distributive justice," with respect to adequate. The rights of everyone have been included into India's legal system, which also guarantees their protection[6]. The measures for ensuring that everyone has equal rights are eloquently written into the Indian constitution, which serves as the cornerstone of Indian law. The guarantee of fundamental rights ensures that no one will be deprived of the necessities for their survival.

There are several sections in the Indian Constitution that have been written expressly to guarantee the protection of the rights of the underprivileged[7].

1. The goal of Article 17 is to end "untouchability" The concept of "untouchability" encompasses a far wider range of social punishments than simply avoiding or forbidding physical contact.
2. Article 46 - Promote the economic and educational interests of SCs, STs, and other underprivileged groups in society, and safeguard them against exploitation and social injustice.

National Commission for Scheduled Castes, Article 338

Its duties include, among others: Inquire into and keep track of any issues pertaining to the SCs' legal protections under the Constitution and other laws, and assess how well they are working;

1. Article 16(4-A) of the Constitution, added by the Constitution (Seventy Seventh) Amendment Act of 1995.
2. Investigate specific complaints on the infringement of the SCs' rights and protections;
3. Article 338-A: National Commission for Scheduled Tribes. Similar to NCSC, but with a focus on ST rather than SC, it performs the same duties.
4. The state laws have also introduced numerous was one of the key measures that was implemented in order to provide these people with adequate security and protection of their rights. It has been carefully written, capturing every problem the underprivileged class has as a first step in improving the safety of their rights. The protection of these people was not guaranteed despite the provisions in the Indian Constitution and the Indian Penal Code, which is why the POA act was required.
5. If we look at the societal rules that prevailed throughout India's history, it is evident that the lower castes did not have any respect or safety. They were repeatedly mistreated and exploited just because society believed it was OK to do so. We didn't really understand what a serious violation of human rights that was until much later.
6. The definitions of scheduled caste and scheduled tribe are found in articles 341 and 342 of the constitution, respectively, as was previously discussed. Article 366 of the Indian Constitution also discusses the meanings. The POA act's framework has been created in light of this.
7. Atrocity offenses are covered in Chapter II of the POA Act. This is both the main idea of the act as a whole and one of its most crucial components. It outlines in detail the kind of behaviors that are considered offenses as well as the penalties that will result from committing each offense.
8. One aspect of this act that stands out is that every offense specified therein is also mentioned as a proper offense in the IPC. This makes it quite evident how serious the problems the underprivileged classes were dealing with were.

Let's examine a few instances of these atrocities that they experience:

1. Honour killings are a common occurrence in societies like India where caste structures still dominate in the form of endogamy. Almost invariably, the victims of the violence are Dalits.
2. Inter-caste marriages are in the national interest since they undermine the caste system, according to the Supreme Court's ruling in *Lata Singh v. the State of UP*. Honor killings were classified as one of the "rarest of rare" crimes that required the death penalty in *Bhagwan Dass v. Delhi*.
3. By isolating Dalits from society, Khap panchayat, a caste-based panchayat, frequently serves as a venue for continuing crimes against Dalits. The Maharashtra Prohibition of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016, forbids social boycotts.
4. The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Bill, 2011, which intended to deem khap panchayats unlawful, was drafted by the Law Commission.
5. These are only a few of the many problems that the underclass faces in contemporary India. The sudden death of Rohit Vemula shocked the country and brought disgrace to its standards and system. The entire nation was perplexed by the fact that casteist extremism is still so pervasive in

contemporary India even after 70 years of freedom. The death of Rohit Vemula is only one of numerous cases that demonstrate how deeply ingrained the caste system is in our nation [8].

To stop these atrocities, the government has implemented a number of policies, especially those that fall under Article 17. The PoA Act, which was and continues to be a watershed law for tipping the scales of power in society, is the most significant of them all. As previously said, its execution has encountered many obstacles and resulted in several atrocities committed against members of the underclass. These crimes against humanity are pervasive over the entire country.

Economic and social rights

Article 23 of the Indian Constitution forbids the use of forced labor, beggars, or human trafficking. The Directive Principles of State Policy contain several provisions that reinforce this fundamental right, including Articles 38 (promotion of a just social order), 39 (distributive justice), 41 (right to work), 43 (securing a living wage for all workers), and 46 (promotion of economic interests of SCs and STs).

Although labor exploitation occurs in all industries and geographical areas, it frequently takes particularly harsh forms when it involves STs. For Adivasi and tribal communities in central and mainland India (i.e. outside the Northeast), access to forest produce, such as wild fruits and vegetables, medicinal herbs, etc., has significantly decreased as a result of the loss of land and common resources over the past century (see section on Land, Natural Resources, and the Environment above). Now that these or equivalents must be purchased from the market, Adivasis are compelled to use wage labor, if available. One research, for instance, indicated that only 12% of Gujarat's Bhil Adivasis could make ends meet with their possessions of agricultural land alone.

Most of Central India's Adivasis are forced into seasonal migration for wage labor as a result of the ensuing desperation, which frequently includes or is paired with debt bondage to specific employers. According to the same study on Bhils in Gujarat, 85% of families must leave their homes each year in order to get enough money to survive, and 80% of Adivasis in Maharashtra, according to a report. There are no official statistics on the number of individuals who move during the seasonal months in India, but estimates place the number at over 30 million annually, and the number is growing. The working conditions for these migrant workers are appalling in many places, with little to no shelter offered, scarce food and water, and workdays that are frequently 14 to 16 hours long. Particularly prevalent are harsh acts of violence against people who oppose exploitation, as well as sexual abuse of women. Adivasi women are frequently forced to work as sex workers, sometimes in their communities and other times at or near migrant work sites.

There are numerous safeguarding labor laws in India. The Central government has passed a number of important laws in this area in acknowledgment of the fact that the working class is made up of social groups that are already marginalized as a result of historical hegemony by the upper castes and ruling elites.

1. 1948 Minimum Wages Act
2. Act of 1970 prohibiting and regulating contract labor
3. Act of 1976 to abolish the Bonded Labor System
4. Act of 1979 governing the employment and working conditions of interstate migrant workers
5. The Building and Other Construction Workers Act of 1996 regulates employment and working conditions for these individuals.
6. Act of 1996 establishing the Building and Other Construction Workers Welfare Cess

Article 23 of the Constitution forbids any form of forced labor, and it has been stated that it is an offense under the Bonn Code whenever it is discovered that workers are employed for a wage that is less than the minimum wage set by law. These provisions of the Constitution as well as the statutory framework have also been established in the law through judicial precedent in several significant decisions of the Supreme Court[9].

The Indian Constitutional framework guarantees the rights of Indigenous Peoples. The Directive Principles of State Policy are outlined in Part IV of the Constitution and include "Promotion of Educational and Economic Interests of Scheduled Castes, Scheduled Tribes and Other Weaker Sections," which must be enforced as laws by the State. These directive principles are referred to as "fundamental to the governance of the country." In order to help reduce the extreme levels of poverty, illiteracy, sickness, and early mortality in India, the Constitution of India offers disadvantaged populations specific protection and aid, including Indigenous Peoples (Adivasi). In areas of the nation with a strong tribal population, such as central India and the North-East states, the Fifth and Sixth Schedules of the Constitution include particular legislation on Indigenous Peoples' land rights and self-governance. As stated in Part III of the Constitution, "equality before the law or the equal protection of the laws, non-discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them, special provision for the advancement of any socially and educationally backward class of citizens as well as Scheduled Castes and Scheduled Tribes, affirmative action through the judiciary, and non-discrimination against any citizen on grounds. Despite these guaranteed constitutional rights and the ratification of international human rights treaties, including the Convention on the Elimination of All Forms of Racial Discrimination, socially accepted discrimination, harassment, and violence against disadvantaged and marginalized groups persist[10]. The government itself uses the derogatory term "backward" to describe Indigenous Peoples in its own constitution.

