

Constitutional Protection of Human Rights in India:

An Analysis of Fundamental Rights and Directive Principles of State Policy

By- Harshita, Vardaan Kohli

Amity University, Noida

Abstract

Human rights embody the principles of dignity, liberty, and equality, which every individual is entitled to, irrespective of race, gender, class, or creed.¹ The Constitution of India, drafted in the aftermath of colonial subjugation and a prolonged struggle for justice, guarantees these rights through a carefully designed framework.² While **Fundamental Rights (Part III)** operate as enforceable legal safeguards for the protection of individual liberty, the **Directive Principles of State Policy (Part IV)** embody the socio-economic aspirations of a welfare state. Together, they form the bedrock of constitutional morality, balancing the need for individual freedoms with the imperatives of social justice.³ This paper critically examines the nature, scope, and interplay of Fundamental Rights and DPSPs in the constitutional protection of human rights in India. It further highlights landmark judicial pronouncements that have shaped the discourse, the challenges in their realization, and potential reforms for strengthening human rights jurisprudence.

Keywords: Human Rights, Indian Constitution, Fundamental Rights, Directive Principles of State Policy, Constitutional Remedies, Social Justice, Judicial Interpretation

¹ Universal Declaration of Human Rights, 1948, Preamble.

² Constitution of India, Preamble, 1950.

³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (New Delhi: Oxford University Press, 1966)

Introduction

The idea of human rights is not new to India. Philosophical traditions such as the *Rig Veda*'s call for equality, the Buddhist doctrine of compassion, and the Ashokan edicts of justice and welfare reveal that concern for human dignity has been part of the Indian ethos for centuries.⁴ However, in the modern sense, human rights gained prominence during the freedom struggle against colonial rule.⁵ The demands for civil liberties, equality, and socio-economic justice found their ultimate expression in the Constitution of 1950.

The framers of the Constitution were deeply conscious of the atrocities committed under colonial rule, including the denial of basic freedoms, exploitative economic policies, and social discrimination. Inspired by international developments such as the **Universal Declaration of Human Rights, 1948 (UDHR)**,⁶ they embedded a comprehensive framework for the protection of human rights within the constitutional text.

The constitutional vision rests upon two distinct but interconnected pillars:

1. **Fundamental Rights (Part III)** – enforceable guarantees that protect individuals against arbitrary state action, ensuring personal liberty, freedom of expression, equality, and cultural rights.⁷
2. **Directive Principles of State Policy (Part IV)** – non-justiciable but obligatory directives to the State to secure socio-economic justice, improve living standards, and promote the common good.⁸

The dual scheme reflects a deliberate balance: while rights safeguard freedom, directives ensure welfare. Dr. B.R. Ambedkar described this relationship as one where Fundamental Rights represent the “**conscience of the Constitution**”, whereas DPSPs provide its “**instruments of instruction**” to the State.

This research paper attempts a detailed exploration of both these parts, their constitutional philosophy, judicial development, and challenges.

⁴ R.C. Majumdar, *History of Ancient India* (Delhi: Bharatiya Vidya Bhavan, 1967), 212

⁵ Bipan Chandra, *India's Struggle for Independence* (New Delhi: Penguin, 1988), 33

⁶ UDHR, Articles 1–30, 1948.

⁷ Constitution of India, 1950, Part III.

⁸ Constitution of India, 1950, Part IV.

Evolution of Human Rights in India

The concept of rights in India has evolved through three significant phases:

1. **Pre-colonial and Ancient Traditions** – Indian society emphasized duties (*dharma*) rather than rights. Yet, values like equality before law, compassion, and fairness were emphasized by rulers like Ashoka and Akbar.⁹
2. **Colonial Period** – British rule witnessed the denial of liberties. The nationalist movement under leaders like Gandhi and Nehru transformed human rights into demands for **civil liberties** and **social justice**.¹⁰
3. **Constitutional Embedding** – The Constituent Assembly debates reflect a consensus that liberty alone was insufficient without social and economic justice.¹¹ The framers drew inspiration from the UDHR (1948), the Irish Constitution (for DPSPs), and the American Bill of Rights (for FRs).

The result was a constitutional scheme that is both **aspirational** (DPSPs) and **enforceable** (FRs).

Fundamental Rights: Legal Safeguards of Human Dignity

Fundamental Rights, enshrined in **Articles 12–35**, are enforceable by courts and act as limitations on State power.¹² They ensure civil-political freedoms and protect individuals against arbitrary state action.

Classification of Fundamental Rights

1. **Right to Equality (Articles 14–18):** Equality before law, prohibition of discrimination, abolition of untouchability, abolition of titles.

