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The Interface between Criminal Justice and Human Rights: An Indian Perspective

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ABSTRACT

This article examines the protection and enforcement of human rights within the Indian criminal justice system, with a focus on constitutional provisions and international human rights standards. It highlights the role of the judiciary, particularly the Supreme Court, in expanding the scope of fundamental rights and safeguarding the dignity of individuals during criminal proceedings. Drawing from international instruments like the UDHR, ICCPR, and ICESCR, the paper underscores the need for legal reforms, empirical research, and effective institutional mechanisms to uphold justice, prevent abuse of power, and ensure the rule of law in a democratic society.

KEYWORDS

Human Rights, Criminal Justice System, Fundamental Rights, Judicial Interpretation

“Human Rights are not a privilege conferred by government. They are every human being’s entitlement by virtue of his humanity.”

- Mother Teresa

INTRODUCTION

Human Rights are those rights which every human being possesses by virtue of his birth. They are inherent and inalienable. In a country like India, we came across various instances in which the individual is threatened with the possibility of violation of his human rights in every sphere of life. They are based on mankind’s demand for a life in which the inherent dignity of human being will receive respect and

consideration.

Particularly since the middle of the 20th century, the idea of human rights has become one of the most important and broadly contested topics in both domestic and international politics. Throughout human history, there has been variation between two extremes. On the one hand, there was injustice, and on the other, there were efforts to protect freedom, justice, human dignity, and values.¹

All of these efforts to protect people gave rise to the concept of human rights, which quickly became widely accepted. Even if they do not uphold human rights, almost all politicians today, from the most despotic autocrats to the most vocal insurrectionists, aspire to be human rights advocates.²

The fundamental rights that each and every person has just by virtue of being human are known as internationally recognized human rights. These rights are inalienable and cannot be restricted or denied on the basis of social standing, political beliefs, nationality, culture, or tradition. They must be enforced in real life and strengthened by the law. Human rights are essentially the essential prerequisites for living a dignified life. These rights can be used against private individuals in some situations, especially when it comes to discrimination, even though they are mainly enforceable against the State, which is required to uphold, defend, and implement them.³

HUMAN RIGHTS AND LEGAL FRAMEWORK

The Universal Declaration of Human Rights clearly states that respect to human rights and human dignity is the foundation of freedom, peace, and justice in the world. After the two world wars, the UN concern for Human Rights has also become a major issue of international agenda. This suggested response for international law and by this the concept of “International Human Rights Law” has also developed.

Human rights not only stand for individual's right rather they are a backbone for providing social justice in a country. India is a signatory to the Universal Declaration of Human

¹ Ghosal, Sarbani Guha. “HUMAN RIGHTS: CONCEPT AND CONTESTATION.” *The Indian Journal of Political Science*, vol. 71, no. 4, 2010, pp. 1103–25. JSTOR, <http://www.jstor.org/stable/42748940>. Accessed 15 Jan. 2025.

² *ibid*

³ Stewart, David P. “What Are ‘Human Rights?’” *Terrorism And Human Rights: The Perspective Of International Law*, Middle East Institute, 2018, pp. 1–5. JSTOR, <http://www.jstor.org/stable/resrep19954.7>. Accessed 15 Jan. 2025.

Rights and thus, has adopted similar provisions and framework to protect human rights. The extent to which the human rights are respected and protected within the context of its criminal proceedings is an important measure of society's civilization.

The Universal Declaration of Human Rights (UDHR) emphasizes that the recognition of human dignity and equal rights is fundamental to freedom and justice in the world⁴. India, being a signatory to the UDHR, has incorporated many of its principles into the Indian Constitution and in its legal system. Fundamental rights enshrined under Part III of the Indian Constitution reflect the spirit of international human rights standards. UDHR is not legally binding so it sets the ground for the adoption of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social and Cultural Rights (ICESCR).

The ICCPR in Article 7 prohibits torture, cruel, inhuman, or degrading treatment or punishment. It provides that "no one shall be subjected without his free consent to medical or scientific experimentation." When analysing its drafting history, one can clearly identify that Article 7 was the result of the broad consensus of participants to explicitly include the prohibition as a response to the atrocities committed in concentration camps during the Second World War. The UN Human Rights Committee later interpreted Article 7 as requiring "special protections" and provided that the prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. Moreover, the prohibition extends to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure.⁵

On the other hand, Article 12 of the ICESCR calls states to prevent, treat, and control epidemic, endemic, occupational, and other diseases to achieve the full realization of the highest attainable standard of physical and mental health. This, in turn, requires "the promotion of medical research and health education" and "fostering recognition of factors favouring positive health results, e.g., research." However, this obligation is not limitless. The right to health is intimately related to and dependent upon the realization of other human rights, such as

⁴ United Nations, *Universal Declaration of Human Rights*, 1948, Preamble.

