



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

Volume 3 | Issue 2

Art. 1

2024

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Recommended Citation

Swathi K. Hosamani and Shravani K. Hosamani, 'Globalization and its Impact on Human Rights' (2024) 3 IJHRLR 1-15.

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GLOBALIZATION AND ITS IMPACT ON HUMAN RIGHTS

Swathi K. Hosamani¹ and Shravani K. Hosamani²

ABSTRACT

The present study explores the nuanced interaction of globalization and human rights. Globalization has significantly transformed political, cultural and economic rights, resulting in various dynamic results that have implications for different human rights dimensions. This study aims to examine the diverse impacts of globalization on human rights in the world and in India, focusing specifically on social, cultural, economic and political rights. Globalization has undeniably played a significant role in fostering considerable economic expansion in India, thereby creating avenues for millions of individuals to access various opportunities. However, the inequalities in the distribution of wealth, labour rights, as well as access to essential services also highlight the inherent difficulties associated with globalisation. Moreover, the increasing penetration of Western influences and the presence of global corporations give rise to significant inquiries regarding the safeguarding of India's abundant cultural heritage and native traditions. This study examines the influence of globalization in the 21st century on various aspects of human rights, including worker's rights, ecological sustainability, cultural preservation and healthcare accessibility. The role of the judiciary in interpreting unenumerated rights, aligning them with international human rights norms and enshrining them as fundamental rights within the Indian Constitution is a pivotal focus. In the context of an ever-evolving globalized world, it becomes imperative to strike a delicate equilibrium between the opportunities it presents and the imperative to safeguard human rights. This study emphasises the necessity of adopting a comprehensive and nuanced strategy that optimises the advantages of globalisation while simultaneously protecting human rights, maintaining cultural diversity, and ensuring the preservation of individual freedoms. By effectively tackling these challenges, India can effectively harness the benefits of globalization while simultaneously safeguarding the fundamental rights and dignity of all its citizens.

KEYWORDS

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Globalization, human rights, healthcare accessibility, worker's right, unenumerated rights

I. INTRODUCTION

The process of globalization has brought about a period of remarkable change, surpassing boundaries between nations and fundamentally changing the global economic environment. At the core of this revolutionary process, the non-state actors, especially multinational corporations, act as leaders of change, playing a crucial role in the worldwide economy. Their profound influence on both the global economy and society is unquestionable. However, it is within the particular framework of human rights, particularly in nations experiencing lightning-fast globalization that the most complex and urgent questions emerge.

India, a rapidly expanding economy, exemplifies the larger global situation. Globalization, has propelled India towards the 21st Century, resulting in economic growth, technological progress and infrastructure development. However, this process is followed by a series of significant difficulties that arise at the point where economic progress and safeguarding human rights intersect.

The fundamental principles of human rights, which are codified in global declarations and India's Constitution, are universally applicable and cannot be taken away, surpassing geographical limitations and cultural differences. These rights include social, political, cultural, civil and economic aspects that are essential for well-being. Nevertheless, as globalization progresses, the effects on these rights are diverse and intricate.

This research paper aims to explore the complex interplay between globalization and human rights with a specific emphasis on India. As one of the prominent developing countries in recent times, India serves as an ideal case study to examine the impact of globalization on human rights,

especially the effects of multinational corporations. This analysis explores the influence of globalization in the 21st century on human rights in this rapidly developing country, which boasts a wide range of social, cultural and economic diversity.

The primary objective of this study is to comprehend the impact of globalization, on human rights in India, considering both positive and negative aspects. The study will examine the various aspects of this influence, encompassing workers' rights, ecological sustainability, cultural conservation, and healthcare accessibility. This research adds to the global discussion on the relationship between globalization and human rights, using India as an example. This highlights the significance of attaining a balanced and harmonious coexistence between economic progress and safeguarding human rights, both within India and globally. This complex interaction raises inquiries and ignites debates that are essential for moulding the future of our interconnected world.

II. GLOBALIZATION'S IMPACT ON THE EVOLUTION OF HUMAN RIGHTS JURISPRUDENCE

• Defining Globalization

The term 'Globalisation' encompasses a range of transformations of capital, commodities, services and workforce across international boundaries, leading to a transnational nature. Given its universal influence on the contemporary world, globalisation has become an indispensable component of the modern world. Globalisation also promotes the cross-border exchange of related lifestyles, ideas, preferences, "McDonaldization"³ of food and culture and even values. This interaction plays a pivotal role in reforming regional political institutions, cultural standards and social connections.

