

## Original Article

### The Living Conscience: An Analysis of Human Rights Jurisprudence under the Indian Constitution

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*The Indian Constitution is not merely a legal document but a social contract that embodies the aspirations of a nation emerging from colonial subjugation. It represents a profound commitment to securing justice, liberty, equality, and fraternity for all its citizens. This research article delves into the intricate relationship between the Indian Constitution and the protection of human rights. It traces the historical evolution of rights discourse in India, and analyses the fundamental rights and directive principles that form the bedrock of human rights protection. It examines path-breaking constitutional amendments, and reviews landmark judicial pronouncements that have expanded the horizons of rights. The article argues that through a dynamic process of judicial interpretation and constitutional morality, the Indian Constitution has evolved into a potent instrument for the advancement of human dignity.*

**Keywords:** Constitution, citizens, dignity, equality, legal, liberty, morality

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#### The Historical Antecedents

Human rights are indigenous to India and not of Western influence. Ancient Indian texts like the Vedas and the Arthashastra, and the edicts of Emperor Ashoka (c. 3rd century BCE) propagating Dhamma, contained early notions of Dharma (righteous duty), compassion, and welfare, which are precursors to modern human rights principles. However, the codified framework is undeniably a product of the freedom struggle against British colonial rule, which was inherently a battle for fundamental rights—against discriminatory laws, for freedom of expression and association, and for equality.

The Motilal Nehru Report (1928) was the first Indian articulation of a constitutional framework guaranteeing fundamental rights. The experiences of the colonial era—such as the Rowlatt Act and the suppression of civil liberties—deeply influenced the framers of the Constitution. They were determined to create a republic where state power would be constrained by inviolable rights. The Universal Declaration of Human Rights (UDHR), adopted in 1948 concurrently with the drafting of the Indian Constitution, also significantly influenced its provisions, creating a symbiotic relationship between international and Indian human rights law.

#### The Constitutional Edifice: Articles Protecting Human Rights

The Indian Constitution embeds human rights primarily in two parts: Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). While Fundamental Rights are justiciable and enforceable by courts, the Directive Principles are fundamental in the governance of the country and provide a blueprint for the state to strive towards establishing social and economic democracy. The Fundamental Rights in India serve as essential safeguards for protecting human rights by guaranteeing freedoms and civil liberties to every citizen, enforceable through judicial remedies against state abuse or discrimination. These rights form the backbone of India's democratic framework and underpin the protection, development, and dignity of individuals.



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## Fundamental Rights

Fundamental Rights are enshrined in Part III (Articles 12–35) of the Indian Constitution and are regarded as basic human freedoms necessary for harmonious development and human dignity. The Fundamental Rights in the Indian Constitution include the right to equality, freedom of speech, freedom of association, protection against exploitation, rights to religion and culture, and access to judicial remedies. Their universality is reflected in non-discrimination wherein every citizen is protected, regardless of race, caste, religion, gender, or place of birth.

A unique feature of Fundamental Rights is justiciability i.e., citizens can directly approach the Supreme or High Courts in case of rights violation, securing access to justice through writs such as habeas corpus and mandamus. This framework prevents arbitrariness or abuse by state authorities, fostering rule of law and government accountability. Public interest litigation empowers even non-aggrieved parties or groups representing those without means to seek protection, effectively advancing the cause of collective human rights.

Fundamental Rights are balanced against reasonable restrictions for public order, state security, and morality, ensuring that rights are not absolute but are practical within societal constraints. During national emergencies, most rights may be suspended except those ensuring protection against arbitrary arrest and personal liberty, reflecting their critical nature for human rights.

### A) Rights to Equality

**1) Article 14:** This is a two-fold guarantee. Equality before the law is a negative concept, which implies the absence of any special privilege for any individual. It is based on the English Common Law doctrine of the rule of law, meaning all are equally subject to the ordinary law of the land.

Equal protection of the laws is a positive concept, borrowed from the 14th Amendment of the U.S. Constitution. It implies that among equals, the law should be equal and should be equally administered. It does not mean identical treatment for all. Outlaws any form of discrimination and abolishes untouchability and arbitrary titles, fostering social justice.

### 2) Articles 15 & 16: Prohibition of Discrimination and Equality of Opportunity

Article 15 upholds the principle of equality. It prohibits the state from discriminating against any citizen only on grounds of religion, race, caste, sex, place of birth, or any of them. Crucially, it also empowers the state to make special provisions for women and children (Clause 3) and for the advancement of any socially and educationally backward classes (SEBCs), Scheduled Castes (SCs), and Scheduled Tribes (STs) (Clauses 4 and 5). This is the constitutional foundation for reservations and other positive discrimination measures.