⁵ CONSTANTIN, ANDRÉS. "Human Subject Research: International and Regional Human Rights Standards." *Health and Human Rights*, vol. 20, no. 2, 2018, pp. 137–48. JSTOR, <https://www.jstor.org/stable/26542066>. Accessed 19 Jan. 2025.

the “right to be free from torture, non-consensual medical treatment and experimentation.”⁶

The inseparability and interdependence of human rights are highlighted by the intersection of civil and political rights with economic, social, and cultural rights. Article 12 of the ICESCR imposes a positive obligation on states to promote public health, including through medical research and health education, while Article 7 of the ICCPR prohibits torture and non-consensual medical or scientific experimentation, which are based on historical atrocities and are interpreted broadly to include both physical and mental suffering. Nonetheless, this duty needs to be carried out strictly in accordance with human rights norms. Individual autonomy and dignity cannot be sacrificed for the sake of public health advancement. Therefore, Article 12's guarantee of health is not unqualified; it is inevitably constrained by the need to protect other essential rights, such as the prohibition against involuntary medical procedures. Together, these provisions reflect a universal human rights approach that try to find the balance between the collective benefits of scientific and medical progress with the individual's right to bodily integrity and freedom from coercion.

Besides ICCPR and ICESCR there are some other international conventions which provide an international legal framework to deal with such issues. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession.”⁷ It sets the state's obligation to prevent cruel, inhuman, or degrading treatment which does not amount to torture as defined in Article 1, under its jurisdiction⁸.

In the same way, with regards to persons with disabilities, the Convention on the Rights of Persons with Disabilities (CRPD) recognizes that States must provide them with equal recognition of legal capacity and protection against non-consensual experimentation, as well as prohibit exploitation and respect physical and mental integrity.⁹

⁶ *ibid*

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), G.A. Res. 39/45 (1984), art. 1.1.

⁸ Charles, Ogune. "Protection from Torture, Cruel, Inhuman or Degrading Treatment or Punishment." (2015).

⁹ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106 (2006), arts. 12, 15, 16, 17 and 25.

In the realm of humanitarian law, the Geneva Conventions provide a legal framework that strictly prohibits biological experiments on wounded or sick members of armed forces, as well as medical or scientific experiments on prisoners of war unless such procedures are necessary for the prisoner's own health. Furthermore, the Additional Protocols to the Geneva Convention extend these protections to victims of armed conflict by forbidding any form of experimentation on the wounded, sick, or shipwrecked, even with their consent as well as on individuals who are interned, detained, or otherwise held in custody.

THE CRIMINAL JUSTICE SYSTEM AND ITS ROLE

Criminal Justice System of any country is the basis of establishing peace and tranquillity. It includes not only the judicial system but the investigating machinery as well. Criminal Justice is one of the critical areas of human rights where the legal system is tested on a continuous basis for preservation of peace and security in society on the one hand, and prevention of human dignity of both victims of crime and person accused of it, on the other.

Rule of law is the foundation of democracy, which is acknowledged as the best system of governance to ensure respect for human rights. The dignity and worth of the individual is at the core of a democracy, constitutional governance in a democratic set up is the safest guarantee for the protection of human rights and assurance of human resource development.

Equal respect for the rights of all sections of the society is necessary to obtain full human resource development respecting the basic human right of non-discrimination. The Criminal Justice System consisting of Police, Judiciary and Correctional Institutions play a major role in implementing human rights and thereby protect and safeguard the human rights of the citizens of a country¹⁰.

The Criminal Justice System has the power to control crime, prevent crime and punish the criminals. The pre-trial procedure involves arrest and Investigation under the Bharatiya Nagarik Suraksha Sanhita, 2023. Criminal Justice System has composed mainly three vital organs, namely (i) Police, (ii)

¹⁰ Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, Ch. 13- The Right to Equality and Non-Discrimination in the Administration of Justice
<https://www.ohchr.org/sites/default/files/Documents/Publications/training9add1.pdf>

Judiciary and (iii) Prison. In India, the human rights have been characterised as fundamental rights and are given a special status.

Fundamental Rights are important for the fact that they are considered inherent for every citizen and thus, their violation gives the citizens, the right to move to the Supreme Court and the High Courts under Article 32 and Article 226 of the Indian Constitution respectively.

Of the three organs of Government, the judiciary has become a forerunner of human rights in India. It performs this function mainly by innovative interpretation and application of the human rights provisions of the Constitution. Although the importance of human rights is universally accepted and highly recognised, implementation levels vary from jurisdiction to jurisdiction.

