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Human Rights Violations in India: Legal Remedies

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Abstract

Human rights are indispensable to the preservation of human dignity, equality, and justice in a democratic society. India possesses a comprehensive constitutional and statutory framework for safeguarding these rights through Fundamental Rights, Directive Principles of State Policy, and the Protection of Human Rights Act, 1993. Despite these legal guarantees, incidents of custodial violence, discrimination, gender-based violence, child exploitation, bonded labour, environmental injustice, and violations affecting marginalized communities continue to challenge the effective realization of human rights. This research paper critically examines the nature and causes of human rights violations in India and evaluates the effectiveness of constitutional remedies, judicial interventions, statutory mechanisms, and international obligations. The paper analyses landmark judgments of the Supreme Court, the role of the National Human Rights Commission, and India's commitments under international human rights treaties. It concludes that while India's legal framework is robust, effective implementation, institutional accountability, legal awareness, and policy reforms remain essential for ensuring meaningful protection and enforcement of human rights across the country.

Keywords

Human Rights, Constitution of India, Fundamental Rights, Article 21, Article 32, Article 226, NHRC, Public Interest Litigation, Legal Remedies, Judicial Activism.

Introduction

Human rights constitute the foundation of democratic governance and civilized society by protecting the inherent dignity, liberty, equality, and security of every individual. In India, the

constitutional vision of justice is reflected through Fundamental Rights under Part III, Directive Principles of State Policy under Part IV, and an independent judiciary empowered to enforce constitutional guarantees. The enactment of the Protection of Human Rights Act, 1993, and the establishment of the National Human Rights Commission further strengthened the institutional framework for promoting and protecting human rights. Nevertheless, India continues to face serious human rights concerns, including custodial deaths, discrimination based on caste and gender, communal violence, trafficking, child labour, environmental degradation, digital privacy concerns, and violations affecting vulnerable communities. These issues expose the gap between constitutional ideals and practical implementation. This paper examines the legal framework governing human rights protection in India, analyses the principal forms of human rights violations, evaluates available constitutional and statutory remedies, studies landmark judicial pronouncements, and proposes reforms aimed at strengthening accountability, accessibility, and effective enforcement of human rights in accordance with constitutional and international standards.

PART-I CONCEPT AND EVOLUTION OF HUMAN RIGHTS

1. Concept and Evolution of Human Rights

Human rights are inherent, universal, and inalienable rights that belong to every individual by virtue of being human. They are essential for ensuring dignity, equality, liberty, and justice, regardless of nationality, religion, race, gender, caste, or social status. Unlike privileges granted by the State, human rights are fundamental entitlements that impose a duty on governments to respect, protect, and fulfil them.

The concept of human rights has its roots in the doctrine of natural law, advanced by philosophers such as **John Locke, Thomas Hobbes, Jean-Jacques Rousseau, and Hugo Grotius**. Locke emphasized the natural rights to life, liberty, and property, while Rousseau's social contract theory highlighted that governments derive legitimacy from the consent of the governed and must safeguard individual freedoms. These ideas significantly influenced modern constitutional democracies and international human rights law.

The evolution of human rights was shaped by several landmark historical documents. The **Magna Carta (1215)** established the principle that no ruler is above the law. The **English Bill of Rights (1689)** protected civil liberties, while the **American Declaration of Independence**

(1776) and the **French Declaration of the Rights of Man and of the Citizen (1789)** affirmed the principles of liberty, equality, and fundamental rights.

Following the atrocities of the Second World War, the international community recognized the need for universal human rights protection. This led to the establishment of the **United Nations (1945)** and the adoption of the **Universal Declaration of Human Rights (UDHR), 1948**, which laid the foundation of modern international human rights law. It was later strengthened by the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, collectively known as the **International Bill of Human Rights**.

India has actively contributed to the development of international human rights law and has ratified several major human rights conventions, including the **ICCPR, ICESCR, CEDAW, CRC, and CRPD**. These commitments have influenced constitutional interpretation and judicial decisions in India.

The **Constitution of India** provides a comprehensive framework for protecting human rights through the **Preamble, Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties**. In particular, the Supreme Court has expanded the scope of **Article 21** by recognizing rights such as privacy, education, livelihood, health, legal aid, clean environment, and dignity as integral to the right to life.

Today, human rights extend beyond traditional civil and political rights to include economic, social, cultural, and environmental rights. Emerging issues such as digital privacy, artificial intelligence, climate change, and internet shutdowns have further expanded the scope of human rights discourse.

Although India possesses a strong constitutional and statutory framework, effective implementation, institutional accountability, judicial vigilance, and public awareness remain essential to ensure the meaningful realization of human rights.

PART II - CONSTITUTIONAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION IN INDIA

2. Constitutional Framework for Human Rights Protection in India

The Constitution of India is the primary source of human rights protection in the country. Adopted on 26 January 1950, it establishes India as a sovereign, socialist, secular, democratic

republic committed to justice, liberty, equality, and fraternity. The Constitution not only guarantees enforceable Fundamental Rights but also lays down Directive Principles of State Policy (DPSPs) and Fundamental Duties, thereby creating a comprehensive framework for protecting the dignity and welfare of every individual. The Supreme Court has consistently held that the Constitution is a living document whose provisions must be interpreted in light of changing social realities and evolving human rights standards.