CONCLUSION

The biggest number of indigenous peoples are found in India, compared to all other nations. Around 80 million indigenous people, or about a quarter of the world's total population, are dispersed throughout India and represent an astounding range of racial, cultural, and social backgrounds. They include some of the world's largest indigenous populations as well as some of the last uncontacted ones, like the Sentinelese of the Andaman Islands and the Gonds and Santhals of central India. They comprise not only those localities that experience acute impoverishment but also those that have social indices that are significantly higher than the national average. However, like other indigenous tribes around the world, India's indigenous peoples do share one trait across conditions and regions: social, political, and economic marginalization.

India has a wide range of laws, regulations, and Constitutional provisions geared at defending the rights of these communities in acknowledgment of this fact and as a result of the more than 150 years of ongoing efforts by indigenous people. However, India is also notable for its government's extreme reluctance to acknowledge or accept the global framework for such protections, primarily the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007 and International Labor Organization (ILO) Convention No. 169 on Indigenous and Tribal Peoples, which were both adopted in 1989. Although India voted in favor of the UNDRIP and is a signatory to ILO Convention No. 107 on Indigenous and Tribal Populations (the forerunner to Convention 169), it has firmly maintained that its own indigenous peoples cannot be granted status or protection under these rules.

Insisting that all Indians are indigenous, the government rejects the very phrase "indigenous peoples" and is especially antagonistic to any mention of the rights of indigenous people to autonomy, self-governance, or self-determination. This is true despite the fact that particular communities are given varying levels of protection under Indian law, some of which go a long way.

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CHAPTER 11

CHILD SEXUAL ABUSE AND ITS IMPACT ON CHILD RIGHTS IN INDIA

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ABSTRACT:

When a child is used for an adult's or adolescent's sexual satisfaction, it is considered child sexual abuse. It entails exposing a kid to sexual contact, action, or behavior and may include inviting a child to engage in sexual touching, intercourse, or other types of exploitation such as child pornography or juvenile prostitution. The US Senate bill Pennsylvania defines sexual abuse or exploitation as the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in or assist any other person in any sexually explicit conduct for the purpose of producing any visual depiction, including photography, videotaping, computer depicting or filming of any sexually explicit conduct or the rape, sexual assault, involuntary deviant sexual intercourse, or aggravating sexual assault. Child sex abuse victims come from all socioeconomic, racial, and economic backgrounds. Children who are socially isolated, have few acquaintances, and have minimal interaction with their siblings are more vulnerable. Therefore, the most vulnerable are kids who are abandoned or who live on the streets (street kids in general) with or without adult caregivers. Particularly in cases of incest, imposed secrecy and a child's fear of jeopardizing the privacy and security of the family are significant barriers to disclosure, and this makes it difficult for children to break the silence. According to studies, the attacker is either related to or familiar with the victim in 90% of the cases.

KEYWORDS:

Aggravating Sexual Assault, Child Rights, Child Sexual Abuse, Juvenile Prostitution, Human Rights.

INTRODUCTION

Within the contemporary Human Rights debate, the concept of children's rights is relatively new. The idea of children's rights is quite new and has only recently begun to be accepted more widely. Not only are children's rights a relatively new idea, but child sexual abuse as a crime has also only recently been made a crime. The abuse of children is a very significant issue. The biggest social problem nowadays is crime. In India, it is the most recent and fastest-growing offense[1]. According to our Indian Constitution, everyone, whether they are a citizen or not, has the right to life and to personal liberty, and children too have this right. The exploitation of children's rights, which are protected by our Indian constitution, is what child sexual abuse is. Therefore, once a child is sexually exploited by anyone, it has a negative impact on their rights. A form of child abuse known as child sexual abuse occurs when an adult or older adolescent who is in a position of trust, authority, or responsibility uses a kid to state their sexual needs and lust.

Ironically, most occurrences of child abuse involve homes, schools, neighborhoods, or close family members. Because of the humiliation, depravity, and issues of family honor, many of these types of crimes went unreported in India. Child sexual abuse has a terrible impact on a child's emotional and physical health, and it also has long-term ramifications on the youngster. Examples include psychiatric problems, aberrant sexual disorders, and emotional and behavioral abnormality. The burden of the child's sexual abuse is likely to follow them their entire lives. Children who have experienced sexual abuse experience psychological symptoms that have a serious negative impact on their health throughout their lives[2].

Children are easy targets for criminals or perpetrators to approach, which is the fundamental cause of child exploitation. The likelihood of children being exploited and leading to the sexual exploitation of these defenseless children is further increased by the child's familial history, lifestyle, and the neglectful behavior of their guardians.

Historical context of children's rights

The idea of children having rights did not exist before the seventeenth century. They did not view childhood as a distinct stage of life. Children over the age of six were typically regarded as tiny adults. Children were viewed as the parents' property even in the early nineteenth century, and they lacked any sort of legal protection. The concept of minors' rights first occurs in France in the middle of the nineteenth century as a means of providing them with extra protection. Since 1881, the educational rights of Volume 6, July 2018 ISSN 2581-5504 www.penacclaims.com were also covered by French law. Later, at the beginning of the 20th century, the defense of children's rights had established itself in every conceivable field. The defense of children's rights then expanded throughout all of Europe[3].

The idea of protecting children's rights first became popular when the League of Nations was formed in 1919. The League of Nations adopted the proclamation of children's rights on September 16, 1924. That was the first international convention in history to address the rights of children. Thousands of youngsters were living in the worst conditions during World War II. The only organization that established an emergency fund for the impacted children was the United Nations in 1947. It then changed its name to UNICEF (United Nations International Children's Emergency Fund) and was granted international organization status permanently in 1953. Presently, 190 out of 192 states have ratified the International Charter of the Rights of the Child. Even though the concept of protecting children's rights is now widely accepted, more education is still needed and more effective implementation is needed in this area.

Background of child abuse in the past:

Child sex abuse has been a crime for centuries. It was discovered that adults in the same houses in Europe viewed their children as a sex object in the ancient age, roughly between the fifteenth and sixteenth centuries[4]. In America, child sexual abuse had become widespread by the nineteenth century. In the years between 1790 and 1876, one-third of the rape victims in New York City were minors. From 1817 through 1899, numerous newspapers published articles about the sexual exploitation of minors, more than 500 of which involved father and daughter incest. A System of Legal Medicine, a textbook that was released in 1894, stated that the most common type of sexual offense is the rape of children. When these data were made public, the public showed less interest in making significant efforts to investigate these kinds of crimes[5].

DISCUSSION

Children's rights and human rights: The approach based on human rights focuses on the most marginalized group. The most vulnerable group of these is made up of women and children worldwide. Instead of being the recipient of charity, the United Nations Human Rights Commission is acknowledged as the holders of rights. It makes sure that children's rights are respected in every way possible, including with regard to their fundamental health and education as well as their physical, psychological, and spiritual well-being. The fight for human rights aims to protect minors from sexual crimes. During their medical examinations by the responsible authorities, many of the kid victims are still being treated poorly. Due to improper application, the total kid protection procedures are almost a complete failure.

The United Nations commemorated the 1959 statement by observing the "International Year of the Child" in 1979. The UN general assembly established the convention on children's rights in 1989 as a result. The UN Charter's Article 54 outlines the children's economic, social, and cultural rights. The global problem of child sexual abuse is more serious. The laws relating to child abuse and rights need to be properly reformatted. It is imperative that appropriate steps be taken to end child abuse on a national and worldwide level[6].

