

# HUMAN RIGHTS AND INDIAN CONSTITUTION: A CRITICAL ANALYSIS

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## INTRODUCTION

A human being is born with certain natural rights. Those rights that are basic to humanity are termed as 'Human Rights'. Broadly speaking, they may include right to life, liberty, prosperity and security of an individual. From time immemorial, social scientists have argued in favor of giving these rights to human beings. Like all other values, freedom is essentially an individual value. A society or a nation has no consciousness of its own; it is the individual who has the consciousness and who either suffers from bondage or exists in freedom. A society or a nation can be said to be free the extent to which the individual composing are free.

## MEANING OF HUMAN RIGHTS

It is the concept and ideology of human rights only that is accepted around the world. Human rights movement was born when human dignity stood compromised, as never before in human history, during the Two World Wars. In 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights. Article 3 of the Declaration provides, 'Everyone has the right of life, liberty and security of person'. In ancient India too, human rights were not unknown. For example, in 1367 A.D., the Bahmani and Vijayanagara kings entered into an agreement for humane treatment of prisoners of war and sparing the lives of the enemy's unarmed subjects.<sup>2</sup>The right to life is paramount, basic and fundamental and so, undoubtedly, inviolability of the physical person is universally put first among the demands made by the people. Article 21 is an armour, protecting life and personal liberty against any unreasonable or unjust infringement. Any law enabling the State to deprive a person of such a right should meet not only the requirement of legislative competence, but must also lay down a procedure that must be just, fair and reasonable, and not arbitrary, fanciful or oppressive and must also meet the requirements of Articles 14 and 19 of the Constitution. The Court has used this armoury to expand and fortify this right of not only the legally free, but also of those legally confined inside the fortified and heavy iron gates of the jail.<sup>3</sup>

In any discourse on human rights, the paramount consideration is whether human rights come within the category of legal rights or they are at best regarded, even today, as mere declaratory ideals to they be observed by member states in their internal and inter-state conduct. This is indeed the first and foremost aspect of human rights which needs investigation, i.e., whether such rights are recognized by dharma or law and sanctified by danda or a duly constituted authority, and are hence enforceable or not.

These days most people discuss human rights without feeling the need to justify them. The concept, however, turns out to be ambiguous once it is more closely examined. It is also a fact that the disclosure of human rights was historically specific, and the question arises why this idea should arise in one particular historical period and not in another. The term Human Right is vague and ill-defined. "The desirability of human rights as fundamental rights overlooks the fact that rights are not fundamental by nature and at any given moment, human rights are heterogeneous". "Status of various human rights varies and often there can be a clash between human rights of one category of persons and fundamental rights of another category".

Human rights, in simple language, may be categorised as the basic rights that every man or woman, living in any part of the world, is entitled to by virtue of having been born as a human being, the rights that are required for the full and complete development of human personality. Human rights are derived from the dignity and worth inherent in human person. The Courts in India have been recognising and enforcing human rights as the natural rights of mankind or as Constitutional mandates or as rights of an Indian in an independent polity.<sup>4</sup>

Generally speaking, human rights are regarded as those fundamental and inalienable rights which are essential for life as a human being. There is, however, no consensus as to what these rights should be. Human rights may be interpreted contextual according to the particular economic, social and cultural society in which they are being defined.<sup>5</sup>

Human rights represent claims which individuals or groups make on the society. They include the right to freedom from torture; the rights to life, human treatment, freedom from slavery and forced labour; the right of

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<sup>2</sup> Singh, Nagendra, India and International Law, (1960), p. 10

<sup>3</sup> Bansal, V.K., Rights to Life and Personal Liberty in India, p. 147

<sup>4</sup> Singh, Gurubax, Commentary on the Protection of the Human Rights Act, 1993

<sup>5</sup> Rebecca, M.M. Wallace, International Law, 1993

liberty and security; freedom of movement and choice of residence; right to fair trial; right to privacy; freedom of thought, conscience and religion; freedom of opinion and expression; the right to marry and form a family; the right to participate in one's government either directly or indirectly or through freely elected representatives; the right to nationality and equality before the law. These rights cannot be compromised universally. These rights are natural because they are derived from nature and cannot be legally revoked by the ruler.

