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## Globalisation emerging as a factor towards violation of Human Rights in Developing Nations: A Critical Analysis

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*This article analyses globalisation and its effects on human rights in developing countries. Most developing nations do not enjoy the benefits offered by globalisation as it is distributed unequally. Globalisation has played a massive role in making the world what it is today regarding technological advancements to education. Even though globalisation has significant advantages, it does not cover up the fact that the gap between the rich and poor has only increased. Human rights of least developed nations have received a massive blow because of the transnational companies as they recruit labourers from these nations at a meager wage rate and force them to work under unhygienic conditions.*

**Keywords:** *globalisation, human rights, developing nations, least developed nations.*

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## INTRODUCTION

Human rights refer to the inherent rights of a human being irrespective of caste, creed, sex, and nationality. Human rights are fundamental and inalienable. All human beings possess human rights simply because they are human beings. The United Nations, through the Universal Declaration of Human Rights (1948)<sup>1</sup>, played a crucial role in establishing a common standard concerning human rights. Although the declaration is not legally binding, most national constitutions have adopted the provisions enumerated in the declaration concerning human rights. The adoption of UDHR has given human rights a global aspect. The primary concern of every state is to take all necessary measures to protect and respect human rights. The 21st century is often described as the era of globalisation. Globalisation can be explained as the process of integrating economies and markets at a global level. Globalisation has linked the economies and has brought together different cultures from around the world.<sup>2</sup> From technological advancement to providing greater access to global markets, globalisation has played a crucial role at the international level. While the process of globalisation has brought with it significant benefits, it also has negative impacts, especially on human rights.

As a result of the integration of markets, an increase in transnational corporations' presence was evident. The increased presence of corporations gave rise to labour rights violations, especially among developing countries. Due to the rising levels of migration worldwide, the number of refugees also increased, which paved the way for undocumented labourers vulnerable to abuse and unhygienic working conditions working in transnational corporations. The governments often turn a blind eye towards these corporations in fear of losing foreign investors. On the other hand, tourism growth can be linked to the increase in trafficking and prostitution of women and children. Increased deforestation, industrial exploitation, and pollution in the lands of indigenous people result in the violation of their rights concerning the enjoyment of their culture and development. Globalisation as such does not violate the rights of individuals but in a negative way influences the realisation of human

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<sup>1</sup> Universal Declaration of Human Rights, 1948

<sup>2</sup> 'Human rights under threat in era of globalization' (DW, 26 January 2011) <<https://www.dw.com/en/human-rights-under-threat-in-era-of-globalization/a-15108296>> accessed 09 February 2022

rights at an international level. There should always be a balance between the process of globalisation and human rights.

## **RESEARCH QUESTION**

The United Nations General Assembly on the impact of globalisation on human rights believes that even though globalisation offers excellent opportunities, its benefits and costs are not evenly shared or distributed. It highlights the aspect that human rights have not been thoroughly enjoyed, particularly in developing countries.

## **RESEARCH METHODOLOGY**

The method of research employed is explanatory research. This method aims at explaining the “why” concerning a particular study at hand. Factors or reasons behind the happening of an event are explained using reasoning. Secondary resources, including research papers and articles written by eminent scholars, have been examined and analysed in detail in this research.

## **BACKGROUND**

The origin of human rights could be traced back to 539 B.C when Cyrus the Great conquered the city of Babylon, and after freeing the enslaved people, he declared that all people had the right to choose their religion and established racial equality, thus marking the first-ever human rights. Human rights could be explained as moral principles or norms describing the standards of human behaviour. These are inalienable and basic rights to which individuals are inherently entitled to just because of the fact of them being human beings. Human rights gained much importance only after establishing the United Nations Organisation in 1945. There was no international human rights law regime for many centuries in place.

International law supported and colluded in many of the worst human rights atrocities, including the Atlantic Slave Trade and colonialism. Only in the nineteenth century did the

international community adopt a treaty abolishing slavery<sup>3</sup>. Human rights are indivisible and interdependent, so it is impossible to categorise these rights. However, after subsequent developments in the field of human rights the United Nations classified the rights into two kinds, namely:

- **Civil and Political Rights** - Civil rights are those kinds of rights that are related to the right to life and personal liberty. Political rights are those that allow an individual to participate in the decision-making process of government.
- **Economic, Social, and Cultural Rights** - These are the rights that are essential for human beings to have minimum necessities of life.

Globalisation has undoubtedly influenced all kinds of human rights, whether civil, political, economic, social, or cultural. Thus, it becomes crucial to critically analyse globalization's relation to human rights.

