



Human Rights & Constitutional laws in International Scenario

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Abstract:

Human rights and constitutional law provide a universal framework for the defense of basic freedoms and rights. International organizations, international treaties, and national constitutions have all codified these values to guarantee that all individuals, regardless of race, religion, gender, sexual orientation, or disability, are treated with dignity and fairness. The Universal Declaration of Human Rights (UDHR) was adopted in 1948 by the General Assembly of the United Nations to serve as the foundation for international protection of human rights. The UDHR serves as a cornerstone upon which to construct other seminal human rights documents including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Human rights are protected and upheld by the constitutions of individual nations. Individual rights and responsibilities, the nature and limits of government power, and protections for human rights are all laid forth in these statutes, which are often inspired by international human rights accords. Constitutional law must interact with human rights laws from throughout the world. Human rights accords at the international level provide a model for national constitutions to protect basic human rights. Legal authorities, including constitutional courts, make sure the law is obeyed and enforced. Numerous nations have raised issues related to freedom of expression, assembly, and association; the rights of vulnerable and marginalized groups; the right to privacy; and the rule of law during the last few years. Human rights breaches and possible solutions are monitored by treaty organizations and special rapporteurs.

keywords: Human rights, Constitutional laws, International scenario, Fundamental rights, Liberties, International instruments, Treaties

Introduction

Human rights and constitutional law are cornerstones of international politics since they serve as the foundation upon which all other liberties and protections are based. This point of view is relevant given the significance of human rights and constitutional rules. The overarching goal of this framework is to protect the human rights of individuals worldwide, and these principles may be found in both international treaties and national constitutions. Recognized in a variety of international treaties, human rights are safeguarded in various ways. The UDHR is a landmark text because it lays forth the fundamental liberties and safeguards to which every person is entitled, as approved by the United Nations in 1948. "The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) both build on this concept to provide a more robust framework for protecting people's rights to personal autonomy and participation in society. Constitutional law is the highest legislation of a country and serves to govern and protect the rights of its inhabitants. These statutes, modeled after international human rights standards, lay out the duties of citizens, define the obligations of government institutions, and spell out



the measures that must be done to protect people's basic liberties. Constitutional law and human rights law have a very important mutual relationship. Constitutional courts and other judicial authorities have a duty to interpret and implement these articles in a way that is compatible with international human rights principles. Several country constitutions provide that fundamental human rights will be protected. Despite this, modern human rights issues continue to be pervasive over the globe. Many nations' governments have begun to prioritize issues that were formerly considered peripheral, such as people's rights to freedom of speech, assembly, and association; the rights of marginalized and vulnerable groups; people's right to privacy; and the rule of law. International human rights organizations include groups that monitor human rights treaty compliance and special rapporteurs who report on human rights breaches and make suggestions for change. Our hope is that this will help speed up the process of resolving these problems.

The fundamental concepts of human rights and the laws enshrined in constitutions continue to have enormous weight even in the setting of international politics in today's linked world. All persons, regardless of race, religion, nationality, or any other arbitrary classification, ought to have their human rights and freedoms protected on the basis of these principles". They are inscribed in international accords and treaties as well as national constitutions and play a significant role in establishing the worldwide landscape of human rights protection. The globally recognized human rights may be protected via the adoption of a complete set of international instruments. The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, is an important text because it outlines the rights and freedoms that are regarded as universal for all humanity. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) both owe a debt of gratitude to this proclamation for providing a foundation upon which to build more detailed definitions of some aspects of human rights. In other words, future, more comprehensive international treaties built on the foundation laid by this declaration. Every country has a collection of rules called a constitution that ensures the government can run smoothly and protects the rights of its inhabitants. These laws, which are modeled after international human rights principles, offer a strong foundation for defending basic rights within a jurisdiction. National constitutions define the nature and scope of government, as well as the rights and duties of individuals and the bodies charged with upholding and protecting those rights. International human rights law and constitutional law have a mutually beneficial interaction. National constitutions often provide protections that are comparable to those provided by international human rights accords. Constitutional courts and other judicial authorities play a critical role in ensuring that these provisions remain consistent with international human rights standards and that remedies are available when they have been violated. Learning and following these guidelines is how we get there. "The current international atmosphere poses ongoing dangers to human rights. Protecting vulnerable populations, supporting the rule of law, securing individual privacy in the digital age, and defending the freedoms to freely speak, assemble, and associate are all ongoing concerns that need our attention. International human rights institutions, such as treaty organizations and special rapporteurs, are actively working to raise public awareness about human rights violations, propose solutions to address shortcomings, and closely monitor the application of human rights norms.