### HUMAN RIGHTS AND HUMAN VALUES

Ever since the beginning of civilisation two conflicting viewpoints, rule of men and rule of law, have competed for acceptance. Although each school of thought has not lacked in its votaries, in aggregate the thinking has been in favour of the rule of law. On occasions, we have slipped back into government by will of men only to return again, sadder and wiser, to the rule of law when the hard facts of human nature demonstrated the selfishness and egoism of men and the truth of the dictum that power corrupts and absolute power corrupts absolutely. It is in this context that the demand for civil liberty and human rights has acquired great significance. <sup>6</sup>One of the major questions that is faced by framers of constitutions in democratic countries is how to reconcile the needs of an effective government with the preservation of rights of the individuals. Firmness in administration is one of the great imperatives of a good government and for a weak government' a: observed by Burke, is the worst tyranny. A constitution n therefore, arm the government with enough powers to exercise control over forces that threaten the even flow of life of the community and create problems of law and order.

According to the theory of social contract some aspects of which have now been discredited, human beings surrendered their freedom in return for the blessings of governments. <sup>7</sup>The blessings of the government would lapse into tyranny of government unless it is accompanied by a recognition that there are certain basic rights that are possessed by all citizens, not only good citizens but also bad citizens. These are the rights that are inherent in all citizens because of their being human. These are the rights which are inalienable because the enlightened conscience of the community would not permit the surrender of these rights by any citizen, even on his own volition. These are the rights which are inviolable because they are not only vital for the development and efflorescence of human personality and for ensuring its dignity, but also because without them men would be reduced to the level of animals.<sup>8</sup>

The question then is whether a charter of rights cramps the powers of the government and thus creates difficulty for the functioning of an effective government. The question is linked with the question as to why and for what purpose we need a government. Whatever might have been the notion in the primitive stage of mankind and during the subsequent periods of history, the modern view is that the end of a good government is to bring about security, welfare and happiness of the people. Of all the various forms of government, democratic government with a bill of rights comes nearest to the ideal for the attainment of that objective.<sup>9</sup>

In India, the Protection of Human Rights Act, 1993, defines human rights as: "Human rights' means the rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India."<sup>10</sup>The United States defined human rights in a policy document in 1978, which said: "Freedom from arbitrary arrest and imprisonment, torture, unfair trial, cruel and unusual punishment, and invasion of privacy; rights to food, shelter, health care and education; and freedom of thought, speech, assembly, religion, press, movement, and participation in Government."<sup>11</sup>

Louis Henkin, a Professor and a Western Scholar, defined human rights as "claims asserted and recognised as of rights against society as represented by Governments and its officials."<sup>12</sup>In another definition, E. Donald Elliot, an International Legal Scholar, stated that human rights are "an opportunity guaranteed by the State to its citizens to enjoy the societal benefits and values existing in the given society."<sup>13</sup>

### MEANING OF RIGHTS

Rights are social, legal or ethical principles of freedom or entitlement, that is, rights are the fundamental normative rules about what is allowed to people or owed to people according to some legal system, social convention or ethical theory. Rights are of essential importance in such disciplines as law and ethics, especially

<sup>6</sup> Henking, Louis, Protection of Human Rights: Inter- disciplinary Perspectives, (1996)

<sup>7</sup> Tiwari, R.N. Human Rights and the law, 1995

<sup>8</sup> Blackstone, Personal Liberty and other Human Rights Community Expectations, 1982.

<sup>9</sup> Krishna Iyer, Y.R. Our founding Deed and Our Fighting Creed; Some Thoughts on their Future, MLJ, Vol. 20, p. 102

<sup>10</sup> Section 2 (d) of Protection of Human Rights Act, 1993.

<sup>11</sup> Subramanian, S. Human Rights International Challenge, 1997, Manas Publications, New Delhi.