³ Shalmali Guttal, 'Globalisation' (2007) 17(4/5) Development in Practice <<https://www.jstor/stable/25548249>> accessed 13 October 2023

Dinah Shelton, in her paper, expressed that “Globalisation is a multidimensional phenomenon, comprising numerous complex and interrelated process that have a dynamism of their own. It involves a deepening and broadening of rapid transboundary exchanges due to developments in technology, communications, and media. Such exchanges and interactions occur at all levels of governance and among non-state actors, creating a more interdependent world”.⁴

- **Globalization and its impact on Human Rights**

Globalization has accelerated the expansion of international human rights. They surpass national boundaries and governmental frameworks, expanding their impact on a global scale. They have become a prominent subject of conversation in almost all societies, addressing the concerns of both influential and marginalised individuals, as well as institutions and communities.⁵ Safeguarding the inherent worth and respect of every individual is imperative for fostering a cohesive society, as any infringement upon this dignity can yield significant repercussions for both individuals and the collective. Every individual possesses inherent rights by virtue of their humanity, and it is imperative that these rights remain inviolable. These rights are commonly known as human rights and are also referred to as fundamental, natural or basic rights. Although the term “human rights: originated in the 20th Century, the concept of these rights has existed since the beginning of human civilization. The notion of human rights has undergone a gradual transformation and has required a significant amount of time to reach its current state.

The Universal Declaration of Human Rights was adopted by the UN

⁴ Dinah Shelton, ‘Protecting Human Rights in a Globalized World’ (2002) 25(2) Boston College International and Law Review
<<https://dashboard.lira.bc.edu/downloads/595a4390-7a25-4056-bfb4-e641e71ae56b>> accessed 12 October 2023

⁵ Robert McCorquodale & Richard Fairbrother, ‘Globalization and Human Rights’ (1999) 21 Human Rights Quarterly <<https://www.jstor.org/stable/762672>> accessed on 12 October 2023

General Assembly in 1948 and emerged as a response to the lessons learned from the Second World War. The International Covenant on Civil and Political Rights 1966, the International Covenant on Economic, Social, and Cultural Rights 1966, and the Optional Protocol to the International Covenant on Civil and Political Rights 1966 were also subsequently adopted. Since then, the majority of nations have accepted the notion that human beings possess rationality and, by virtue of their humanity, are entitled to certain inherent and inviolable entitlements referred to as human rights. Human Rights are inherent entitlements that are universally valid for all individuals, regardless of their nationality, place of residence, language, race, religion, gender or any other distinguishing trait. Every individual possesses these fundamental human rights in an equitable manner, and they must not be withheld on the basis of discrimination. These rights are intrinsically linked, mutually reliant and indivisible. The U.N. General Assembly has called globalization “not merely an economic process but has social, political, environmental, cultural and legal dimensions which have an impact on the full enjoyment of all human rights”.⁶ The establishment of principles for globalization is greatly influenced by international human rights norms and standards. Their focus lies on promoting values such as active involvement, equal treatment, empowerment and responsibility.

The following elements of globalization have the potential to impact human rights jurisprudence.

- I. The Evolving Role and position of States: State Sovereignty is put to test by globalization, which forces governments to put the interest of multinational corporations ahead of local needs. This may make it harder for states to uphold human rights, particularly when faced with pressure from outside governments and corporations.

⁶ UNGA Res 55/102 Globalization and its impact on the Full Enjoyment of All Human Rights (2000)

- II. The proliferation and growing impact of multinational corporations (MNCs): Presently, multinational corporations possess significant economic and political influence, but they do not have explicit, legally enforceable responsibilities regarding human rights. They exert significant influence over the formulation of policies in crucial domains, and although their involvement can be advantageous for consumers, that they are also entailed in transgressions against human rights and detrimental effects on the environment.
- III. Technology and globalization: Technology plays a significant role in globalization, affecting human rights in multiple ways. Although it facilitates worldwide dissemination of information and cooperation, it also gives rise to concerns such as privacy matter. The economic variables in the production and distribution of technology can have an impact on the future years of human rights, possibly favouring certain groups over others.
- IV. Free market dependence: Globalization relies on free markets and economic efficiency, which can promote or hinder human rights. Trade law and human rights disagree, leaving it unclear if free market principles can effectively support human rights.
- V. Consumerism: Globalization relies on consumerism, but it often emphasizes corporate profits over the interests of consumers, distorting choices and ignoring health and safety, undermining human rights.
- VI. Globalization and women: Globalization has created new jobs for women, who have contributed to family income and independence but also face exploitation. Violence and human rights violations, especially for women migrant workers, who are often drawn from vulnerable communities and find themselves in precarious situations abroad.

