



A VIEW OF NATIONAL SECURITY LAWS FROM THE STANDPOINT OF HUMAN RIGHTS

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I. Introduction:

Many countries have regarded the promotion of human rights as well as the protection of national security as a major source of conflict. Every government has considered the two aims as mutually exclusive promote human rights at the expense of national security or maintain national security at the expense of high international human rights almost without exception. While human rights considerations have occasionally motivated many states, they have largely been pushed aside in favour of national security. Human rights are being subordinated to national security, which is both excessive and strategically problematic. Human rights and national security would be viewed as interdependent and complementary aims in a more practical approach. The balance between state authorities and voter rights may be viewed as a symbol of democracy. Most countries, on the other hand, include provisions in their national laws that allow governments to compel network management and block or intercept communications under the guise of a national emergency or to protect national security. It is critical that human rights are better protected around the world. The most relevant example is the incident that occurred in the NSA (National Security Agency), where the agency was involved in several voting rights violations. After exposing the actions of the National Security Agency, Edward Snowden was granted asylum by Russia. As a result, the United States should restructure its policy.¹

Human rights are widely recognized and respected. This statement is only theoretically correct. While rights are supposed to be inherent, universal, indivisible, and inalienable, this is not always the case. Human rights violations occur in all countries; however, the severity of the violations varies. Some countries abuse the human rights of a large number of their citizens. In practice, rights are not accorded the respect they deserve or are entitled to, and some countries only respect human rights in extremely restricted ways. Some countries are unable to respect and preserve human rights, while others refuse to do so. Eritrea, the Democratic Republic of the Congo (DRC), and the Democratic Republic of the Congo (DRC) are among the worst violators of human rights against their own people.

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II. Human security as a new concept:

The term "human security" has become a buzzword in a global discussion about the changing meaning of security. While similar notions spelled out in studies by global commissions such as the Brandt Commission, the Brundtland Commission, and the Commission on Global Governance in the 1970s and 1980s predated the concept of human security, In the 1994 UNDP Development Report, Mahbubul Haq primarily defined and shaped the concept of "human security" as a unique new concept. Simultaneously, Canada has embraced the

¹ Human Rights, *available at:* Terrorism and Counter-terrorism – OHCHR, <https://www.ohchr.org/>,(last visited on 07.01.2023)

² Human Rights and Constitution Making, *available at:* <https://www.ohchr.org/>,(last visited on 07.04.2023)

concept of human security and begun to frame it as a foreign policy goal.³ The Human Security Network was formed as a coalition of like-minded countries on the initiative of Canada and other countries with the goal of enhancing global human security.⁴ The work of a high-level Human Security Commission, co-chaired by Amartya Sen and Sadako Ogato, has begun. These activities have piqued academic curiosity, and the topic has since been developed and discussed among academics. Human security institutes, centers, programmers, and certificates have been established.⁵

The scientific community has expressed interest in the concept, as well as acceptance and criticism. There are definitions being suggested and debated.⁶ The debate has been influenced by a variety of fields.⁷ Human security, on the other hand, is a contentious concept in terms of definition, breadth, and utility. Its supporters regard it as an essential, opportune, and beneficial expansion of traditional security concerns, as well as a useful tool for guiding foreign policy. Lloyd Axworthy set the tone in this regard when he detailed Canada's response to the evolving definition of security. Some see it as a paradigm change or a significant deviation from established foreign policy thinking. While criticizing the conceptual flaws and lack of utility as a foreign policy tool, some authors have at least assigned to human security the role of conveniently grouping together and collectively pushing a wide range of initiatives focused on the people rather than the State or, as the case may be, the State or, as the case may be, the State or, as the case may be, the State or, as the case may be, the State or, as the case may be, the State or, as the case may be, the State.⁸

The concept has been criticized for being far too universalistic, according to critics. They have identified conceptual errors and concluded that "securitizing" situations (and the human being it represents) does not help sufferers of insecurity, but rather produces incorrect priorities and expectations.⁹ Human security has long been regarded as a concept that cannot be adequately reflected in practice. None of the initiatives on the human security agenda, it has been argued, are novel. On a more general level, human security has been viewed as antithetical to national interests and undermining foreign policy options because it allows for the justification of humanitarian intervention or, on the other hand, forces states to take actions abroad that are counter to their national interests.¹⁰

