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ROLE OF JUDICIARY AND HUMAN RIGHTS INSTITUTIONS

~ PRIYANSHU RAJ

ABSTRACT

The role of the judiciary and human rights institutions is of pivotal importance concerning the promotion, protection, and enforcement of human rights. The judiciary is considered as the guardian of the constitution, and institutions, such as National Human Rights Commissions (NHRC), plays a critical role in monitoring, advocating and enforcing the human rights standards. It has been observed that these institutions operate independently ensuring impartiality by advising governments in case of human right issues and effectiveness in their functioning, and in the constant reporting of human rights violations.

The research includes various case studies, legal frameworks, and institutional mechanisms that have laid down the significance of an independent judiciary and rigorous human rights institutions in creating a fair society. Judicial review gives the court authority to invalidate the unconstitutional laws and policies, thereby giving them the authority against state excesses.

The paper also focuses on the intersection between the judiciary and the human rights institutions, which is important as these two institutions work hand in hand to safeguard against human rights violations. Thus, the judiciary and human rights institutions supplement each other in protecting & preserving of human rights. The human rights institutions monitor, promote and protect these protections which are essential to protecting against the violation of fundamental freedoms by both private individuals as well as public authorities. By increasing their independency, access to resources and visibility can be allowed by the active role of these organisations for a much more effective protection of human rights and rule of law.

Keywords: Advocating, Human Rights Commission, Monitoring, Legal Frameworks, Judiciary

INTRODUCTION

Every person has rights that are essential to human beings. These rights should not be violated based on factors like gender, race, caste, ethnicity or religion; they are known as rights. “Human Rights” refer to the rights concerning life, equality and dignity of individuals guaranteed by the Constitution.¹ Outlined in agreements and enforceable, by Indian courts. Human rights are also known as rights, fundamental rights, natural rights or inherent rights. They are entitlements that apply to all individuals regardless of their circumstances. Human rights are principles that exist before recognition and cannot be bestowed or taken away by individuals. These universal principles have been acknowledged in the Universal Declaration of Human Rights. Incorporated as Fundamental Rights in Part III of our Constitution.²

In a democratic governance, the judiciary and human rights institutions are the cornerstones ensuring that the fundamental rights can be secured and fostered. It is the judiciary which ensures and protects individual liberties from state overreach by interpreting laws in its capacity, whereas the human rights institutions operate accordingly in monitoring, advocating and enforcing human rights standards. This paper explores the communal characteristics of these organizations and their overall role in protecting human rights.

THE JUDICIARY AND HUMAN RIGHTS

The Role of the Judiciary

The primary function of the judiciary is to interpret and apply the law, with the rights concerning human rights the role extends in ensuring that the laws and state actions conform to constitutional and international human rights standards. Through various landmark decisions it can be said that judiciary has always been stepping in to protect individual rights against unlawful state actions. Judiciary interprets the fundamental rights and protects not only the rights enumerated but the unenumerated rights as well.

¹ Protection of Human Rights Act 1993, § 2(1)(d).

² National Legal Services Authority Vs. Union of India, (2014) 5 SCC 438.

The main objective of the constitution is to protect the rights of the citizens. Part III of the Constitution focuses on rights while Part IV addresses Directive Principles of State Policy. Fundamental Rights represent the entitlements of all citizens. As the cornerstone of the Constitution as it pertains to Right, to remedies. In case any right guaranteed under Part III of constitution is violated individuals have the right to directly approach the Supreme Court for redressal.³ This privilege is inherent, to every citizen. Additionally, article 226 of the Indian Constitution states that individuals have the option to file a writ petition if their Fundamental Rights are encroached upon by the State.