## **GLOBALISATION AND ITS IMPACT ON HUMAN RIGHTS IN THE DEVELOPING COUNTRIES**

Globalisation has played a significant role in the upliftment of developing countries. Before the advent of globalisation, developing countries could not participate in world trade due to the barriers that kept them from having economic growth at the same rate as developed nations<sup>4</sup>. The process of globalisation has helped the developing countries increase their economic growth, which has reduced their poverty problem. Developing nations also opened up their market for the world by reducing tariffs and other trade barriers. The people in the developing countries were able to use the employment opportunities that had opened due to globalisation, which also made transportation more accessible and faster. Irrespective of how globalisation has helped developing nations grow economically, globalisation has widened the gap between developed and developing countries. Many developing nations can reap the benefits from globalisation, but certain countries still exist that are too poor even to take the benefits.

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<sup>3</sup> Frans Viljoen, 'International Human Rights Law: A Short History' (*United Nations*) <<https://www.un.org/en/chronicle/article/international-human-rights-law-short-history>> accessed 07 February 2022

<sup>4</sup> Dr. Rajendra Prasad. N.L, 'An Overview and its Impact on Globalisation and Human Rights' (2018) 6 (4) IJCRT <<https://www.ijcrt.org/papers/IJCRT1133288.pdf>> accessed 07 February 2022

Developing nations like China and India have significantly developed from globalisation, but countries like Africa still have high poverty rates and lag behind development. Developed nations establish their multinational corporations and factories in these developing nations to employ people from these countries at a low wage and in unhygienic working conditions, thereby violating fundamental human rights. The opponents of globalisation claim that this process at all times has benefitted the transnational corporations at the expense of local cultures, local enterprises, and the ordinary people of the developing nations<sup>5</sup>. Due to poor economic situations, people from developing nations tend to migrate to more prosperous countries searching for work. The developing countries take undue advantage of their weak financial status as they are forced to work at low wages and have abusive working conditions. Human trafficking, especially of women, often takes place under the pretext of job offers in these rich countries.

The paradigm of human rights also includes access to proper health care. Globalisation has had a significant impact on health rights at an international level. The process has opened up fear to bioterrorism and SARS pandemics, which conflict with the concept of primary health rights. Increased global trade and travel as a result of globalisation have increased the rate at which infectious diseases spread worldwide. The recent outbreak of SARS Covid could be cited as a perfect example in this context. The developed countries will be equipped to combat such conditions due to their robust financial system and technological advancements. But this may not be the situation of developing and the least developed countries. They are faced with the problems of lack of financial stability, least or no technological advancements, and, poor access to medical facilities. Developing country governments also face the problem of maintaining a consistent budget for their public health care system, thereby violating people's access to fundamental human rights.<sup>6</sup>

The rights of indigenous people being violated is not a new scenario. Still, the recent economic developments and increased competitiveness among the corporations have had a much more

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<sup>5</sup> Barbara Stallings, 'Globalisation and Liberalisation: The Impact on Developing Countries, United Nations Shabina Arfat, Globalisation and Human Rights: An overview of its Impact' (2013) 1 American Journal of Humanities and Social Sciences

<sup>6</sup> Michael D. Pendleton, 'A new Human Right- the Right to Globalisation' (1998) 22 (5) Fordham Int'l L.J., 2052 <<https://ir.lawnet.fordham.edu/ilj/vol22/iss5/6/>> accessed 07 February 2022

impact on their rights. The entering into the North American Free Trade Agreement of 1994 demonstrates the link between globalisation and the rights of indigenous people.

### **HOW ARE HUMAN RIGHTS IMPLEMENTED AND PROTECTED?**

In the era of globalisation, proper implementation and protection of human rights are crucial. The United Nations protects and promotes human rights in several ways. There are ten human rights treaty bodies that are committees consisting of independent experts to monitor the member nations' implementation of fundamental human rights. The United Nations Human Rights Council conducts a universal periodic review to systematically review the member states' implementation and other human rights issues<sup>7</sup>. The United Nations at times even appoint independent experts or representatives so as to address the human rights issue that may arise in a particular country. The experts thus appointed may conduct interviews, visit that specific country, and submit a report to the UN mentioning the recommendations.