- VII. Indigenous community Rights: The international community is becoming worried about the indigenous rights breaches after years of apathy. The North American Free Trade Agreement of 1994 and the Indian revolt in Chiapas, Mexico, highlighted economic and social rights breaches, promoting the UN to contemplate a proclamation of their rights.
- VIII. Rights of Workers and Globalization: Cheap labour becomes a competitive advantage in the new economy, resulting in terrible working conditions and labour rights violations in developing countries.⁷

III. HUMAN RIGHTS IN INDIA

India, the world's largest democracy, prioritizes human rights. These rights are explicitly recognised and valued in the Indian Constitution, reflecting the country's commitment to democracy. The Universal Declaration of Human Rights covers civil, political, social, economic and cultural rights. Most of these rights are protected by India's Constitution. Part III of the Indian Constitution covers all the civil and political rights under the heading "Fundamental Rights", while Part IV covers social cultural and economic rights under the heading "Directive Principles of State Policy". To protect and uphold human rights in India, all laws must comply with the Constitution.⁸ Human rights are ultimately protected by the judiciary. In addition to protecting Constitutional rights, it has expanded the scope of fundamental rights by interpreting them. Consequently, individuals have both enumerated and unenumerated rights.⁹ The judiciary has played a significant role in addressing a wide

⁷ Santoshkumar M Katke, 'Globalisation and Human Rights: An overview of its Impact' (2018) 5(4) IJRAR <<https://www.researchgate.net/publication/343775509>>accessed on October 14 2023

⁸ S. K. Kapoor, *International Law and Human Rights* (17th edn, Central Law Agency 2009) 817

⁹ Amartish Kaur, 'Protection of Human Rights in India: A Review' (2017) 2(1) *Jamia Law Journal* <https://www.academia.edu/34013359/Protection_of_Human_Rights_in_India_A_Review>

range of issues pertaining to globalization and its impact on fundamental rights interpreting to include unenumerated human rights under the fundamental rights especially Article 21 such as “right to health, right to livelihood, right to shelter, right to rehabilitation, right to food, right to medical aid, right to equal pay, right to education and many other issues pertaining to children and women”.¹⁰

IV. CASE STUDIES

Numerous cases exist where detrimental consequences of globalization, especially by multinational corporations’ activities, are evident, clearly showcasing the violation of human and fundamental rights for a large number of individuals. It is undeniable that these corporations have caused more harm than good, and unfortunately, this trend persists.

- ***Perumatty Grama Panchayat v. State of Kerala***¹¹

In 1999, Hindustan Coca-Cola Beverages Private Ltd. opened a plant in Plachimada, Kerala. It extracted 510000 litres of water daily, polluting groundwater and causing toxic waste. Local protesters demanded plant closure. The Perumatty Panchayat denied license renewal in 2003, citing resource exploitation. Coke appealed to the Kerala High Court, which overturned it. The Supreme Court allowed the company to withdraw 500000 litres of groundwater daily in 2005. The factory was locked down in 2004. Coca-Cola surrendered its license and announced it would not produce in Plachimada in 2004.

w_Amartish_Kaur_pdf> accessed on 13 October 2023

¹⁰ Gopal Subramaniam, ‘Contribution Of Indian Judiciary To Social Justice Principles Underlying

The Universal Declaration Of Human Rights’ (2008) 50(4) Journal of the Indian Law Institute < <https://www.jstor.org/stable/43952179>> accessed on 12 October 2023; Manoj Mate, ‘Globalization, Rights, And Judicial Review in Supreme Court of India’ (2016) 25(3) Washington International Journal

<<https://digitalcommons.law.uw.edu/wilj/vol25/iss3/8/>> accessed on 11 October 2023

¹¹ . *Perumatty Grama Panchayat v. State of Kerala* 2004 (1) KLT 731

The excessive extraction of groundwater had detrimental effects on the availability and quality of water, thus violating the right to water, which is considered a fundamental human right. The pollution and contamination caused by the plant's operations had adverse effects on the local population. This implicates the right to health¹², as it involves the right to enjoy the highest attainable standard of physical and mental health. The adverse impact on agricultural yield and the environment affected the livelihoods of people in the area, essentially violating the right to work¹³ and the right to an adequate standard of living¹⁴, which includes the right to food¹⁵. The local community's protests and actions reflect their desire to participate in decisions that affect their environment and health. This violates the right to participate in public affairs and the right to information, all interpreted under Article 21 which states that every person has a right to live with dignity. ¹⁶

