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Jainism and Human Rights: A Critique

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Abstract

Human rights are an idea that has been frequently linked to Western customs, but it has strong roots in Indian culture, especially Jainism. Examining how the principles of Jainism fit into contemporary human rights frameworks like the Indian Constitution and the Universal Declaration of Human Rights (UDHR), this paper, "Jainism and Human Rights: A Critique", examines this relationship. Established by VardhamanaMahavira in 599 BCE, Jainism is among the oldest religions in India. Five basic principles serve as its foundation: ahimsa (nonviolence), satya (truthfulness), achaurya (not stealing), brahmacharya (celibacy), and aparigraha (non-attachment). The application of these moral principles extends the definition of human rights to encompass ecological consciousness by fostering the respect and dignity of all living things, not only humans. This paper highlights remarkable parallels between these Jain principles and contemporary human rights laws. Anekantavada, the Jain principle of respecting different viewpoints, is in line with the right to freedom from discrimination, whereas Ahimsa is in line with the right to life. Articles 15, 21, and 25 of the Indian Constitution protect these rights, thereby confirming that Indian philosophies are deeply ingrained with human rights, and that human rights are not solely Indian. The emphasis Jainism places on non-possession (Aparigraha) also aligns with contemporary rights such as the right to privacy and lifelong learning, which is similar to the right to education. At the end of the day, Jainism and contemporary human rights frameworks support justice, equity, and equality and provide contrasting paths to a life worthy of respect.

Keywords

Jainism, Human rights, International human rights framework.

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1. Introduction

There is a common misconception surrounding the genesis of human rights. It is often claimed that human rights are part of Western tradition. In contrast, human rights values have been part and parcel of Indian tradition for a long time. The Indian traditions specially the religions, have been promoting human rights values. The basic human rights values are intertwined with Jainism. Jain philosophy not only centers on the afterlife and salvation but also addresses everyday human life and its interactions with society and the environment. The present paper is an attempt to discuss the basic tenets of Jainism and compare these with modern human rights instruments and the Constitution of India.

2. Basic Concept of Jainism

Jain Dharma or Jainism is one of the ancient Indian religions. The word 'Jain' has originated from the Sanskrit word 'Jina' which means conqueror (McCoy, 2021: 207). As per Sanskrit language, Jina is a person who conquers all inner passions like wants, desires, attachment, greed, anger, pride etc (Human Values in Jainism - Human Values and Indian Ethos, n.d.). Vardhamana Mahavira born in 599 BCE founded the Jain Dharma. (Dasgupta & Churiwalla, 2019: 70). He played a key role in the revival of the philosophy of eternity propagated by the 23 tirthankaras, and founded a religion. There are five basic principles of Jainism.

2.1 Nonviolence (*Ahimsa*)

One of the basic tenets of Jainism is nonviolence and respect for all living beings. The founder, Mahavira states that "*Ahimsa paramodharmah*". Practising *Ahimsa* or Nonviolence in day-to-day life involves practicing non-hurting any form of life knowingly or unknowingly, not harming others knowingly or unknowingly, and not showing hatred towards anyone (Madhukar, 2020: 125)

2.2 Truthfulness (*Satya*)

Jainism's second most cardinal principle is truthfulness. The Jains believe in the principle of choosing right. The Jains must choose

the right path in all spheres of life (Madhukar, 2020: 126). It states that one's speech must be "pleasant, beneficial, true and unhurt" to the people (New Vistas in Contemporary Management, n.d.: 118).

2.3 Non-Stealing (*Acharya*)

Another principle of Jainism is non-stealing. The principle of non-stealing encompasses the refrainment from physical theft, other's time, possessions, and ideas (Ostace, 2023: 44). It means avoiding dishonesty in all walks of human life. As per Jainism, reciprocal encouragement to steal, evade the law, and receive stolen property amounts to theft, and one should refrain from these (Shah, 2004: 97).

2.4 Celibacy (*Brahmacharya*)

Celibacy is another principle of Jainism. It means "treading into the soul". It conventionally means abstinence from sexual activities (Shah, 2004: 97). The Jains are required to refrain from committing marital infidelity or adultery and to avoid premarital sexual activities.

2.5 Non-attachment (*Aparigraha*)

Avoiding possessiveness and materialistic culture is a fundamental principle of Jainism. It is a vow of non-possession and non-attachment (Dash & Sahu, 2023: 71).

3. Comparative Analysis of Modern Human Rights, Constitution of India and Jainism

The devastating world wars necessitated the creation of a new world order to promote and protect human rights. At the aftermath of world wars, an international human rights framework to deal with the violations of human rights issues has been created. The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly, marked a significant development in protecting and promoting human rights. Based on the French and American Declarations and traditions of Western democratic countries, the UDHR established a normative framework of international law (Subedi, 2017: 52). The UDHR recognizes some of the fundamental human rights that need to be universally protected. After the adoption of UDHR, two international covenants were adopted to strengthen the international human rights regime in 1966.

