



Journal of Integral Sciences [JIS]

[An International Open Access Journal]

Available at www.jisciences.com

ISSN: 2581-5679

HUMAN RIGHTS AND CIVIL LIBERTIES IN INDIA: AN ANALYSIS OF THE ROLE OF JUDICIARY AND CIVIL SOCIETY

K. Yamini Jyothsna

Head of the Department, Assistant Professor, Department of Political Science, Adikavi Nannaya University, Andhra Pradesh, India.

Received: 11 June 2024 Revised: 19 July 2024 Accepted: 19 August 2024

Abstract

The protection of human rights and civil liberties in India has evolved through a complex interplay between the judiciary, civil society, and the state. This paper examines the significant roles played by the Indian judiciary and civil society organizations in safeguarding human rights and promoting civil liberties. By analyzing landmark judicial decisions, the activism of civil society, and the challenges they face, the article provides insights into the current state of human rights in India and highlights areas for further improvement. Additionally, the interaction between these two entities demonstrates their critical roles in fostering a culture of rights in a diverse and pluralistic society.

Keywords:

This article is licensed under a Creative Commons Attribution-Non-commercial 4.0 International License. Copyright © 2025 Author retains the copyright of this article.



*Corresponding Author

Dr. K. Yamini. Jyothsna

DOI: <https://doi.org/10.37022/jis.v8i1.98>

Produced and Published by
South Asian Academic Publications

Introduction

India, as the world's largest democracy, is equipped with a constitutional framework that guarantees fundamental rights and freedoms to its citizens. These rights, enshrined in Part III of the Indian Constitution, include the right to equality, freedom of speech, the right to life and personal liberty, and protection against discrimination. Despite these constitutional guarantees, the protection and promotion of human rights and civil liberties remain critical concerns.

This paper explores the roles of the judiciary and civil society in defending these rights, assessing their effectiveness and identifying the challenges they face. The Indian judiciary, particularly through judicial activism, has expanded the scope of fundamental rights, while civil society organizations (CSOs) have mobilized public opinion and advocated for marginalized communities. The interaction between these two entities is crucial for enhancing human rights protection in India.

The Role of the Judiciary

The Indian judiciary serves as a vital guardian of human

rights, interpreting the Constitution to ensure the protection of civil liberties. The Supreme Court and High Courts have played instrumental roles in expanding the scope of fundamental rights through judicial activism. Landmark cases such as *Maneka Gandhi v. Union of India* (1978) laid the foundation for a broader interpretation of the right to life and personal liberty. In this case, the Supreme Court established that the right to life is not merely a right to exist but also encompasses the right to live with dignity, significantly broadening the scope of Article 21 of the Constitution (Mishra, 2019).

Judicial activism has also extended to social justice issues. In *Vishaka v. State of Rajasthan* (1997), the Supreme Court formulated guidelines to prevent sexual harassment at the workplace, highlighting the need for a safe working environment for women (Rai, 2020). This case exemplifies how the judiciary has addressed pressing social issues and legislative gaps through judicial pronouncements.

Moreover, the establishment of Public Interest Litigation (PIL) as a mechanism for seeking justice has empowered citizens and civil society organizations. PILs enable individuals and groups to seek judicial intervention in matters of public interest, including environmental protection, social justice, and human rights violations. This has allowed grassroots movements to hold the state accountable and demand action.

The judiciary's proactive approach is further demonstrated in cases involving the right to privacy, as seen in *Justice K.S. Puttaswamy v. Union of India* (2017),

where the Supreme Court recognized privacy as a fundamental right, reshaping the legal landscape regarding data protection and individual freedoms (Sundararajan, 2018). Such landmark judgments illustrate how the judiciary has been pivotal in responding to evolving societal norms and challenges. However, the judiciary faces several challenges, including a backlog of cases, delays in justice delivery, and allegations of judicial overreach. Moreover, the independence of the judiciary can be compromised by political pressures and attempts to influence judicial appointments (Sastry, 2018). These challenges necessitate ongoing reforms to ensure the judiciary remains an effective guardian of human rights.