JUDICIAL REVIEW

The role of the judiciary and the principles of constitutional interpretation were stated thus in *S.P. Gupta v. Union of India*⁴. It is a document of social revolution which casts an obligation every instrumentality including the Judiciary, which is a separate but equal branch of the State, to transform the status quo ante into a new human order in which justice, social, economic and political will inform all institutions of national life and there will be equality of status and opportunity for all. The judiciary has therefore a socio-economic destination and a creative function. It has to use the words of Glanville Austin, "...to become an arm of the socio-economic revolution and perform an active role calculated to bring social justice within the reach of the common man. It cannot remain content to act merely as an umpire but it must be functionally involved in the goal of socio-economic justice." While rejecting the narrow and restricted function of the judiciary, the court has reiterated in the above-mentioned case that a narrow approach would be inappropriate. The judiciary's role in unlisted rights like housing, resettlement, food, employment and healthcare is being questioned in this context. The courts have substituted the legislature and executive by their activism. Judicial review which enables them to check the constitutionality of actions taken is among the most famous and potent weapons wielded by the judiciary. In *Kesavananda Bharati v. State of Kerala*⁵, constitutional norms along with human rights were upheld; through this process laws violating fundamental rights may be declared void should they come before any court for consideration during a judicial review making state bound by constitution altogether.

JUDICIAL ACTIVISM

³ India Const. art. 32 (20th ed.).

⁴ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

⁵ *Kesavananda Bharati & Ors. v. State of Kerala & Anr.*, (1973) 4 SCC 225.

The actions of the judiciary, where the judges take a decisive role in order to protect the rights and address social injustices is considered to be judicial activism. This approach often involves the idea of interpreting laws in a way that it extends the value of right to protection. In the case of *Vishaka v. State of Rajasthan*⁶, the Indian Supreme Court gave guidelines to prevent sexual harassment at the workplace because there were no such laws in India then. With no law during that time, the legal framework provided no adequate protection or justice leaving victims unshielded thus displaying a huge gap in safeguarding women's rights within employment settings.

Many women who had been sexually harassed at work had no legal recourse, so they joined together under the name Vishaka and filed a PIL. The Supreme Court, recognizing the urgency of the situation with its immediate intervention, took a proactive approach and issued guidelines that would address this lacuna effectively protecting them from such incidents in future within workplace premises.

HUMAN RIGHTS INSTITUTIONS

Human rights institutions serve as a crucial part in the promotion and participation of fundamental rights. These institutions act at different levels such as international, national, regional ensuring the freedoms of individual. The institution aims to create a framework for accountability and offer remedies in case of violation, thus creating an awareness among the society about their rights.

FUNCTIONS AND IMPORTANCE

Usually, national human rights commissions are established by the government but they operate independently to ensure impartiality and effectiveness. Human rights institutions (HRIs) in their respective countries monitor the human rights situation, document violations and speak for victims. They need to release publications that contain reports as well make recommendations on how governments can better protect these laws. Public enlightenment campaigns should also be carried out by such bodies so that people may know about these privileges and observe them accordingly. They achieve this objective through educating individuals which creates an environment where everyone knows what rights each person has got together with his or her duties towards others. HRIs advise governments concerning various

⁶ *Vishaka & Ors. v. State of Rajasthan & Ors.*, (1997) 6 SCC 241.

aspects related to human rights such as legislation formulation among others that are in line with international standards.

THE NATIONAL HUMAN RIGHTS COMMISSION OF INDIA (NHRC)

The NHRC is the National Human Rights Commission of India. It has addressed various human rights issues such as extrajudicial killings and protection for vulnerable communities. This includes cases like custodial deaths or police brutality where their interference resulted in profound changes within law enforcement systems. NHRC also has an important part to play when it comes down rehabilitating victims who have been trafficked or subjected into forced labour.

INTERSECTION OF JUDICIARY AND HUMAN RIGHTS INSTITUTIONS

The justice system and human rights organizations frequently work together to ensure full human rights protection. There are different ways for this partnership to happen. among them are Judicial Enforcement of HRI Recommendations: Courts usually support suggestions provided by groups which protect human rights so as to give them legal weight through judicial processes. This cooperation makes sure that offenses identified by HRI are dealt with within the law.

Sometimes institutions file PILs as a way of having wide human rights issues addressed in court. Filing such lawsuits strategically helps deal with general concerns about the rights of many people. In complex cases touching on human rights, HRIs could give their expert views and present amicus briefs to assist judges make informed rulings.

After the Bhopal gas tragedy, the Supreme Court of India in the case of *Oleum Gas Leak*⁷ stipulated the principle of absolute liability for hazardous industries. It based its decision on the findings and recommendations made by human rights organizations, demonstrating effective cooperation between the judiciary and bodies advocating for human rights in safeguarding public health and safety. Recognizing privacy as a fundamental right under the Constitution, the Indian Supreme Court made a historic judgement.⁸ This was heavily influenced by NHRC's input and involvement of civil society groups who provided extensive data and legal arguments showing the necessity of digital privacy.