2.1 The Preamble: The Constitutional Vision of Human Rights

The Preamble reflects the philosophical foundation of the Constitution and serves as a guiding principle for interpreting its provisions. It promises **Justice (social, economic, and political), Liberty (of thought, expression, belief, faith, and worship), Equality (of status and opportunity), and Fraternity (assuring the dignity of the individual and the unity and integrity of the nation).**

Although the Preamble is not directly enforceable, the Supreme Court has recognized it as part of the Constitution and an important interpretative tool. In **Kesavananda Bharati v. State of Kerala (1973)**, the Court held that the Preamble forms part of the Constitution and embodies its basic structure. The values contained in the Preamble guide constitutional interpretation, particularly in cases involving human rights and individual freedoms.

2.2 Fundamental Rights (Part III): The Heart of Human Rights Protection

Fundamental Rights under Part III of the Constitution constitute the most significant legal safeguards against arbitrary State action. They are enforceable through constitutional remedies and ensure that the State functions within the limits imposed by the Constitution.

Article 14 – Right to Equality

Article 14 guarantees equality before the law and equal protection of the laws. It prohibits arbitrary discrimination and requires the State to treat similarly situated persons alike. However, it also permits reasonable classification where there exists an intelligible differentia having a rational nexus with the object sought to be achieved.

The Supreme Court has interpreted Article 14 to prohibit arbitrariness in State action. In **E.P. Royappa v. State of Tamil Nadu (1974)**, the Court held that arbitrariness is antithetical to equality. This principle has become the foundation of administrative fairness and constitutional governance.

Articles 15 and 16 – Protection Against Discrimination

Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth, while Article 16 guarantees equality of opportunity in matters of public employment. These provisions also permit affirmative action in favour of socially and educationally backward classes, Scheduled Castes, Scheduled Tribes, and other disadvantaged groups to promote substantive equality.

Article 17 – Abolition of Untouchability

Article 17 abolishes untouchability and declares its practice in any form to be an offence punishable by law. This constitutional guarantee represents India's commitment to eliminating caste-based discrimination and protecting the dignity of historically marginalized communities.

Article 19 – Protection of Civil Liberties

Article 19 guarantees six essential freedoms, including freedom of speech and expression, peaceful assembly, association, movement, residence, and profession. These freedoms constitute the foundation of democratic governance and enable citizens to participate effectively in public life.

However, these freedoms are subject to reasonable restrictions in the interests of sovereignty, security, public order, morality, and other constitutional considerations. The judiciary has consistently emphasized that such restrictions must be proportionate and reasonable.

Article 21 – Right to Life and Personal Liberty

Article 21 is the most significant human rights provision in the Constitution. It states that no person shall be deprived of life or personal liberty except according to procedure established by law.

Initially interpreted narrowly in **A.K. Gopalan v. State of Madras (1950)**, Article 21 underwent a transformative interpretation in **Maneka Gandhi v. Union of India (1978)**. The Supreme Court held that the procedure established by law must be fair, just, and reasonable rather than arbitrary or oppressive.

Through judicial interpretation, Article 21 has expanded to include numerous derivative rights, including:

- Right to live with dignity

- Right to livelihood
- Right to shelter
- Right to education
- Right to health
- Right to clean environment
- Right to legal aid
- Right to speedy trial
- Right to privacy
- Right against custodial torture

This expansive interpretation has transformed Article 21 into one of the broadest constitutional guarantees of human rights globally.

2.3 Directive Principles of State Policy (Part IV)

Unlike Fundamental Rights, the Directive Principles are not enforceable in courts. Nevertheless, they impose moral and constitutional obligations upon the State to establish a welfare society.

Important provisions include:

- **Article 38:** Promotion of social, economic, and political justice.
- **Article 39:** Equal livelihood opportunities, protection against exploitation, and equitable distribution of resources.
- **Article 39A:** Equal justice and free legal aid.
- **Article 41:** Right to work, education, and public assistance.
- **Article 42:** Humane working conditions and maternity relief.
- **Article 45:** Early childhood care and education.
- **Article 47:** Improvement of nutrition, public health, and living standards.

The Supreme Court has repeatedly held that Fundamental Rights and Directive Principles should be interpreted harmoniously to achieve constitutional goals.

2.4 Fundamental Duties (Part IVA)

Inserted by the Forty-Second Constitutional Amendment, Fundamental Duties encourage citizens to uphold constitutional values and contribute to national development.

Relevant duties include:

- Respecting the Constitution.
- Promoting harmony and fraternity.
- Renouncing practices derogatory to the dignity of women.
- Protecting the environment.
- Developing scientific temper and humanism.
- Safeguarding public property.

Although non-justiciable, these duties reinforce the collective responsibility of citizens in promoting a culture of human rights.

2.5 Constitutional Remedies: Articles 32 and 226

The Constitution provides effective judicial remedies for enforcing human rights through Articles 32 and 226.

Article 32 empowers individuals to directly approach the Supreme Court for the enforcement of Fundamental Rights. Dr. B.R. Ambedkar described it as the "**heart and soul of the Constitution.**"

Similarly, **Article 226** empowers High Courts to issue writs not only for enforcing Fundamental Rights but also for protecting other legal rights. High Courts possess wider jurisdiction than the Supreme Court under Article 32, making constitutional remedies more accessible.

The constitutional writs include:

- **Habeas Corpus** – Protection against unlawful detention.
- **Mandamus** – Directs public authorities to perform legal duties.
- **Certiorari** – Quashes illegal judicial or administrative orders.