Legislation regarding juvenile sex crimes:

At first, there was no specific law or act that applied to minors who were being sexually exploited. The Indian Penal Code of 1860, specifically Sections 375 and 376, was the sole law that could be used to punish

such perpetrators. There were no provisions for male victims; the aforementioned Section(s) primarily addressed female victims. Although the Indian Penal Code, 1860's Section 377 dealt with unnatural offenses, a magistrate court may still try the case and issue a maximum sentence of three years. Additionally, Section 377 is now unconstitutional. A new Act, the "Bill 2011" for the protection of children from sexual offenses, was introduced by legislation in 2012. The Act went into effect on September 14, 2012, after being approved by Parliament on May 22, 2012. The current Act was inspired by Article 15(3) of the Indian Constitution[7].

India is a signatory member of the UN Conference on the Rights of Children, and as such, it upholds its obligations and occasionally provides helpful provisions is dedicated to children's welfare. The Act covers both the category of sexual offenses as well as the associated penalties.

The comprehensive Protection of Children from Sexual Offences Act, 2012 Act, explicitly distinguishes sexual assault, harassment, and pornography as separate crimes. The Act defines an offense as an aggravated form of sexual assault when it is committed by a public employee, police officer, member of the armed forces, security personnel, jailor, person in charge of any medical or educational facility, or guardian responsible for the protection and care of a child.

The Act also outlines many types of sexual abuse of children under the age of 18. The legal system protects children's interests at every level of the legal system by ensuring child-friendly reporting, evidence-recording, investigation, and swift trial of crimes through designated special courts.

The aforementioned Act includes provisions for a child to undergo a medical checkup in a way that will cause the least amount of disruption. In the event of a female kid, only a female doctor is required to conduct the examination in the presence of the parent or another adult the child trusts. The Act also establishes a fast-track special court that will hear cases in a setting that is child-friendly and near to the public. Any complaint made pursuant to this Act must be brought before the special courts with court of sessions-like authority. The state governments actively participate in the implementation of the contemporary standards created by the federal government. As prescribed by the central government. Additionally, the central government establishes standards for the assistance of children throughout trial and pre-trial stages by NGOs, professionals, and experts from several sectors (child psychology, social work, physical health, mental health, and child development), among others.

Legal strategy for child sexual abuse:

Judicial activism has been a strategy for defending children's rights in the modern era, especially those against abuse, trafficking, and sexual exploitation. On the basis of the United Nations Convention on the Rights of the Child, the Indian judiciary has dealt with some cases involving the protection of children's rights[8]. The judiciary was crucial in bringing the horrific atrocities against children to light. The Indian Judiciary has released numerous rules for the children who are impacted by sexual exploitation through judicial activism. The following important cases are highlighted:

Indian Union v. Sakshi

In this instance, Sakshi, an NGO, petitioned the Supreme Court for a ruling that any penetration should be considered sexual contact under section 375 of the Indian Penal Code, 1860. Additionally, they prayed for specific procedures to be used while recording children's statements in cases of child sexual assault. The Supreme Court established the following guidelines for the trial process for the crime of child sexual abuse:

1. The victim or witness should be protected from the accused's face by some form of arrangement or screen.
2. The prepared cross-examination questions should be first submitted to the court's presiding officer so that they can be read aloud to the victim or witness in an appropriate tone of voice.
3. The victim should receive appropriate breaks while testifying in court.

Indian Union v. Gaurav Jain

According to the Supreme Court, children of prostitutes are entitled to the same opportunities, dignity, care, and protection as other children. The Supreme Court has instructed the federal government, state governments, and non-governmental organizations (NGOs) in this case to take the required actions to protect the kid. Prostitution and help them get back on their feet so they may integrate into society without being stigmatized. The court further orders that the sexually exploited youngsters receive a good education, financial support, and all other forms of assistance for the rest of their lives. If at all possible, they should be married in order to prevent future falls into the red-light trap. The court also orders the building of youth refuge homes by the Indian government's department of women and child development.

In re Union of India, Vishal Jeet

In this case, the Supreme Court addressed some crucial issues surrounding child sexual abuse. The court has noted that the issue is not just social but also socioeconomic, therefore the remedies should focus more on prevention than punishment. The Supreme Court issued key directives for the federal and state governments, directing the law enforcement agencies to act properly and quickly in cases involving child prostitution. The Supreme Court further ordered the authorities to establish a proper committee for the elimination of child prostitution, protection, treatment, and rehabilitation of child victims, as well as to provide the child victims with adequate rehabilitation and shelter houses.

Union of India & Ors. v. Nipun Saxena & Anr. : In this case, the victim's minor victim's name is being protected. The Supreme Court has ruled that children who have experienced sexual abuse should be protected in order to prevent needless mockery and harassment. The Supreme Court further ruled that no one may print or publish the victim's name or divulge any information that could enable the victim to be identified to the general public. Trials held in accordance with the POCSO Act are conducted by a Special Court, which is meant to be child-friendly and expressly prohibits aggressive questioning or character assassination of the child. Legislators want to ensure that the child's reputation and privacy are protected. Therefore, the Supreme Court's directive in this case is intended to prevent the identities of the young victims from being placed in any awkward circumstances. In addition, the goal is to safeguard a victim's dignity in cases of child sexual abuse.

State of Maharashtra v. Sankar Kisanrao Khade

In this decision, the Supreme Court made the observation that most instances of child sexual abuse include someone they know or who has authority over them committing the crime. The court further ruled that sexual abuse can take many different forms, including sexual molestation, encouraging, persuading, or coercing children into acting in a sexually appealing way, sexual assault, or purposeful exposure of a child to sexual behavior for the goal of commercial exploitation[9].

Even though the Supreme Court has given many desirable instructions in numerous judgments for the protection, there is still much that can be done to make these recommendations more practical. With the assistance of the District Legal Services Authority and NGOs, the judiciary is currently setting up awareness camps for more effective implementation. "India is rife with trafficking and exploitation, which involves prostitution, pornography, and sex tourism, and traffickers often target women and children of low social standing living in poverty as they are vulnerable to exploitation," wrote Prerana, a registered NGO working in India and specifically Mumbai for victims of commercial exploitation since 1986, in a writ petition.

Sexual abuse of children is a serious stain on society since it disturbs people's moral fiber and prevents them from developing normally. It disrupts a child's typical development and has severe negative effects on a child's body, mind, and emotions. It not only causes physical harm to the body, but it also leaves a lasting psychological scar on the child at a very young age. Millions of boys and girls around the world are victims of both indoor and outdoor sexual assault. Families and well-known individuals frequently abuse them. Any person who takes advantage of a child's vulnerability for sexual enjoyment qualifies as the perpetrator.

When informed consent or opposition by the child victim to such actions cannot be achieved, it involves the mental, physical, and emotional abuse of a child by overt and covert sexual acts, gestures, and postures.