The Significance of Human Rights in the International Scenario:



In the intricate web of world politics, respect for human rights is, without a doubt, an extremely important factor. Everyone, regardless of their race or religion, gender or sexual orientation, or economic or social position, has the right to have their fundamental civil and political liberties protected. The protection of these rights need to be at the top of the list of responsibilities for each and every nation, and they ought to serve as an example for other countries to emulate. Human rights provide a framework that acknowledges this universal truth and ensure that all people, regardless of where they were born or the nature of their cultural background, are formed on equal footing. They aim to build a society in which everyone, regardless of financial class or creative talent, is treated with warmth and compassion. This is the civilization that they want to build. Treaties, conventions, and declarations are some of the ways that human rights are given a voice in international law. The Universal Declaration of Human Rights (UDHR) and other agreements with comparable aims may serve as a standard against which to evaluate human rights protections across the world. They act as a moral compass to point governments, organizations, and people in the same direction: toward the shared goal of achieving human rights. The protection of human rights is not only an intellectual exercise; it also has real-world repercussions. They ensure that no one will be exposed to horrors such as discrimination or torture and that everyone will have access to necessities such as a decent education, adequate food, and sufficient shelter for themselves and their families”. The preservation of human rights inspires citizens to participate in government and improves the overall quality of life in a community. In today's increasingly globalized world, the value of human rights extends well beyond the confines of individual nations. In the event that human rights are infringed in one nation, this may have far-reaching implications, presenting a threat to the stability and advancement of international relations. Because of this, defending and advancing the rights of individuals is not just the right thing to do morally; it is also essential for maintaining global security, equality, and progress over the long run.

The Role of Constitutional Laws in Protecting Fundamental Rights

When it comes to safeguarding the rights and freedoms of its people, the constitution is the rock solid foundation of every government. Constitutional laws act as a barrier to prevent tyrannical behaviour on the part of governments. Constitutional standards are crucial in the international arena for protecting people's dignity, rights, and freedoms. Each country's constitution lays forth its founding principles and fundamental values. In it, the rights and obligations of citizens are laid forth, and the structure and powers of government are specified. Constitutional provisions dealing to fundamental rights are a cornerstone of every legal system because they declare certain liberties to be inviolable and put obligations on the state to protect, maintain, and fulfil these freedoms. Since constitutional laws recognise and identify individual rights, they provide citizens a legal framework within which to fight for their protection. In addition to civil and political liberties like freedom of speech, assembly, and religion, this category also includes socioeconomic liberties like the right to education, healthcare, and a basic standard of living. These safeguards are guaranteed by the Constitution, and people who believe they have been violated by the government or private parties have recourse via the courts. Constitutional courts and other judicial bodies are primarily responsible for interpreting and enforcing constitutional provisions pertaining to fundamental rights. They keep an eye on things to make sure these safeguards are being followed and hold the government to account when they aren't. “Through their decisions, these courts establish norms for how fundamental rights are to be regarded and construed in a certain



area. Constitutional laws, by their very nature of protecting citizens, limit the government's ability to overstep its bounds. They ensure governments operate within constitutional limits and safeguard individual liberties by establishing a system of checks and balances. This framework provides stability, predictability, and legal certainty, setting the stage for a more just and democratic society.