- **Prohibition** – Prevents lower courts or tribunals from exceeding jurisdiction.
- **Quo Warranto** – Challenges unlawful occupation of public office.

These writs form the backbone of judicial protection against human rights violations.

2.6 Judicial Activism and Public Interest Litigation (PIL)

The Indian judiciary has played a transformative role in expanding access to justice through Public Interest Litigation (PIL). Relaxation of procedural rules has enabled socially disadvantaged groups to approach constitutional courts through public-spirited individuals and organizations.

Cases such as **Bandhua Mukti Morcha v. Union of India**, **Hussainara Khatoon v. State of Bihar**, and **Vishaka v. State of Rajasthan** demonstrate how PIL has become an effective mechanism for addressing bonded labour, prisoners' rights, workplace harassment, and other human rights concerns.

PART III – TYPES OF HUMAN RIGHTS VIOLATIONS IN INDIA

3. Types of Human Rights Violations in India

Despite having one of the world's most comprehensive constitutional frameworks and an independent judiciary, India continues to witness various forms of human rights violations. These violations affect individuals across different socio-economic backgrounds, though marginalized communities such as women, children, Scheduled Castes (SCs), Scheduled Tribes (STs), religious minorities, migrant workers, persons with disabilities, and economically weaker sections remain disproportionately vulnerable. Human rights violations in India arise from both State action and private conduct, often aggravated by ineffective implementation of laws, institutional weaknesses, poverty, discrimination, and lack of awareness.

3.1 Custodial Violence and Police Brutality

Custodial violence is one of the gravest human rights concerns in India. It includes illegal detention, torture, custodial deaths, sexual abuse, and excessive use of force by police and prison authorities. Such practices violate the constitutional guarantees of life, liberty, dignity, and protection against arbitrary arrest under Articles 20, 21, and 22 of the Constitution.

Although India has enacted various procedural safeguards under the **Code of Criminal Procedure, 1973**, and the **Bharatiya Nagarik Suraksha Sanhita, 2023**, allegations of torture

and custodial deaths continue to be reported. The Supreme Court, in **D.K. Basu v. State of West Bengal (1997)**, laid down detailed guidelines regarding arrest procedures, including preparation of arrest memos, medical examinations, informing relatives, and maintaining custody records. These guidelines remain a cornerstone for protecting the rights of arrested persons.

Similarly, in **Nilabati Behera v. State of Orissa (1993)**, the Supreme Court recognized the principle of constitutional compensation for custodial deaths and emphasized that the State is liable for violations committed by its officials.

Despite these judicial safeguards, inadequate police reforms, lack of accountability, delayed investigations, and low conviction rates continue to undermine the protection of detainees' rights.

3.2 Caste-Based Discrimination and Atrocities

Although Article 17 abolishes untouchability and Articles 15 and 16 prohibit discrimination, caste-based discrimination remains a persistent human rights challenge in India. Members of Scheduled Castes and Scheduled Tribes frequently experience social exclusion, violence, denial of access to public spaces, economic exploitation, and discrimination in employment and education.

To combat such practices, Parliament enacted the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**, which criminalizes caste-based atrocities and provides for special courts, victim compensation, and rehabilitation measures. However, implementation challenges, social stigma, and delays in prosecution often reduce the effectiveness of the legislation.

Incidents involving honour killings, social boycotts, manual scavenging, and caste-based violence continue to raise serious concerns regarding the realization of constitutional equality.

3.3 Gender-Based Violence and Women's Rights

Violence against women remains one of the most significant human rights concerns in India. Gender-based violations include domestic violence, sexual harassment, rape, trafficking, honour crimes, acid attacks, workplace discrimination, dowry-related offences, and cyber harassment.

The Constitution guarantees equality under Articles 14 and 15 while permitting affirmative measures for women under Article 15(3). Several statutes have been enacted to protect women's rights, including:

- Protection of Women from Domestic Violence Act, 2005
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- Dowry Prohibition Act, 1961
- Criminal law amendments strengthening laws relating to sexual offences

In **Vishaka v. State of Rajasthan (1997)**, the Supreme Court recognized workplace sexual harassment as a violation of Articles 14, 15, 19, and 21 and framed the Vishaka Guidelines until Parliament enacted specific legislation. This judgment remains a landmark example of judicial innovation in protecting women's human rights.

Despite legal reforms, societal attitudes, underreporting of offences, victim intimidation, and lengthy judicial proceedings continue to impede effective protection.

3.4 Child Rights Violations

Children constitute one of the most vulnerable sections of society. Human rights violations affecting children include child labour, trafficking, child marriage, sexual abuse, forced begging, malnutrition, denial of education, and exploitation.

Article 21A guarantees the right to free and compulsory education, while Articles 24, 39(e), and 39(f) prohibit hazardous child labour and direct the State to protect children from exploitation.

Important legislations include:

- Right of Children to Free and Compulsory Education Act, 2009
- Protection of Children from Sexual Offences (POCSO) Act, 2012
- Child Labour (Prohibition and Regulation) Amendment Act, 2016
- Juvenile Justice (Care and Protection of Children) Act, 2015

Despite these legal safeguards, poverty, illiteracy, trafficking networks, and weak enforcement mechanisms continue to expose millions of children to exploitation and abuse.