It can also refer to actions that don't entail physical contact. Although it is no longer a gender-specific crime, sexual abuse of women and girls is still usually regarded as a crime worldwide. According to data, young boys in India are sexually abused more frequently than young females. Any physical or psychological harm committed against a kid with the intention of sexually exploiting them is known as child sexual abuse (CSA). CSA is most often committed by someone who has authority over the child. The bizarre behavior pattern of the CSA's filthy deeds, which involve a range of aberrations such as the sexual exploitation of children, the sexual assault of the child, sexually abusing the child, exploiting a child sexually, molestation, sexual abuse, rape, and similar actions. Any child under the legal age of consent may be considered to have experienced sexual abuse if a sexually mature person engaged in sexual activity with the child that was intended to fulfill the abusive person's sexual desires, either on purpose, through the neglect of customary societal obligations, or on a specific occasion, in relation to the child. Historically, child sexual abuse (hence referred to as CSA) has been a hidden issue in India, generally disregarded by the criminal justice system and the general public. Up until recently, the substantive law in India did not recognize CSA as a serious criminal offense on par with rape. A variety of objectionable activities against children, including child sexual assault (that does not amount to rape), harassment, and exploitation for pornography, were never legally addressed in the lack of particular legislation. In recent years, activists, NGOs, and the Ministry of Women and Child Development of the central government have actively worked to end "the conspiracy of silence" and have created significant political and public momentum for addressing the issue. The Ministry of Women and Child Development led the initiative that resulted in the 2012 Protection of Children from Sexual Offenses (POCSO) legislation [10]. The Protection of Children from Sexual Offenses Act, also known as the POCSO Act, was born out of the urgent need to pass a specific piece of legislation to address the rising incidence of sexual abuse against children, including rape, pornography, various forms of penetration, and criminalize acts of immodesty against children.

CONCLUSION

Protection of Child from Sexual Offenses Act, 2012 is a crucial move taken by the legislature to ensure the safety and security of the young people. This Act permits the creation of separate legislation that addresses only offenses against children. The Act of 2012 not only clarifies the types of child sexual offenses but also increases the severity of the penalties for those found guilty under this Act. The Act makes it easier to follow child-friendly procedures where there has been child sexual abuse. The POCSO Act of 2012 must be widely publicized by the federal and state governments via various media outlets. In the case of *Sankar Kisanrao Khade v. State of Maharashtra*, the Supreme Court expressed its worry over child abuse and established the aforementioned rules. Every citizen must work together to eradicate this issue from society, recognize the gravity of this crime, and support legislation that will effectively address it. As a result, the nation must safeguard the children's future.

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CHAPTER 12

ARMED CONFLICTS' EFFECTS ON VULNERABLE GROUPS, INCLUDING WOMEN, CHILDREN, AND MINORITIES

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ABSTRACT:

As the Geneva Conventions celebrate their 60th anniversary on August 12, 2009, respect for Russell's axiom continues to be crucial for the application of international humanitarian law, which upholds the ideals of reducing human suffering and restricting military tactics. The four Geneva Conventions—which cover the protection of sick and injured soldiers on land, military personnel shipwrecked at sea, civilian prisoners of war, and prisoners of war were signed in the Alabama Room at Geneva's town hall on August 12, 1949, and 194 countries have since ratified them, demonstrating their widespread acceptance. Since the end of the Cold War, there have been more domestic conflicts that have claimed the lives of civilians. A survey by the Stockholm International Peace Research Institute found that in 2008, 16 major armed conflicts were registered, up from 14 in 2007. Millions of people died in these primarily internal wars as a result of both intentional strikes and the unintended consequences of attacks on legitimate military targets. Many of them were also forcibly uprooted from their homes.

KEYWORDS:

Armed Conflicts, Human Rights, International Humanitarian Law, Rights Minorities, Security Council.

INTRODUCTION

Ten years ago, the Security Council put the issue of civilian protection in armed conflicts on the agenda. The recent report by the Secretary General on the protection of civilians in armed conflicts emphasizes the need to further bolster civilian protection as on-the-ground progress has not yet kept pace with verbal advancement and the creation of international norms and standards. The need to strengthen protection is also a result of the shift from conventional warfare to low-intensity conflicts, the adoption of guerilla warfare by non-state actors, and the revolution in military affairs brought about by the development of information technology. The asymmetric nature of hostilities in Afghanistan, Iraq, Pakistan, and Somalia has contributed to the development and disintegration of non-State armed organizations, leaving civilians in the dark. Five main challenges are listed in the Secretary-General's report to the Council: improving international law compliance; improving compliance by non-state armed groups; improving protection through efficient UN peacekeeping and other pertinent missions; improving humanitarian access; and improving accountability for violations.

What effects do armed conflicts have on vulnerable groups like minorities, women, and children [1] . Innatedifficulties until entities concerned in humanitarian protection take thorough action will these issues be adequately addressed. A number of other goals for civilian protection are listed in the Office for the Coordination of Humanitarian Affairs' Aide Memoire including humanitarian access for populations at risk, safeguards against forcible relocation, a decrease in small arms, and the elimination of explosive remnants of war, such as cluster munitions. It serves as an illustration of the necessity of aiding the Security Council's consideration of concerns pertaining to the protection of civilians in armed situations. As stated by Kofi Annan in 2001, it is essential to create a "Culture of Protection" in order to guarantee the Actual Protection of civilians caught up in armed conflicts. Such a culture can be instilled through a relentless quest by academia, policymakers, and military leaders to be able to show that the Geneva Conventions could be as extensive as originally intended for modern armed conflicts[2]. There are significant conflicts going on in South Asia, including intra-state conflicts within India, Pakistan, Bangladesh, Sri Lanka, Nepal, and Bhutan as well as inter-state conflicts between India and China, Pakistan, Sri Lanka, Nepal, and

Bangladesh. The lives of civilians, particularly children, women, and those with disabilities, are frequently impacted by these wars, which have an effect on regional stability. Since the end of 2001, South Asia has experienced both a dramatic increase in conflict intensity and the emergence of brand-new conflicts with fresh dimensions. The transition process, as well as the nature of conflicts as stated above, has been impacted by the post-9/11 age. The governments of each South Asian nation have recently developed a variety of amicable methods for resolving disputes that have inspired an upbeat approach to handling the problems. However, the militant groups operating in the region have also developed new problems for the United States, including asymmetric warfare and cutting-edge tactics.

Background Information on Minority Political Participation and International Law

Since minorities exist in practically every nation, whether they are national, ethnic, linguistic, or religious, the growth, promotion, and preservation of their rights is a global phenomenon. Minority rights must be protected, according to the 1992 International Covenant on Civil and Political Rights and Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities. The Declaration lists, among other things, that minorities have the right to enjoy their own culture free from interference and the right to actively participate in national decisions as the only UN document that particularly addressed the distinctive rights of minorities. In order to promote understanding of the history, traditions, knowledge, and culture of minorities within their borders, the Declaration emphasizes that States should take the necessary steps to implement national policies and programs with due regard for minorities' interests. However, despite the actions taken within the UN system legitimizing their protection by recognizing the existence of their rights, minorities continue to face threats, discrimination, and are frequently excluded from taking meaningful participation in the economic, social, and political life, including their participation in elections, national parliaments, and the public service of their countries. In light of this, Gay McDougall, an independent expert on minority issues, chose the theme of effective political participation by persons belonging to minorities as the focus of the second session of the UN Forum on Minority Issues (FMI), with a focus on three issues: identification of challenges and problems faced by minorities and states; identification of good practices in relation to minorities and political participation; and consideration [3].

Numerous ethnic crises around the world have been linked to the exclusion of minorities from participation in the political systems' power-sharing and decision-making processes. However, it is crucial to treat minorities with respect for their rights in order to create a stable and peaceful society founded on multiculturalism. In the 1935 case of "Minority Schools in Albania," the Permanent Court of International Justice (PCIJ) provided a clear definition of the concept of international protection of minorities. The Court ruled that individuals who identify as members of racial, religious, or linguistic minorities must get the same treatment, civil rights, and political security as other citizens of the state in question. By emphasizing the need for equality that must be "effective" and "genuine," the PCIJ further established that minorities had the right to coexist "peacefully" with the general populace and to "preserve their separate identities, peculiarities, traditions, and characteristics." In the Albania case, the PCIJ also stated that while "equality in law precludes discrimination of any kind, equality in fact may involve the necessity of different treatment in order to achieve a result which establishes an equilibrium between different situations."