The Human Rights Committee established by the United Nations often takes up communications made by individuals of the member states who claim to be the victims of the violation of the human rights recognised under the International Covenant on Civil and Political Rights (1966) and its Optional Protocol. The UN General Assembly adopted the Covenant to provide human rights to individuals and make it binding on the member states to give effect to those rights since the UDHR was not a legally binding instrument. The states that are parties to the covenant must submit reports concerning the measures they have adopted to affect the rights recognised by the covenant. As a developing country, India has a proper mechanism concerning the protection and implementation of human rights. The Constitution of India that came into force on the 26th of January 1950 was greatly influenced by the Universal Declaration of Human Rights. Most human rights enumerated under the Declaration, Covenants, and other human rights conventions were incorporated as fundamental rights under Part III of the Constitution<sup>8</sup>. The Indian Judiciary has also played a

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<sup>7</sup> Benjamin Mason Meier, 'The Highest Attainable Standard: Advancing a Collective Human Right to Public Health' (2005) 37 Columbia Human Rights Law Review

<sup>8</sup> Constitution of India, 1950, Part 3

crucial role in protecting and implementing human rights enumerated under the covenants and conventions.

- The right to a speedy trial has been recognised as a human right under the UDHR. Even though under the Indian Constitution, speedy trial is not expressly identified as a fundamental right, the Supreme Court in *Hussainara Khatoon v Home Secretary, State of Bihar*<sup>9</sup>, held that the right comes under the ambit of Article 21<sup>10</sup> of the Constitution.
- The Covenant on Civil and Political Rights has recognised the right of a person who has been a victim of unlawful arrest or detention entitled to rightful compensation. This right to get compensation is not explicitly laid down as a fundamental right under the Indian Constitution. However, the Apex Court of India, in the case of *Rudul Shah v State of Bihar*<sup>11</sup>, held that if a person violates the right to life and liberty enshrined under Article 21 is liable to pay the compensation to the victim.
- The adoption of the Public Interest Litigation as a legitimate method to enforce fundamental rights has also been a welcoming step from the Supreme Court of India for the protection of human rights.

The Parliament of India has also enacted the Protection of Human Rights Act, 1993<sup>12</sup>, to strengthen human rights and establish the National and State Human Rights Commission. The government has also taken initiatives to protect human rights by implementing policies like Corporate Social Responsibility for protecting the environment and, the government also performs such other duties as prescribed by the Constitution as the Directive Principles of State Policies under Part IV<sup>13</sup>. The Indian government, at times, gets caught up with reaping the financial benefits of globalisation, and they turn a blind eye towards the adverse effects the process has on human rights. Therefore, it can be said that the government must implement strong policies for human rights protection keeping aside the economic benefits of globalisation.

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<sup>9</sup> *Hussainara Khatoon v Home Secretary, State of Bihar* 1979 AIR 1369

<sup>10</sup> Constitution of India, 1950, art. 21

<sup>11</sup> *Rudul Shah v State of Bihar* 1983 AIR 1086

<sup>12</sup> Protection of Human Rights Act, 1993

<sup>13</sup> Constitution of India, 1950, Part 4

## CONCLUSION

Globalisation has indeed played an enormous role in making the world how it is today. Technological advancements, the present educational system, global trade, upliftment of women and children, advanced medical procedures, communications systems are all the boons of the process of globalisation. The existence of these boons does not mean that one must turn a blind eye towards the ill effects that globalisation brought with it. The increased rate of globalisation in the present scenario has had a massive impact on the human rights of developing nations. The primary duty of every state must be to protect the fundamental human rights of its citizens. A positive framework of human rights involves the governments acting in favour of achieving human rights' social, cultural, and economic aspects<sup>14</sup>. Nowadays, the governments of developing countries are in a race behind attracting the Trans National Corporations for the financial advantage. These TNCs then act in a detrimental manner which puts the human rights of individuals in these developing countries in jeopardy. Most of the activities of TNCs cause harm to the environment and disrupt the health of the individuals of these developing countries by either exposing them to tobaccos or other harmful gases. A clean environment and health are recognised as fundamental human rights under the Universal Declaration of Human Rights (UDHR).

Globalisation offers many benefits to all economies, but it is not an unknown fact that these benefits are not evenly distributed. The truth is that globalisation created a wide gap between the rich and emerging countries. The human rights of these developing countries also took a massive blow as the rich countries worked only to reap the financial benefits with no concern towards the impacts that may have on developing countries. For human rights to establish internationally, the more affluent countries must shift their current short-term working plan for just trade and finance to a more acceptable plan incorporating the developing and least developed countries. Suppose the developed countries adopt long-term strategies to benefit the whole of the global economy rather than just working for their benefit. In that case, there might be a scope of improvement in the development of human rights. The promotion of

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<sup>14</sup> Khalid Abas Rashid Kurachi, 'Human rights in developing countries and its relationship with country's economic development' (2018) 2 (3) IJREH

human rights in this globalised era should not be treated as an isolated cause. Instead, it must be treated as a way to attain much more development in developing countries.