3.5 Bonded Labour and Forced Labour

Forced labour violates the fundamental principles of human dignity and freedom. Article 23 expressly prohibits trafficking in human beings, beggar, and all forms of forced labour.

The **Bonded Labour System (Abolition) Act, 1976** abolished bonded labour and provided for rehabilitation of affected persons. Nevertheless, instances of bonded labour continue to exist in agriculture, brick kilns, mining, construction, domestic work, and other informal sectors.

In **Bandhua Mukti Morcha v. Union of India (1984)**, the Supreme Court expanded the scope of Article 21 and directed governments to identify, release, and rehabilitate bonded labourers, thereby strengthening constitutional protection for vulnerable workers.

3.6 Environmental Human Rights

Environmental degradation increasingly threatens the enjoyment of fundamental human rights, including the rights to life, health, livelihood, and clean water. Pollution, deforestation, industrial disasters, and climate change disproportionately affect economically weaker communities.

The Supreme Court has interpreted Article 21 to include the **right to a clean and healthy environment**.

In **Subhash Kumar v. State of Bihar (1991)**, the Court held that access to pollution-free air and water forms an integral part of the right to life.

Similarly, in **M.C. Mehta v. Union of India**, the Court developed principles such as absolute liability, sustainable development, and the polluter pays principle, significantly strengthening environmental jurisprudence.

Environmental justice has thus become an integral component of human rights protection in India.

3.7 Violation of Privacy and Digital Rights

Technological advancement has introduced new challenges relating to surveillance, data protection, cybercrime, facial recognition technologies, artificial intelligence, and internet shutdowns.

The Supreme Court, in **Justice K.S. Puttaswamy v. Union of India (2017)**, unanimously declared the **Right to Privacy** as a fundamental right under Article 21. The Court held that privacy includes informational autonomy, bodily integrity, decisional freedom, and protection against arbitrary State intrusion.

With increasing digitization of governance and commerce, ensuring data security, transparency, and accountability has become essential for protecting human rights in the digital age.

3.8 Rights of Minorities, Persons with Disabilities, and Other Marginalized Groups

Human rights violations often disproportionately affect socially disadvantaged communities.

Religious and linguistic minorities may face discrimination, hate speech, communal violence, and unequal access to opportunities.

Persons with disabilities frequently encounter barriers relating to accessibility, education, employment, healthcare, and public infrastructure despite statutory protection under the **Rights of Persons with Disabilities Act, 2016**.

Similarly, transgender persons historically suffered discrimination until the Supreme Court's landmark judgment in **National Legal Services Authority (NALSA) v. Union of India (2014)** recognized the right to self-identify one's gender and affirmed that transgender persons are entitled to equality, dignity, and constitutional protection.

These developments demonstrate the judiciary's commitment to expanding the scope of human rights to previously marginalized communities.

3.9 Emerging Human Rights Challenges

The nature of human rights violations has evolved significantly in recent years. Contemporary challenges include:

- Hate speech and communal violence
- Human trafficking and migrant labour exploitation
- Internet shutdowns
- Digital surveillance
- Artificial intelligence and algorithmic discrimination

- Climate change-induced displacement
- Refugee protection
- Online harassment and cyberbullying
- Misuse of preventive detention laws
- Fake encounters and extra-judicial killings

These emerging issues require continuous legislative reforms, judicial oversight, and effective institutional accountability to ensure that human rights protections remain relevant in a rapidly changing society.

PART IV – LEGAL REMEDIES FOR HUMAN RIGHTS VIOLATIONS IN INDIA

4. Legal Remedies for Human Rights Violations in India

The recognition of human rights is meaningful only when accompanied by effective legal remedies. The Constitution of India, together with statutory laws, judicial institutions, and independent human rights bodies, provides a comprehensive framework for redressing violations of human rights. These remedies are designed not only to compensate victims but also to ensure accountability, prevent future violations, and strengthen the rule of law. Over the years, the Indian judiciary has adopted a liberal and rights-oriented approach, expanding the scope of constitutional remedies through judicial activism and Public Interest Litigation (PIL). Despite these developments, practical challenges such as procedural delays, inadequate implementation, and limited institutional capacity continue to affect the effectiveness of these remedies.

4.1 Constitutional Remedies

The Constitution provides the strongest protection against violations of Fundamental Rights through Articles 32 and 226.

Article 32: Right to Constitutional Remedies

Article 32 empowers any person whose Fundamental Rights have been violated to directly approach the Supreme Court. Dr. B.R. Ambedkar famously described Article 32 as the "**heart and soul of the Constitution**" because it guarantees the enforceability of Fundamental Rights.

The Supreme Court has repeatedly emphasized that constitutional remedies are themselves fundamental rights and cannot ordinarily be denied. Through Article 32, the Court has protected rights relating to unlawful detention, environmental protection, bonded labour, prison reforms, child rights, and women's rights.

In **Bandhua Mukti Morcha v. Union of India (1984)**, the Supreme Court entertained a letter as a writ petition and directed the government to identify, release, and rehabilitate bonded labourers. The judgment marked a significant expansion of access to constitutional justice.

Article 226: Jurisdiction of High Courts

Article 226 empowers every High Court to issue writs for enforcing Fundamental Rights as well as other legal rights. Its jurisdiction is wider than Article 32 because it extends beyond constitutional rights.