This formulation's core idea is that the principle of nondiscrimination necessitates the achievement of both formal equality in law and equality in practice[4]. Francesco Capotorti, a professor of international law at the University of Rome and Special Rapporteur of the Sub Commission on the prevention of Discrimination and Protection of Minorities, notes that the PCIJ's position "holds true for any set of international rules to protect minorities." Florial Bieber claims that there are two justifications for minorities' political involvement in the broader context of minority rights. First, the minority itself should actively participate in the political decision-making processes that govern the preservation of minority rights in order to safeguard other rights and to prevent discrimination against minorities. Without which, other procedures for safeguarding the rights of minorities would be compromised. Second, minorities may be shut out of the democratic system if special protections aren't put in place for them[5].

DISCUSSION

South Asian minorities' treatment

Some of the most well-known disputes involving minorities today are found in South Asia. The diversity of ethnicities in South Asia is striking. In this area, minorities are frequently big, well-organized groups living in certain historical regions. Their objectives are frequently perceived as posing a threat to national security, resulting in tense circumstances. Despite the emergence of great accommodating institutions and the ideals of non-discrimination and equality, difficulties are made worse by de facto prejudice against minorities. The most severe challenges and frequent conflicts in a State are brought on by the emergence of religious extremism. Conflict can escalate and interfere with a State's internal affairs as a result of the "internationalization" of minority struggles in the area[6].

National minorities can be found in all of the South Asian countries, including India, Pakistan, Bangladesh, Sri Lanka, Nepal, and Bhutan. The majority of these individuals still reside in their historical homelands and have distinct cultural and linguistic identities. With the exception of Nepal and Bhutan, all of them joined the modern era of history during the British colonial era. As a result, even Nepal and Bhutan were exposed to the principles of constitutionalism, representative government, autonomy, and safeguards. States, with sizable and quickly growing populations that are at least partially divided along sectarian lines, replaced the colonial era, with British India serving as the main creation. There was a significant amount of human death and population displacement throughout the partition process. Consider the founding of Bangladesh, which occurred in place of the erstwhile East Pakistan in 1971–1972, resulting in sad deaths and the development of a massive refugee crisis. For instance, there are sizable communities of tribal people in Bangladesh and India that have tense relations with their neighbors. Ethnic relations face challenging issues as a result of the fact that ethnic separation invariably results in the development of an ethnic minority[7]. In addition to leaving behind the legacy of division, colonialism created "planted" populations like the mixed-race Anglo-Indians and Indian Tarnils in Sri Lanka. Because of the size of the minority difficulties in the area, it will take a lot of thought and work to develop the right mechanisms to achieve social peace on both the local and international levels.

South Asian Regional Instruments on Minority Rights

The history of state commitment to general international human rights treaties is patchy. The most obvious omission relates to Pakistan's position, which is that it is a signatory to the Conventions Against Racial Discrimination and Apartheid but not to either of the two International Covenants on Human Rights. The Covenants on Human Rights, which both grant "all peoples" the right to self-determination, have a unique reservation expressed by India: "The Government of the Republic of India declares that the words 'the right to self-determination' apply only to the peoples under foreign domination and that these words do not apply to sovereign independent States or to a section of the people or nation which is the essence of national integrity." The International Labor Organization's Convention on Indigenous and Tribal Populations includes Bangladesh, India, and Pakistan as parties.

As may be expected in a region with few States but numerous sizable minority groups, specific agreements on minorities have been reached between States in the region in addition to generic treaties. The earliest is the Agreement between Pakistan and India, signed in New Delhi in 1950 in response to the horrific events that followed partition; the opening sentence of the document reads: "The Governments of India and Pakistan solemnly agree that each shall ensure to the minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honor, freedom of movement with respect to all other persons." Minority members must share equal opportunities with members of the majority group to engage in public life, occupy political or other office, and serve in the civil and armed services of their nation. These rights are deemed vital by both governments, who also promise to rigorously enforce them. Other major accords include the Tripartite Agreement of 1974 regarding, among other things, the transfer of significant numbers of Biharis and other

non-Bengalis from Bangladesh to Pakistan, and the New Delhi Agreement of 1973 between India, Pakistan, and Bangladesh with Bangladesh's consent[8].

The Colombo Accord between India and Sri Lanka in July 1987 to restore peace and normalcy in Sri Lanka is the most recent example of a global accord made to address an ethnic problem. The preamble cites the parties' desire "to preserve the unity, sovereignty and territorial integrity of Sri Lanka," "acknowledging that Sri Lanka is a multi-ethnic and a multi-lingual plural society consisting, inter alia, of Sinhalese, Tamils, Moslems (Moors), and Burghers, and that each ethnic group has a distinct cultural and linguistic identity that has to be carefully nurtured," and "recognizing that each ethnic group has a distinct political identity." The Agreement outlines processes for elections and referendums on the status of the Tamil region, an amnesty, and other measures to address "the urgent need of resolving the ethnic problem of Sri Lanka." Minority rights are specifically protected under the constitution of the region. The Indian Constitution acknowledges the demands made on the State by both communities and individuals. The Constitution blends guarantees of individual equality with guidelines meant to uphold and reinforce the distinctiveness and integrity of communities. For the improvement of "socially and educationally backward classes of citizens or for the scheduled castes and scheduled tribes," positive discrimination against specific groups is present. According to Article 29(1) of the Constitution, "any section of the citizens residing in the territory of India... having a distinct language script or culture of its own shall have the right to conserve the same" in terms of group identification. Citizens are mentioned in Article 29; minorities are mentioned in Article 30(1): "All minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice."

Every State and local authority must "provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to minority groups," according to Article 350A. The Union is believed to have a duty to develop Hindi "so that it may serve as a medium of expression for all elements of the composite culture of India" Linguistic group rights are weighed against the overall direction of State policy. Religious freedom is broadly guaranteed, and the Constitution includes lengthy sections on the Scheduled Castes and Scheduled Tribes.

Protection of Minorities in Armed Conflicts: Sri Lanka as an Example

There are still problems between the majority Sinhalese and the ethnic, linguistic, and religious minorities as a result of the deadly battle between the Sri Lankan government and the Tamil Tigers. Armed violence resulted from this situation, which made minorities' predicament worse. When Sri Lanka gained independence in 1948, it inherited a British-made fundamental law that called for a centralized unitary state, along with India, Pakistan, and Bangladesh. The 1948 Soulbery constitution made few changes, and the combination of Sinhala nationalism (74% of the population) and the Buddhist religious code (70%) led to an even more forcefully majoritarian regime. Tamils, who made up 18% of the population, and Muslims, 7%, received minimal support from this state. Through a deal with the Tamil Federal Party, Prime Minister Bandaranaike tried to address the anti-minority attitude in 1957. Due to the concentration of Tamils in the north, the key was the devolution of some powers to regional councils. The ruling coalition unilaterally reneged on this deal. A second agreement was struck in 1965, but it was also abandoned.

Instead, the early 1970s constitutional revisions made matters worse for minorities and sparked war. In 1987, another agreement was made with the help of India, but it was again unsuccessful. After that, Mrs. Chandranaike formulated new devolution proposals and simultaneously began a full-scale conflict with the Liberation Tigers of Tamil Eelam (LTfE). Ethnic and religious identities have grown stronger over this process. The Tamils' hopes for a favorable deal with Colombo have given them cause to be adamant in their demands, and it also appears that the Sinhalese response to potential concessions on the state's unity and the primacy of Buddhism has hardened. Sri Lanka has made significant efforts to construct systems for minorities' protection, despite being entangled in the web created by Sinhala-Buddhist policies that exclude all other aspects of society. The country has a Ministry of Ethnic Affairs and National Integrity, and its constitution guarantees fundamental liberties. Additionally, a National Human Rights Commission has

been in operation for some time. In the midst of conflict escalation, efforts have also been made to pass equal opportunity legislation to help minorities and others in disadvantage.

