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COMPREHENDING HUMAN RIGHTS IN INDIA: A MORDEN-DAY CONSTITUTIONAL CHALLENGE

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Human rights in India are the basis for its democratic system; they are both the promise and the pursuit. They are a commitment stemming from the ideas in the Indian Constitution. They are the commitment to realizing the dignity, freedom, and equality of all Indians. Realizing human rights in India is a process, and an ongoing process that is influenced by societal, political, and institutional compulsions.

The cornerstone of India's human rights system is the Fundamental Rights under Part III of the *Constitution of India*ⁱ, which are framed following the international standards enshrined in the Universal Declaration of Human Rights (UDHR) passed by the UN in 1948. They are justiciable, i.e., any violation can be tried in a court of law. The most significant among them are the Right to Equality (Articles 14-18), which mandates equal treatment under the law and prohibits discrimination on the basis of religion, caste, sex, or place of birth. The Right to Freedom (Articles 19–22) comprises the freedoms essential to a democratic society speech, expression, movement, and personal liberty.

Right to Life and Personal Liberty (Article 21) has been interpreted by the Supreme Court of India widely to encompass privacy, a healthy environment, and the right to live with dignity. In the case of *Maneka Gandhi v. Union of India*ⁱⁱ, the Supreme Court reinterpreted Article 21 as a safeguarding provision and as a storehouse of several implied rights, enormously broadening the horizon of human rights in India. Even with such constitutional protections, the enforcement of human rights within India is plagued by systemic issues. Police violence, custodial fatalities, and judicial procrastination are always on the agenda.

National Human Rights Commission (NHRC) reports merely reveal cases of torture and illegal detention. Though the NHRC performs the function of a vigilant watchdog, it possesses no powers of enforcement for its recommendations, thus curtailing its potential. Freedom of speech also has come under strain in recent years. Journalists, students, and activists have been arrested on sedition charges and under the Unlawful Activities (Prevention) Act (UAPA), raising serious concerns about the shrinking space for dissent. India's press freedom ranking has fallen in the world, suggesting a situation where voices of dissent are increasingly met with retribution, either in the courts or outside of them.

The historic *Navtej Singh Johar v. Union of India (2018)*ⁱⁱⁱ judgment decriminalized same-sex relations by reading down Section 377 of the Indian Penal Code (IPC). Complete equality, however, is far from being achieved. Same-sex marriage is not yet legally permitted, and

LGBTQ+ people continue to face stigma, discrimination, and harassment in their daily lives. One of the more recent judicial recognitions of rights has been in *Justice K.S. Puttaswamy v. Union of India (2017)*^{iv}, where the Supreme Court held the right to privacy to be a fundamental right. The judgment has significant implications, particularly in the current age of digitalization where data snooping as well as cyber-policing has become the order of the day. It reiterates that privacy and personal autonomy are at the core of human dignity.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted with the objective of preventing atrocities and discrimination, yet its enforcement has been uneven. The Dalit community remains one of the most marginalized, suffering from violence, social exclusion, and economic marginalization in certain parts of the country. Caste discrimination also plagues Indian society despite legal protection. Women's rights have progressed, especially in the form of legal milestones such as the banning of triple talaq, stricter rape laws after the 2012 Nirbhaya case, and the 1997 *Vishaka Guidelines* against sexual harassment in the workplace. Nevertheless, Indian women still experience a high rate of domestic violence, political and commercial underrepresentation, and limited healthcare and education in rural India.

While the Constitution guarantees freedom of religion under Articles 25–28, another matter of grave concern is minority rights and religious freedom. Events of mob lynching, hate crime, and communal disturbances show the vulnerable underbelly behind such guarantees. The controversial Citizenship Amendment Act (CAA)^{vi}, 2019, and the proposed National Register of Citizens (NRC) were viewed by many as anti-Muslim, and protests at home and abroad followed.

Apart from the NHRC to promote the enforcement of rights, India has established different statutory institutions. Such as, women's commissions, children's commissions, minorities' commissions, and scheduled castes/tribes' commissions. They are redressal forums and advisory policy roles, but they are less useful due to weak powers, absence of autonomy, and political interference. The threats to human rights in India in the times to come are closely linked with the challenges of governance, social justice, and legal reform. Institutional integrity and political will, and not legal protection, is the hour of need. Police and judiciary reforms, laws for protection of digital privacy, greater protection to vulnerable sections, and decriminalization of victimless crimes are some of the measures needed to move the human rights agenda forward in India.

In a country as diverse and complex as India, human rights cannot be advanced solely by policies. It requires feelings, societal liability, and a more pervasive sense of compassion and tolerance. The 13th century Persian poet, *Rumi*, summarizes this thought, and this notion is as useful to us today as it was back in the 1200s:

"Be like a tree and let the dead leaves drop.

Raise your words, not your voice.

It is rain that grows flowers, not thunder.

Wherever you are, and whatever you do, be in love." ^{vii}

These sentiments remind us that laws protect rights, but it is love, kindness, and awareness that produces; justice. In the future, human rights within India will be nested among the issues of governance, social equity, and law reform. Law reform cannot be the only solution, we also need integrity in institutions, and political will. In the case of human rights, police reform, judiciary reform, digital privacy law, additional protection for marginalized/dependent groups, prohibiting the criminalization of victimless acts, are aimable results for the human rights agenda.

In summary, human rights are simultaneously fulfilled and unfulfilled in India. India is characterized by glories as well as failures; the promise of its constitution, its actively engaged judicial institutions, and its civil society are massive global resources. But for ensure that all citizens (regardless of caste, creed, gender, or sexuality) can exercise their universal and basic rights, we need better governance, accountability to the public, and legal refinements to our laws. As citizens and stakeholders, it is our collective responsibility to protect the dignity of all human beings, since the strength of any democracy is the rights, it protects.

ⁱ The Constitution of India

ⁱⁱ Maneka Gandhi v. Union of India 1978 AIR 597

ⁱⁱⁱ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321

^{iv} Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1

^v Vishaka v. State of Rajasthan, AIR 1997 SC 3011

^{vi} CAA and NRC reports, Amnesty International and UNHRC statements

^{vii} Poem by Rumi