



HUMAN RIGHTS IN INDIA

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Abstract:

India, the world's most famous democracy, has significant human rights problems despite making commitments to tackle some of the most prevalent abuses. The country has a thriving civil society, free media, and an independent judiciary. But profiteering and lack of accountability for rude practices foster human rights violations. Government initiatives, including police reform and implemented access to health care and education, are poorly implemented. Women, children, and minority groups are marginalized. Rude committed by security forces in Jammu and Kashmir go unpunished. Resource extraction and infrastructure projects often have deleterious environmental and economic impacts, and may infringe upon the rights of affected communities.

Human rights movement in India got its germination during the Emergency Rule during 1975–1977 and developed during the post Emergency period. Two major trends were marked by Civil liberties concerns and the rights based perspectives. In the last 35 years, the human rights has been enriched by collective wisdom appearing from the tribal movement, peasant struggles, environmental movement, women's liberation movement, child rights movement, dalit movement and struggles of the differently abled persons. The state and the conventional institutions have had love hate relationships with different types of human rights movements at different phases of history.

KEYWORDS-

Human Rights, movements, Education, Democracy, Nation, Status, Justification.

INTRODUCTION

An Introduction provides a overview of human rights and related issues from a social science perspective. Including case studies and personal testimonies, this text discusses living research on human rights and suggests how the ideas of contemporary thinkers may be relevant for furthering our understanding. The author covers important subjects including censorship, political prisoners, torture, the death penalty, apartheid, slavery, genocide, and the plight of refugees. The text concludes with an overview of appearing areas in the discourse on human rights, including environmental concerns, the role of business and non-state actors, women's rights, children's rights, and the impact of globalization upon human rights debates and realities.

The moral doctrine of human rights aims at distinctive the fundamental prerequisites for each human being leading a minimally good life. Human rights aim to identify both the necessary negative and positive prerequisites for leading a minimally good life, such as rights against hurt and rights to health care. This ambition has been enshrined in various declarations and legal conventions issued during the past fifty years, initiated by the Universal Declaration of Human Rights (1948) and perpetuated by, most importantly, the European Convention on Human Rights (1954) and the International Covenant on Civil and Economic Rights (1966). Together these three documents form the centrepiece of a moral doctrine that many consider

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to be capable of providing the contemporary geo-political order with what amounts to an international bill of rights. However, the doctrine of human rights does not aim to be a fully comprehensive moral doctrine. An appeal to human rights does not provide us with a fully comprehensive account of morality per se. Human rights do not, for example, provide us with criteria for answering such questions as whether telling lies is inherently immoral, or what the extent of one's moral obligations to friends and lovers ought to be? What human rights do primarily aim to identify is the basis for determining the shape, content, and scope of fundamental, public moral norms. As James Nickel states, human rights aim to secure for individuals the necessary conditions for leading a minimally good life. Public authorities, both national and international, are identified as typically best placed to secure these conditions and so, the doctrine of human rights has become, for many, a first port of moral call for determining the basic moral guarantees all of us have a right to expect, both of one another but also, primarily, of those national and international institutions capable of directly affecting our most important interests. The doctrine of human rights aspires to provide the contemporary, allegedly post-ideological, geo-political order with a common framework for determining the basic economic, political, and social conditions required for all individuals to lead a minimally good life. While the practical efficacy of promoting and protecting human rights is significantly aided by individual nation-states' legally recognizing the doctrine, the ultimate validity of human rights is characteristically thought of as not conditional upon such recognition. The moral justification of human rights is thought to precede considerations of strict national sovereignty. An underlying aspiration of the doctrine of human rights is to provide a set of legitimate criteria to which all nation-states should adhere. Appeals to national sovereignty should not provide a legitimate means for nation-states to permanently opt out of their fundamental human rights-based commitments. Thus, the doctrine of human rights is ideally placed to provide individuals with a powerful means for morally auditing the legitimacy of those contemporary national and international forms of political and economic authority which confront us and which claim jurisdiction over us. This is no small measure of the contemporary moral and political significance of the doctrine of human rights. For many of its most strident supporters, the doctrine of human rights aims to provide a fundamentally legitimate moral basis for regulating the contemporary geo-political order.

The universally acclaimed human rights

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

These opening words of the Universal Declaration of Human Rights express a concept of man which underpins the framework of human rights embodied in the Universal Declaration and the two international covenants of Human Rights.

It is a concept which, it derives most directly from Western political traditions, is in harmony with moral and social teachings to be found in many other traditions and patterns of belief.

The over whelming endorsement and subsequent reaffirmation of the Universal Declaration by the U.N. General Assembly afford striking evidence of the extraordinary status and appeal of its principles and precepts, compelling Governments of all forms and persuasions to publicly recognize their obligation to ensure that all persons within their jurisdiction are accorded the rights specified.

Traditionally the natural rights of human beings were seen as the rights which each individual had in the state of nature, either as a pre-social historical condition or a pre-social hypothetical model.