⁹ Romila Thapar, *Asoka and the Decline of the Mauryas* (Oxford: Oxford University Press, 1997), 88.

¹⁰ Bipan Chandra, *India's Struggle for Independence*, 45–60

¹¹ Constituent Assembly Debates, Vol. 8, col. 42

¹² Constitution of India, Arts. 12–35.

2. **Right to Freedom (Articles 19–22):** Freedoms of speech, association, assembly, movement, and safeguards against preventive detention.
3. **Right against Exploitation (Articles 23–24):** Prohibition of trafficking, bonded labour, and child labour.
4. **Right to Freedom of Religion (Articles 25–28):** Religious freedom, secularism, and institutional autonomy.
5. **Cultural and Educational Rights (Articles 29–30):** Protection of minorities, right to establish educational institutions.
6. **Right to Constitutional Remedies (Article 32):** Right to approach the Supreme Court directly – described by Ambedkar as the “heart and soul” of the Constitution.

Judicial Expansion of Fundamental Rights

The judiciary has played a transformative role in interpreting FRs, particularly **Article 21 (Right to Life and Personal Liberty)**. Originally read narrowly (*A.K. Gopalan v. State of Madras*, 1950),¹³ it was later expanded in *Maneka Gandhi v. Union of India* (1978)¹⁴ to include the right to live with dignity.

Some notable expansions include:

- **Right to livelihood** – *Olga Tellis v. Bombay Municipal Corporation* (1985)¹⁵
- **Right to education** – *Unni Krishnan v. State of Andhra Pradesh* (1993)¹⁶; led to the 86th Constitutional Amendment making education a fundamental right.
- **Right to clean environment** – *Subhash Kumar v. State of Bihar* (1991)¹⁷
- **Right to privacy** – *K.S. Puttaswamy v. Union of India* (2017)¹⁸

Thus, the judiciary has kept rights dynamic and responsive to contemporary needs.

¹³ A.K. Gopalan v. State of Madras, AIR 1950 SC 27

¹⁴ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

¹⁵ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

¹⁶ Unni Krishnan v. State of Andhra Pradesh, (1993) 1 SCC 645

¹⁷ Subhash Kumar v. State of Bihar, AIR 1991 SC 420.

¹⁸ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1

Directive Principles of State Policy: The Socio-Economic Vision

DPSPs (Articles 36–51) are **non-justiciable**, meaning they cannot be enforced in courts.¹⁹ However, they are fundamental in the governance of the country and guide the State in making policies.

Classification of DPSPs

1. **Socialist Principles:** Aim at reducing inequality, securing right to work, education, and assistance (Articles 38, 39, 41, 42, 43).²⁰
2. **Gandhian Principles:** Promote village panchayats, cottage industries, prohibition of intoxicants (Articles 40, 43, 47).²¹
3. **Liberal-Intellectual Principles:** Promote international peace, uniform civil code, environment protection (Articles 44, 48, 48A, 51).²²

DPSPs as Human Rights Enablers

Though unenforceable, DPSPs shape laws and policies:

- **Article 39A** led to the establishment of free legal aid.
- **Article 45** inspired the Right to Education Act, 2009.²³
- **Article 47** influenced public health and prohibition policies.
- **Article 48A** encouraged environmental legislations and jurisprudence.

They serve as the **blueprint of socio-economic rights**, complementing civil-political rights guaranteed under Fundamental Rights.

¹⁹ Constitution of India, Arts. 36–51.

²⁰ Constitution of India, Arts. 38, 39, 41–43.

²¹ Constitution of India, Arts. 40, 43, 47

²² Constitution of India, Arts. 44, 48, 48A, 51

²³ Right of Children to Free and Compulsory Education Act, 2009.

Case Laws Table

Case	Year	Principle Established
<i>A.K. Gopalan v. State of Madras</i>	1950	Narrow interpretation of “personal liberty” under Article 21.
<i>State of Madras v. Champakam Dorairajan</i>	1951	FRs prevail over DPSPs in case of conflict. ²⁴
<i>Kesavananda Bharati v. State of Kerala</i>	1973	Harmony between FRs and DPSPs; Basic Structure Doctrine. ²⁵
<i>Maneka Gandhi v. Union of India</i>	1978	Expanded scope of Article 21 – “procedure must be fair, just, and reasonable.”
<i>Minerva Mills v. Union of India</i>	1980	Balance between FRs and DPSPs is essential; ²⁶ neither can override the other.
<i>Olga Tellis v. Bombay Municipal Corporation</i>	1985	Right to livelihood as part of Article 21.
<i>Unni Krishnan v. State of Andhra Pradesh</i>	1993	Right to education included under Article 21.
<i>Subhash Kumar v. State of Bihar</i>	1991	Right to clean environment under Article 21.
<i>K.S. Puttaswamy v. Union of India</i>	2017	Recognised right to privacy as a fundamental right.

