



Comparative Study of Universal Declaration Human Rights and Fundamental Rights of Indian Constitution

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ABSTRACT

It is very much true that the makers of the Indian Constitution were influenced by Bill of Rights of the American Constitution, Irish Constitution and French Declaration of the Rights of Men, Constitution of Japan adopted after world War II, Universal Declaration of Human Rights, 1948. Fundamental rights are mentioned in Part III of the Constitution of India starting from Article 12 to 35 and these fundamental rights conform Human Rights. The term Human Rights has not been defined in the Indian Constitution. But Part III of the Indian Constitution covers more of less complete basic Human Rights. Here is Comparative study of Universal Declaration of Human Rights and Fundamental Rights of the Indian Constitution.

KEYWORDS : Universal Declaration of Human Rights, Indian Constitution, Fundamental Rights, Directive principles of state policy. Comparative study of UDHR and Fundamental rights of the Indian Constitution.

Introduction:

It is very much true that the makers of the Indian Constitution were influenced by Bill of Rights of the American Constitution, Irish Constitution and French Declaration of the Rights of Men, Constitution of Japan adopted after world War II, Universal Declaration of Human Rights, 1948. Further the Human Rights Act, 1988 was legislated by United Kingdom to give further effect to the rights and freedoms guaranteed under the European Convention on Human Rights. It made the Convention rights enforceable in the United Kingdom Law Courts. Fundamental rights are mentioned in Part III of the Constitution of India starting from Article 12 to 35 and these fundamental rights conform Human Rights. Directive Principles of State policy are mentioned in part IV of the Indian Constitution. The term Human Rights has not been defined in the Indian Constitution. But Part III of the Indian Constitution covers more of less complete basic Human Rights.

Development of Human Rights in India :

It is generally claimed by Western scholars that the system of international law is a product of European civilisation. In reality the roots of international law can be traced far back to ancient India, as in most ancient civilisations. Respect for the dignity of an individual and striving for peace and harmony in society, has been an abiding factor in Indian culture. Indian culture has been the product of assimilation of diverse cultures and religions that came into contact with the enormous Indian sub-continent over time. The spirit in the Rig Veda "there is one race; of human being" and the validity of different traditions, religious, indeed of paths to Truth, has always been respected. Our guiding principles has been "Sarva Dharma Saman". An ancient text runs thus: "I seek no kingdom, nor heaven nor rebirth, but I wish that all living beings be spared of the manifold pains and distresses".

Origin and Development of Fundamental Rights :

Part III of the Constitution contains a long list of Fundamental Rights. This Chapter of the Constitution of India has very well been described as the **Magna Carta of India**. As early as 1214 the English people exacted an assurance from King John for respect of the then ancient liberties. The Magna Carta is the evidence of their success which is a written document. This is the first written document relating to the fundamental rights of the citizens. Thereafter from time to time the king had to accede too many rights to his subjects. In 1689 the Bill of Rights was written consolidating all important rights and liberties of the English people. In France Declaration Rights of Man and the Citizen declared the natural, inalienable and sacred rights of Man. Following the spirit of the Magna Carta.

Human Rights Jurisprudence:

In the judgment one finds extensive reference of Human Rights by Supreme Court, particularly for protecting prisoners from various inhuman and barbarous treatments. "Today, human rights jurisprudence in India has constitutional status" says Krishna Iyer, J. in Sunil

Batra's case No. 2

In 1979, India became party to the International Covenant on Civil and Political Rights. Article 10 of the International Covenant provides that "All persons deprived of their liberty shall be treated with humility and with respect for the inherent dignity of the human persons. Article 5 of the U.N. Declarations of Human Rights, 1948 says, "No one shall be subjected to torture or to cruel inhuman or degrading treatment or punishment". In Prem Shankar v/s. Delhi Administration, Krishna Iyer, J. said that in interpreting constitutional and statutory provisions the Court must not forget the core principles found in Article 5 of the U.N. Declaration of Human Rights, 1948. Homage to human rights which calls for prisons, prisoners reform, his Lordship declared.

Some Important Events :

Universal Declaration of Human Rights – 1948

Indian Constitution accepted by Constituent assembly on 26th November, 1949

Indian Constitution came into force on 26th January, 1950.

The Protection of Human Rights act- 1993.

A Comparative Study of Fundamental Rights of the Indian Constitution and Universal Declaration of Human Rights.

By the time of the Constituent Assembly adopted recommendation and drafted the Constitution of India, 1950, the UDHR, 1948 had already been adopted with the hope that ultimately all members States will adopt these rights in their constitutions. Besides being influenced by the UDHR, the development process of constitutional rights in India was also inspired by historical documents such as England's Bill of Rights and Directive principle were included in the final draft of the constitution promulgated on 26th November, 1949.

Comparative study of Fundamental Rights and Universal Declaration of Human Rights...

Fundamental Rights in Indian Constitution	Universal Declaration of Human Rights.
Article – 14 The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.	Article – 7 All are equal before the Law and are entitled without any discrimination in violation of this declaration and against any incitement to such discrimination.

Article – 15 (1) The State shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth, or any of them.	Article – 2 Para (1) Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political, or other opinion, national or social origin, property, birth or other status.
Article – 16 (1) There shall be equality of opportunity for all citizens in the matters relating to employment or appointment to any office under the State.	Article – 21 (2) Everyone has a right to equal access to public service in his country.
Article – 19 (1) All Citizens have the.. Right to Freedom of Speech and expression. Right to assemble peacefully and without arms. Right to form unions and associations. Right to move freely throughout the territory of India. Right to reside and settle in any part of the territory of India.	Article – 19 Everyone has the right to freedom of opinion and expression. Article – 20 (1) Everyone has the right to freedom of peaceful assembly and association. Article – 23 (4) Everyone has the right to form and to join trade unions for the protection of his rights. Article – 13 (1) Everyone has the right to freedom of movement and residence within the borders of each state.
Article – 20 (1) No person shall be convicted of any offence except for a violation of law in force at the time of commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.	Article – 11 (2) No one shall be held guilty of any penal offence on account of any act or commission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
Article – 21 No person shall be deprived of his life or personal liberty excepted according to procedure established by law.	Article – 3 Everyone has the right to life, liberty and security of person. Article – 9 No one shall be subjected to arbitrary arrest, detention or exile.
Article – 23 (1) Traffic in human beings and 'begar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.	Article – 4 No one shall be held in slavery or servitude and the slave trade shall be prohibited in all forms.
Article – 25 (1) Subject to public order, morality and health and to the provisions of this part, all persons are equally entitled to freedom of conscience and right freely to profess, practice and propagate religion.	Article – 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

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It is rightly said that Indian Constitution is a complete charter of Human Rights...

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