Right	UDHR	ICCPR	ICESCR	Indian Constitution
Freedom from Discrimination	Article 2	Article 26	Article 2	Article 15
Right to Life	Article 3	Article 6	Article 6	Article 21
Freedom from Torture	—	Article 7	—	—
Right to Liberty and Security	Article 3	Article 9	—	Article 21
Freedom of Movement	Article 13	Article 12	—	Article 19
Right to Fair Trial	Article 10	Article 14	—	Article 21
Right to Privacy	—	Article 17	—	—
Freedom of Religion and Belief	Article 18	Article 18	—	Article 25
Freedom of Expression	Article 19	Article 19	—	Article 19
Right to Education	Article 26	—	Article 13	Article 21A
Right to Work	—	—	Article 6	Article 41
Right to Social Security	—	—	Article 9	Article 41
Right to Health	—	—	Article 12	Article 47
Right to Cultural Participation	—	—	Article 15	Article 29
Right to Equality Before Law	Article 7	Article 14	—	Article 14
Right to Equality between Men and Women	—	Article 3	—	Article 15
Right to Participate in Public Affairs	—	Article 25	—	Article 19
Right to Form Trade Unions	—	—	Article 8	Article 19(1)(c)

Right to an Adequate Standard of Living	—	—	Article 11	Article 21
Right to Take Part in Cultural Life	—	—	Article 15	Article 29
Right to Enjoy Benefits of Science and Culture	—	—	Article 15	Article 51A(j)

3.1 Freedom from Discrimination

The principle of non-discrimination is one of the core human rights specially under the United Nations and regional Human rights systems like Europe America and Africa (Vijapur, 1993: 69). Its presence is seen in the UDHR, ICCPR, ICESCR, and the Indian Constitution. Article 2 of the Universal Declaration of Human Rights sets the universal standard by stating that all people are entitled to rights provided under it without distinction of any kind, including race, religion or gender (Picq & Thiel, 2015: 55). Article 26 of the International Covenant on Civil and Political Rights (ICCPR) further emphasizes equality before the law and protection against discrimination, while Article 2 of the ICESCR extends this protection to economic, social and cultural rights and the need for inclusivity in all aspects of life underlines (Carlson & Gisvold, 2021: 155; Fariior, 2017: 17). The Indian Constitution, particularly in Article 15, prohibits discrimination based on religion, race, caste, sex, or place of birth, reflecting a commitment to equal citizenship (Prasanna, 2023: 481). Jainism, with its principle of Anekantavada, promotes respect for the views of others. As per Jainism, non-violence is the key goal, and Anekantavada is a tool to achieve it. The pluralistic views enunciated in the concept of Anekantavada serve as an antithesis to the rigidities and prejudices of the present society (Islam, 2022: 16). Thereby, it promotes human rights.

The Jain ethical practice of Aparigraha (possessionlessness) further strengthens the idea of equality by advocating for the respect and dignity of all living beings (Thakur, 2009: 126). Hence, it is clear that these ideals of Jainism are consistent with modern human rights.

3.2 Right to Life

The right to life is a fundamental and universally recognized human right that protects human dignity. Article 3 of the Universal

Declaration of Human Rights enshrines the right to life and provides a comprehensive basis for the dignity of the individual (Genderen & Watch (Organization), 2009: 46). Article 6 of the ICCPR provides that people shall have the right to life. In other words, the right to life negates the arbitrary deprivation of life and emphasizes human life's inviolability (Bei, 2014: 2). While the ICESCR does not directly address the right to life, it supports it through provisions such as Article 11, which emphasizes the right to an adequate standard of living. In the Indian Constitution, Article 21 guarantees the right to life and personal liberty, which has been broadly defined by the judiciary to include various aspects of a life of dignity. The ahimsa principle of Jainism extends this right not only to humans but to all living beings and advocates the preservation of life in all forms. This reflects that the scope of Jain philosophy is broader than modern human rights, which typically focus on human life, reflecting a deep reverence for life inherent in Jain philosophy.

3-3 Freedom from Torture

Freedom from torture is explicitly protected under the ICCPR but is less directly addressed in other human rights frameworks and religious philosophies. Article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading treatment and reflects a global consensus on the need to protect human dignity from serious abuses. It is a non-derogable right that the state must respect and should not make any reservation as it will violate the ICCPR's objectives (Chenwi, 2007: 101).