In India, in spite of vast growth of human rights, implementation has not been that satisfactory. Recently, the International Commission of Jurists (Geneva) had warned that in India these very human rights stand threatened. In addition, global human rights abuse watchers argue that if such fundamental principles of a fair trial are disregarded by the various agencies of the state, it not only undermines the rule of law but also erodes public trust in the justice system and opens the door to systemic abuses of power and impunity. As a measure of the advances achieved in the protection of human rights, one may also turn the pages of the landmark judgement in *Rudul Shah v. State of Bihar*¹¹, where the Supreme Court ruled that the victims of unlawful or illegal arrest were entitled to compensation for violation of their fundamental rights under Part III of the Indian Constitution.

The Supreme Court of India has recognized the Fundamental Rights as Natural Rights and, it can rightly be contended that the most essential of all human rights in a criminal justice delivery system, is the right of access to courts of law. It is based on Article 10 of Universal Declaration (UDHR) which provides that: *“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, and the determination of his rights and obligations and of any criminal charge against him.”*

The extent to which human rights are respected and protected within the context of its criminal proceedings is an

¹¹ *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141

important measure of society's civilization. The Supreme Court has, through progressive and humanistic interpretation, enlarged the rights of the suspect and the accused with a view to protecting the interest of the innocent and preventing the abused or misuse of police powers. The development of law by the Supreme Court in this direction has evoked criticism from certain groups but this criticism is not based on any empirical research. It proceeds on a pre-conceived notion that any protection given to a suspect or accused is bound to injure the interest of the society by encouraging crime¹².

Unfortunately, in our country, there is not much of socio-legal or empirical research particularly in the field of criminology, with the result of that the criticism of law as interpreted and evolved by the courts, is often not founded on factual or sociological data but it is based only on certain deep-rooted attitudes and misconceptions. It is necessary that socio-legal research should be motivated in various areas of criminal law so as to afford guidance to the courts in their complex task of laying down the law which best would serve the interest of the society, without sacrificing the interest of the innocent.

Indian Constitution as illustrated by a number of decisions of the Supreme Court provides for the protection of human rights in conformity with the international standards. The Human Rights Commission Act, 1993 provides for constitution of National and State Human Rights Commissions to enquire into complaints of violations of human rights and inefficiency on the part of the Government machinery in preventing such violations and to suggest measures for effective implementation of guarantees provided by the Constitution and various laws of the country. The Supreme Court of India has in the case *Ajay Hasia v. Khalid Mujib*¹³ declared that it has a special responsibility to enlarge the range and meaning of the fundamental rights and to advance the human rights jurisprudence.

CONCLUSION

A fair, democratic, and civilized society is built on the protection and advancement of human rights. Since the criminal justice system is the protector of society and eradicating possibilities for human rights violations, the relationship between human rights

¹² Ashok Kumar Rai , Dr. Manu Singh, Human Rights and Criminal Justice System of India - A Critical Study, JPNR, 2022

¹³ *Ajay Hasia v. Khalid Mujib Sehravardi*, 1981 AIR 487, (1981) 1 SCC 722.

and this system is particularly important. This article has examined how international human rights instruments like the Geneva Conventions, the UDHR, ICCPR, ICESCR, CAT, and CRPD have established thorough frameworks for preserving bodily integrity, individual dignity, and access to justice.

With its Part III of the Indian Constitution which guarantees the Fundamental Rights, is an effective medium for protecting individual liberties while also conforming to international human rights norms. In order to defend the rights of the accused, suspects, victims, and underprivileged groups, the judiciary; particularly the Supreme Court; has been crucial in providing a broad interpretation of these rights. Famous rulings such as *Rudul Shah v. State of Bihar* and *Ajay Hasia v. Khalid Mujib* show how the judiciary is actively advancing human rights law and holding state officials responsible.

However, despite these robust legal frameworks and judicial activism, challenges persist. The gap between the existence of rights on paper and their actual enforcement in practice remains significant. Police excesses, custodial violence, delayed trials, overcrowded prisons, and lack of legal aid are indicative of systemic issues that undermine the credibility and effectiveness of the criminal justice system in upholding human rights.

There is an urgent need for socio-legal and empirical research in criminology and human rights to guide legislative and judicial reforms. Strengthening institutional accountability, promoting human rights education, and ensuring effective implementation of existing laws and policies are essential steps toward building a more humane and equitable justice system.

The advancement of human rights within the criminal justice framework must remain an ongoing priority. It is not only a measure of a society's commitment to justice but also a reflection of its moral and constitutional values. Only through a balanced and rights-based approach can the criminal justice system truly serve the ends of justice without compromising the dignity and liberty of individuals.