The Role of Civil Society

Civil society organizations (CSOs) are crucial players in the promotion and protection of human rights in India. They engage in advocacy, awareness-raising, and direct action to address human rights violations across various sectors, including women's rights, labor rights, minority rights, and environmental justice.

One significant aspect of civil society's role is its ability to mobilize public opinion and create awareness about human rights issues. Organizations such as the People's Union for Civil Liberties (PUCL) and Amnesty International India have been pivotal in documenting human rights violations, raising awareness, and advocating for policy changes. Their reports and campaigns often bring to light injustices faced by marginalized communities, which might otherwise remain unnoticed.

CSOs also act as watchdogs, holding the state accountable for its obligations under international human rights norms. They have mobilized protests and movements, such as the #MeToo movement and protests against the Citizenship Amendment Act (CAA) in 2019. These movements not only spotlight critical issues but also demonstrate the power of collective action in demanding accountability and justice (Choudhry, 2020).

In addition to advocacy, civil society organizations often provide direct support to victims of human rights violations. This includes legal aid, counseling, and rehabilitation services, which are crucial for empowering affected individuals and communities. For instance, organizations like The Lawyers Collective provide legal assistance to survivors of domestic violence and sexual assault, thus playing a vital role in the pursuit of justice.

However, the operational landscape for civil society is increasingly challenging. In recent years, there has been a rise in government scrutiny of NGOs, restrictions on foreign funding, and laws that limit their operations. The Foreign Contribution (Regulation) Act (FCRA) has faced criticism for imposing onerous regulations on NGOs, which can hamper their ability to function effectively (Bhaduri, 2021). Furthermore, activists and human rights defenders often face harassment, intimidation, and

violence for their work, creating a climate of fear that can stifle dissent (Kumar, 2020).

Interplay Between Judiciary and Civil Society

The interplay between the judiciary and civil society in India is indeed crucial for the advancement of human rights and civil liberties. This dynamic relationship is characterized by mutual reinforcement, where civil society often seeks judicial intervention to address injustices, and the judiciary, in turn, acknowledges and supports civil society's efforts in advocating for human rights.

In the *Navtej Singh Johar v. Union of India* (2018) case, the Supreme Court's decision to decriminalize Section 377 of the Indian Penal Code was a landmark moment for LGBTQ+ rights in India. This ruling was heavily influenced by civil society advocacy, particularly from organizations such as the Naz Foundation, which tirelessly campaigned for the rights of LGBTQ+ individuals. The court's acknowledgment of the need for equality and non-discrimination not only reflected the changing societal attitudes but also demonstrated how civil society can effectively shape judicial outcomes (Sinha, 2019). The ruling has since empowered other marginalized communities to assert their rights more vigorously, showcasing the positive ripple effects of such judicial interventions.

Moreover, the collaboration between the judiciary and civil society has led to significant advancements in policy formulation, particularly in addressing systemic issues affecting marginalized groups. Judicial directives often serve as catalysts for governmental action. For instance, in the case of *Vishaka v. State of Rajasthan* (1997), the Supreme Court laid down guidelines to combat sexual harassment at the workplace, a decision that emerged from PILs filed by women's rights organizations (Rai, 2020). This case not only highlighted the judiciary's role in interpreting and enforcing rights but also demonstrated how civil society's persistent advocacy can lead to substantial legal reforms.

Furthermore, the judiciary's recognition of the importance of civil society in promoting human rights is evident in various rulings that endorse the role of NGOs in holding the state accountable. In the *People's Union for Civil Liberties v. Union of India* (2001) case, the Supreme Court emphasized the role of civil society in addressing issues of poverty and hunger, thereby reinforcing the notion that civil society organizations play a vital role in the democratic process (Basu, 2018). This case illustrates how judicial recognition can lend credibility to civil society's efforts, enhancing their ability to mobilize resources and public support for human rights advocacy.

In addition to facilitating advocacy, the judiciary's engagement with civil society has led to the development of specific rights frameworks. For instance, the Supreme Court's rulings in cases concerning child labor and the rights of refugees have often relied on inputs from civil

society organizations, which provide essential data and context for judicial deliberations. This collaborative approach ensures that judicial decisions are informed by ground realities and the lived experiences of marginalized communities.