High Courts play a vital role in protecting citizens against arbitrary administrative action, illegal detention, violation of natural justice, and abuse of public power. Since High Courts are more geographically accessible than the Supreme Court, Article 226 serves as an effective remedy for ordinary citizens seeking timely justice.

4.2 Constitutional Writs

The Constitution authorizes the Supreme Court and High Courts to issue five writs for protecting individual rights.

(a) Habeas Corpus

Habeas Corpus literally means "**produce the body.**" It protects individuals against unlawful arrest or illegal detention by directing the detaining authority to produce the detained person before the court.

This writ is considered one of the most effective safeguards of personal liberty under Article 21.

(b) Mandamus

Mandamus means "**we command.**" It directs a public authority to perform a statutory or constitutional duty which it has failed or refused to perform.

It cannot ordinarily be issued against private individuals but serves as an important mechanism for ensuring administrative accountability.

(c) Certiorari

This writ enables higher courts to quash decisions of subordinate courts, tribunals, or administrative authorities that have acted without jurisdiction, exceeded their jurisdiction, or violated principles of natural justice.

(d) Prohibition

Unlike Certiorari, which quashes an already passed order, Prohibition prevents a lower court or tribunal from proceeding further in a matter over which it lacks jurisdiction.

(e) Quo Warranto

Quo Warranto means "**by what authority.**" It challenges the legality of a person's claim to a public office and prevents unauthorized occupation of public positions.

Together, these writs constitute the backbone of judicial protection against human rights violations in India.

4.3 Public Interest Litigation (PIL)

One of India's greatest contributions to constitutional jurisprudence is the development of **Public Interest Litigation (PIL)**.

Traditionally, only an aggrieved person could approach the courts. However, recognizing that vulnerable and marginalized communities often lacked the resources to seek justice, the Supreme Court relaxed the doctrine of locus standi.

As a result, any public-spirited individual or organization may file a PIL on behalf of persons unable to approach the court themselves.

PIL has transformed human rights enforcement in areas such as:

- Bonded labour
- Child labour
- Prison reforms
- Environmental protection
- Sexual harassment
- Homelessness

- Rehabilitation of displaced persons
- Rights of persons with disabilities

Landmark PIL decisions include:

- **Hussainara Khatoon v. State of Bihar (1979)** – Recognized the right to speedy trial.
- **Olga Tellis v. Bombay Municipal Corporation (1985)** – Recognized the right to livelihood.
- **Vishaka v. State of Rajasthan (1997)** – Protected women against workplace sexual harassment.
- **M.C. Mehta v. Union of India** – Expanded environmental rights under Article 21.

PIL has significantly democratized access to justice and strengthened judicial protection of human rights.

4.4 Statutory Remedies

Apart from constitutional remedies, several statutes specifically protect human rights.

Important legislations include:

- Protection of Human Rights Act, 1993
- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
- Protection of Women from Domestic Violence Act, 2005
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- Protection of Children from Sexual Offences (POCSO) Act, 2012
- Juvenile Justice (Care and Protection of Children) Act, 2015
- Right to Information Act, 2005
- Rights of Persons with Disabilities Act, 2016
- Bonded Labour System (Abolition) Act, 1976

These legislations create specialized mechanisms, prescribe punishments, establish regulatory authorities, and provide compensation and rehabilitation for victims.

4.5 National Human Rights Commission (NHRC)

The **Protection of Human Rights Act, 1993** established the **National Human Rights Commission (NHRC)** as an independent statutory body responsible for protecting and promoting human rights.

Functions of NHRC

The NHRC performs several important functions, including:

- Investigating complaints of human rights violations.
- Taking suo motu cognizance of violations reported in the media.
- Visiting prisons and detention centres.
- Reviewing constitutional and legal safeguards.
- Promoting human rights awareness.
- Encouraging research and education.
- Recommending compensation to victims.
- Advising governments on policy reforms.

The NHRC may seek reports from governments, conduct inquiries, and recommend disciplinary or criminal action against erring officials.

However, its recommendations are generally **recommendatory rather than binding**, which often limits its effectiveness.

4.6 State Human Rights Commissions (SHRCs)

The Protection of Human Rights Act also provides for the establishment of **State Human Rights Commissions (SHRCs)** to address human rights violations occurring within individual States.

SHRCs investigate complaints against State authorities, recommend compensation, review prison conditions, and advise State Governments on improving human rights protection.

Since many human rights issues arise at the local level, SHRCs play an essential role in making justice more accessible

4.7 Human Rights Courts

Section 30 of the Protection of Human Rights Act authorizes State Governments to establish **Human Rights Courts** for speedy trial of offences arising from human rights violations.

Although the Act envisages specialized courts, implementation has remained uneven across different States due to administrative and institutional constraints.

Strengthening these courts could significantly improve access to justice for victims.

4.8 Compensation and Judicial Remedies

The Supreme Court has evolved the principle of **constitutional compensation** where victims receive monetary relief for violations of Fundamental Rights.

In **Nilabati Behera v. State of Orissa (1993)**, the Court held that compensation may be awarded under public law for custodial deaths and violations of Article 21.

Similarly, in **Rudal Shah v. State of Bihar (1983)**, compensation was granted to a person who had remained illegally imprisoned even after acquittal.

These judgments demonstrate that constitutional courts possess the power to provide effective remedies independent of ordinary civil suits.