The Relationship Between Fundamental Rights and DPSPs

The relationship between Fundamental Rights and Directive Principles of State Policy has been one of **creative tension** since the inception of the Constitution. While FRs are enforceable

²⁴ State of Madras v. Champakam Dorairajan, AIR 1951 SC 226.

²⁵ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.

²⁶ Minerva Mills v. Union of India, AIR 1980 SC 1789.

guarantees protecting individual freedoms, DPSPs set out socio-economic goals that often require State intervention. This inherent contrast sometimes leads to friction.

Early Judicial Approach: Primacy of Fundamental Rights

In *State of Madras v. Champakam Dorairajan* (1951), the Supreme Court held that in case of conflict, FRs would prevail over DPSPs. This meant socio-economic directives could not override the enforceable rights of individuals.

Gradual Reconciliation: Towards Harmony

Over time, the Court shifted towards a **harmonious construction** approach:

- In *Kerala Education Bill* (1957), the Court observed that DPSPs should be implemented as far as possible without infringing FRs.
- In *Kesavananda Bharati v. State of Kerala* (1973), the Court recognised that both Parts III and IV together constitute the “conscience of the Constitution,” and neither could be ignored. It introduced the **Basic Structure Doctrine**, holding that the essence of both FRs and DPSPs is part of the Constitution’s unalterable core.
- In *Minerva Mills v. Union of India* (1980), the Court struck down clauses of the 42nd Amendment that gave uncontrolled precedence to DPSPs, reiterating that “harmony and balance between Parts III and IV is the basic feature of the Constitution.”

Contemporary Understanding: Complementarity

Today, jurisprudence accepts that FRs and DPSPs are not antagonistic but **mutually reinforcing**:

- FRs without DPSPs would be mere paper rights, lacking the socio-economic conditions for their enjoyment.
- DPSPs without FRs would be empty promises without enforceable guarantees.

Thus, the two are seen as complementary in securing comprehensive human rights.

Challenges in Realisation of Human Rights in India

Despite constitutional safeguards, the protection and enjoyment of human rights in India remain uneven. Key challenges include:

1. Socio-Economic Inequality

A significant section of the population continues to struggle with poverty, unemployment, lack of healthcare, and inadequate housing. Socio-economic rights envisaged under DPSPs remain under-implemented.²⁷

2. Caste and Gender Discrimination

Untouchability is abolished under Article 17, yet caste-based discrimination and atrocities persist. Similarly, gender inequality manifests in wage disparities, violence, and underrepresentation in public life.²⁸

3. Judicial and Institutional Limitations

The judiciary has expanded rights through activism, but courts are overburdened, leading to delayed justice. Institutions like the National Human Rights Commission (NHRC) often lack adequate powers and resources.²⁹

4. State Security vs. Individual Liberty

Preventive detention laws (Article 22) and emergency powers often curtail liberties. For instance, debates on the misuse of sedition laws and anti-terror legislation highlight the delicate balance between State security and individual rights.³⁰

5. Conflict between Development and Rights

Infrastructure and industrial projects frequently result in displacement, environmental degradation, and violation of community rights, raising questions about the balance between economic growth and human dignity.³¹

²⁷ National Human Rights Commission Reports, 2020–2023.

²⁸ Constitution of India, Art. 17; NHRC Report 2021.

²⁹ NHRC Annual Reports 2022.

³⁰ Constitution of India, Art. 22; Prevention of Terrorism Act, 2002.

³¹ *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664.

Conclusion

The Indian Constitution adopts a dual approach to human rights: enforceable **Fundamental Rights** to protect liberty and dignity, and aspirational **Directive Principles** to secure socio-economic justice.³² While tensions between the two have persisted, judicial interpretation has gradually harmonised them, recognising both as integral to the Constitution's basic structure.

Yet, the journey is unfinished. Poverty, discrimination, and weak institutional mechanisms continue to hinder the full realisation of rights. Strengthening enforcement, enhancing institutional capacity, and promoting awareness are essential to bridge this gap.³³

Ultimately, the protection of human rights in India is not just a constitutional obligation but a **moral imperative**—a continuing effort to realise the promise of liberty, equality, and justice made in 1950. As Granville Austin aptly described, Fundamental Rights and Directive Principles together form the “**conscience of the Constitution**”, guiding India towards a society where every citizen can live with dignity.³⁴

³² Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, 47

³³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, 50-52

³⁴ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, 45

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