Armed conflict's effects on women

Armed warfare increasingly places a heavy cost on women. The issue of violence against women in armed conflict has received a lot of attention recently. These developments have a great deal of significance. The emphasis on violence, especially sexual violence, has the tendency to overshadow other significant aspects of women's experiences in armed conflict. Governments, the international community, civil society, non-governmental organizations, and the private sector are urged to "take strategic action" in response to "the effects of armed or other kinds of conflict on women, including those living under foreign occupation," according to the Beijing Platform for Action from 1995. Institutions that are interested in women's human rights violations in general have put a lot of effort into researching women and armed conflict[9].

In fact, in this setting rather as in groups focusing simply on armed conflict, the process of recognizing women's unique experiences and proving the law's inability to address them is more advanced. Studies and publications on the effects of armed conflict typically lump women into the general category of civilians without taking into account the differences in experiences between males and women civilians. Women's unique concerns have, up until now, been marginalized in these studies. For instance, until recently, it was believed that armed combat would inevitably involve sexual assault against women. Women react to violent warfare differently than males do. Depending on how women are viewed in specific civilizations, these consequences vary greatly between cultures. One thing is certain: when armed conflict breaks out, it frequently exacerbates existing inequities in this case, those based on gender that exist in various forms and to varying degrees throughout all communities and put women at special risk. The bulk of those who are poor today more than one billion people are women, who also tend to have lower educational attainment and are significantly less mobile due to their customary caregiving responsibilities. Furthermore, these disparities persist even after wars have ended. Women are frequently left out of peacebuilding efforts and the reconstruction processes that follow armed conflict.

Women are more likely than men to be civilians during a conflict. However, there are usually a sizable number of female combatants in armed conflicts. Their treatment by the military institution is a reflection of how women are treated less favorably in society as a whole. Female combatants have different demands and experiences during captivity than do male combatants. Although the Third Geneva Convention has provisions for female prisoners of war, such as separate dorms and amenities, it should go farther in addressing topics like reproductive health. As a result, women are frequently at a disadvantage, whether on purpose or because their demands are not adequately met. The gender mix of the teams of professionals assigned to deliver humanitarian aid also plays a role in the unfair treatment of women in such circumstances. The UNHCR emphasizes the importance of include women in their field operations and affirms how their participation alters how women's unique concerns are perceived. The majority of the expert teams have, however, been made up of male employees who may not be particularly sensitive to the issues experienced by female survivors. Similar to this, whether or not women's tales are told depends on the gender mix of fact-finding inquiry teams dealing with sexual violence in armed conflict. Methods of looking into and documenting violations of human rights frequently hide violations of women's rights. For instance, the 1994 UN "fact-finding" mission in Rwanda somehow missed the systemic sexual violence against women until nine months later, when women started giving birth in record numbers. In the context of the fighting in Rwanda, it has been argued that because rape is so revered there, it is impossible to look into cases of sexual assault because the victims are unwilling to talk about what happened to them[10]. Human Rights Watch has discovered that, however, the presence of female investigators and interpreters makes a significant difference in the willingness of women to come up.

CONCLUSION

International humanitarian law aims to protect particularly vulnerable people and to lessen the harm that war causes to people and property. The methods by which states conduct armed conflicts have always been

constrained, ranging from the fulfillment of national laws and bilateral treaties to the adherence to time-honored customary conventions. These restrictions on combat, however, have varied significantly over time and have ultimately depended on the countries involved, the period, place, and various battles. Therefore, it is the responsibility of the State to take immediate action to improve the protection of vulnerable populations. Additionally, contracting States or occupying powers are subject to commitments under Articles 23 and 55 of the Fourth Geneva Convention with regard to supplying the civilian population with necessities. These regulations, however, only take effect while the armed conflict is ongoing or, in the case of the Fourth Convention, when occupying a territory. Therefore, the economic sanctions that are still in force against Iraq as part of the larger strategy to address the threat that state poses to global peace and security are outside of the laws of armed conflict. Furthermore, the authority of the Security Council under Chapter VII of the United Nations Charter is the source of these penalties. States are bound by the Security Council's decisions made under Chapter VII. These duties, including those of IHL, are superseded by any other treaty commitments governments may have under Article 103 of the Charter. Furthermore, it is debatable whether the Security Council is subject to any restrictions resulting from IHL.

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CHAPTER 13

JUDICIAL ACTIVISM ANALYSIS OF THE RIGHT TO LIFE AND PERSONAL FREEDOM UNDER THE INDIAN CONSTITUTION

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ABSTRACT:

The fundamental rights were incorporated into the constitution because they were thought to be crucial for the dignity of every person and the personality development of every person. The constitution's authors believed that democracy would be useless without state recognition and protection of civil rights including freedom of expression and religion. A human being has the right to life and, in particular, should not be killed by another human being, according to the moral principle of the right to life. The idea of a right to life comes up in discussions on problems like the death penalty, armed conflict, abortion, euthanasia, justified homicide, and, indirectly, public health care. The most priceless, sacred, unassailable, and fundamental of all citizens' fundamental rights is the right to life and personal liberty. It is one of the most important fundamental human rights in a democracy. It serves as the foundation of the national and worldwide movements for human rights. The idea of natural law is directly related to the human rights. The right to life and personal liberty today includes the right to the necessities of life, such as comfort and dignity-enhancing amenities. It no longer just refers to being physically or medically alive. A setting free from fear and constraints that allows someone to develop both physically and psychologically. A healthy life lived with dignity and respect for one's physical and mental capacities is what it means to have the right to life and the pursuit of personal freedom.

KEYWORDS:

Rights Citizen, Freedom Expression, Fundamental Rights, Human Rights, Personal Liberty.

INTRODUCTION

The right to life, which is protected by Article 21 of the Indian Constitution, is a basic human right, not just a fundamental one. The sanctity of life and liberty was not a novel concept when the Constitution was being written, as Justice H.R. Khanna correctly noted. In its transition from a state of truth and claw to a civilized existence, mankind started to embrace this aspect of higher importance. The Constitution does not create the idea that no one may be arbitrarily deprived of their life while they are subject to the rule of law. It existed and was in effect prior to the constitution's entry into force and was a necessary part of the notion relating to the sanctity of life and liberty[1].

In the case of *State of Himachal Pradesh v. Umed Ram*, the meaning of the phrase "right to life" has been further clarified. The majority of the court found that everyone has the right to life, as guaranteed by Article 21 of the Constitution, and that under the circumstances of this case, when taken into consideration with Article 19(1)(d) of the Constitution and the context of Article 38(2) of the Constitution, everyone has the right to move freely throughout the territory. In light of our Constitutional imperatives, there should be a road for communication in fair conditions, and denying that right would be denying life. As far as is practical and conceivable, society has a duty under the constitution to create routes for communication for the people who live in hilly places.

According to K.K. Methew, "everyone has the right to an adequate standard of living, including food, clothing, housing, medical care, and necessary social services, as well as the right to security in the event of unemployment, sickness, disability, old age, and other lack of livelihood due to factors beyond one's control."