4.9 Criminal and Civil Remedies

Victims of human rights violations may also seek remedies under ordinary criminal and civil laws.

Criminal remedies include:

- Registration of FIRs.
- Police investigation.
- Criminal prosecution.
- Punishment of offenders.
- Victim compensation schemes.

Civil remedies include:

- Damages.

- Injunctions.
- Declaratory relief.
- Compensation for wrongful acts.

These remedies often operate simultaneously with constitutional proceedings.

4.10 International Human Rights Mechanisms

India is a party to numerous international human rights conventions, including:

- Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

Although international treaties do not automatically become enforceable domestic law unless incorporated by legislation, Indian courts frequently rely upon international human rights principles where they are consistent with constitutional values.

A notable example is **Vishaka v. State of Rajasthan (1997)**, where the Supreme Court relied upon CEDAW to frame legally binding guidelines for preventing workplace sexual harassment in the absence of domestic legislation.

Critical Evaluation

India possesses a robust legal framework for protecting human rights through constitutional remedies, statutory safeguards, judicial review, PIL, NHRC, SHRCs, and international commitments. However, several challenges continue to undermine the effectiveness of these remedies.

These include:

- Judicial delays and case backlogs.

- Low conviction rates in human rights offences.
- Lack of awareness among vulnerable communities.
- Police excesses and custodial violence.
- Weak implementation of NHRC recommendations.
- Political interference in investigations.
- Inadequate legal aid in rural and marginalized areas.
- Shortage of judges and institutional infrastructure.

Addressing these shortcomings requires comprehensive police reforms, strengthening of human rights institutions, greater legal awareness, faster judicial processes, improved victim rehabilitation, and stronger enforcement of judicial decisions.

Transition

The availability of legal remedies demonstrates India's commitment to protecting constitutional rights. Nevertheless, the effectiveness of these remedies depends upon independent institutions, judicial vigilance, administrative accountability, and public participation. Therefore, it becomes essential to critically examine the institutional mechanisms responsible for implementing and monitoring human rights protections, particularly the role of the NHRC, SHRCs, judiciary, and civil society.

PART V – ROLE OF INSTITUTIONS IN PROTECTING HUMAN RIGHTS IN INDIA

5. Role of Institutions in Protecting Human Rights in India

The effective protection of human rights depends not only on constitutional guarantees and statutory provisions but also on the functioning of institutions responsible for their enforcement. India has established a multi-layered institutional framework comprising the judiciary, the National Human Rights Commission (NHRC), State Human Rights Commissions (SHRCs), statutory commissions, law enforcement agencies, legal aid institutions, civil society organizations, and the media. These institutions collectively play a significant role in preventing violations, ensuring accountability, promoting awareness, and providing remedies

to victims. However, their effectiveness is often influenced by factors such as independence, resources, political will, and public cooperation.

5.1 Role of the Judiciary

The judiciary is regarded as the guardian of the Constitution and the ultimate protector of fundamental rights in India. Through judicial review, constitutional interpretation, and the development of Public Interest Litigation (PIL), the Supreme Court and High Courts have significantly expanded the scope of human rights protection.

One of the judiciary's most important contributions has been the liberal interpretation of **Article 21**. Beginning with **Maneka Gandhi v. Union of India (1978)**, the Supreme Court held that the expression "life" means more than mere animal existence. It includes the right to live with dignity, access to education, healthcare, livelihood, shelter, privacy, legal aid, and a clean environment.

Similarly, in **Hussainara Khatoon v. State of Bihar (1979)**, the Court recognized the **right to a speedy trial** as an essential component of Article 21. In **Olga Tellis v. Bombay Municipal Corporation (1985)**, it held that the **right to livelihood** forms part of the constitutional guarantee of life.

The judiciary has also developed innovative remedies such as constitutional compensation, continuing mandamus, and court-monitored investigations, ensuring that constitutional rights remain practical and enforceable rather than merely theoretical.

5.2 National Human Rights Commission (NHRC)

The **National Human Rights Commission (NHRC)** was established under the **Protection of Human Rights Act, 1993** as India's principal statutory institution for promoting and protecting human rights.

The Commission consists of a Chairperson, judicial members, and experts with experience in human rights. It functions independently of the executive and investigates complaints involving violations by public servants or negligence in preventing such violations.

Major Functions of the NHRC

The NHRC performs numerous functions, including:

- Investigating complaints of human rights violations.

- Taking **suo motu** cognizance of incidents reported in newspapers and electronic media.
- Visiting prisons, detention centres, and correctional institutions to examine living conditions.
- Reviewing constitutional and statutory safeguards relating to human rights.
- Promoting human rights education and awareness.
- Conducting research and encouraging academic studies.
- Advising governments on policy reforms.
- Recommending payment of compensation to victims.
- Monitoring compliance with international human rights obligations.

The Commission has played an important role in cases involving custodial deaths, police encounters, bonded labour, trafficking, child rights, prison reforms, and rights of marginalized communities.

Limitations of the NHRC

Despite its importance, the NHRC faces several limitations.

Its recommendations are generally **advisory rather than legally binding**, which allows governments to disregard them without serious legal consequences. The Commission cannot directly punish offenders or compel prosecution. Delays in investigations, shortage of staff, dependence upon reports submitted by government authorities, and jurisdictional limitations relating to the armed forces have also affected its overall effectiveness.

Many scholars have therefore recommended granting greater enforcement powers to the NHRC along with increased financial and administrative autonomy.