<sup>12</sup> Henkin, Louis, Protection of Human Rights: Interdisciplinary Perspectives, (1996)

<sup>13</sup> Donald Elliot, E. The Evolutionary Tradition in Jurisprudence, First Edition, 1985.

theories of justice and deontology. Rights are often considered fundamental to civilisation, regarded as established pillars of society and culture, and the history of social conflicts can be found in the history of each right and its development. According to the Stanford Encyclopedia of Philosophy, "rights structure the form of governments, the content of laws and the shape of morality as it is currently perceived. To accept a set of rights is to approve a distribution of freedom and authority, and so to endorse a certain view of what may, must, and must not be done."

### **What is the difference between Human Rights and Fundamental Rights?**

Fundamental rights are similar to human rights, but are different in the sense that they have legal sanction and are enforceable in a court of law, whereas human rights do not have such sanctity and are not enforceable in courts. Then there is difference of universal appeal since fundamental rights are country specific that have been made keeping in mind the history and culture of a country, whereas human rights are of even more basic nature and apply to all human beings across the world without any discrimination. The right to a dignified human life is one such human right which cannot be questioned, whether you are in the US or in a poor African country.

### **Human Rights vs. Fundamental Rights**

**Human rights are relatively new, whereas fundamental rights enshrined by constitutions of various countries are older.**

**While there is no consensus on universal human rights, fundamental rights are specific and have legal sanction.**

**Human Rights are more basic in nature than fundamental rights and apply to all human beings on Earth, whereas fundamental rights are country specific.**

## **HUMAN RIGHTS AND INDIAN CONSTITUTION**

Concept of Human Rights under Indian Constitution: The Constitution of India was adopted on November 26, 1949. According to Article 394 of the Constitution, the whole of the Constitution, except Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 380, 388, 392 and 393 (which came into force at once), came into force on January 26, 1950, which is referred to as the day of the commencement of the Constitution. It is significant to note that the term "human rights" finds mention in the Charter of the United Nations. The Preamble of the U. N. Charter reaffirms "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women." Subsequently, Article 1 of the Charter enlists "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" as one of the purposes of the U.N. Besides this, with a view to the creation of stability and well-being, which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of people, Article 55 charges the U.N. to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." This provision is further strengthened by Article 56 under which "all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55." Besides this, human rights and fundamental freedoms also find mention in Articles 13, 62(3), 68 and 76(c). Thus, the provisions concerning human rights run throughout the U.N. Charter "like a golden thread". The delegates from some of the States at the San Francisco Conference were in favour of the adoption of even stronger provisions concerning human rights. An attempt, which proved abortive, was also made to incorporate in the U.N. Charter an International Bill of Human Rights. As a matter of fact, with the horrors perpetrated by the Nazi and Fascist leaders still fresh in their minds, the makers of the Charter were determined that the rights of individuals be made a matter of International concern.<sup>14</sup> Human Rights are mentioned for the first time... in any international treaty (not counting the treaties for the protection of minorities concluded after the First World War, which related to the rights of special groups but not to human rights in general) - because the drafters of the Charters were looking behind the facts of war to its causes, that is to say to the existence of dictatorship which makes wars possible.<sup>15</sup> Thus, human rights would occupy a significant chapter in any story of the U.N.<sup>16</sup>

<sup>14</sup> Goodspeed, Stephen S. *The Nature and function of International Organization*, (2<sup>nd</sup> Ed.), p. 516

<sup>15</sup> Robertson A.H. "The Law of International Institution in Europe", (1961), p. 52-53

<sup>16</sup> Humphrey, "The U.N. Charter and the Universal Declaration of Human Rights", *The International Protection of Human Rights* (London, 1967).

These important developments, along with the adoption of the Universal Declaration of Human Rights (1948), and the prior establishment of the Human Rights Commission in February, 1946, which had been assigned the function of preparing, inter-alia, an International Bill of Human Rights, had started a movement for the promotion and protection of human rights all over the world, India, being an original member of the U.N. and a member state which voted for the adoption of the Universal Declaration of Human Rights on December 10, 1948, could not be oblivious of all these developments. Yet, the Constitution of India is conspicuous by its absence of the words "human rights". It is difficult to say whether this omission was deliberate or just incidental.

