

“Human Rights and Social Justice”

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“The true measure of any society can be found in how it treats its most vulnerable members.” - Mahatma Gandhi

Introduction

Human rights refer to those fundamental rights of humans that every individual should inherently possess because they are members of the human family. Human rights and human dignity are closely related, with rights necessary to uphold human dignity. The relationship of human rights is to create conditions for individuals to live with freedom, equality, and dignity. Human rights create an environment in society where everyone can live with dignity and equality.

Essentially, the concept of human rights imported from the West is based on the idea of minimum human needs. There is no universally accepted definition of the term 'human rights' globally. Although this concept is as old as natural law based on natural rights, the concept of 'human rights' emerged in a new form after the Second World War through international charters and conventions.

Firstly, the term "human rights" was used by the then American President Roosevelt in his famous message to Congress on January 16, 1941, where he proclaimed the declaration of the world based on four fundamental freedoms. These were listed as follows: 1. Freedom of speech, 2. Freedom of religion, 3. Freedom from want, and 4. Freedom from fear. The president declared that "the highest aspiration of the common man is the safeguarding of human rights everywhere. Our support goes to those who struggle to gain those rights or keep

them. “Use of the term 'human rights' and fundamental freedoms was reiterated in the Atlantic Charter (1941). Subsequently, the written use of human rights was incorporated into the Charter of the United Nations. The essence of rights is to provide individuals with the freedom to perform certain actions by the state, thus enabling individuals to develop their physical, mental, and moral capabilities fully. The utilization of human rights and fundamental freedoms was reiterated in the Atlantic Charter (1941). Subsequently, the written application of human rights was enshrined in the Charter of the United Nations. The essence of rights implies the freedom or positive provision given by the state to individuals to undertake certain actions, enabling them to fully develop their physical, mental, and moral capacities.

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In the context of the fundamental or natural rights bestowed equally by the Supreme Father, the individual aspect holds greater importance in human rights. Through these rights, individuals are protected from the encroachment of the group, and they gain access to suitable opportunities and freedom for their development. However, when the concept of social justice leans more towards the collective aspect over individual rights, and in situations of neglect of social justice, human rights are also constrained.

In this way, human rights are essential in the attainment of social justice, but if an individual is struggling for their existence or livelihood, they will not benefit from freedom, equality, and rights against exploitation, as they will be forced to let themselves be exploited by others for the protection and sustenance of life. Therefore, meaningful integration between human existence and development is indispensable for both.

The concept of social justice is formed through the progressive development of social norms, institutions, laws, and morality. It emphasizes on just implementation and promotes participation in society by applying rules based on principles of social equality. The term 'social' used in 'social justice' relates to all people in society, whereas 'justice' is associated with freedom, equality, and rights. Thus, social justice aims to ensure freedom for every individual in society, provide equality, and protect personal rights.

In other words, social justice means ensuring the development of all individuals in society with the highest probability of capabilities without any prejudice or discrimination. However, the term 'social justice' is quite complex and its practical meaning cannot be extracted straightforwardly.

Justice Krishna Iyer wrote in his book 'Justice and Beyond' that social justice is not a permanent or complete concept that can be directly measured and applied. This concept is flexible and relative. In reality, social justice in society is the elucidation of just human beings, just implementation, and just actions.

Russo argues that people are naturally equal, but the concept of private property has made them unequal and established these inequalities on a permanent basis. Thus, it is necessary to improve society for the perfection of humanity. By developing attitudes and sensitivities that guarantee equality and social justice, this goal can be achieved. The objective of social justice is to reorganize society so that discrimination based on caste, gender, religion, lineage, region, etc., can be eradicated from social relationships. On the other hand, it is necessary to maintain affirmative action's to ensure protection of the interests of the backward, marginalized, and Dalit sections of society within the framework of social justice.

The issue of social justice is intertwined with social equality and individual rights. Equal social capital is a key component of social justice, on the basis of which it is necessary for citizens to be guaranteed certain social rights, civil rights, and political rights. The concept of social justice emphasizes freedom, equality, and emphasis on other human rights for the welfare and benefit of humanity.

The concept of social justice in India has been ingrained in Indian philosophy from the outset, inspired by the ideas of "Vasudhaiva Kutumbakam" (the world is one family) and "Sarvadharmā Samābhava" (equal respect for all religions). While Indian philosophy emphasizes the ideal of universal happiness, health, and prosperity, with the aspiration that no one should suffer, it is primarily rooted in the principles of equality. The dominance of Buddhism and Jainism, which are based on the principles of equality, along with Ashoka's Dhamma, illustrates the ancient roots of the concept of social justice in India.