5.3 State Human Rights Commissions (SHRCs)

The **Protection of Human Rights Act, 1993** also authorizes State Governments to establish **State Human Rights Commissions (SHRCs)**.

Since many human rights violations occur at the local level, SHRCs play a crucial role in ensuring accessibility and timely intervention. They investigate complaints relating to police misconduct, custodial violence, discrimination, prison conditions, denial of welfare benefits, and violations committed by State authorities.

However, several SHRCs suffer from:

- Vacant positions.
- Inadequate financial resources.
- Shortage of trained investigators.
- Delay in appointments.
- Limited public awareness.

Strengthening SHRCs is essential for ensuring decentralized and effective protection of human rights across the country.

5.4 National Legal Services Authority (NALSA) and Legal Aid Institutions

Access to justice is itself a fundamental human right. Recognizing that poverty should not prevent individuals from seeking justice, **Article 39A** of the Constitution directs the State to provide free legal aid.

The **Legal Services Authorities Act, 1987** established the **National Legal Services Authority (NALSA)** along with State, District, and Taluk Legal Services Authorities.

These institutions provide:

- Free legal representation.
- Legal counselling.
- Lok Adalat services.
- Legal awareness programmes.
- Assistance to women, children, persons with disabilities, Scheduled Castes, Scheduled Tribes, victims of trafficking, disaster victims, and economically weaker sections.

Legal aid institutions have significantly improved access to justice, although greater awareness and infrastructure are still required in rural and remote areas.

5.5 Role of Law Enforcement Agencies

Police agencies are responsible for maintaining public order and enforcing criminal laws. At the same time, they are constitutionally obligated to respect the dignity and fundamental rights of every individual.

Professional policing requires:

- Lawful arrests.
- Fair investigations.
- Protection against torture.
- Respect for procedural safeguards.
- Non-discriminatory treatment.

However, allegations of custodial torture, fake encounters, arbitrary arrests, excessive use of force, and delayed investigations continue to undermine public confidence.

Implementation of police reforms recommended in **Prakash Singh v. Union of India (2006)** remains essential for improving accountability and protecting human rights.

5.6 Civil Society Organizations and Non-Governmental Organizations (NGOs)

Civil society organizations have emerged as important partners in promoting human rights awareness and accountability.

They perform various functions, including:

- Monitoring human rights violations.
- Conducting independent investigations.
- Providing legal assistance.
- Rehabilitating victims.
- Organizing awareness campaigns.
- Conducting research and advocacy.
- Supporting vulnerable communities.

Organizations working in areas such as child rights, women's empowerment, disability rights, environmental protection, labour rights, and tribal welfare have significantly contributed to

strengthening democratic governance. Their collaboration with government institutions often improves transparency and public participation.

5.7 Role of the Media

The media plays a vital role in exposing human rights violations and promoting public accountability.

Investigative journalism has brought attention to issues such as:

- Custodial deaths.
- Human trafficking.
- Corruption.
- Environmental degradation.
- Violence against women.
- Child abuse.
- Communal violence.

Digital media and social networking platforms have further expanded opportunities for citizens to report abuses and mobilize public opinion.

However, sensational reporting, misinformation, invasion of privacy, and media trials may themselves threaten human rights. Responsible journalism therefore remains essential.

5.8 Educational Institutions

Educational institutions contribute significantly to the long-term protection of human rights by promoting constitutional values, democratic citizenship, tolerance, equality, and respect for diversity.

Human rights education enables citizens to:

- Understand constitutional rights.
- Recognize discrimination.
- Promote gender equality.
- Encourage peaceful conflict resolution.

- Respect cultural diversity.
- Strengthen democratic participation.

Universities, schools, and professional institutions therefore play an indispensable role in cultivating a human rights culture.

Critical Analysis

India's institutional framework for protecting human rights is comprehensive and constitutionally robust. The judiciary has expanded the scope of fundamental rights through progressive interpretation, while institutions such as the NHRC, SHRCs, NALSA, civil society organizations, and the media have strengthened accountability and public awareness.

Nevertheless, several structural challenges continue to limit institutional effectiveness, including:

- Delays in judicial proceedings.
- Non-binding nature of NHRC recommendations.
- Insufficient financial and human resources.
- Lack of coordination among institutions.
- Political influence in sensitive investigations.
- Low public awareness of legal remedies.
- Weak implementation of institutional recommendations.

Addressing these issues requires institutional independence, increased funding, improved transparency, police reforms, enhanced legal education, and stronger coordination between governmental and non-governmental agencies.

PART VI – CHALLENGES, RECOMMENDATIONS, AND CONCLUSION

6. Challenges in the Protection of Human Rights in India

Despite a comprehensive constitutional framework, progressive judicial interpretations, and specialized statutory institutions, the effective realization of human rights in India continues to

face several structural and practical challenges. The persistence of these obstacles reflects the gap between legal recognition and actual enforcement.

6.1 Weak Enforcement of Laws

India has enacted numerous legislations aimed at protecting human rights. However, weak implementation remains one of the most significant concerns. Administrative inefficiency, lack of accountability, corruption, and inadequate monitoring often prevent these laws from achieving their intended objectives. In many cases, victims face considerable difficulty in obtaining timely justice despite the existence of legal remedies.