Academic analysis on the one hand, and government policy papers on the other, can be separated by two sets of definitions. Academic publications, particularly from the social sciences, international relations theory, and security and peace studies, focus on conceptual

³ history of the concept as well as for a comparison between the UNDP and the Canadian approach in greater detail Kanti Bajpai, Human Security: Concept and Measurement, Kroc Institute Occasional Paper #19: OP:1, 2000, *available at*: http://www.nd.edu/~krocinst/report/report19/abs_19_1.html, (last visited on 07.04.2023)

⁴ For information on the Human Security Network, *available at*: <http://www.humansecuritynetwork.org/network-e.asp>, /, (last visited on 07.01.2023)

⁵ A first attempt to list existing institutions and persons dealing with human security has been made by the Harvard Program on Humanitarian Policy and Conflict Research, *available at*: <http://www.hsph.org/>, (last visited on 07.01.2023)

⁶ For an overview of the definitions of human security *available at*: http://www.hsph.harvard.edu/hpcr/events/hsworkshop/list_definitions.pdf, (last visited on 02.04.2023)

⁷ Fen Osler Hampson and John B. Hay have prepared an essay on this issue: Human Security. A Review of the Scholarly Literature, 2002, *available at*: http://www.liucentre.ubc.ca/hsq/_articles/Fen_fulldocument.pdf, /, (last visited on 05.05.2023)

⁸ Roland Paris: Human Security: Paradigm Shift of Hot Air? *International Security* 26 (2001) 2, pp.87-102.

⁹ Yuen Foong Khong: Human Security: A Shotgun Approach to Alleviating Human Misery? in *Global Governance* 7 (2001), pp.231-236.

¹⁰ Walter Dorn, Human Security: An Overview, *available at*: http://www.rmc.ca/academic/gradrech/dorn24_e.html, /, (last visited on 07.01.2023)

difficulties, such as how to place the idea in the context of the respective disciplines or how to analyse human security from a foreign-policy viewpoint.¹¹

III. Security and Human Rights: A Constitutional framework:

Indian culture has been a fusion of many civilizations and religions that have come into contact with the vast Indian subcontinent over a long period of time, dating back to the Indus Valley Civilization. "An uninterrupted continuity between the present and the most ancient periods of Hindu thinking spanning three thousand years," wrote Jawaharlal Nehru.¹² The rights of man have been the concern of all civilizations from time immemorial. "The concept of the rights of man and other fundamental rights was not unknown to the people of earlier periods." Throughout the history of human civilization, human rights have been championed by Babylonian and Assyrian laws in the Middle East, the "Dharma" of the Vedic period in India, and the jurisprudence of Lao-Tze and Confucius in China.¹³ The individual, society, and the universe are all seen as one biological whole in the Indian idea. Everyone is a child of God, and we are all related to one another and part of a larger family. "I don't want to consider in terms of the entire globe," Mahatma Gandhi says in this context. My patriotism extends to the greater benefit of humanity. As a result, my service to India involves humanitarian activities.¹⁴

The Republic of India's Constitution, which has 395 articles and eight schedules, was enacted on January 26, 1950, and is one of the most complex foundational laws ever enacted. India is a sovereign, socialist, secular, and democratic republic, according to the Constitution's Preamble. The term 'democratic' refers to a government that derives its authority from the people's will. It provides the impression that they are all equal "regardless of ethnicity, religion, language, sex, or culture." The Preamble to the Constitution guarantees social, economic, and political justice, as well as freedom of opinion, speech, belief, faith, and worship, equality of status and opportunity, and fraternity, safeguarding the individual's dignity and the nation's unity and integrity. India and the Universal Declaration of Human Rights the Universal Declaration of Human Rights was signed by India. Part III of the Indian Constitution guarantees a number of essential rights to persons that are similar to the requirements of the Universal Declaration of Human Rights. The graph below illustrates this point extremely well.