International Instruments and Treaties: Safeguarding Human Rights Globally

The international effort to preserve and broaden respect for human rights places a significant amount of reliance on international processes and treaties. When specific legal frameworks are in place, human rights are better safeguarded on a global scale, international collaboration is promoted, and universal standards are developed. The obligations of nations toward protecting and promoting human rights are laid out in excruciating detail in a number of international accords and treaties. They constitute a legally binding agreement on the universal application of human rights and the ideas that underpin them. The United Nations, regional groupings, and other international forums are some of the most important participants in the process of developing and adopting such tools. The Universal Declaration of Human Rights is the foundation of international law, which helps to protect the rights of persons all over the world. The Universal Declaration of Human Rights (UDHR) is a compilation of rights and freedoms to which all people are entitled by virtue of the fact that they are human. It was created by the General Assembly of the United Nations in 1948. The Universal Declaration of Human Rights has been utilized as a moral and ethical touchstone in the formulation of subsequent accords that are legally enforceable, despite the fact that the Declaration itself is not legally binding. The Universal Declaration of Human Rights (UDHR) serves as the foundation for the protection of individual rights, and subsequent international human rights treaties expand upon the protection provided by the UDHR. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are two instances of such treaties. Other examples include the Universal Declaration of Human Rights and the European Convention on Human Rights. The International Covenant on Civil and Political Rights (ICCPR) places a greater emphasis on civil and political rights such as the right to life, freedom of speech, and the right to a fair trial, while the International Covenant on Economic, Social, and Cultural Rights (ICESCR) places a greater emphasis on economic, social, and cultural rights such as the right to education, appropriate housing, and healthcare. The requirements of these treaties must be adhered to by all of the states that have ratified them. When a state joins the treaty as a party, it makes a public commitment to preserving the rights and ideals that are defined in the document. They affirm their commitment to uphold, protect, and exercise the rights guaranteed by the treaties, as well as to take full legal responsibility for any abuses of those rights that are brought to light via international organizations and domestic court systems". Human rights organizations from all across the globe have a responsibility to monitor the progress of these accords. Treaty bodies are made up of independent experts who analyze the reports that governments make about their compliance with their treaty commitments and give suggestions to better guarantee that the requirements are met. The United Nations designates select individuals as special rapporteurs in order for them to study and report on the state of human rights in certain nations or subject areas. When it comes to strengthening national legislation and policy, influencing court judgments, and establishing the framework for lobbying and action, international instruments and treaties are unparalleled in their effectiveness. They make it easier for governments, nongovernmental



organizations (NGOs), and other parties engaged in human rights to communicate with one another and work together.

The Universal Declaration of Human Rights: A Foundation for Human Rights Protection

The Universal Declaration of Human Rights is one of the most important texts in the history of the fight to protect and expand human rights (UDHR). Adopted by the United Nations General Assembly on December 10, 1948, the Universal Declaration of Human Rights (UDHR) is the product of a determined worldwide effort to provide a common benchmark for protecting people's fundamental liberties and rights. Every person, at any time and in any place, is guaranteed a minimum set of rights as outlined in the UDHR. Given the universality and interconnectedness of human rights, its scope extends well beyond the merely political and economic to include the social and cultural as well. Everyone, no matter where they were born or what they believe in, ought to be treated with respect and protected from harm. The UDHR outlines a wide range of protections for people. Rights such as the right to life, liberty, and security; the freedom to think, talk, and worship freely; protection against torture and other forms of cruel and unusual punishment; and the chance at successful work and financial stability are all examples. The declaration also emphasises the values of nondiscrimination, equality before the law, and the freedom to participate in the cultural and political life of the community. Although the UDHR is not a binding legal document in and of itself, it has provided a framework for subsequent human rights treaties and customary international law. Ideas and concepts from it have been incorporated into several national constitutions, pieces of legislation, and human rights frameworks. The Universal Declaration of Human Rights (UDHR) has had an impact far beyond the realm of legislation, changing attitudes and behaviours, sparking movements, and raising awareness about the significance of human rights. When it comes to the global human rights movement, the Universal Declaration of Human Rights is a landmark text. This text represents a commitment on the part of the international community as a whole to develop human rights, and it serves as the foundation for subsequent legal instruments and procedures that attempt to protect and defend these rights. Its success in rallying international support for human rights led to the establishment of the United Nations Human Rights Council and the Office of the High Commissioner for Human Rights. The UDHR serves as a guidepost for the efforts of human rights activists, civil society organisations, and everyday citizens. Its principles are used in the fight against injustice, the advancement of social and legal equality, and the promotion of fair treatment of all individuals. However, much work has to be done before the UDHR's tenets may be fully put into practise. Unfortunately, human rights violations still occur in many parts of the world, thus efforts to ensure the declaration's principles are followed must continue.