**Preamble:** However, one may argue that what is in the name of the term. What really matters is whether the Indian Constitution has recognised and given effect to human rights. "The answer to this is in the affirmative and positive. It may also be added that the Indian Constitution is credited with not only giving effect to human rights but also with making them enforceable long before the adoption of the International Covenants on Human Rights in 1966 and even before the European Convention for the Protection of Human Rights and Fundamental Freedoms, which came into force on September 3, 1953. According to the Preamble of the Indian Constitution, India is a "Sovereign, Socialist, Secular, and Democratic Republic."<sup>17</sup> The Preamble begins with the words "We, the People of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular Democratic, Republic..." The opening words of the Preamble are identical with the opening words of the Charter of the United Nations viz., "We the people of the United Nations . . .", which represents a new trend and a new era in the international field and which might have inspired the framers of our Constitution to emulate the example. Speaking about the said words of the Preamble of the Indian Constitution Justice Bhagwati, while delivering the judgment in *Dr. Pradeep Jain v. Union of India*<sup>18</sup>, observed that they embody the hopes and aspirations of the people. "It is significant to note that the Preamble emphasises that the people who have given to themselves the glorious document are the people of India. It gives expression to resolve of the people to constitute India into a Sovereign, Socialist, Secular, Democratic Republic, and to promote among all its citizens fraternity, assuring the dignity of all individuals and the unity and integrity of the nation." The expression "We, the people of India" signifies the nation as a definite entity.

The expression "We, the people of India" signifies a departure from the traditional view of the sovereign, i.e., a departure from the concept of sovereign as some determinate person, and seems to affirm the social contract theory of the State. As in the case of the Preamble of the U.N., so also in the case of the Preamble of the Indian Constitution, the expression "We, the people..." is neither incidental nor a mere embellishment. "The expression is in fact concretised into many provisions in the Constitution so as to give it content and meaning."

In order to appreciate the concept of human rights under the Indian Constitution, it is pertinent to look at the aims and objects of the Preamble, which are indeed the aims and objects of the Indian Constitution. The Preamble reflects the high purposes and noble objectives of the framers of the Constitution. The words of the Preamble embody the hopes and aspirations of the people, and capture and seek to reproduce the social, economic and political philosophy underlying the Constitution and running through the warp and woof of the entire fabric.<sup>19</sup> Through the Preamble, the people of India have resolved to secure for all citizens the following four objectives:

- (a) Justice, social, economic, and political;
- (b) Liberty of thought, expression, belief, faith, and worship;
- (c) Equality of status and opportunity; and to promote among them all
- (d) Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.

In short as pointed out in *Kesavanand Bharti v. State of Kerala*<sup>20</sup>, the Constitution as the supreme law aims for the good of the mass of citizens and is prefaced by the Preamble, which puts "justice - social, economic and political" as the first of the four objectives of our Constitution by means of which the people of India have constituted a Sovereign, Democratic, Republic.<sup>21</sup>

These objectives are directed and concretised into the provisions of the Constitution. Article 38(1) provides that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. Thus, it enjoins the State to secure a social order for the promotion of the welfare of the people.

<sup>17</sup> The words 'socialist' and 'secular' were inserted by the (Forty- Second Amendment) Act, 1976

<sup>18</sup> AIR 1984 SC 1420

<sup>19</sup> *Dr. Pradeep Jain v. Union of India*, AIR 1954 SC 1420

<sup>20</sup> AIR 1973 SC 1461

<sup>21</sup> The words 'socialist' and 'secular' were inserted by the (Forty- Second Amendment) Act, 1976

Article 39, which aims to secure a welfare State, further elaborates the concept of justice by providing that the State shall, in particular, direct its policy towards securing

- a) that the citizens, men and women equally, have the right to an adequate means to livelihood;
- b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d) that there is equal pay for equal work for both men and women;
- e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