During the medieval period, the compositions of Kabir, Nanak, Ravidas and others hold significant importance from the perspective of social justice. For instance, Kabir's opposition to caste discrimination and social hierarchies is evident in his verse, "All beings are the same, whether low or high; the soul knows no caste." Another significant line by Kabir emphasizes the worship of the divine without consideration of one's caste or lineage.

In modern India, the concept of social justice has not only thrived from a political standpoint but has also seen substantial development through constitutional provisions and other legislative efforts. In this context, understanding the concept of social justice in India can be facilitated by examining the constitutional provisions aimed at establishing social justice and equality within Indian political philosophy.

Establishment of Social Justice in Indian Political Thought

The tradition of establishing social justice has been rich in Indian political thought since ancient times. The tradition of establishing social justice started from Indian religious scriptures and continued through strong hands such as Mahavir, Gautam Buddha, Kabir, Guru Nanak, Meera Bai, Raja Ram Mohan Roy, Swami Vivekananda, Mahatma Gandhi, Dr. Bhimrao Ambedkar, and Jyotiba Phule.

Swami Vivekananda's thoughts on social justice

Swami Vivekananda was deeply concerned about the weaker sections of society. He believed that it is humans who represent God, so serving humanity is the best means to attain God. He emphasized on serving and assisting those in need, such as the downtrodden, helpless, oppressed, and poor. He criticized inhuman practices prevalent in society like caste discrimination, untouchability, exploitation, and slavery, while presenting the concept of 'Daridra Narayana', highlighting the severe opposition to injustice and social discrimination based on religion in the name of religion. He said, "Our religion is in the kitchen, our God is in the cooking pots, and our religion is in the touch of the untouchable; I am sacred in the dirt." He believed that if this continued for a century, we would all be in madhouses.

Through these thoughts, Swami Vivekananda aimed to establish a society based on equality, giving strength to the idea of universal respect for all religions. He said that there should be no special privileges in society, no discrimination of any kind. However, if it is necessary for the establishment of social welfare and justice, then these special privileges and distinctions should be in favor of those sections of society which need them the most. Swami ji advocated for special privileges for the lower castes and women, meaning supportive positive discrimination.

Establishment of Social Justice through Constitutional Provisions

Some provisions of the Indian Constitution were enacted on November 26, 1949. The remaining provisions came into existence on January 26, 1950. This day is known as the commencement day of the Constitution and is celebrated as Republic Day. The content and spirit of the Indian Constitution are unique, which is why it is recognized worldwide for its distinct identity.

The social justice system teaches treating all individuals equally regardless of color, caste, religion, or gender. In the social justice system, backward classes, scheduled castes, scheduled tribes, other backward classes, and women have special rights because social justice is the cornerstone of the Constitution. The framers of the Indian Constitution were well aware of the principles of social justice and how they could fulfill the aspirations of the people.

Due to the flexible nature of social justice, it is very beneficial for everyone. However, social justice is not defined anywhere in the Constitution. But one of the goals of social justice in the Constitution is an ideal element of social sentiments. The concept of social justice is a form of unstable perception based on circumstances, culture, and people's aspirations. The Indian Constitution has promised to make all citizens judicial, social, economic, and political, and has inspired them to provide freedom of expression, religion, and worship.

In the Constitution of India, the following paragraphs related to social justice begin with paragraph 19. Paragraph 19(1) recognizes citizens' freedom in seven subsections and identifies them as various types of guarantees and their fundamental rights. Paragraph 19 coordinates claims of individual rights and public rights. Paragraph 23 and 24 provide fundamental rights against exploitation.

Paragraph 24 specifically prohibits the employment of children less than 14 years of age in any factory or mine. Paragraph 38 states that the state shall endeavor to achieve social order and security and promote the welfare of the people. Section (k) of paragraph 39 states that the state will promote justice on the basis of equal opportunities while operating the legal system and provide free legal assistance, especially to the poor and disadvantaged. Paragraph 41 provides for the right of every citizen to work, education, and unemployment, old age, sickness, and disability benefits, and other cases of unwanted shortages. Paragraph 42 emphasizes the humanitarian condition of access to justice and provides relief to women during childbirth. Paragraph 43 regards the concept of living wages for the working population before employment. Paragraph 46 emphasizes the importance of education and economic benefits to Scheduled Castes, Scheduled Tribes, and other relatively weaker sections.

In our country, citizens who are considered untouchable have drawn special attention to the existence of this social problem in the Constitution. As paragraph 15(1) prohibits discrimination on the basis of religion, race, caste, sex, or place of birth. It will be competent for the state to make special provisions for the development of citizens belonging to women, children, socially and educationally backward classes, or scheduled castes/tribes. As provided in paragraph 16(4), the state is allowed to make provisions for appointments or solutions to positions in favor of any backward class. Such backward classes do not adequately represent the services in the state according to the state's opinion. Article 17 provides for the abolition of untouchability and making the promotion of untouchability a punishable offense.