A. Fundamental Rights and Human Rights:

Part III of the Constitution enshrines the judicially enforceable fundamental rights, which include all fundamental civil and political rights as well as some minority rights (Articles 12 to 35). The right to equality, the right to freedom, the right to be free from exploitation, the right to freedom of religion, culture, and education, and the right to constitutional remedies are among them. Fundamental rights are distinct from conventional rights in that they are unalienable. They cannot be abridged or taken away by any law, ordinance, custom, usage, or administrative order. Any law that violates a fundamental right is null and void. In *ADM Jabalpur v. Shukla*¹⁵ "The goal of defining certain general features of rights basic is to secure them against illegal invasion of these rights by the State's executive, legislative, or judicial organs," Justice Beg explained." Earlier, Chief Justice Subba Rao in *Golak Nath v. State of*

¹¹ Kimberly Banks: Human Security and Canadian Foreign Policy, available at: [http://af.3dgw.com/sm ss/pdf/bank, /,](http://af.3dgw.com/sm%20ss/pdf/bank,%20/,) (last visited on 03.04.2023).

¹² Jawaharlal Nehru. The Discovery of India, 2nd ed. (New Delhi. Jawaharlal Nehru Memorial Fund, 1992) 88.

¹³ Attar Chand, Politics of Human Rights and Civil Liberties - A Global Survey (Delhi: UDH Publishers, 1985) 45.

¹⁴ Jawaharlal Nehru 420

¹⁵ AIR 1976 SC 1207

*punjab*¹⁶ "Fundamental rights are the current designation for what have traditionally been recognized as natural rights," had correctly stated. These essential rights are referred to as 'Natural Rights' or 'Human Rights' by India's Supreme Court. Sikri, the then-Chairman of the Supreme Court, spoke about the fundamental liberties enshrined in Part III of the Constitution, in *Keshavananda Bharati v. State of Kerala*¹⁷ noticed, "These provisions do not, in my opinion, demonstrate that rights are neither inherent nor inalienable. In truth, India was a signatory to the Universal Declaration of Human Rights, which states that certain fundamental rights are inalienable. "The Chief Justice Patanjali Shastri in *State of West Bengal v. Subodh Gopal Bose*¹⁸ Fundamental rights are those great and basic rights that are recognized and secured as natural rights inherent in the status of a free country's citizen. Article 14 of the Indian Constitution declares that all people have the right to equal treatment under the law, while Article 15 prohibits the state from discriminating against citizens based on religion, race, caste, sex, or place of birth, and prohibits any restriction on citizens' access to public places, including wells and tanks. Article 16 guarantees equal opportunity for all people in terms of public employment. Unsociability is outlawed and made a crime under Article 17 of the Constitution. Both Articles 15 and 16 empower the state to make specific arrangements for the advancement of socially and educationally backward classes, since the Constitution recognizes that some castes and tribes (known as Scheduled Castes and Scheduled Tribes) require special treatment in order to advance. All non-military or non-academic titles are abolished under Article 18.

IV. Balance of Human Rights and security:

Clauses four through seven of Article 22 of the Constitution of India provide for certain safeguards in connection with the use of preventive detention laws. The term "preventive detention" has not been defined under Indian law, but the expression originated in the language used by English Law Lords when delineating the nature of detention under Regulation 14-B, the [Defense] of Realm Act of 1914, which was passed after the First World War to quote Lord Finlay in *The King v. Halliday*¹⁹: "This is a preventative action, not a punitive one." The goal of such legislation is to prevent criminal activity by suspects. Obviously, the executive determines: (1) the purpose for the detention; (2) the conditions in which the suspicion emerges; and (3) the reasonable and likely reasons of the imminent act. Because the framers of the Constitution anticipated that "there may arise occasions in the life of the nation when the need to prevent citizens from acting in ways that unlawfully subvert or disrupt the bases of an established order may outweigh the claims of personal liberty," preventive detention was made legal.²⁰ However, enshrining preventive detention provisions in the Constitution has posed major human rights issues in the past. The use of preventive detention has always been justified on the basis of national security. As part of the Indian Constitution, the Constituent Assembly drafted provisions allowing for the approval of preventive detention laws. In combination with Article 246, Entry 9 of List I and Entry 3 of List III gave Parliament and state legislatures this power. The main goal of bestowing the ability to adopt such legislation, which was deemed a necessary evil, was to defend the country's national security. However, this power was granted more than half a century ago, and important advances in international human rights law have cast severe doubt on the legal and human rights legitimacy of these clauses. All acts aimed to protect national security in India included provisions for preventative detention. Aside from the 1980 National Security