A "state of freedom" that is notably opposed to political subjugation, imprisonment, or slavery" is how Encyclopedia Britannica defines "liberty," which is derived from the Latin words *liber* and *libertus*. It can also mean "not being subject to despotic rule, slavery, captivity, or imprisonment." 'Liberty' is defined as 'Freedom to do as one pleases, the unrestricted exercise of natural rights, power of free chance, Privileges, exemption, relaxation of restraint, the restrictions placed on the use of some privileges, freedom of speech, and conduct that goes beyond conventional decency[2].

Personal liberty refers to a wide range of liberties, including the ability to move around freely, to not be physically restrained, to talk, to write, to practice one's religion, etc. It also encompasses the right to an adequate standard of living and to a healthy environment. According to Article 21 of the Constitution, the "Right to Live" includes the freedom to enjoy clean water and air for the full enjoyment of life. the pleasure of life. In *A.K. Gopalan v. State of Madras*¹, Justice Das correctly defined the term "personal liberty" as follows: "The Constitution's Article 21 uses the terms "personal liberty," which have a specific legal meaning. Personal liberty refers to the right that is related to the person (*jus personam*), not just their own freedom. 'Personal liberty' has been given many different interpretations.

Blackstone has underlined the importance of freedom of movement as the foundation of individual liberty. Personal liberty, according to him, "consists in the power of locomotion, of changing circumstances, or of moving one's person to whatever place one's own inclination may direct." Dicey uses a different approach to define a person's liberty. He stated: "The right to personal liberty means, in essence, a person's right not to be imprisoned, arrested, or subject to any other form of physical coercion in any manner that does not admit of legal justification." According to Dicey, protection from incarceration or physical coercion is a prerequisite for personal freedom, but Blackstone views freedom of movement as the fundamental component of freedom of the person. The freedom of every law-abiding individual to think what they want, say what they want, and go where they want on their lawful occasions without permission from or interference from anyone else is what Lord Denning defined as personal freedom[3].

The word "person" is used in Article 21 to indicate that non-citizens are likewise entitled to this fundamental right. As a result, anyone can assert this privilege. Examining the debates from the Constituent Assembly strengthens this opinion. The founding fathers focused their emphasis on the issue of personal liberty as a result, and the article was written to guarantee everyone's right to life and personal liberty. Article 21 only applies to natural individuals, nonetheless. This is clear from the words 'his' and 'personal' used in this essay. Corporate organizations are not covered by it. However, artificial humans will not be covered by Article 21's preamble. Thus, the liquidation of a society cannot be linked with the restriction of life or individual freedom. Only when the "State" as defined by Article 21 deprives a person of his "Life" or "Personal Liberty" can Article 21 be used. Article 21 does not apply to private individuals who violate their right to personal liberty[4].

No one "shall be deprived of his life or personal liberty except in accordance with the procedure established by Law," according to Article 21 of our Constitution. Article 21 has two key expressions, such as (1) Life and (2) Personal Liberty. They are protected and only subject to "procedure established by law." These phrases are taken directly from Japanese Constitutional Article 31. To avoid repeating the troubled history of the American "due process" clause, these terms were chosen in the Indian Constitution. Article 21 was up for discussion. The entire discussion centered on whether the phrase "due process of law" should be in draft Article 14. It was implied by stating that "the substance of the law of "due process" was being provided" that even Dr. B.R. Ambedkar had found himself in a "difficult position" (which was ultimately designated as Article 22)[5].

The Supreme Court upheld the constitutional validity of Section 302 of the Indian Penal Code, 1860 read with Section 354 of the Criminal Procedure Code, 1908 in *Bachan Singh v. State of Punjab*². The court decided that the process outlined therein was legitimately created by law, fair, just, and reasonable. The constitutionality of a detention order was debated in *Nand Lal v. State of Punjab* made under Section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1982, was

contested on the grounds that the Advisory Board's method of granting legal assistance to the State while denying it to the detainee. The Court used the Meneka Gandhi principle to rule that the Advisory Board's method of decision-making was arbitrary and unlawful, and as a result, the detention order should be upheld.

DISCUSSION

The English Magna Charta (1215) and the American Declaration of the Rights of Man and Citizen (1789) are two documents that might be credited with establishing the right to liberty. Even while the Magna Charta only safeguarded the rights of a small set of people feudal noblemen it nonetheless mandated that any arrest or detention be legal and shielded the detainee from the abuses of his or her ruler. The Bill of Rights (1689) and Habeas Corpus Acts (1640, 1679) of the 17th century further established the right to liberty of the person and protected against arbitrary arrest and detention. In the French Declaration of Rights (1789), which granted the right to liberty to all citizens in the constitutions of national states, the right was further refined and its range of application was expanded. In the Mexican Revolution of 1915, which had "land and liberty" as its rallying cry, the right to liberty was crucial[6]

At the international level, Article 9 of the Universal Declaration provided the first formal legal articulation of the right to liberty and security of the person. The article's brief and ambiguous section that forbids arbitrary imprisonment, arrest, or banishment has since been expanded to include built upon by a number of international human rights instruments at the international and regional level. As the name implies, the right to liberty and security of the person includes The United States Supreme Court stated in *Allgever v. Louisani* that "life include all personal rights and their enjoyment embracing the use and enjoyment of faculties, acquiring useful knowledge, the right to marry, establish a home, and freedom of worship, conscience, contract, occupation, speech, assembly, and press." The state cannot treat human life the same as any other animal's under Article 21[7].

By this point, it has become clear that the word "life" used in Article 21 has both legal status and spiritual value. It also encompasses the freedom from police brutality, the right to basic essentials of life, and the right to dignity in one's own life. Every detained person has an enforceable right to compensation if the detention was unlawful, and c) persons held in custody must be brought promptly, that is, within a few days, before a judge who must either release them or approve pre-trial detention. If the detention is lawful, the judge must decide immediately and order release. They have the right to a speedy trial and release in exchange for a bond or other assurance that they will show up for court. In other words, depending on the intricacy of the case, pre-trial detention should not be used as a general rule and should be kept to a minimum.

No one "shall be subjected to arbitrary arrest, detention, or exile," according to Article 9 of the UDHR. The ICCPR's Article 9 (right to liberty and security of the person) and Article 12(4) (prohibition of arbitrary exile) expand on the fundamental ideas outlined in Article 9 of the Universal Declaration. The International Convention for the Protection of The entire dispute centered on whether the phrase "due process of law" should be included in draft Article 14. It was implied by stating that "the substance of the law of "due process" was being provided" that even Dr. B.R. Ambedkar had found himself in a "difficult position" (which was ultimately designated as Article 22). The Supreme Court upheld the constitutional validity of Section 302 of the Indian Penal Code, 1860 when read with Section 354 of the Criminal Procedure Code, 1908 in *Bachan Singh v. State of Punjab*³. The court determined that the process described therein was reasonable, fair, and just. In the case of *Nand Lal v. State of Punjab*⁴, the constitutionality of a detention order issued under Section 3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1982, was contested on the grounds that the Advisory Board's practice of providing legal counsel to the State while refusing to do the same for the detainee was arbitrary and unreasonable, infringing on Article 21 read in conjunction with Article 14 of the Constitution. The Court used the Meneka Gandhi principle to rule that the Advisory Board's method of decision-making was arbitrary and unlawful, and as a result, the detention order should be upheld[8].

Article 9 of the ICCPR, Article 7 of the ACHR, Article 5 of the ECHR, and Article 6 of the ACHPR all offer basic procedural protections and minimal requirements for defense against arbitrary detention and arrest. In contrast to other Conventions, Article 5(1) of the ECHR provides a comprehensive list of circumstances under which a person may be deprived of their liberty. The regulation of the grounds for detention is left to the purview of domestic law under the other human rights Conventions. Detention solely for the purpose of not being able to fulfill a contractual obligation (detention for debt) is a significant exception to this rule, which is expressly forbidden under Article 11 ICCPR, Article 7(7) ACHR, and Article 1 Protocol No. 4 ECHR.