Article 16 provides guarantee of equality of opportunity in matters of public employment. It forbids discrimination on the same grounds as Article 15. Like Article 15, it also allows for reservation of appointments or posts in favor of any backward class of citizens that is not adequately represented in the state services (Clause 4).

### 3) Article 17: Abolition of Untouchability

This is a unique and absolute right. It is not merely a prohibition against the practice of untouchability; it is its abolition. It is a legal declaration of social revolution. To bring it into effect, Parliament enacted the Protection of Civil Rights Act, 1955, which made the practice of untouchability a punishable offence.

## B) Right to Freedom

**Article 19** of the Indian Constitution is a cornerstone of the **right to freedom**, offering six vital liberties to Indian citizens: freedom of speech and expression, assembly, association, movement, residence, and profession. Its utility lies in empowering individuals to participate fully in public life, voice opinions, associate for common causes, and pursue professions, thus fostering democracy and personal development.

Article 19 guarantees six specific freedoms:

- 1) Speech and expression:** Vital for open debate, creativity, and a transparent government.
- 2) Assembly and association:** Allow peaceful protest and community building, crucial for democracy.
- 3) Movement and residence:** Enable mobility and settlement across India, supporting unity and economic opportunity.
- 4) Profession:** Upholds economic liberty and personal growth.

While these rights are foundational for personal development and social progress, Article 19 wisely permits **reasonable restrictions** for sovereignty, security, public order, decency, and morality. This balance prevents misuse, such as incitement, defamation, or threats to public safety, while preserving the essential character of freedom.

By protecting these freedoms and regulating their use, Article 19 actively promotes a responsible, participative, and flourishing society, making it indispensable for safeguarding democracy and human dignity in India.

## C) Individual Safeguards

Articles 20, 21, and 22 of the Indian Constitution form a critical trio of rights that provide procedural safeguards to individuals, especially those accused or detained by the State.

**1) Article 20:** Article 20 protects individuals in criminal proceedings by prohibiting retrospective criminal laws wherein no one can be convicted for an act that was not an offense when committed, double jeopardy in which no

person can be tried and punished for the same offense more than once and self-incrimination which provides that accused persons cannot be forced to testify against themselves. This article is an essential check against misuse of state power and cannot be suspended even in emergencies, reflecting its foundational role in protecting the accused.

**2) Article 21:** Article 21 broadly states that no person shall be deprived of life or personal liberty except according to procedure established by law. Landmark judicial interpretation has expanded this to include rights such as dignity, privacy, a fair trial, and humane treatment, ensuring that both laws and procedures are fair and reasonable.

**3) Article 22:** Article 22 establishes procedural protections for arrested individuals which include that information on grounds of arrest must be provided, that the person has a right to consult and be defended by a legal practitioner; that he should be produced before a magistrate within 24 hours and limitation on detention without magistrate's authority. This article also includes special provisions which delineate safeguards in cases of preventive detention, though with certain limitations. This article thus ensures protection of citizens against arbitrary arrest and detention

Collectively, Articles 20–22 protect against arbitrary or unjust deprivation of liberty by holding the State accountable to fair procedures, upholding human dignity, and preserving the rule of law. Their continued evolution by the courts shows their dynamic role in balancing state authority and individual rights in India's democracy.

## D) Right against Exploitation:

The fundamental rights that protect from exploitation in India are provided in Articles 23 and 24 of the Constitution. These provisions are critical in upholding human dignity and shielding individuals—both citizens and non-citizens—from abusive and unfair labor practices.

### 1) Article 23: Prohibition of Exploitation

Article 23 prohibits Human trafficking – the buying, selling, or transporting of individuals for forced labor or immoral purposes; Begar – compulsory labor without any payment and other forms of forced labor, including bonded labor, regardless of remuneration. Violating these prohibitions is a punishable offense, and the State is empowered to take legal action against both private individuals and authorities who violate them. Article 23 also applies to both citizens and non-citizens, ensuring a broad shield against exploitation.

### 2) Article 24: Prohibition of Child Labor

Article 24 prohibits employment of children below the age of 14 in any factory, mine, or other hazardous employment. This provision is instrumental in protecting children from hazardous work environments and economic exploitation.

These rights guarantee freedom from slavery, trafficking, and exploitative labor, securing the dignity and liberty of the individual. Empower the State to legislate and enforce punitive measures against exploiters, supporting social justice and equality. Foster a society based on fairness and human rights by expressly outlawing some of the gravest forms of social injustice. Together, Articles 23 and 24 serve as powerful constitutional safeguards against exploitation and are central to India's commitment to a just and humane society.

