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## Violation of Human Rights in the name of National Security- Justifiable or not?

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*Human rights are said to be the most basic feature of our Indian Constitution that have been derived from the case Keshavananda Bharti v the State of Kerala.<sup>1</sup> They are the fundamental rights that are given to all citizens under Article 12 to 35<sup>2</sup>, Part III of the Indian Constitution. The rights of every human being are being violated in one or the other way by a separate person or community or by a public authority. Therefore, this topic has become one of the most triggering topics of the country that led to many questions against the Government. One of the most frequent questions is, “Can human rights be violated in the interest of National security? Whether a violation of human rights can be justified?” This article discusses the answers to these questions and also about the violations that have been taking place recently in name of this covid pandemic, war, safety, and many other reasons.*

**Keywords:** *human rights, pandemic, cyber security, citizenship, aadhar card.*

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### INTRODUCTION

National security is the security provided by the Government, including its citizens, economy, and institutions. In the early days, national security is said to be the non-military security that

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<sup>1</sup> *Keshavanda Bharati v State of Kerala* (1973) 4 SCC 225

<sup>2</sup> Constitution of India, 1950, art 12-35

is given against military attacks, but now, the word has expanded to the security of economy, technology, health, and many more. Since national security is expanded to all things, human rights are also been limited day by day. Every citizen has the right to do things that they wanted to do unless and until they are legal. But, now even the legal things that they do are being limited and moreover, in many cases, the national security takes advantage of this situation to torment people which leads to violation of human rights.

## HUMAN RIGHTS

*“Human rights are not a privilege conferred by the government. They are every human being’s entitlement by virtue of his humanity.”* Human rights are the fundamental rights that are given to all citizens under Article 12 to 35, Part III of the Indian Constitution. Human rights are considered the most basic principle of our Indian Constitution that is given to all citizens of India irrespective of their sex, religion, caste, race, or birthplace. The importance of Human rights was developed between the years 1947 to 1949. There are six Fundamental rights under Indian Constitution. They are:

ARTICLE	FUNDAMENTAL RIGHTS
Article 14-18 <sup>3</sup>	Right to equality
Article 19-22 <sup>4</sup>	Right to freedom
Article 23-24 <sup>5</sup>	Right against exploitation
Article 25-28 <sup>6</sup>	Freedom of religion

<sup>3</sup> Constitution of India, 1950, art 14-18

<sup>4</sup> Constitution of India, 1950, art 19-22

<sup>5</sup> Constitution of India, 1950, art 23, 24

<sup>6</sup> Constitution of India, 1950, art 25-28

Article 29-30 <sup>7</sup>	Cultural and educational rights
Article 32 and 226 <sup>8</sup>	Right to constitutional remedies

The rights have their origins in many sources such as England’s Bill of Rights, Rights of Man, and Rights of Women. The constitution also provides other rights that are not mentioned as fundamental rights such as the right to property. Fundamental rights are brought with the aim of overturning the inequalities of Aryan culture and also abolishing discrimination on the basis of religion, sex, race, and caste.

### **NATIONAL SECURITY**

*“There is no world of absolute, complete privacy or a world of complete National Security.”* Security in India is the most important duty of the state in order to protect the interests of the citizens. This national security is a non-military organization formed under specific laws or acts to provide protection against military attacks and to protect public interests. However, these laws conferred various unregulated and unofficial powers that led to the violation of human rights. Thus, national security has made a negative impact on the people of India. At first, national security legislation was passed during the colonial rule which was against human rights. During colonial rule, Britishers used various preventive measures to conquer the people of India. One of those preventive measures is called the Rowlatt act. This act allows Britishers to arrest the protestors for up to 2 years under the name of “suspicion”. This act did not allow for the right to be represented in counsel or the right to appeal. This act was made during Mahatma Gandhi’s protest against British Government.