India signed the Universal Declaration of Human Rights in 1948. Part III of the Constitution, also known as the "Magna Carta," includes fundamental rights. These are rights that are directly enforceable against the state in cases of infringement. Paragraph 13(2) prevents the state from making any law that violates fundamental rights. It always provides that if any part of the law is against fundamental rights, that part will be declared void. If the void part cannot be separated from the main act, the entire act can be declared void.

In the case of *Keshavananda Bharati vs. State of Kerala*, 1973, the Supreme Court said, "The universal declaration of human rights cannot be legally enforceable

means, but it shows how India understood the nature of human rights at the time the Constitution was adopted.”

In addition to the above provisions, most of the provisions of the Universal Declaration of Human Rights, 1948, have also been incorporated into the Constitution of India, which are as follows:

Index of Important Provisions:

Brief Description of Fundamental Rights	Universal Declaration of Human Rights, 1948 Articles:	Articles of the Indian Constitution:
Equality and Equal Protection under the Law:	- Article 7	- Article 14
Remedies for Violation of Fundamental Rights:	- Article 8	- Article 32
Right to Life and Personal Liberty:	- Article 9	- Article 21
Protection regarding Punishment for Offenses:	- Article 11(2)	- Article 20(1)
Right to Property:	- Article 17	- A Fundamental Right under Article 31
Right to Freedom of Conscience and Practice, Propagation, and Dissemination of Religion:	- Article 18	- Article 25(1)
Freedom of Speech:	- Article 19	- Article 19(1)(a)
Equality in Public Employment:	- Article 21(2)	- Article 16(1)
. Protection of Minorities:	- Article 22	- Article 29(1)
Right to Education:	- Article 26(1)	- Article 21(A)

The International Covenant on Civil and Political Rights, 1966, and the Indian Constitution

Several civil and political rights enshrined in the International Covenant on Civil and Political Rights, 1966, are also contained in Part III of the Indian Constitution. India has also ratified the International Covenant on Civil and Political Rights, 1966. The provisions of the International Covenant on Civil and Political Rights, 1966, align with the relevant provisions of the Indian Constitution, as follows:

Brief Description of Provisions	The International Covenant on Civil and Political Rights, 1966	Articles of the Indian Constitution:
Right to Life and Liberty:	- Article 6(1) and 9(1)	- Article 21
Prevention of Bondage and Forced Labor:	- Article 8(3)	- Article 23
Protection Against Arrest and Detention in Certain Cases:	- Article 9(2), (3), and (4)	- Article 22
Freedom of Movement	- Article 12(1)	- Article 19(1) (d)
Right to Equality:	- Article 14(1)	- Article 14
Right Against Compelling Evidence Against Oneself:	- Article 14(3) (c)	- Article 20(3)
Protection Against Double Jeopardy:	- Article 14(7)	- Article 20(2)
Protection Against Retroactive Legislation:	- Article 15(1)	- Article 20(1)
Right to Freedom of Conscience and Free Profession, Practice, and Propagation of Religion:	- Article 18(1)	- Article 25(1) and 25(2) (a)
Freedom of Speech and Expression:	- Article 19(1) and (2)	- Article 19(1) (a)

Rights of Legislative Assembly to Maintain Order:	- Article 21	- Article 19(1) (b)
Right to Form Associations or Unions:	- Article 22(1)	- Article 19(1) (c)
Equality in Public Employment:	- Article 25(c)	- Article 16(1)
Equality Before Law and Equal Protection and No Discrimination on Any Grounds:	- Article 26	- Article 14 and 15(1)
Protection of Minorities:	- Article 27	- Article 29(1) and 30

Most of the rights that were not included in the original fundamental rights now were available in the International Covenant on Civil and Political Rights, 1966. Various courts have considered the provisions of the International Covenant on Civil and Political Rights, 1966 as fundamental rights in various cases.

Conclusion:

Human rights practices have become significantly important political forces in a relatively short period of time. There has been a notable expansion of human rights standards, constantly emerging in response to inequalities and violations, encompassing both relevant sites and unique practices. This ongoing development rapidly brings the human rights discourse into alignment with evaluative forms of participatory comparative assessment, which is a hallmark of a political conception of social justice, juxtaposed with socially situated minimal civilized norms.

The primary suggestion of this paper is that there is no need to systematically reduce the trend towards the development of human rights studies upwards from theoretical principles of social justice. Its aim was to demonstrate that a comprehensive, egalitarian conception of human rights can be operationalized alongside their political legitimacy as the fundamental mechanism of governance. The discerning and institutional elements of this dynamism also address concerns of inflation in resource availability, along with worrying about the problems of justice-driven constrictions within an egalitarian normative model.

It is further argued that the status of human rights in international concern should be seen crucially as decisive in dislodging their demands from egalitarian conceptualizations.

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