The above provisions are further strengthened by Article 39A entitled "Equal Justice and Free Legal Aid". It provides that the State shall ensure that the operation of legal system promotes justice, on a basis of equal opportunity and shall, in particular, provide free legal aid, by suitable legislation or schemes or the other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The Supreme Court of India has also recognised the interpretative value of the Universal Declaration of Human Rights. The Universal Declaration of Human Rights does not define the term 'human rights'. It refers them as "the equal and inalienable rights of all members of the human family." The framers of the Indian Constitution were influenced by the concept of human rights and guaranteed most of the human rights contained in the Universal Declaration. The Universal Declaration of Human Rights contains civil and political as well as economic, social and cultural rights. The civil and political rights have been incorporated in Part II of the Indian Constitution. The Part III of the Indian Constitution gives a detailed description of a charter of rights called the 'Fundamental Rights'. The fundamental rights guarantee civil rights to all Indians and prevent the State from encroaching upon individual liberty, while simultaneously placing upon it an obligation to protect the citizens' rights from encroachment by society. These fundamental rights guarantee civil freedom to all the citizens of India, to allow them to live in peace and harmony. These are the basic rights that every Indian citizen has the right to enjoy, irrespective of their caste, creed and religion, place of birth, race, colour or gender. Seven fundamental rights were originally provided by the Constitution - right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, right to property, and right to constitutional remedies. However, the right to property was removed from Part III of the Constitution by the 44th Amendment in 1978. Anyone guilty of non-compliance to these fundamental rights would be punished, as mentioned in the Indian Penal Code, subject to the verdict of the Judiciary. The fundamental rights for Indians aim at narrowing down the inequalities of pre-independence social practices, especially untouchability. They also guarantee the protection of cultural and educational rights of some religious minorities by granting them the liberty to conserve their languages and educational institutions. There are, presently, six fundamental rights documented by the Constitution, such as:

- **'Right to Equality'** means equality before law, ruling out any prejudice on the basis of race, religion, caste, creed, gender, or place of birth. This right also means an equality of opportunity with respect to employment, abolition of untouchability, and also abolition of titles.
- **'Right to freedom'** includes a gamut of rights such as right to speech and expression, right to assemble peacefully or to form association, right to move freely throughout the territory of India, right to life and liberty, right to reside and settle in any part of India, and so on.
- **'Right to Freedom Of Religion'** is another important fundamental right that explains the essence of freedom of conscience, freedom to profess any religion, freedom to run religious affairs, and freedom to give religious instructions in certain institutions.
- **'Right against Exploitation'** talks about the banning of forced labor and prohibition of employment of children in perilous jobs.
- **'Cultural and Educational Rights'** of our Constitution explains the preservation of language and culture of minorities and right of minorities to establish institutions.
- **'Right to Constitutional Remedy'** deals with the right to move the courts for issuance of writs & explains the writs of: Habeas corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari. This right also lays down the

privileges in respect to the National Commission on Minorities, the National Commission on Women, the National Commission on Scheduled Castes, etc.

To summarise, as these rights are the basic human rights which every citizen of India has the liberty to enjoy, they form a very important aspect of the Indian constitution. They help preserve human dignity and allow every citizen to live with self-respect. They accentuate on the fundamental accord of India by guaranteeing the same rights to everyone irrespective of their religion, religion, caste, creed, place of birth, etc.

#### THE ROLE OF NGOS IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

The development of national norms, instructions and procedure for the promotion and protection of human rights have gone hand in hand with the proliferation of NGOs working in the field of human rights. Whenever and wherever the intention of the State has run contrary to the ideals and concepts of Human Rights, people have protested individually, collectively, or through media. Hence, people of diverse opinions from different sections of the society are being drawn in to sensitise the mankind against violation of human rights. In the crusade against human rights violation, the role of non-governmental organization (NGOs) can hardly be overemphasized.

In India today, there are quite a few civil liberties organisations of significance, viz., the Association for Protection of Democratic Rights, People's Union for Civil Liberties, Bandhua Mukti Morcha, 'Saheli, etc., that are doing a good job in the preservation of human rights as is evident from media reports as well as law reports. These NGOs have played a great role in the protection and enforcement of human rights. Strictly speaking, although media and individuals do not come within the definition of NGOs, yet they also have played their role well by enlisting the intervention of the Apex Court through PIL petitions filed in the Indian Supreme Court. In India, there have been cases where the Supreme Court has taken notice of a newspaper report. In India, there have been cases where the Supreme Court has taken notice of a newspaper report, which is treated as a writ petition, and has taken suo moto action on it.

