

Human Rights Protection in India: Women, Children and Prisoners

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Abstract

The most fundamental and significant rights, often known as human rights, are available to everyone. Given that they are bestowed at birth, these rights are unalienable. Many individuals believe that human dignity and human rights are intertwined, making it hard to completely appreciate human dignity without first understanding human rights. Suppressing human rights would undermine their extent, reach, vigour, and vitality because they are broad notions. Because of this, despite being recognized on a worldwide basis, human rights are not only protected by one body of law but also by numerous Indian laws and the Indian Constitution. We'll examine a few of the laws and provisions of the Indian Constitution that safeguard women's, children's, and prisoners' rights in this post.

Keyword: protection, human rights, children, prisoners, women etc.

1. INTRODUCTION

Every person has access to the most fundamental and important rights known as human rights. These rights are inalienable since they are granted at birth. Many people think that Human Rights and Human Dignity are related, hence it is impossible to fully grasp Human Rights without understanding the idea of Human Dignity. Justice Ganguli noted in *Ram Deo Chauhan v. Bani Kant Das*¹ that as human rights are broad concepts, stifling them would negate their extent, reach, vigour, and vitality. As a result, despite being acknowledged on a global scale, human rights are not limited to a single body of legislation but are protected by several laws of India as well as the Indian Constitution.

In this post, we'll look at a few of the laws and clauses in the Indian Constitution that protect women's, children's, and prisoners' human rights.

2. PROTECTION OF WOMEN'S HUMAN RIGHTS IN INDIA

Women in India are guaranteed both legal and constitutional rights. A quick scan of the Constitution is all that is necessary to recognise that it has several articles devoted to defending the rights of women and advancing gender equality. The gender-neutrality of Article 14 of the Indian Constitution, which provides equal protection of the laws and equality before the law, contributes to the maintenance of the status quo in the area of gender-neutral laws and rights. Similar to this, Article 15 of the Indian Constitution expressly forbids discrimination based on gender. In fact, the State may even enact legislation with specific provisions for women and children under clause (3) of the aforementioned Article.

In accordance with Indian social conventions and practises, Article 51A(e) establishes a

fundamental duty that is necessary. According to the aforementioned subclause, it is the responsibility of every Indian citizen to reject activities that are demeaning to women. The right of a woman to maternity leave is recognised by the Constitution, as it is stated in Article 42, which gives the State the non-binding instruction to provide for it as well as fair and humane working conditions.

Numerous laws that have been passed have also defended the human rights of women. A fantastic example of legislation that attempts to protect human dignity by providing assistance to women experiencing domestic violence is the Protection of Women from Domestic Violence Act, 2005. The aforementioned Act expanded the definition of "violence" to include mental and emotional harm in addition to physical kinds of violence. In India, dowry is still widely used. Therefore, the Dowry Prohibition Act, 1961 was passed in order to punish those who committed this crime. Debate has surrounded the US Supreme Court's contentious decision in *Roe v. Wade*, which dealt with women's right to abortion. It is therefore a relief to know that India recognises the rights of women to abort not only in the form of legislation, namely the Medical Termination of Pregnancy Act, 1971, but also in a recent Supreme Court decision that permitted women, regardless of marital status, to abort up to twenty-four weeks into their pregnancies.

3. PROTECTION OF CHILDREN'S HUMAN RIGHTS IN INDIA

Despite the fact that children have the same rights as adults have, because of their young age, additional rights have been established internationally to shield them from serious

crimes, vulnerability, exploitation, etc. The Indian Constitution does not disregard the need to protect children's human rights. The Indian Constitution recognises certain human rights as being exclusive to children, with Article 21A serving as a prime example. This is true even though the Indian Constitution contains human rights that are enjoyed by all people, including children. Children between the young ages of 6 and 14 have a right to free and compulsory education, which shall be determined by the State in line with the law, according to Article 21 A.

A child under the age of 14 may not be granted a job that would require them to work in a mine, a factory, or in a hazardous environment, according to Article 24. The Supreme Court of India issued guidelines in *M. C. Mehta v. State of Tamil Nadu*² that were intended to protect minors from social and economic exploitation and were to be applied to specific sectors of the nation's businesses. Additionally, there are a few Directive Principles of State Policy that expressly protect children's rights in India.