6.2 Judicial Delays

The Indian judiciary is burdened with a substantial backlog of pending cases, resulting in prolonged delays in the disposal of matters involving human rights violations. Delayed justice often discourages victims from pursuing legal remedies and weakens public confidence in the justice delivery system. Expedious adjudication is essential for ensuring effective protection of constitutional rights.

6.3 Police Misconduct and Custodial Violence

Allegations of unlawful arrests, custodial torture, fake encounters, and excessive use of force continue to undermine the credibility of law enforcement agencies. Although judicial guidelines and statutory safeguards exist, their implementation remains inconsistent. Comprehensive police reforms, regular training, and effective oversight mechanisms are necessary to prevent abuse of power.

6.4 Social and Economic Inequalities

Poverty, illiteracy, caste discrimination, gender inequality, unemployment, and lack of access to education continue to expose vulnerable communities to exploitation and abuse. Human rights cannot be fully realized without addressing the underlying socio-economic conditions that contribute to inequality and exclusion.

6.5 Limited Awareness of Human Rights

A considerable portion of the population remains unaware of constitutional rights and available legal remedies. Lack of legal literacy particularly affects rural communities, economically

weaker sections, women, children, and marginalized groups, preventing them from effectively asserting their rights.

6.6 Institutional Limitations

Institutions such as the National Human Rights Commission and State Human Rights Commissions have contributed significantly to human rights protection. Nevertheless, limited financial resources, staff shortages, vacant positions, procedural delays, and the non-binding nature of their recommendations reduce their overall effectiveness.

6.7 Emerging Technological Challenges

Rapid technological advancement has introduced new human rights concerns relating to digital privacy, cybercrime, artificial intelligence, surveillance technologies, facial recognition systems, and protection of personal data. Existing legal frameworks continue to evolve in response to these emerging challenges.

7. Recommendations

To strengthen human rights protection in India, several legal, institutional, and policy reforms are necessary.

7.1 Strengthening Human Rights Institutions

The NHRC and SHRCs should be granted greater operational independence, adequate financial resources, sufficient investigative staff, and stronger enforcement powers. Their recommendations should receive greater compliance from government authorities.

7.2 Police and Prison Reforms

Comprehensive police reforms should focus on transparency, accountability, scientific investigation techniques, human rights training, and independent oversight of custodial practices. Prison reforms should prioritize humane living conditions, healthcare, legal aid, and rehabilitation of inmates.

7.3 Judicial Reforms

Reducing judicial delays requires increasing the number of judges, improving judicial infrastructure, promoting digital courts, encouraging alternative dispute resolution mechanisms, and ensuring timely disposal of cases involving fundamental rights.

7.4 Promotion of Human Rights Education

Human rights education should be integrated into school, college, and university curricula. Public awareness campaigns should be organized through educational institutions, legal services authorities, and civil society organizations to improve legal literacy and constitutional awareness.

7.5 Strengthening Legal Aid

Free legal aid services should be expanded to ensure that economically weaker sections, women, children, persons with disabilities, migrant workers, and marginalized communities can effectively access justice without financial barriers.

7.6 Effective Implementation of International Standards

India should continue harmonizing domestic legislation with international human rights obligations while respecting constitutional values. Ratified international conventions should increasingly inform legislative reforms and judicial interpretation.

7.7 Technology and Human Rights

As digital governance expands, robust legal safeguards should protect privacy, personal data, cybersecurity, and freedom of expression. Transparent regulation of artificial intelligence and surveillance technologies should balance innovation with constitutional freedoms.

7.8 Community Participation

Civil society organizations, educational institutions, legal professionals, media organizations, and ordinary citizens should actively participate in promoting constitutional values, reporting violations, and assisting vulnerable communities. Human rights protection requires collective social responsibility in addition to governmental action.

8. Conclusion

Human rights constitute the moral and constitutional foundation of every democratic society. The Constitution of India guarantees an extensive range of Fundamental Rights while simultaneously directing the State to promote social and economic justice through the Directive Principles of State Policy. Over the decades, the Supreme Court has significantly expanded the scope of constitutional protections by interpreting the right to life and personal liberty under

Article 21 in a progressive and dynamic manner. Judicial activism, Public Interest Litigation, constitutional remedies, and the establishment of specialized institutions such as the National Human Rights Commission have considerably strengthened India's human rights framework.

Despite these achievements, the persistence of custodial violence, caste discrimination, gender-based violence, child exploitation, environmental degradation, digital privacy concerns, and socio-economic inequalities demonstrates that legal recognition alone is insufficient. Effective implementation, institutional accountability, timely judicial intervention, police reforms, public awareness, and political commitment remain indispensable for ensuring meaningful protection of human rights.

The rapidly changing social and technological landscape further requires continuous evolution of legal frameworks to address emerging issues relating to artificial intelligence, digital governance, cyber security, environmental sustainability, and informational privacy. Human rights protection must therefore remain responsive to contemporary challenges while preserving constitutional values.

Ultimately, safeguarding human rights is a shared responsibility of the State, judiciary, law enforcement agencies, human rights institutions, civil society organizations, educational institutions, media, and citizens themselves. A democratic society can truly flourish only when every individual is able to live with dignity, equality, liberty, and justice irrespective of caste, religion, gender, language, or socio-economic status. Strengthening constitutional governance, ensuring effective implementation of laws, and promoting a culture of respect for human dignity will enable India to move closer to realizing the constitutional vision of justice for all.