¹⁶ 1967 AIR 1643

¹⁷ (1973) 4 SCC 225

¹⁸ 1954 AIR 92

¹⁹ [1917] A.C. 260

²⁰ *Rajbhar v. State of West Bengal*, (1975) 3 S.C.R. 63, 70

Act (NSA),²¹ The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act of 1974, the Prevention of Black-Marketing and Maintenance of Essential Commodity Supplies Act of 1980, and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act of 1988 are the other central legislations that provide for preventive detention.;²² and (4) the Terrorist and Disruptive Activities (Prevention) Act of 1987, which lapsed in May 1995.²³ The National Security Act (NSA) was enacted by the legislature to prevent individuals from acting against the interests of the state, such as acts that harm "Indian security," "State Government security," or is "prejudicial to the maintenance of public order."²⁴ The NSA has few procedural safeguards, and it empowers the government to imprison anyone if the government believes that detaining them will prevent them from undertaking acts that might jeopardise India's order and security. Individuals may be detained under the law in order to prevent conduct that endangers "public order" or "national security." However, neither the Constitution nor the National Security Agency (NSA) defines these terms, and there is no direction as to what activities might constitute a threat to public order or national security in any given situation.²⁵ In *Lohia v State of Bihar*²⁶, the Supreme Court tried to distinguish between the concepts "security of State," "public order," and "law and order."²⁷ Justice Hidayathullah held that only the most severe acts would warrant use of preventive detention. Three concentric rings must be visualized. The largest circle represents law and order, with the next circle representing public order and the smallest circle signifying state security. It's easy to see how an act can affect law and order but not public order, or how an act can affect public order but not state security. *Roy v. Union of India*²⁸ challenged the NSA's constitutionality, but the Supreme Court held that the Act did not violate the Constitution.²⁹ Nonetheless, the court insisted on a strict interpretation of the extraordinary power of preventive detention. These cases demonstrate that, while Indian courts are hesitant to declare preventive detention laws unconstitutional, they are working to ensure that appropriate limitations on their use are imposed. It could be argued that preventive detention as described in these regulations is unconstitutional. This is in violation of well-established international human rights standards. The main goal of the framers of the Indian Constitution is to create a new socioeconomic order in which everyone is given social, economic, and political fairness, equality of position, and opportunity. This fundamental goal necessitates that all State institutions, including the Executive, Legislature, and Judiciary, work in unison to achieve the goals set forth in the Fundamental Rights and State Policy Directive Principles.³⁰ By interpreting constitutional requirements, the judiciary played a critical role in building the human rights system. The Supreme and High Courts are charged with upholding

²¹ The National Security Act, 1980, no. 65 (India), available at: <http://164.100.10.12/cgi/nphbwsgi/BASIS/indweb/all/secretr/SDW?M=1&W=actid='198065'> (last visited May 2, 2023).

²² The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, no. 46 (India), available at http://www.unodc.org/unodc/en/legal-library/in/legal-library-1989-10-20_1989-9.html (last visited May 2, 2023).

²³ The Terrorist and Disruptive Activities (Prevention) Act, 1987, no. 28 (India) available at: <http://www.satp.org/satporgtp/countries/india/document/actandordinances/Tada.htm> (last visited May 2, 2023)

²⁴ The National Security Act, 1980, no. 65, § 3 (India), available at: <http://164.100.10.12/cgilnph-bwsgi/> (last visited May 2, 2023).

²⁵ Derek P. Jinks, *The Anatomy of an Institutionalized Emergency: Preventive Detention and Personal Liberty in India*, 22 MICH. J. OF INT'L L. 311, 330 (2001).

²⁶ 1966 AIR 740

²⁷ *Lohia v. State of Bihar*, (1966) 1 S.C.R. 709.

²⁸ 1982 AIR 710

²⁹ *Roy v. Union of India*, (1982) 2 S.C.R. 272.

³⁰ N.R. Madhava Menon, *Public Interest Litigation: A Major Breakthrough in the Delivery of Social Justice*, 9 J. Bar Council India 150 (1982).