The UDHR does not explicitly prohibit torture, but it is implicit within the broader human rights guarantees. This issue is not directly addressed by the ICESCR, which focuses on economic, social, and cultural rights. The Indian Constitution does not explicitly prohibit torture. However, Article 21 of the Constitution of India protects citizens from ill-treatment and torture (Dobhal & Jacob, 2012: 29). The principle of Ahimsa rejects any form of violence, including torture, and thereby protects human rights.

3-4 Freedom of Movement

The freedom of movement is recognized as a fundamental human right in modern international frameworks. Article 13 of the UDHR guarantees the right to freedom of movement within and across borders, while the ICCPR's Article 12 further elaborates on

this right, allowing restrictions only when necessary to protect national security, public order, or public health (Hall, 1997: 92,93; Yuksekdag, 2019: 34). The ICESCR does not explicitly deal with the freedom of movement. The Indian Constitution, under Article 19(1)(d), enshrines the right to move freely throughout the territory of India, to facilitate to live and work anywhere in India (Seelam, 2024: 29). Jainism emphasizes the concept of Ahimsa, which may affect how movement is perceived, especially in terms of minimizing harm to others and the environment, even though it does not directly address the concept of movement. The non-violent practices of Jainism can facilitate non-obtrusive movements.

3.5 Right to a Fair Trial

The right to a fair trial is one of the sine qua non of justice delivery mechanism. It is protected by both modern human rights framework and religions like Jainism. Article 10 of the UDHR confers the right to a fair and public hearing by an independent and impartial tribunal (Yadav, 2023: 230). The ICCPR's Article 14 expands on this by detailing the elements of a fair trial, including the presumption of innocence and the right to legal representation. The ICESCR does not directly address the right to a fair trial, focusing instead on socio-economic rights. The Indian Constitution, through its interpretation of Article 21, guarantees the right to a fair trial, a principle that has been upheld by the judiciary in numerous landmark cases. Jainism, although not a legal system, supports the underlying principles of fairness and justice through its ethical teachings. The concept of *Satya* (truth) in Jainism emphasizes honesty and integrity, which are fundamental to a fair trial. While Jainism does not offer a legal framework, its emphasis on truth and non-violence aligns with the modern legal principle that justice must be impartial and fair. However, the challenge in both contexts lies in ensuring that these principles are upheld in practice, particularly in legal systems where biases and corruption may undermine the fairness of trials.

3.6 Right to Privacy

The right to privacy is one of the significant human rights protected by international human rights regimes and national human rights frameworks. As the world takes the path of digitalization, the right to privacy is considered one of the most important rights. Article 17 of the ICCPR explicitly protects the right

to privacy (Kettemann, 2020: 74). On the other hand, the UDHR implies the right to privacy as part of broader human rights protection, although it does not explicitly mention it. Furthermore, the ICESCR does not directly address the right to privacy, but instead focuses on socio-economic rights. In the Indian context, the right to privacy has been read into Article 21 of the Constitution, as affirmed by the landmark case Justice K.S. Puttaswamy (Retd.) and another v. Union of India and Others, which recognized privacy as a fundamental right (Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors., n.d.). Jainism, with its emphasis on self-control and nonviolence, supports the idea of respecting personal boundaries and confidentiality, but does not explicitly treat privacy as a separate right. Jaina ethical practices such as: Non-possession (*Aparigraha*), suggest a lifestyle that minimizes intrusion into the lives of others and is consistent with the modern concept of privacy.

3·7 Freedom of Religion and Belief

Freedom of religion or belief is a core human right, deeply respected in both modern human rights systems and religious traditions such as Jainism and allows individuals to change their religion or beliefs and to manifest them through practice and observance (Green, 2018: 376). Article 18 of the ICCPR provides further protection against coercion in religious matters and ensures that individuals are free to adopt or change their beliefs (Watch (Organization) & Bahgat, 2007: 84). While the ICESCR focuses on socioeconomic rights, it indirectly supports religious freedom through its focus on cultural rights. The Indian Constitution guarantees the right to freely profess, practice and propagate religion under Article 25, reflecting India's secular framework and commitment to pluralism. India follows secularism which means that the state has no religion but gives equal treatment to all religions (Kumar, 2001: 57).

Jainism, as a religious and philosophical tradition, inherently supports religious freedom through its doctrine of Anekantavada which encourages tolerance and respect for diverse beliefs. Jain ethical principles, such as Ahimsa and Satya, further support the peaceful coexistence of different religious traditions. However, in practice, ensuring religious freedom remains a challenge globally and in India, where issues like religious intolerance and communal violence often undermine this right.