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<sup>7</sup> Constitution of India, 1950, art 29, 30

<sup>8</sup> Constitution of India, 1950, art 32, 226

Some of the Securities Act that was brought in India are,

YEAR	ACT	REASON
1950 - 1969	Preventive Detention Act <sup>9</sup>	Due to the partition of India, there was widespread communal violence and internal disturbance in the country. So, to prevent its territory and to secure the rights of its citizens, the PDA was presented by Sardar Vallabhbhai Patel in the parliament. This was a temporary act.
1958 - now	Armed Forces Special Powers Act <sup>10</sup>	Various violent activities were ongoing in the state due to a movement called the separatist movement. Therefore, to control such violent activities in the north-eastern states, the government of India introduced the Armed Forces (Special Powers) Act
1967 - now	Unlawful Activities Prevention Act <sup>11</sup>	To punish those people who indulge in unlawful activities for causing a disturbance in the sovereignty and integrity of India.
1971 - 1977	Maintenance of Internal Securities Act <sup>12</sup>	The main aim of the MISA was to put more restrictions on detained persons.

<sup>9</sup> Preventive Detention Act, 1950

<sup>10</sup> Armed Forces Special Powers Act, 1958

<sup>11</sup> Unlawful Activities Prevention Act, 1967

<sup>12</sup> Maintenance of Internal Securities Act, 1971

1980 - now	National Security Act <sup>13</sup>	This Act provides powers to the Central and State governments to detain individuals for protecting the national security and interests of its citizens.
1985 - 1995	Terrorists and Disruptive Activities <sup>14</sup>	To control the separatist activities spread across the country and especially the terrorist activities in Punjab.

According to the above-mentioned table, the most criticised act was National Securities Act which is being followed till now. This act was provided to protect the national security and interests of the citizen. However, this act earns more criticism since it does not provide the reason for the arrest of a person under the National Securities act and it also allows arresting of a person for up to 12 months under suspicion. There have been no records found on the number of arrests under this act even by the National Crime Records Bureau(NCRB). Hence, this act is said to be the main cause of violation of human rights. Recently in Indore, 4 people were arrested for throwing stones at health workers under this NS act. Therefore, the applicability of this act is extended to more than its reason for bringing the action.

### **VIOLATIONS OF HUMAN RIGHTS CAUSED BY THE NATIONAL SECURITIES ACT**

Aadhar card is also one that was controlled by cyberspace. The biometrics obtained for the Aadhar card, the personal details of an individual, and other important details were collected and uploaded in cyberspace for obtaining the Aadhar card. However, the Aadhar breach was the highest data breach in the year 2018. Aadhar card scheme contains the most sensitive personal data of the citizens such as retina biometrics, fingerprints, account details, passwords, Pan card ID, Voter ID, license, etc. More than 1,000,000,000 people’s data have been disclosed illegally to corporate firms for the purpose of earning profit. This issue became great

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<sup>13</sup> National Security Act, 1980

<sup>14</sup> Terrorists and Disruptive Activities Act, 1987

sensational news in 2018 by the justice Puttaswamy case and this case led to the violation of the Right to privacy.

### **Violation of Right to Access Internet:**

In this covid pandemic, the right to access internet communication was restricted since 2019 which adversely affected livelihoods, especially in the Kashmir valley. According to the Kashmir chamber of commerce and industry, the first three months of lockdown were provided to prevent protests since August 2019 cost the economy over US\$2.4 billion, for which no redress was provided. Losses nearly doubled since the government imposed further restrictions to contain the spread of Covid-19 in March 2020. The pandemic made access to the internet crucial for information, communication, education, and business. However, even after the Supreme Court said in January that access to the internet was a fundamental right, authorities permitted only slow-speed 2G mobile internet services, leading doctors to complain that the lack of internet was hurting the Covid-19 response.<sup>15</sup>

### **Violation of Right to Freedom of Press:**

In June, the government imposed a new media policy in Jammu and Kashmir which allows the authorities to decide what is fake news, plagiarised and un-ethical or anti-national activities, and take action on press accordingly. This led overboard of the policy and restrictions on freedom of the press to speech and expression. According to the statistics, India is ranked as one of the most dangerous countries for journalists in the world with a number of 8 deaths in one year i.e., 2020. Whereas other countries such as Mexico with a number of 14 deaths, Afghanistan with 10, Pakistan with 9, and Philippines and Syria with 4 deaths in the year 2020. In the year 2021, according to the report given by reporters without border, India is ranking as 142<sup>nd</sup> freedom of press out of 180 countries<sup>16</sup>: according to this statement, we can assume that