The State is persuaded to permit early childhood care and education for children up to the age of six under Article 45. In an effort to protect children from abandonment and all forms of exploitation, certain clauses of Article 39 of the Indian Constitution specifically mention and encourage the State to create a policy that would stop the abuse of young children and provide opportunities and facilities for such children to develop in a healthy environment marked by freedom and dignity. In the case of *Vishal Jeet v. Union of India*³, the Supreme Court issued directives to

eliminate child sex trafficking and even mandated a CBI investigation. The aforementioned served to emphasise the critical significance of Article 39. The parents or guardians have a responsibility to give their kid or ward access to educational opportunities as part of the extensive list of fundamental rights outlined in Article 51A.

The Supreme Court of India and the Legislature have denounced child labour, one of the most heinous breaches of children's human rights. The Employment of Children Act of 1938 was the first of several laws passed in the past that forbade child labour.

To "control the employment of youngsters in certain industrial employments," this Act was passed. The aforementioned Act undoubtedly had flaws and could not be viewed as a surefire measure to end child labour because of the loosely worded portions' numerous loopholes. The aforementioned Act represented India's attempt, prior to independence, to impose certain limitations on child labour. As a result, the aforementioned Act was nullified and replaced with the Child Labor Prohibition and Regulation Act of 1986, which has since undergone revisions.

4. PROTECTION OF PRISONER'S HUMAN RIGHTS IN INDIA

The Indian Constitution's Article 39 refers to the idea of legal aid. The right to legal aid was acknowledged by the court as one of the requirements for a fair process in the case of *M. H. Hoskot v. State of Maharashtra*⁴. The Court further went on to say that the accused from low-income households must receive initial legal representation at no cost to them.

A violation of Article 21 of the Indian Constitution would result from denying someone the opportunity to be represented by counsel, the court stated in *Hussainara Khatoon v. Home Secretary, State of Bihar*⁵. The same case also demonstrated the necessity of a speedy trial. According to the Court, Article 21's right to a speedy trial qualifies as a fundamental right.

Prisoners who are serving their sentences and those who are awaiting trial are occasionally subjected to cruel treatment and torture there. Because of this, the Supreme Court ruled that if the prisoner was suffering from a third-degree injury at the time of obtaining a confession, it would be against Article 21 of the prisoner's rights. In the case *Kishore Singh v. State of Rajasthan*⁶ The Hon'ble Supreme Court made several remarks against the treatment of prisoners in the case of *Sunil Batra v. Delhi Administration*⁷.

According to the court, it would be considered unduly cruel and against the spirit of the Indian Constitution to hold a prisoner in shackles for nearly the whole day. Even the right of the inmates to have visits from their friends and relatives was acknowledged by the Honorable Supreme Court. Similar to this, this right was recognised in *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*⁸ since it was a detainee's right to live in dignity.

Prisoners who work in prison are entitled to at least the legal minimum wage, and failing to compensate them would violate Article 23 of the Indian Constitution. Furthermore, the Supreme Court addressed the issue of deaths and violence in custody in *DK Basu v. State of West Bengal*⁹. Eleven rules were created by

the court and had to be followed while someone was being detained or arrested. The Court reaffirmed the idea of the right to live in dignity while describing how the State's use of torture and assault would breach the phrase "life and personal liberty" as it is stated in Article 21.

5. CONCLUSION

As was mentioned earlier, the Indian Constitution includes a clause enshrining human rights, and Indian courts have repeatedly maintained these rights. These rights are not all-inclusive. It would be unfair to disregard their implicit existence in multiple statutes even if they were codified

into law. As a result, it is true to say that human rights are unalienable and undivided.

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¹ AIR 2011 SC 615

² AIR 1997 SC 699

³ 1991 (1) SCC 283

⁴ AIR 1978 SC 1548

⁵ AIR 1979 SC 1369

⁶ AIR 1981 SC 625

⁷ AIR 1978 SC 1675

⁸ AIR 1981 SC 746

⁹ AIR 1997 SC 610