Fundamental Rights, and under Article 32 of the Constitution, the right to petition the Supreme Court for enforcement of Fundamental Rights has been elevated to the status of a Fundamental Right.³¹ Thirty-three detainees were blinded by local officials in Bhagalpur, India's Bihar state, between 1979 and 1980 in order to extract confessions. A newspaper journalist made a commentary about the occurrence, which was sent to the Supreme Court of India by a lawyer. The item was received by Justice P.N. Bhagwati, who treated it as a petition from the sender³² and the Supreme Court obtained what later came to be known as epistolary jurisdiction over this case. The attorney-petitioner wished to have the Indian Constitution's due process guarantees enforced. Surprisingly, the Supreme Court of India ordered the State of Bihar to fund medical treatment for the inmates and pensions for the detainee's families for the next few years, and the court monitored the victims' rehabilitation in subsequent hearings. In the same year that numerous bar groups successfully sought to expand the standing theory in the highly politicized Judges Transfer case, the Supreme Court of India granted bystander standing in the Bhagalpur Blinding case.³³

V. National security concerns and violation of human rights:

In a functioning democracy, national or national security is the first and foremost goal of any administration. National security encompasses more than simply the military; it also encompasses the stability and security of the country's economy, as well as the country's population. It was initially thought to be a prerequisite for military superiority. Nonetheless, it has evolved into a comprehensive term that includes, among other things, the state's law and order, a strong economy, and substantial links with other states, notably favorable relations with neighboring countries.

A. India's perspective on national security:

Because India has a population of about 1.3 billion people and various methods are required to monitor all states, there are many different ways to protect each state and its subordinates from exogenous influences that are not always of physical character. There are several ways to drill national security into the system so that the government misses nothing and can control any difficult scenario without allowing external elements to jeopardise the country's integrity. These measurements are as follows:

1) Physical Security:

Physical security, often known as military security, refers to a country's military force's ability to defend and protect the country from external threats such as terrorist gangs. Superpowers around the world, on the other hand, utilise their military might to frighten emerging countries and as a show of strength. Military activities like these put basic human rights at risk on a large basis. Military security refers to a country's military force's ability to protect and defend the country against external aggression and non-state actors such as terrorist strikes. While military dominance is vital for defense and as a deterrent against any form of internal conflict, governments such as the United States, France, Russia, and the United Kingdom invest in higher expeditionary capabilities as a show of power and global

³¹ Chief Justice A.S. Anand, Public Interest Litigation as Aid to Protection of Human Rights, M.C. Bhandari Memorial Lecture (2001), in (2001) 7 S.C.C. (Jour) 1, available at: <http://www.ebcindia.comlawyer/articles/2001 v7al .htm> (last visited May 2, 2023).

³² *Khatri v. State of Bihar*, (1981) 1 S.C.C. 623.

³³ Protecting Human Rights and Fundamental Freedoms while Countering Terrorism: Report of the Secretary-General on Implementation of General Assembly Resolution 57/219, U.N. ESCOR, 59th Sess., Agenda Item 11, U.N. Doc. E/CN.4/2003/120 (2003).

stature. Countries like India and South Africa, on the other hand, are only now moving their focus from plain safety to a display of might through military capabilities.³⁴

2) Cyber Security:

Computers and information technology now dominate practically every field. This massive reliance on more than half of the skilled labor has proven to be both a benefit and a challenge for both the government and the users. Cyber-attacks are becoming increasingly common, prompting widespread concern. As a result, the cause of cyber security has given the Indian government full right to regulate user conduct, as well as the implementation of an upgraded version of cyber security and associated specialization grounds. Computers now make it possible to do as good a job as possible. For users and the government, the overwhelming reliance on more than half of the trained workforce has become both an asset and a risk. The number of cyber-attacks has constantly increased, prompting widespread alarm. Users are now more conscious of the necessity to prioritize cyber security as well. It has also been revealed that the internet is being used to engage in and support anti-national and violent behaviors such as terrorism, hate crime, and hate speech. This has provided the Indian government with ample cause to monitor user behavior, as well as a greater focus on cyber security and related fields of study.³⁵

3) Economic security:

Any country's economic policies must be as sophisticated as feasible while keeping an eye on its traditional concentration of economic growth if it is to continue to thrive. Because India has an agriculture-dependent economy, it must concentrate on expanding and developing this sector, as well as introducing significant improvements to the secondary and tertiary sectors. As a result, it would maintain the current employment rate while also paving the path for additional job opportunities. To continue to prosper, a country must maintain its economic policy as current as possible while keeping its traditional concentration on economic growth in check. This means that, while India has always been an agriculture-based economy, it should continue to focus on diversifying and developing its agricultural sector while also undergoing significant changes in its secondary and tertiary sectors. This would maintain the present employment rate while also creating new job opportunities.³⁶