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<sup>15</sup> 'Right to access internet communication was restricted' (*Human Rights Watch*, 28 March 2020) <<https://www.hrw.org/world-report/2021/country-chapters/india>> accessed 06 February 2022

<sup>16</sup> Sobhana K. Nair, 'India again placed at 142nd rank in press freedom' (*The Hindu*, 21 April 2021) <<https://www.thehindu.com/news/national/india-again-placed-at-142nd-rank-in-press-freedom/article34377079.ece>> accessed 06 February 2022

India is ranking as nearly 32<sup>nd</sup> country in the list of most dangerous countries for journalists in the world.

### **Violation of Religion:**

The government of India imposed harsh and discriminatory provisions against Muslim-majority contained states such as Jammu and Kashmir since when the constitutional status was revoked in August 2019 and splitting it into two territories. Attacks on Muslim minorities were also made by the BJP parties. Many people of Jammu and Kashmir were detained under Draconian Act which allows arresting a person without trial for up to two years<sup>17</sup>.

### **OVERBOARD SPECIAL FORCES**

In this Covid pandemic, The Armed forces (special powers) act gave uncontrollable powers to security forces from prosecution. This led the security forces to kill three people in the Shopian district stating that they are militants. After this incident, their photos were circulated through the internet and they were been identified by their families saying that they are laborers and not militants. However, the security forces continued using shotguns to disperse the public protests. Moreover, police have been continuously arresting people in custody and also torturing them on the ground of lockdown violation. Recently in Tuticorin, Tamil Nadu, two men named Jayaraj and his son Bennick who owned and opened a mobile accessories shop during the lockdown was taken under custody and were been tortured to death by the police. This case sparked massive outrage in the state over police Brutality<sup>18</sup>.

### **IS NATIONAL SECURITY IMPORTANT?**

When there is a conflict between national security and people on the ground of violation of human rights, then a question arises, whether national security is really important for the country? Yes, national security is really important for the growth and safety of our country.

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<sup>4</sup> 'Discriminatory provisions against Muslim-majority' (*Human Rights Watch*, 28 March 2020)

<<https://www.hrw.org/world-report/2021/country-chapters/india>> accessed 07 February 2022

<sup>18</sup> 'Thoothukudi custodial death: Sathankulam cop free from charges under IPC Sec 188' (*The New Indian Express*, 26 September 2021) <<https://www.newindianexpress.com/states/tamil-nadu/2021/sep/26/thoothukudi-custodial-death-sathankulam-cop-free-from-charges-under-ipc-sec-188-2363907.html>> accessed 07 February 2022

Even a small threat in the country leads to a huge disaster. In order to safeguard us and the welfare of the country, we are in need of national security irrespective of the other consequences. However, in order to safeguard our human rights, we are in need of the most perfect law and government to regulate the national security force.

**The main objective of our national security in India are:**

- Assuming our rightful place in the global affairs;
- Achieving a secure neighbourhood;
- Peaceful resolution of internal conflicts;
- Protecting our people;
- Strengthening our capabilities.

**CONCLUSION**

*“The increased security threats against the country should not make an excuse for returning to previous human rights violations.”* National security is brought in order to protect citizens from the threat and not to threaten the citizens by violating their human rights. Every citizen born in this has the right to do the things that they wanted unless it is legal. However, if this national security threatens human rights by violating it then it not only causes a violation of human rights but also a violation of the humanity of the citizens. National security is peace whereas, human rights is humanity. Therefore, when humanity is disturbed then, there comes no peace in the country. There is no need for national security to indulge themselves in the human rights of the citizens until the person is suspicious or it is necessary. The only solution for proper national security is, to provide transparency in the operation of security or to divide national security from politics. Any arrests that are made under the National Securities act must be made transparent and the person who is arrested must also be given information about the ground of arrest and he/she must be brought to the court within 24 hours so that his/her rights are not violated. Therefore, human rights cannot be violated in favor of national securities.