In these terms, the rights tended to be regarded as the rights of independent individuals against other individuals or against society, rather than as the rights which human beings in society require if they are to live their own individual lives as members of a community.

The concept of human rights as those rights both negative and positive, which all people ought to have vouchsafed to them under the law, makes a shift in emphasis away from the former approach to the latter.

Human rights remain centered in the concept of the individual: these fundamental requirements are necessary to meet the common needs of the individual members of the community, where each member is considered as a unique person and an embodiment of ultimate value.

The situation is different where every member of the community is considered to have common needs derive directly from some general conception of a communal good or of a communal goal.

Though what constitute human rights is controversial, we may identify human rights as those moral rights which are owned to each man or woman by every man or woman solely by reason of being human. In other words, without human rights an individual cannot maintain his or her existence as a being different from the rest of the animal kingdom. Even then, the differences persist as to the permissible degree such rights and the consonant freedoms.

The universally acclaimed human rights have been broadly divided into the following categories:

(i) Right to life:

The taking of human life has been strongly condemned by most world religions and philosophies over the centuries. International human rights law has in turn sought to uphold this most sacrosanct of rights in a number of treaties. The life of an individual is clearly protected from being arbitrarily taken by the state. The right to life is not, however, as inviolable as it might seem at first sight. There are a number of situations where states may deprive individuals of life itself and to which international human rights law does not raise an objection. The use of the death penalty is one such example. Human rights law does not prohibit the use of the death penalty as a punishment for crimes but does encourage its abolition and seek to limit its use. The use of violence in self-defense lies at the base of other justifications for the taking of human life. Killing is permitted at times of war save for the murder of civilians and prisoners of war. Human rights law thus tries to respond to the myriad of ethical dilemmas raised by the right to life by establishing a range of prohibitions and exhortations.

(ii) Right to liberty:

In view of the recent incidents of terrorism in some places in India some people have started saying that to combat terrorism it is necessary to curtail civil liberties and introduce draconian laws. To my mind, this is a dangerous idea, and hence it is necessary to explain the importance of liberty and democracy for our country's progress. Nobody denies the need to oppose terrorism, but in my opinion by passing draconian laws, terrorism and crime will not be reduced and instead our country's progress will be obstructed.

What is our national aim? To my mind, our national aim must be to make India a highly prosperous country for its citizens (and not just for a handful of people of our country), and for that it is necessary to have a high degree of industrialization.

Even setting up and running a single primary school requires a lot of money, e.g. for buying land, erecting the school building and providing for the recurrent expenditure for salaries of teachers, staff, etc. We have to set up in our country not just one primary school, but hundreds of thousands of primary schools, tens of thousands of high schools and colleges and engineering colleges, technical institutes, medical colleges, scientific research centers, hospitals, libraries etc.

Today India is a poor country. Nobody respects the poor. It is for this reason that we do not have much respect in the world community (whatever we may think of ourselves). It is industrialization alone which can abolish distress and idleness, which are the main causes of crime and terrorism, and give us respect in the world community.

Also, when there is rapid industrialization, which is our national target, millions of jobs will be created which will solve the problem of unemployment.

For industrialization, development of science is absolutely necessary, and for that freedom is also absolutely necessary freedom to think, freedom to write, freedom to discuss with others, freedom to explain, freedom to criticize and freedom to dissent.

The growth of science requires certain supportive values, particularly liberty. This is because the thought process cannot develop without freedom. The values of a scientific community viz., pluralism, tolerance, individual freedom and free flow of information are very similar to the values of democratic society (see 'Science and the Making of the Modern World' by John Marks).

(iii) Right to freedom of religion and Expression :

Freedom of religion is a principle that supports the freedom of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance; the concept is generally recognized also to include the freedom to change religion or not to follow any religion. The freedom to leave or discontinue membership in a religion or religious group—in religious terms called "apostasy"—is also a fundamental part of religious freedom, covered by Article 18 of the Universal Declaration of Human Rights.

Freedom of religion is considered by many people and nations to be a fundamental human right. In a country with a state religion, freedom of religion is generally considered to mean that the government permits religious practices of other sects besides the state religion, and does not persecute believers in other faiths.

(iv) Right to Freedom of Association and Assembly:

Freedom of association, not to be confused with free association, is the individual right to come together with other individuals and collectively express, promote, pursue and defend common interests. The right to freedom of association has been included in a number of national constitutions and human rights instruments, including the United States Bill of Rights, European Convention on Human Rights and the Canadian Charter of Rights and Freedoms.

Freedom of association in the sense of workers' right to organize is also recognized in the Universal Declaration of Human Rights and International Labor Organization Conventions, and the latter also protects collective bargaining in the conventions on freedom of association.

The right to freedom of association is sometimes used interchangeably with the freedom of assembly. More specifically the freedom of assembly is understood in a political context, although depending on the source (constitution, human rights instrument, etc.) the right to freedom of association may be understood to include the right to freedom of assembly.