Conclusion:

Human rights and constitutional law interact to provide a crucial basis for the worldwide defence and advancement of basic human liberties. The principles established in treaties and national constitutions have a significant impact on human rights protection across the globe. A worldwide system for safeguarding human rights has been created through international treaties like the UDHR. The value, equality, and freedom of all persons are emphasised throughout these declarations, serving as beacons guiding us toward a shared understanding of universal rights. National constitutional norms provide the framework for a governing system and the protection of human rights in a country. It is the international human rights standards that serve as the basis for national constitutions' articulation of fundamental



rights, government powers and structures, and means for safeguarding and implementing human rights. There is a growing relationship between constitutional law and international human rights law. Human rights provisions in the constitution must be interpreted and applied by judicial and constitutional authorities in a manner compatible with international law. As a consequence of these discussions, human rights are both better safeguarded inside national authorities and more closely linked globally. On a global scale, there are still numerous challenges to overcome. Constant monitoring and reaction is required with regards to a wide range of concerns, including but not limited to freedom of speech, assembly, and association; rights of disadvantaged and vulnerable groups; right to privacy; and rule of law. International human rights frameworks such as treaty organisations and special rapporteurs monitor these issues, provide remedies, and advocate for accountability. Human rights and constitutional standards are valuable because of their ability to foster a more just and inclusive society. By upholding these norms, nations create conditions in which individuals may pursue their interests, contribute to public life, and enjoy the benefits of citizenship. Upholding and enhancing human rights and constitutional laws is essential for advancing human rights, building resilient and equitable communities, and cultivating a society in which the dignity and rights of every individual are recognised and respected.

References

1. In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General, UN Doc A/49/2005, 21 March 2005.
2. UN Doc. A/RES/60/251 (para 13), 3 April 2006, recommending to the Economic and Social Council to abolish the Commission on Human Rights on 16 June 2006.
3. James Katabazi and Others v Secretary-General of the EAC and Attorney-General of Uganda, Reference 1 of 2007, East African Court of Justice, 1 November 2007.
4. Mike Campbell (Pvt) Limited and Others v Republic of Zimbabwe, Case SADCT 2/07, SADC Tribunal, 28 November 2008.
5. Saumendra Das and N.Saibabu (2014), Indian Constitution: An Analysis of the Fundamental Rights and the Directive Principles, ARS – Journal of Applied Research and Social Sciences, Vol.1, Issue.17, December 2014, ISSN 2350-1472".
6. Dr. Anant Kalse (2016), A brief lecture on Human Rights in the Constitution of India, available at: <http://mls.org.in/books/H-2537%20Human%20Rights%20in.pdf>.
7. Amartish Kaur (2017), Protection of Human Rights in India – A Review, Jamia Law Journal, Vol.2.
8. Almost as familiar is the fact that the seminal work here was done by Joseph Weiler: see, e.g., Weiler, 'The Transformation of Europe', 100 Yale LJ(1991) 2403.
9. ECHR, Art. 13.
10. Variations include incorporating the ECHR as having higher status than the constitution (Holland), equal status to the constitution (Austria), below the constitution but above statutes, equal status to statutes (Germany).
11. In the UK, s. 2 of the Human Rights Act requires British judges to 'take into account' ECtHR interpretations; in Germany, a similar duty was imposed on lower courts by the federal constitutional court. See *Görgülü v. Germany*, 2 BvG (2004) 1481.
12. American Convention on Human Rights, Art. 2.
13. Case 26/62, *Van Gend en Loos v. Nederlandse Administratie der Belastingen* [1963] ECR 1, at para. 12.



14. Bryde, 'International Democratic Constitutionalism', in R. St J. MacDonald and D.M. Johnston (eds), *Towards World Constitutionalism* (2005), at 106.
15. See Fassbender, 'The United Nations Charter as Constitution of the International Community', 36 *Columbia J Transnat'l L* (1998) 529.
16. Weiler, 'The Geology of International Law – Governance, Democracy and Legitimacy', 64 *ZAÖRV* (2004) 547, at 558.
17. By the 'full panoply of human rights', I mean that no type or category of human right should be excluded. Clearly, given the variety and range of human rights, certain particular ones are not plausibly applicable or transferable to international organizations.
18. See Neuman, *supra* note 10, at 1863.