⁷ *M.C. Mehta v. Union of India*, 1987 AIR SCC 395.

⁸ *K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.*, (2017) 10 SCC 1.

CHALLENGES AND LIMITATIONS

Humanising Independence and Neutrality, it is difficult to ensure judges are independent of political influences all the time. There may be attempts by the executive or legislative arm to put pressure on them thereby affecting their impartiality when delivering judgments.

Accessibility of Justice, most people cannot easily reach courts especially those from minority groups. This is because they are expensive and located in areas far from such individuals. Therefore, they may fail seek redress through this institution due high charges for legal services as well complexity involved while filling cases plus following up on court processes.

Backlog of case, various states around the world have large numbers pending before them which causes delays in passing sentences among other reasons. When justice delayed trustworthiness erodes hence prolonging agony for victims of human rights abuse

Resource Constraints: Many organizations engaged in promoting human rights are limited by inadequate finance and human resources. As a result, they may not be able to effectively observe, report on as well as deal with violations of these rights. Political Interference, although is supposed to be independent but human rights institutions are sometimes subjected to political manipulation which could undermine their credibility or effectiveness. HRIs need public trust for their success. If there are instances where they're seen as ineffective or biased, then it means people will fail to have confidence in these bodies altogether.

ENHANCING THE ROLE OF JUDICIARY AND HUMAN RIGHTS INSTITUTIONS

In order to strengthen the functions of the judiciary and human rights institutions, suggestive recourse include, guarantee of Judicial Independence; Transparent and merit-based appointments to secure independence by appointment.

Adequate Resources: Sufficient financial and administrative resources should be provided to the judiciary so as to reduce backlogs of cases, enhancing access to justice. Continuous training programs together with capacity building initiatives for judges on issues concerning human rights will enable them to effectively interpret and apply international standards relating thereto.

It is important to enact strong legal systems that give investigative and enforcement authority to HRIs. They should be guaranteed independence by such systems. To facilitate effective functioning of these bodies, governments must allocate them with enough resources provision.

This includes financial, personnel among others. In order to create awareness, they need to involve the public through campaigns, consultations and participatory methods. The impact of these institutions can be strengthened by establishing strong ties with non-state actors like civil society organization.

CONCLUSION

The protection and advancement of human rights depend on two main systems: judiciary and human rights organizations. The judiciary is in charge of ensuring that the interpretation and application of laws, as well as government action, conform to human rights standards through its interpretive and adjudicative functions. Besides monitoring human rights observance, human rights institutions also promote and protect human rights. Despite numerous difficulties experienced by the two parties concerned, it is essential to help them perform their roles better if we want an equitable society. It can be achieved by providing more independence, adequate resources and involving the public widely.

This paper also discusses about the collaboration between these bodies enhances protection of human rights while pointing out where they meet. Courts frequently uphold the suggestions of human rights institutions, and systematic human rights problems are brought to the attention of the judiciary through HRI strategic litigation. This cooperation can be exemplified by the instances where HRI recommendations were enforced judicially, or when public interest litigations have been utilized.

An individual case of how courts protect human rights was the Nirbhaya case⁹, which showed how poorly women were regarded in Indian society and by the government. The judges acted quickly and decisively against the perpetrators. The death penalties of the offenders were confirmed by the Indian Supreme Court which meant that this institution was ready to deal with crimes against humanity. It also resulted into a number of changes; these included amendment sexual offence related laws among others so as make them tighter than before, erection special courts for trying cases of rape thus ensuring that justice prevails always and everywhere - even if it means going beyond legal boundaries sometimes.

⁹ *Mukesh & Anr v. State for NCT of Delhi & Ors*, 2017 (6) SCC 1.

Despite their crucial roles, both the judiciary and human rights institutions face challenges such as political interference, resource constraints, and barriers to accessing justice. Ensuring judicial independence, providing adequate resources, and enhancing public engagement are essential measures to overcome these challenges. Strengthening legislative frameworks and allocating sufficient resources to HRIs can empower them to carry out their functions effectively.