Freedom of Assembly, sometimes used interchangeably with the freedom of association, is the individual right to come together and collectively express, promote, pursue and defend common interests. The right to freedom of association is recognized as a human right, political right, and civil liberty.

Freedom of assembly and freedom of association may be used to distinguish between the freedom to assemble in public places and the freedom of joining an association. Freedom of assembly is often used in the context of the right to protest, while freedom of association is used in the context of labor rights and the Constitution of the United States, is interpreted to mean both the freedom to assemble and the freedom to join an association.

The United States Constitution explicitly provides for 'the right of the people peaceably to assemble, and to petition the Government for a redress of grievances'" in the First Amendment.

(v) Right to property:

The precise content of the Right to Property to be adopted in our constitution was one of the most difficult and problematic subjects that the advisory Committee, the sub-committee on Fundamental rights, and the Constituent Assembly had to encounter. This reflects the complexities of the issues that necessarily arise in any attempt to redefine the right to property, and to provide for its enforcement. A K Ganguly records the long journey of Right to Property in India, from the times of british to the Present India.

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India experienced a long and protracted period of British colonial rule. This harshly repressive regime brought in its wake untold misery for the country's masses, and especially those who dared to raise their voice against oppression. Consequently, at various stages in the constitutional history, the statesmen actively strove for the enactment of legally guaranteed basic human rights.

(vi) Economic and Social Rights.

Economic, social and cultural rights (ESCR) include the human right to work; the right to an adequate standard of living, including food, clothing, and housing; the right to physical and mental health; the right to social security; the right to a healthy environment; and the right to education.

Need for protection of ESCR:

Economic, Social and Cultural Rights are an important part of the international human rights law. They have been fully recognized by the international community and throughout international human rights law.

Although these rights have received less attention than civil and political rights, far more serious consideration than ever before is currently being devoted to them. The question is not whether these rights are basic human rights, but rather what entitlements they imply and the legal nature of the obligations of States to realize them. The fact is that civil and political rights and economic, social and cultural rights are indivisible and interdependent. Without realizing economic, social and cultural rights, there cannot be a meaningful enjoyment of civil and political rights.

Key International Instruments on ESCR and the Optional Protocol to the International Covenant

on Economic, Social and Cultural Rights (ICESCR):--

Many international instruments recognize economic, social and cultural rights as integral parts of the human rights framework. The first comprehensive international instrument encompassing both sets of rights i.e., civil and political rights and the economic, social and cultural rights is the Universal Declaration of Human Rights (UDHR). The International Covenant on Economic, Social and Cultural Rights (ICESCR) remains the principal instrument on economic, social and cultural rights. It recognizes the right to self determination;

equality for men and women; the right to work and favorable conditions of work; the right to form and join trade unions; the right to an adequate standard of living including adequate food, clothing and housing; the right to health and healthcare; the protection of the family; and the right to social security. As of November 2005, 149 countries have ratified the Covenant.

Other key international instruments include the Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) and the Convention on the Rights of the Child, 1989 (CRC), Limburg Principles and the Maastricht Guidelines, Vienna World Conference on Human Rights Declaration and Plan of Action and Conventions of the International Labour Organization.

General Principles of ESCR and State Obligations to Promote, Protect and Fulfill:--

State parties are bound to ensure minimum human rights regardless of their resource constraints. For ESC rights, minimum core requirements include available foodstuffs for the population, essential primary healthcare, basic shelter and housing, and the most basic form of education. The Committee on Economic, Social and Cultural Rights elaborated on state obligations under General Comment 3: The Nature of State Parties Obligations

Almost all of these rights have been bestowed upon the Indian citizen by the constitution. The preamble says that the state, in India, will ensure the dignity of the individual as a human being.

CONCLUSION:

Human rights refer to the “basic rights to freedoms to which all humans are entitled. The basic human rights of people who lack economic, physical, mental, social and emotional resources are very often violated.” The study of human rights occupies a very important place in the world. In other words Human Rights are of universal importance. They are no doubt the inherent rights of human beings. They are common to all regardless of caste, creed, colour, religion, race, etc. All world countries including India strive hard to safeguard human rights through their well established Constitutions. Yet, violations of human rights, occur in the name of religion, race, creed, caste, colour, sex, religion, etc.

It is a common feature of any society or nation that it discusses woman in the frame of development (Education, Health, Economy, etc.) only, but women may also be sketched as cultural woman and constitutional woman. Cultural woman carries values, traditions and all other behavioural aspects which are necessary to maintain and retain a culture in the societal frame whereas constitutional woman refers to an idea about the legal rights and constitutional rights given to them for their empowerment. So, when we discuss women, we discuss the difference between cultural women and constitutional women or we discuss how many cultural women have been transformed to constitutional women. The word “DALIT” has a cultural evolution with different notion like ardhnagn, asprashya, untouchable, Dalit, Harijan and finally they are defined as Dalit in 1935.

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