All people deprived of their liberty are guaranteed a special right to humane treatment and to certain minimal conditions of pretrial detention and imprisonment, such as the segregation of the accused from the convicted or the segregation of juveniles from adults, under Article 10 ICCPR and Articles 5(3) to (6) ACHR. It is also important to bring up Article 16 CMW, which guarantees the liberty and security of persons to migrant workers and their families, as well as Article 14 CRPD. Four types of work or services are listed in Articles 8(3)(c) of the ICCPR, 4(3) of the ECHR, and 6(3) of the ACHR as not falling under the definition of forced or coerced labor. These are: a) military and substitute service; b) emergency tasks; c) regular civic obligations; and d) regular work while detained.

The first global declaration of the right to freedom of movement is found in the UDHR. Everyone has the right to freedom of movement and residence within the borders of each state, according to Article 13 of the UDHR, and everyone has the right to leave any country, including his or her own, and to return there. The right to freedom of movement is not expressly limited to people who are legally present in a country under Article 13 UDHR. However, under numerous subsequent international and regional instruments, the right to freedom of movement only applies to people who are in a certain country legally. According to Articles 12 ICCPR, 2 Protocol 4 ECHR, 22 ACHR, and 12 ACHPR, everyone who is lawfully on the territory of a state has the right to freedom of movement and the right to stay wherever she or he pleases.

In accordance with Articles 12 of the ICCPR, 2 of the Protocol to the ECHR, and 22 of the ACHR, the right to freedom of movement may be restricted by the state under certain conditions, including those involving national security, public safety, the maintenance of the "ordre public," the fight against crime, the preservation of morals and public health, and the defense of the rights and liberties of others. The requirement that restrictions be "provided by law" (ICCPR and American Convention) or "necessary in a democratic society" to protect certain fundamental interests of the state (European Convention) limits the ability of the state to impose restrictions on freedom of movement. It is rare for Article 12(3) ACHPR to state that a person has the right to both seek and be granted asylum. Similarly, the right to "seek and be granted asylum" is guaranteed by Article 22(7) of the ACHR.

The Human Rights Committee has ruled on a scant number of instances under Article 12 of the ICCPR at the UN level. The 1999 adoption of General Comment was a good development in the law. Despite the fact that constraints on freedom of movement and the right to leave the country are to be interpreted narrowly, states parties have been able to use the limitations to defend restrictions on the right to freedom of movement. The Committee's most contentious positions about Article 12 relate to the claim that the biblical passage on the right to life and personal liberty (Article 21) does not guarantee the right to enter one's "own country" as stated in Article 12(4).

The Supreme Court ruled in *Menaka Gandhi v. Union of India*⁶ that the protection provided by Article 21 is only limited. It protects against executive action that lacks the backing of the law. Naturally, the procedure outlined by such a law shouldn't be capricious, unjust, or unreasonable. On the other hand, Article 19 provides extra protection presumably in the sense that the limitations imposed by the law on the rights protected by that Article must also abide by other requirements set forth in pertinent clauses of that Article. When a proclamation of emergency is in effect, rights under Article 19 are suspended, but rights under Article 21 cannot be suspended^[9].

The Supreme Court held in *Kharak Singh v. State of Uttar Pradesh*⁷ that the term "life" as used in Article 21 of our Constitution and the Fifth Amendment of the American Constitution refers to the right to possess each individual organ, such as one's arms, legs, and other body parts. The Supreme Court ruled in *Francis Coralie v. Union Territory of Delhi* that the right of life guaranteed by Article 21 cannot be limited to just animal existence. More than only bodily survival is meant by it. According to the Court, the right to life includes the basic necessities of life, such as access to adequate nutrition, clothing, shelter, and facilities for reading, writing, and other forms of self-expression, as well as the freedom to move around and interact with other human beings. The Supreme Court has reaffirmed this understanding of the term "life" in subsequent instances. In *Vikram Deo Singh Tomar v. State of Bihar*, the court ruled that everyone has a constitutional right to a standard of living that is commensurate with their human personality. The protection and welfare of society's weaker groups are given significant focus in the Constitution, which also expresses specific consideration for women and children. Therefore, it is the responsibility of the State to ensure that women and children sent to care homes receive at least the bare minimum of conditions that ensure their human dignity.

The Supreme Court ruled in *Bandhua Mukti Morcha v. Union of India*¹⁰ that Article 21 guarantees the right to live in dignity, free from exploitation. The State has a constitutional duty to ensure that no one's fundamental rights are being violated, especially if they come from a disadvantaged group in society. The government has an obligation to ensure compliance with social welfare and labor legislation passed to guarantee workers a life of fundamental human dignity. The Supreme Court noted in *Neeraja Choudhary v. State of Madhya Pradesh* that it is the most obvious need of Articles 21 and 23 that the bonded labor not only be identified and released but also given the proper rehabilitation. However, the term "life" in Article 21 has occasionally been construed to exclude livelihood or individual status. However, the Supreme Court decided in *Olga Tellis v. Bombay Municipal Corporation* that if there is an obligation upon right, regardless of how urgent the necessity may be. The supreme court once more ruled in *Delhi Transport Corporation v. D.T.C. Mazdoor Congress* that the right to life includes the right to a means of subsistence and that it cannot be given away to suit the whims of those in positions of power. The approach set forth by law must be just, fair, and reasonable when denying someone their livelihood; it cannot be whimsical, oppressive, or arbitrary.

The Supreme Court ruled in *Consumer Education and Research Centre v. Union of India* that a worker's right to health and medical care to preserve his or her health and vitality while employed or after retirement is protected by Article 21 read with Articles 39(e), 41, 43, and 48-A. The Court has the authority to issue directives to the employer, whether it be the State of its undertaking or a private employer, to ensure that the right to life is meaningful, to prevent workplace pollution, to protect the environment, to protect the health of employees, or to preserve free and unpolluted water for the public's safety and wellbeing. The Constitution's Articles 32 and 142 place obligations on the government and even on individual citizens and businesses^[10].

CONCLUSION

Even though it is written in a pejorative manner, Article 21 grants the fundamental rights to life and personal liberty, demonstrating the crucial role the judiciary in India is playing in upholding citizens' rights. Article 21's protection of the right to life goes beyond mere survival or animal existence. The Indian judges are now in a strong position to reveal the shadowy areas that the Indian Democratic establishment's administration has been avoiding. In the current situation, protecting the fundamental rights outlined by the Supreme Court in Article 21 is necessary to effectively preserve a person's life and personal freedom. As a result, Article 21 now covers a variety of topics and new dimensions, such as the right to a roof over one's head, access to a livelihood, education, and health care, the right to a healthy environment and access to the road, the right to live with dignity, the right to suicide, social security, and the right to privacy when traveling abroad, as well as the rights to a speedy and fair trial, bail, legal assistance, and the right to be free from abuse while in custody. The true reason Indian courts have been successful is that they have largely given up the mechanical task of interpreting British-inherited laws and instead have begun to enact

considerable judicial legislation in the fields of criminal law, industrial law, labor law, and property law. The way the Indian judiciary operates reveals that it has been able to expand the rights of suspects and accused people via progressive and humanistic interpretation in an effort to defend the interests of the innocent and stop the misuse and abuse of police power. In light of shifting social ideals in India, Article 21 of the Constitution has a broader definition now. Time has proven that the higher judiciary is trustworthy in other areas outside just the protection of the fundamental rights to life and liberty.

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