3-8 Freedom of Expression

Freedom of expression is essential for a vibrant democracy and is protected by modern human rights frameworks. According to James Madison, “freedom of expression is the only effectual guardian of every other right, and without it, tyranny can advance in silence” (Hadland & Thorne, 2004: 20). Article 19 of the Universal Declaration of Human Rights enshrines the right to freedom of opinion and expression, including the freedom to seek, receive and impart information and ideas. Article 19 of the ICCPR further elaborates on this right while allowing certain limitations to protect the rights of others, public order or national security.

The ICESCR does not directly address freedom of expression, but implicitly supports it through cultural rights. The Indian Constitution guarantees freedom of speech and expression under Article 19(1)(a), subject to reasonable restrictions (Shutler, 2011: 57). Jainism, with its ahimsa principle, advocates mindful and non-harmful speech and emphasizes the ethical use of language. While Jainism values freedom of thought, it also emphasizes the responsibility that comes with it and advocates truthful and non-violent expression. However, with the expansion of the medium of expression, particularly the advent of information and technology, it has become difficult to balance freedom of expression with the need to prevent harm and maintain social harmony.

3-9 Right to Education

Education is recognized as a fundamental right that empowers individuals and promotes social and economic development. Article 26 of the Universal Declaration of Human Rights reaffirms the right to education and states that it shall be free and compulsory at least at the elementary level (Abdul-Hamid & Yassine, 2020: 53). Article 13 of the ICESCR reiterates the views of the Universal Declaration of Human Rights. However, the ICCPR does not specifically address education. In the Indian Constitution, Article 21A guarantees the right to free and compulsory education for children aged 6 to 14 years, underscoring the state’s commitment to universal education. While Jainism does not prescribe a formal right to education, it values learning and knowledge as essential to spiritual development. The Jain tradition emphasizes self-study (*Svadhya*) and the pursuit of wisdom, consistent with the broader goals of education in modern human rights. However, challenges remain in the practical

implementation of the right to education, in particular in ensuring access, quality and equity between different regions and socio-economic groups. Jainism's emphasis on lifelong learning and self-discipline can complement modern educational goals and promote a more holistic approach to education.

3-10 Right to Cultural Participation

Cultural participation is important to human dignity, allowing individuals to express and engage with their cultural heritage. The ICESCR's Article 15 recognizes the right of everyone to take part in cultural life, enjoy the benefits of scientific progress, and protect moral and material interests resulting from scientific, literary, or artistic production (Salomon, 2005: 83). The UDHR implies this right within its broader human rights framework, while the ICCPR does not specifically address cultural participation, focusing more on civil and political rights. The Indian Constitution, through Article 29, guarantees the right of minorities to conserve their culture, language, or script, reflecting India's commitment to cultural pluralism. Jainism, a religious tradition with a rich cultural heritage, inherently supports the right to cultural participation. Preserving Jain temples, literature, and rituals reflects a commitment to cultural continuity and respect for tradition. Jainism's principle of *Anekantavada*, which recognizes multiple perspectives, also encourages the appreciation of cultural diversity. However, challenges to cultural participation in India and globally include the marginalization of minority cultures, commercialization of cultural heritage, and threats to cultural expression from various quarters, necessitating thoughtful and inclusive policy approaches.

3-11 Right to Equality Before Law

Equality before the law is a foundational principle of justice, ensuring that all individuals are treated equally under the law. The UDHR's Article 7 asserts this right, guaranteeing that all are equal before the law and entitled to equal protection without any discrimination (Killander, 2010: 126). The ICCPR's Article 14 reinforces this principle in the context of fair trial rights, ensuring equality before courts and tribunals. The ICESCR does not specifically address equality before the law, as its focus is on economic, social, and cultural rights. The Indian Constitution, through Article 14, enshrines the right to equality before the law and equal protection of the laws within the territory of India. This provision is fundamental

to India's legal framework and has been the basis for numerous judicial decisions aimed at dismantling discriminatory practices. Jainism, with its emphasis on non-violence, truth, and respect for all life, inherently supports the principle of equality. The Jain ethic of Anekantavada, which acknowledges the validity of multiple perspectives, also aligns with the idea of legal equality by promoting tolerance and understanding. However, the challenge lies in ensuring that legal equality translates into substantive equality in practice, particularly for marginalized communities.

4. Conclusion

A thorough interaction of ethical, legal, and spiritual dimensions can be seen when comparing Jainism and the international human rights framework with reference to the Indian Constitution. The Indian Constitution and the international human rights framework offer a universal and legal framework to protect and advance human rights, while Jainism offers a very personal and ethical way of living. They offer a comprehensive perspective of a fair, compassionate, and equal community. The Indian Constitution is a testament to this integrated approach, promoting a culture of respect, dignity, and welfare for all of its citizens. It draws its influence from both international human rights norms and indigenous ethical traditions.

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