## E) Cultural and Educational Rights

Cultural and educational rights, enshrined in Articles 29 and 30 of the Indian Constitution, act as vital safeguards for preserving India's immense diversity and protecting minority interests. They defend the interests of minorities, enabling cultural pluralism and protection against assimilation.

**1) Article 29:** Article 29 guarantees the right to any citizens with a distinct language, script, or peculiar culture to preserve it. This right is not limited to minorities; any group with a unique cultural identity is entitled to preservation of its heritage. It also prohibits denial of admission to state-run or aided educational institutions based solely on religion, race, caste, or language, ensuring access to education without discrimination.

**2) Article 30:** Article 30 empowers religious and linguistic minorities to establish and run educational institutions of their choice. It further states that the State cannot discriminate while granting aid to such minority institutions based on religion or language. This provision enables minorities to maintain educational autonomy and nurture their distinct identity.

Together, these rights uphold India's pluralism, encourage inclusivity, and protect minority groups from cultural assimilation. By ensuring both preservation and access, the Constitution balances unity with diversity—deepening social justice while celebrating the nation's composite

## F) Constitutional Remedies

The right to constitutional remedies is itself a fundamental right, vital for defending other rights and rectifying abuses. The Chairman of the drafting committee of the Indian Constitution, Dr. B.R. Ambedkar referred to the Constitutional Remedies heart and soul of the Constitution. Article 32 is a fundamental right, guaranteeing the right to move the Supreme Court for the enforcement of any of the other Fundamental Rights. The Supreme Court can issue the five great writs: Habeas Corpus (to produce a detained person), Mandamus (to command a public duty), Prohibition (to

prohibit a lower court from exceeding its jurisdiction), Certiorari (to quash the order of a lower court), and Quo Warranto (to inquire into the legality of a claim to a public office).

## Relation to Human Rights

The Fundamental Rights mirror international human rights standards such as those in the Universal Declaration of Human Rights (UDHR) and International Covenants. They directly enforce rights like equality before the law (Article 14), prohibition of discrimination (Article 15), and protection of life and personal liberty (Article 21), which correspond to key tenets in global human rights literature. Article 13 invalidates any law contravening these rights, ensuring human rights remain supreme over legislation.

Fundamental Rights in India are more than legal privileges—they institutionalize human rights, providing effective mechanisms for protection, enforcement, and development of the individual. They keep state power in check, defend minorities and marginalized groups, and create the foundation for justice, liberty, and dignity in Indian society. In essence, Fundamental Rights transform philosophical human rights into enforceable guarantees embedded in the legal and political order.

## Path-Breaking Amendments

While the Constitution is amendable under Article 368, the Supreme Court has held that amendments cannot violate its "basic structure." Several amendments have fortified human rights:

- 1) The 1st Amendment (1951): Ironically, while it curtailed freedom of speech by adding reasonable restrictions, it also added Article 15(4) to empower the state to make special provisions for the advancement of socially and educationally backward classes (SEBCs), a positive affirmation tool for equality.
- 2) The 42nd Amendment (1976): Enacted during the Emergency, it is often criticized for diluting rights. However, it inserted Article 48A (Protection of environment) and Article 39A (Equal justice and free legal aid), broadening the state's human rights obligations.
- 3) The 44th Amendment (1978): A direct response to the Emergency's excesses. It restored the primacy of fundamental rights by making it harder to suspend Article 19 during an emergency and ensured that the right to life and liberty (Article 21) could not be suspended even during an emergency.
- 4) The 86th Amendment (2002): Made education a fundamental right by inserting Article 21A, making the state obligated to provide free and compulsory education to all children aged 6-14.

## Landmark Judgments: Judicial Activism as a Catalyst

The Indian judiciary, particularly the Supreme Court, has been a vigilant guardian of human rights through judicial activism and an expansive interpretation of the Constitution.

### a) Expanding the Scope of 'Life' and 'Personal Liberty' (Article 21):

- 1) *Maneka Gandhi v. Union of India* (1978): This is the cornerstone of modern Indian human rights jurisprudence. The Court held that the procedure established by law under Article 21 must be "fair, just, and reasonable," not merely a procedure legislated by Parliament. It also established the doctrine of inter-relationship between Fundamental Rights, making them a cohesive whole.
- 2) *Francis Coralie Mullin v. The Administrator* (1981): The Court held that the right to life includes the right to live with human dignity and all that goes with it, including adequate nutrition, shelter, and reading material.

### b) Public Interest Litigation (PIL) and Epistolary Jurisdiction:

- 1) *S.P. Gupta v. Union of India* (1981) & *Bandhua Mukti Morcha v. Union of India* (1984): The Court relaxed the rule of locus standi, allowing any public-spirited individual or organization to file a petition on behalf of the oppressed and marginalized. This democratized access to justice, leading to rulings on bonded labour, prison reforms, and environmental protection.

