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## CANDIDE OR, THE OPTIMIST BY VOLTAIRE: REVIEW BY EXCERPTS OF THE BOOK

Bandhan Kumar Verma

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## HIGH COURTS AS THE PROTECTOR OF HUMAN RIGHTS

Bandhan Kumar Verma<sup>1</sup>

High Courts as the Protector of Human Rights, if you are born as a human then you deserve some rights (*just because bring a human*), that collectively known as Human rights. There are various government and non-government institution which protect human rights, but it is very interesting to how the Indian judiciary protect human rights and what was the history of that.

Because in India, where all people are still not the basic things for professing life and looking for justice, the judiciary is the one that needs to play an important role and take required measures as per the law.

### INTRODUCTION

India is Constitutional Democracy, which consists of 3 wings that is executive, legislature and judiciary. All wings have their own function and duties but the judiciary plays a very important throw protecting human rights. Judiciary is consisting of 3 levels first is the apex court which is the Supreme Court of India then the High Courts and the last is the local courts (at the level of district/division).

All have the power to protect the people's rights but large jurisdiction to protect the rights only High Courts enjoy. Art. 226 of the Indian Constitution talks about the power of the High Court to issue the writs, whenever a right (*human rights, fundamental rights, legal rights, constitutional rights etc.*) is violated the people have the right to approach the High Court and for protecting that the High Court has the power to issue the writs.

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<sup>1</sup> Law Student, 3<sup>rd</sup> Year, BA.LL.B. (Hons.), Seedling School of Law and Governance, Jaipur National University, Jaipur.

At the time when the constitution was drafted many rights were given to the people by the constitution and other laws also but there was no value of rights without the remedy, so the chief architect of the Indian Constitution Babasaheb Dr. B.R. Ambedkar gives then extensive power to Art. 226 (at *that time it was Art. 202*). And history is witness that the High Courts do too much to protect human rights at various times.

In India, other courts also protect the rights of the people Civil Judge is the first the protect the civil rights of the people, later the hon'ble Supreme Court of India also has the power to under Art. 32 of the Indian Constitution to issue writs to protect the fundamental rights of the people. And in India, all fundamental rights are human rights but not all human rights are fundamental rights.

### **POWER OF ISSUING WRITS**

Art. 226 of the Indian Constitution gives the power to issue the writs. The name of writs is habeas corpus, mandamus, quo warranto, prohibition and certiorari. This power is given to the High Courts to protect the rights of people including human rights. As per the L. Chandra Kumar case issuing writs by the High Courts is part of the basic structure of the Indian Constitution.

Every writ has its own meaning and power, habeas corpus It's a Latin phrase that means "*to have a body or to produce a body.*" This is the most powerful and most often used writ, mandamus It's a Latin phrase that translates to '*we command.*' It is a type of command that can be used to execute public duties by constitutional, statutory, non-statutory, universities, courts, and other bodies, Certiorari It's a Latin phrase that means '*to be certified.*'

The Supreme Court and the High Court can use this writ to order other subordinate courts to submit their records for review, Prohibition The distinction between a writ of prohibition and a writ of certiorari is

minimal. The adage “*Prevention is better than cure*” exemplifies the distinction between the two writs, Quo Warranto It’s a Latin phrase that means ‘*by what authority.*’

The Courts can use this writ to ask any public official about the authority under which that public official has accepted that particular public office.

### **DURING EMERGENCY**

At the time of emergency, the whole opposition was in jail, all state governments were abolished, all rights were suspended and no light of rights was visible, that time the High Court’s hear the matter of habeas corpus. The matter reaches 9 High Courts and the habeas corpus can be filed or not during an emergency all High Courts allow that but later in the case of *ADM Jabalpur vs. Shivkant Shukla*<sup>2</sup>, Supreme Court upheld the judgment. In the year 2017 the Supreme Court reversed that judgment in the case of *Justice KS Puttaswamy vs. Union of India*<sup>3</sup>. It shows that the High Court’s work as the real protector of human rights.

### **DURING COVID-19 PANDEMIC**

Covid-19 Pandemic, the time the whole world was in trouble, the government had no proper budget, people have no food, the hospital was full of people, disease on its peak and there was a large human cry in that situation the High Court’s works as the real protector of human rights.

The Telangana High Court ordered control of the extra charge on the transport charges of hospitals and on other medical products. The Gujarat High Courts ordered the state government to publish the real data of death (*due to covid-19*).

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<sup>2</sup> 1976 AIR 1207.

<sup>3</sup> (2017) 10 SCC 1.

Odisha ordered the state government to provide medicines to all prisoners. Allahabad is the state government due to which there has been a lack of medical facilities and for conducting the Panchayat Election at the time of the pandemic, the order High Court gives the direction to the state government to award compensation to the family of people who dies during the election duty. The Rajasthan give directions to the jails regarding the prisoners.

## **CONCLUSION**

See, Human is different from other animals due to their mental stage and way of professing their life and life is just not surviving and breathing, it includes various things which made an animal-human. In the life of a human, many things are included and change as per time and the need of society, from time to time the meaning of life is changed court gives the definition. So, life is a very important thing which is protected by the High Courts.