- ***Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest***¹⁷

In this case, Vedanta Alumina Ltd. sought environmental clearance for an alumina refinery project in Orissa. The clearance was granted, but concerns arose about its impact on the Dongria Kondh tribe, environmental damage and lack of proper clearances. The clearance was revoked, and the Supreme Court barred Vedanta from the project. However, the court allowed Vedanta to resubmit its proposal with safeguards, finally approving it in 2008. This led to protests by the Dongria Kondh and garnered International support. The Supreme Court's

¹² Universal Declaration on Human Rights (adopted 10 December 1948) 217 A(III) (UNGA), art 25

¹³ *ibid* art 23

¹⁴ *ibid* art 25

¹⁵ *Ibid* art 25

¹⁶ Shagufta Yasmin and Mohd Imran, 'Corporate Responsibilities of MNCs: Cases of Human Rights Violation (2018) 1 ICSSR <

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3817011> accessed on 12 October 2023

¹⁷ *Orissa Mining Corp. ltd. v. Ministry of Environment & Forest* (2013) 6 SCC 476

judgement was delivered in 2013, where the court linked indigenous rights, the constitutional protection of STs (Article 244) and religious rights (Articles 25 & 26). The Supreme Court's judgment sets a precedent for projects with environmental and social consequences, highlighting the need for genuine development that does not compromise the existing quality of life.¹⁸

The court, through its power of judicial process and judicial activism, played a pivotal role in interpreting unenumerated rights, which encompass human rights aligned with the international human rights standards. This interpretation expanded the scope of protection and recognition of these rights, ensuring that they are upheld and respected within the constitutional framework of India. By recognising these unenumerated rights as fundamental rights, the judiciary elevated their legal standing and significance. This empowered individuals to seek legal remedies and redress when their human rights are violated, aligning India's constitutional framework with international human rights norms and standards.

V. POTENTIAL SOLUTIONS AND RECOMMENDATIONS

To address the complex interaction between globalization and human rights in India, a series of solutions and recommendations have been proposed. This comprehensive strategy aims to strike a balance between economic progress and safeguarding human rights in the face of rapid globalization. The emphasis is laid on need to strengthening regulatory frameworks, legal reforms, education and international cooperation.

Regulatory frameworks should be strengthened to enforce environmental and labour regulations, while stricter regulations should be developed for resource extraction, pollution control, and labour conditions, which are

¹⁸ Shagufta Yasmin, n10

basic human rights.

Legal reforms are necessary to protect human rights, including protections for indigenous communities and vulnerable populations affected by globalization. Education campaigns targeting corporations, government officials, and the public should emphasise the importance of respecting human rights.

Government oversight and enforcement mechanisms must be strengthened to ensure corporate compliance with human rights and environmental standards. International collaboration and information sharing are essential for addressing cross-border issues arising from globalization's impact on human rights. Research and monitoring initiatives are needed to assess the ongoing impact of globalization on human rights. Sustainable development practices, such as renewable energy, conservation efforts and sustainable agriculture, are crucial for reducing the negative environmental impact of globalization. Access to justice for marginalized and vulnerable communities is also essential.

By implementing these measures and fostering cooperation among governments, multinational corporations, civil society and international organisations, India can work towards a more harmonious coexistence between economic progress and human and human rights protection in the era of globalization.

VI. CONCLUSION

This research shows that globalization has major effects on human rights, especially in developing nations like India. The paper acknowledges that human rights are universal, protecting the well-being and dignity of all people regardless of nationality, culture or location. It emphasises on the multinational corporation's influence on the global economy and the difficulties of balancing economic growth and human rights. The judiciary's active role of interpreting unenumerated rights as fundamental

rights in the Indian Constitution is crucial to protect these rights. This interpretation allows people to seek remedies for human rights violations, reinforcing international human rights norms.

The Plachimada Coca-Cola plant and Vedanta Alumina project demonstrate how corporate activities can violate human and fundamental rights. Comprehensive solutions and recommendations address the complex relationship between globalization and human rights. India and the world can balance economic growth and human rights by implementing these measures and encouraging stakeholder collaboration. Sustainable and responsible development that respects human dignity and well-being is the goal of this approach.

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