However, this relationship is not without challenges. Civil society organizations often face obstacles such as bureaucratic hurdles, lack of funding, and, at times, governmental hostility. Reports of harassment and intimidation of activists can deter civil society from engaging with the judiciary. Nonetheless, the resilience of civil society in the face of these challenges highlights its crucial role in advocating for human rights and shaping judicial outcomes.

Overall, the interplay between the judiciary and civil society in India is a dynamic and evolving relationship that significantly influences the landscape of human rights and civil liberties. By leveraging their respective strengths, both entities can work towards a more just and equitable society, ensuring that the rights of all citizens are upheld and protected.

Challenges Ahead

Despite the successes of both the judiciary and civil society, significant challenges persist. The judiciary grapples with delays in the legal process, which can deny timely justice to victims of human rights violations. The sheer volume of pending cases can undermine the effectiveness of judicial interventions.

Civil society organizations face increasing governmental scrutiny and regulatory hurdles, limiting their operational capabilities. The restriction of foreign funding through the FCRA and other laws can weaken the financial sustainability of NGOs, thereby reducing their ability to advocate effectively for human rights. Additionally, increasing incidents of violence against activists raise concerns about the safety of those who work to promote civil liberties. Moreover, the polarization of society poses a challenge to human rights advocacy. Issues such as communal violence, caste discrimination, and gender inequality remain deeply entrenched, often complicating efforts by civil society and the judiciary to effect meaningful change. The backlash against certain social movements indicates a resistance to progressive change, with state and non-state actors attempting to suppress dissenting voices (Deshpande, 2021).

Conclusion

The protection of human rights and civil liberties in India relies heavily on the active engagement of both the judiciary and civil society. The judiciary has played a transformative role in interpreting the Constitution and expanding the scope of fundamental rights, while civil society has been essential in advocating for justice and holding the state accountable. Despite notable achievements, significant challenges remain, including

threats to the independence of the judiciary and increasing restrictions on civil society organizations.

To enhance the protection of human rights in India, it is essential to foster collaboration between the judiciary and civil society, ensuring that both institutions can effectively contribute to advancing human rights. Additionally, there is a pressing need for reforms that safeguard judicial independence and protect civil society actors from harassment and intimidation. Strengthening these pillars of democracy will enable India to better uphold its commitment to human rights and civil liberties for all its citizens.

Funding

Nil.

Acknowledgement

Nil.

Conflict of Interest

No Conflict of interest.

Informed Consent and Ethical Statement

Not Applicable.

References

1. Bhaduri, A. (2021). "The FCRA and Its Implications for Civil Society in India." *Journal of Human Rights*, 20(1), 15-30.
2. Basu, A. (2018). "Judicial Activism and the Role of the Courts in Upholding Human Rights in India." *Indian Journal of Constitutional Law*, 10(2), 123-145.
3. Choudhry, A. (2020). "The Impact of the #MeToo Movement on Gender Rights in India." *International Journal of Gender Studies*, 14(3), 201-218.
4. Deshpande, A. (2021). "Polarization and Its Effects on Human Rights Advocacy in India." *Social Change*, 51(2), 234-250.
5. Kumar, R. (2020). "Harassment and Intimidation of Human Rights Defenders in India." *Asian Journal of Human Rights*, 15(1), 47-65.
6. Mishra, A. (2019). "Maneka Gandhi v. Union of India: A Landmark Judgment on Right to Life." *Constitutional Law Journal*, 14(3), 45-60.
7. Rai, A. (2020). "Vishaka Guidelines and Their Impact on Women's Rights in India." *Indian Journal of Gender Studies*, 27(2), 205-222.
8. Sastry, R. (2018). "Judicial Independence in India: Challenges and Solutions." *Indian Bar Review*, 45(2), 112-130.
9. Sinha, R. (2019). "The Impact of Navtej Singh Johar Case on LGBTQ+ Rights in India." *International Journal of Human Rights*, 23(4), 376-389.
10. Sundararajan, R. (2018). "The Right to Privacy: A New Frontier for Human Rights in India." *Journal of Law and Policy*, 12(2), 89-107.