### c) Environmental Rights as Human Rights:

- 1) *M.C. Mehta v. Union of India* (1987) (Oleum Gas Leak case): The Court introduced the principle of absolute liability for industries engaged in hazardous activities.
- 2) *Vellore Citizens Welfare Forum v. Union of India* (1996): The Court adopted the "Precautionary Principle" and the "Polluter Pays Principle" as essential features of sustainable development, reading them into Article 21.

### d) Gender Justice and Privacy:

- 1) *Vishakha v. State of Rajasthan* (1997): The Court laid down detailed guidelines to prevent sexual harassment of women at the workplace, filling a legislative vacuum. This was later codified into the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- 2) *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017): A historic nine-judge bench unanimously held that the right to privacy is a fundamental right intrinsic to Article 21. This judgment has far-reaching implications for data protection, bodily autonomy, and sexual orientation.



3) Navtej Singh Johar v. Union of India (2018): Using the privacy judgment, the Court decriminalized homosexuality by striking down Section 377 of the Indian Penal Code, affirming the rights to dignity, privacy, and equality for the LGBTQ+ community.

## Directive Principles of State Policy - The Blueprint for a Welfare State

The DPSPs are guiding principles to the state in designing laws and policies. They are most significant in carrying out the governance of the State. These principles though, are not enforceable by any court of the land. The aim of DPSP is to establish social and economic democracy welfare state.

The Directive Principles of State Policy (DPSP), enshrined in Part IV of the Indian Constitution, represent the nation's conscience and a blueprint for socio-economic justice. While not judicially enforceable like Fundamental Rights, they are fundamental in the governance of the country and serve as a crucial, dynamic source of human rights. They complete the vision of human dignity articulated in the Preamble by moving beyond mere protection from state oppression (a negative right) to mandating positive state action to create conditions where individuals can truly enjoy freedom and equality. In this sense, they are the architects of the welfare state, aiming to transform the socio-economic fabric of India to realize rights to adequate livelihood, health, education, and just working conditions for all citizens.

The true genius of the Indian Constitution lies in the symbiotic relationship it forges between Fundamental Rights and DPSPs. Initially seen as being in potential conflict, the judiciary has masterfully evolved the doctrine of "harmonious construction," establishing that they are complementary and together form an integrated scheme. The DPSPs provide the goals—the 'what'—while Fundamental Rights often provide the 'how' by limiting state power to ensure these goals are pursued justly. This interplay has allowed the courts to expansively interpret justiciable rights in the light of directive principles. For example, the right to life (Article 21) has been inspired by the spirit of the DPSPs to include within its purview the right to health (Article 47), the right to education (Article 45, now 21A), as well as the right to a pollution-free environment (Article 48A). As a result the non-justiciable principles are converted into legally enforceable human rights.

If we view the DPSPs as mere idealistic intentions, we misunderstand their profound constitutional role. They are the guiding star for legislative and executive action, a continuous moral and political imperative on the state to strive towards establishing social and economic democracy. They are the source from which a vast body of social welfare legislation—from land reforms and environmental protection acts to rights-based laws on education, work, and information—draws its inspiration. By setting these standards, the DPSPs ensure that the concept of human rights in India is not static or limited to civil liberties alone but is an ever-evolving project aimed at achieving a more equitable and just social order.

## The Harmonious Construction: Conflict to Collaboration

Initially, there was a perceived conflict between justiciable Rights and non-justiciable Principles. However, the judiciary, in a series of landmark judgments, has evolved the doctrine of harmonious construction. The Judiciary has held that the two are not only complementary but also supplementary to each other. They are the conscience of the Constitution. It is imperative that the state strives to achieve the goals set out in the DPSPs without breaching Fundamental Rights. The Courts now interpret Fundamental Rights in the light of the DPSPs. For instance, the right to life (Article 21) has been expanded to include many DPSP ideals like free legal aid (Article 39A), a healthy environment (Article 48A), and humane conditions of work (Article 42).

The Indian Constitution provides a robust and dynamic framework for the protection and promotion of human rights. Through its enlightened provisions, corrective amendments, and most importantly, a proactive judiciary, it has proven to be a living organism capable of adapting to new challenges. From protecting individuals from state excesses to mandating the state to provide conditions for a dignified life, its scope is vast.

However, the Human Rights project is not without trials. Challenges like custodial violence, discrimination based on caste and religion, threats to freedom of expression, and the slow realization of socio-economic rights persist. The gap between legal promise and lived reality for millions remains the central challenge. The future of human rights in India depends on a continued triad of a conscious citizenry, a responsive legislature, and a courageous judiciary, all united in their commitment to the constitutional conscience.

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