B) National Concerns vs. Human rights:

Human rights in a country like India, where poverty is concentrated, the population is huge, and there are many diverse communities inside the country. Article 14, Article 19, and Article 25 of the Indian Constitution, respectively, guarantee the right to equality, freedom of speech, and freedom of religion. Yes, there are some limits and limitations that are warranted by the circumstances in which such restrictions or limitations may be applied. However, a 2016 Human Rights Watch report stated that, despite the fact that India's media is active and the country has its own judiciary, the country's human rights situation is concerning. Muslim and Christian minority groups have openly asserted that the government has done little to further their interests. The government was forced to impose a lockdown under the National Disaster Management Act of 2005, which was combined with the Epidemic Diseases Act of 1897, which began as a 21-day lockdown but has since been prolonged with gradual

³⁴ What is physical security? How to keep your facilities and devices safe from on-site attackers *available at:* <https://www.csoonline.com/article/3324614/>, (last visited on 07.01.2023)

³⁵ What is Cyber Security? Definition and Best Practices, *available at:* <https://www.itgovernance.co.uk/what-is-cybersecurity/>, (last visited on 05.03.2023)

³⁶ Definitions: What we mean when we say "economic security", *available at:* <https://www.ilo.org/public/english/protection/ses/download/docs/definition.pdf>, (last visited on 06.04.2023).

relaxations. Migrant laborer's who had travelled from far away were left stranded in cities where no one knew who they were in the ensuing turmoil of a rapid lockdown.³⁷

Human rights now include not just the freedom to express, do, or follow one's own preferences, but also the right to a safe place to live and adequate living conditions. The situation of migrant workers can only be described as a violation of human rights. Of course, they were not given advance notice of the lockdown, but the preparations to provide them with a suitable temporary settlement arrived much later. Furthermore, the decision to provide food, shelter, and a means of returning to their hometowns via a free bus service and government-funded train journeys came after the media reported on compelling stories of migrant workers walking hundreds of kilometres, some of whom died as a result of their efforts.

C) Recent human rights violation instances in India:

India has had its fair share of confrontations with examples of terrible human rights violations on a scale that only a few could have anticipated, just as it has created history as one of the fastest-growing economies with an advanced security posture. In recent years, several human rights breaches have been reported in India. The Citizenship (Amendment) Act and the elimination of constitutional autonomy in Jammu & Kashmir are examples of this. As a result of these instances, there has been an increase in worry about the safety of specific groups in the country, notably religious minorities. A summary of some of these advances is provided in the next section.

1) Article 370 and CAA:

After the repeal of Articles 370 and 35A in 2019, there was a huge commotion in Kashmir and other regions of Jammu and Kashmir. Inside information was widely disseminated via Twitter and Instagram to alert individuals living outside of the state to the danger. To prevent citizens and journalists from continuing to report within, open internet access via mobile data or wired broadband services was effectively shut off. The protests after the introduction of the Citizenship (Amendment) Bill, 2019, were similar. People from all throughout the country, particularly Muslims, took to the streets to protest the new bill's discriminatory aspects. Here, too, internet connections and communication lines were shut down to stop the spread of 'fake news,' which included true material that questioned the government's attitude and conclusion. In each of these situations, the government had entirely stopped the free flow of information, freedom of expression, and discrimination in the name of national security. Because of the prejudice, it was assumed that the government had attacked religious freedom as well.³⁸

2) Freedom of Speech:

Newspaper headlines in 2019 were awash with stories about journalists being imprisoned for 'waging war' against the country or the government with only dissenting comments. Many of the journalists detained were well-known for their work and reporting. The majority of the arrest warrants obtained for such arrests, on the other hand, were found to be unlawful and unconstitutional. On the other hand, several journalists remain free on bond, despite the fact that their charges have not been dropped. However, no journalists have been killed in 2018 as a result of the six. However, according to the 2020 Reporters without Borders report, India has slipped two points and now ranks 142nd in the world for press freedom. This further demonstrates that, even though horrible crimes such as murdering journalists have decreased,