#### SUGGESTIONS

Following remedial suggestions need to be implemented to halt the practice of violation of rights by the police/prison authorities and to create an effective institutional framework for the prevention of torture and other human rights violations:

- 1) The Government should strengthen its international commitment to prevent torture, which it affirmed when it ratified the Human Rights Covenants and agreed to the U.N. Declaration against Torture in 1979. In doing so, India declared that it would comply with the U.N. Declaration against Torture and implement its provisions through legal and other effective measures. The Government should now, like an increasing number of other countries throughout the world, accede to the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 2) The Government should launch an intensive programme of legal rights education as a standard part of the training curriculum for all police and security forces personnel involved in the arrest, detention and interrogation of suspects. Actual practices amounting to torture should be clearly spelled out under the Indian Police/Prison Act and other legal instruments, and training courses meant for the police personnel and members of the security forces should be restructured with a focus on human rights for all. The obligations undertaken by India with regard to promotion and protection of human rights and the abolition of torture and cruel, degrading, inhuman treatment should also be focused on in the training programmes for the police personnel.
- 3) Recommendations for police/prison reforms, such as those proposed by the Second Report of the National Police Commission, 1979, and other expert bodies, should be implemented to free the force from political influence and patronage.
- 4) At the time of arrest, the persons should necessarily be examined medically at the instance of the police. Failure of the accused to make a request for such medical examination under Section 54 of the Code of Criminal Procedure should not exonerate the police from such liability.
- 5) Judicial inquiries should be made mandatory into all allegations of torture, including rape and deaths, in custody. The Government should ensure that the prima-facie reports of news torture, rape and deaths in custody, published by the media and by civil liberties groups, are promptly and effectively investigated by an independent and impartial body. The Supreme Court and the High Courts should conduct their own inquiries whenever a victim alleges torture or illegal detention in a habeas corpus petition.

- 6) The public and police/ prison officers should be trained in Cyber Crimes also.
- 7) There should be a statutory right to compensation. Effective machinery for redressal for victims of torture and custodial deaths should be established. In its continuing effort to end custodial violence, the judiciary has taken the view that the compensation due to the next of kin of those who have died in custodial torture should be the liability not just of the State Government, but also of the offending police officials themselves.
- 8) The legal machinery to combat torture should be strengthened in the interest of the public. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment should be incorporated in the Constitution.
- 9) The Government should make a public commitment that torture or ill treatment of detainees in custody of the police or security forces will not be tolerated, and that it will ensure that such abuses will invariably lead to the perpetrators being brought to justice. 10)"Keeping in view the de-humanising aspect of such crimes against the detainees, the flagrant violation of their fundamental rights, and the growing rise in crimes of this type, where only a few come to light and others don't, the Government and the legislature should give a serious thought to the recommendations of the Law Commission and bring about appropriate changes in the system to not only curb custodial crimes but also to see that custodial crimes do not go unpunished."
- 11) The Courts are also required to have a change in their outlook and attitude, particularly in cases involving, custodial crimes. They should exhibit more sensitivity and adopt a realistic approach, rather than a narrow technical approach, while dealing with cases of custodial crimes "to ensure, as far as possible, that the guilty should not escape and that the victim of the crime has the satisfaction that ultimately the law has prevailed."
- 12) Mobile jammers should be installed in all prisons/ sensitive places.<sup>22</sup>

## CONCLUSION

In summary of the above remedial measures and guidelines, it is clear that transparency of action and accountability perhaps are the possible safeguards which must be insisted upon. Attention is also required to be paid to properly develop work culture, training and orientation for the police force consistent with basic human values. Training methodology of the police needs restructuring with the latest technology. The force needs to be infused with basic human values and made sensitive to the constitutional ethos. Efforts must be made to change the attitude and approach of the police personnel handling investigations so that they do not sacrifice basic human values during interrogation and do not resort to questionable forms of interrogation. If these suggestions are acted upon in the right earnest, it would not only provide an effective control on the growing menace of violation of fundamental rights and torture but would also develop the confidence of the people in the democratic system of the country, besides improving the image of India in respect of human rights at the international level.

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<sup>22</sup> The Hindu, July 18, 2008