³⁷ Growth of national security concerns and violation of human rights, *available at*: <https://blog.ipleaders.in/>, (last visited on 07.01.2023)

³⁸ <https://thefederal.com/news/reconsider-stand-on-caa-and-article-370-leaders-urge-centre/>, Reconsider stand on CAA and Article 370, leaders urge Centre

an atmosphere still exists in which continual press freedom limitations are imposed or public violence against journalists is provoked by politicians or corrupt authorities.³⁹

3) Hate Crimes:

Why is 2017 known as the "Year of Hate Crime"? That year saw the most fatalities (11), as well as the most mob lynching instances (37), all of which were linked to "cow protection" vigilantes. Since then, the numbers have only grown, bringing with them increasingly sensitive religious aspects. Furthermore, the government has no accurate official record of the legal validity of such instances because they are frequently coupled with "rioting," "unlawful assembly," or "murder," and the police officers participating in the case may be biased. Prior to the "cow protection mob-lynching" drama, the majority of hate crimes were directed towards lower castes, notably Dalits, scheduled castes, and scheduled tribes. There was no justification for these activities, but only a handful was investigated by authorities, and the perpetrators were often allowed off the hook.⁴⁰

4) Other Human Rights Violations:

In its many judgments, the Humble Supreme Court has often stated that human rights are paramount. The following are some of the Supreme Court's most important decisions: *Mohd. Ahmed Khan v. Shah Bano Begum*⁴¹

In this petition, Muslim personal law was challenged. The Supreme Court decided in Shah Bano's favor, awarding her alimony, which the Muslim community saw as a violation of Islamic Sharia law. In 1973, the All-India Muslim Personal Law Board was established as a result of the case's outcome.

*MC Mehta v. Union of India*⁴²

For the escape of toxic gases by a factory in Bhopal, MC Mehta filed a Public Interest Litigation. In this decision, the court expanded the reach of Articles 21 and 32 of the Indian Constitution. The incident is known as the Bhopal Gas Tragedy.

*Vishaka v. State of Rajasthan*⁴³

Vishaka and other women's organizations brought this matter to the Supreme Court as a Public Interest Litigation against the State of Rajasthan and the Union of India. The petitioners urged that the Constitution's Articles 14, 19, and 21 be enforced in order to protect working women's fundamental rights. Vishaka Guidelines were developed as a result of this. The ruling also included fundamental definitions of sexual harassment in the workplace, as well as guidance for dealing with it.

*Naz foundation v. NCT*⁴⁴

As per Section 377 of the Indian Penal Code, the court decriminalized sexual conduct against the natural order, which includes gay acts. However, the Supreme Court of India overturned this decision in 2013.

*NALSA v. Union of India*⁴⁵

The transgender community's rights as third genders were acknowledged by the Court. In addition, the government was instructed to treat them as minorities. Reservations in jobs, education, and other services will be made available to them.

*Shreya Singhal v. Union of India*⁴⁶

³⁹ Freedom of Speech, available at: <https://www.britannica.com/topic/freedom-of-speech>, (last visited on 05.04.2023)

⁴⁰ Hate Crimes, available at: <https://www.justice.gov/hatecrimes/hate-crime-statistics>, (last visited on 07.01.2023)

⁴¹ AIR 1985 SC 945

⁴² 1987 SCR (1) 819

⁴³ AIR 1997 SC 3011

⁴⁴ 160 DLT 277

⁴⁵ WP (Civil) No. 400 of 2012

The Supreme Court declared section 66A of the Information Technology Act, which authorized arrests for undesirable information uploaded on the internet, to be unconstitutional, and thereby knocked it down.

Conclusion:

There is no denying that national security considerations take precedence over individual concerns, but it does not mean that subordinate concerns about individual security issues are ignored. It's fair that certain micro and personal issues be put off for later when it comes to a country's overall safety, but that doesn't imply that 'later' is used as an excuse to ignore the issues entirely.

No rational and reasonable person would object to his or her non-personal information being tracked for a legitimate reason such as cyber security, but that is no excuse for any administrative decision to monitor every private activity, particularly what people do on their phones, in the name of national security. Certain solid steps have been taken to keep government activities in check so that there are few to no cases of human rights violations, but there is still a long way to go when it comes to actually implementing such measures correctly and with legally defensible justifications.

⁴⁶ WP (Criminal) No. 167 of 2012