

Periodic Research

The Discourse of Human Rights: An Indian Perspective

Abstract

The issue of 'human rights' has gained high prominence all over the world today yet ironically the humanity is caught in a whirlpool of problems leading to blatant violation of human rights. The problems of human rights' protection as well as violation, enrichment as well as encroachment and claims as well as challenges have immensely attracted the most sustained attention of a large number of contemporary writers, more particularly, the social and political thinkers, the human rights' experts and political icons in the present century. With the advent of globalization, the notion of human rights has acquired greater momentum all across the world, not because of its well protection but because of its naked violation.

Keywords: Human Rights, Blatant Violation, Globalization, Momentum.

Introduction

Human rights have become a much debatable issue in the field of social sciences all across the world in recent past, more particularly, over last two decades though the discourse of the concept still continues. It is because of the simple reason that human rights at present are more nakedly violated rather than well protected. If we see daily media, be it print or electronic, we find a series of incidents starting from a small individual-life to a super-power state-system where a big chunk of human rights are being blatantly violated. However, human rights have always remained as a powerful force in the evolution, growth and integration of society. The protection and promotion of human rights are a matter of big concern and even centre of analysis in the field of national and international politics. Thus they have become a very popular as well as a common term being used frequently and even if by a Porter to a Parliamentarian. Again the dynamics of globalization and the remarkable development of technology have made the concept more complex and complicated. It is a pertinent issue in context of globalization since every nation-state tries to protect the rights of its people including its territorial integrity at any cost. Again the interest of every state is so much inter-linked that the action of one state invariably affects the other. In the name of rights great epics like Ramayan and Mahabharat have been written and even big wars have been fought in past against tyranny, injustice and autocracy.

Therefore, it has become a matter of big concern both in the field of domestic as well as international politics.

The focus of every country on human rights has been changed from traditional notion to human-oriented aspect in tune of the changing needs, interests and demands of the people, i.e. from the quantitative aspect to qualitative mark. For example, the right to work ensures the economic right and determines the economic livelihood of an individual but right to food security directly ensures the social living of an individual.

The twentieth century ended as a century of democracy and human rights but twenty first century started as a century of international terrorism. Today, both the world at large and India in particular face daunting challenges in safeguarding the rights, freedom and interests of the common people. No country in the world can be said to be free from the deadly violations of human rights. The paramount interests of the nation-states have been inter-linked in such a way and to such an extent that the action of one has invariably affected the other in the protection and promotion of human rights. Many social movements have emerged all around the world for the protection of human rights but the violation of the same still continues. With the diffusion of knowledge and ideas human rights have become multi-dimensional in nature. Therefore, now we talk about the rights of citizens, ethnic groups, religious minorities, women, poor tribals, mines-workers, daily-labourers, land-farmers etc. Today, both the



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world at large and India in particular face daunting challenges in protecting and safeguarding the rights of its people.

Aim of the Study

The main objective of this paper is to discuss the meaning and importance of human rights, its historical growth and to stress the violations of human rights in face of globalization and to highlight the constitutional safeguards of our country to ensure those rights. Thus, in this piece of paper an attempt has been made to analyze the violations & contradictions, aspects & dimensions, currents & discourses of human rights across the world in general and India in particular.

Review of Literature

In review of literature, there is a good quantum of data available on human rights. But here only a few works will be cited out due to the space limit. The book "Human Rights in India – Social, Historical and Political Perspectives" (2000) is being edited by Chiranjivi J. Nirmal. It contains eighteen chapters discussing about the concept & growth of human rights in a social and historical perspective in a more lucid manner. This volume also deals with the rights of the children and refugees and highlights the role of media in this context. In an edited volume of "Human Rights-Concepts, Issues and Emerging Problems" (2007) by Suresh Kumar Soni consist of thirteen chapters. It discusses the meaning and growth of human rights in India including the constitutional perspective in a very broader manner. It describes the development of western concept of human rights. This book also deals with the human rights situation in Pakistan. In the book "Universal Human Rights in Theory and Practice" (2013) Jack Donnelly has stressed upon the universal principles governing human rights all across the world. He has also pointed out the international laws, covenants and humanitarian laws in this respect.

Human Rights

The issue of 'human rights' has gained high prominence all over the world today yet ironically the humanity is caught in a whirlpool of problems leading to blatant violation of human rights. The problems of human rights' protection as well as violation, enrichment as well as encroachment and claims as well as challenges have immensely attracted the most sustained attention of a large number of contemporary writers, more particularly, the social and political thinkers, the human rights' experts and political icons in the present century. With the advent of globalization, the notion of human rights has acquired greater momentum all across the world, not because of its well protection but because of its naked violation. It has now been seriously vulnerable to the nuisance of terrorism, leading to huge losses of human lives and property.

On one hand there has been profound proliferation of ideas, wide expansion of knowledge, remarkable development of science and technology and rapid growth of globalization; on the other hand the causes, challenges, problems, dimensions and scope of human rights have been equally multiplied.

The issues like communalism, imperialist and hegemonic attitude of the states, political crime and violence, misuse of power machineries and over all terrorism have all together been responsible for the severe violation of human rights in the present global context. The violation of human rights both mentally and physically, internally and externally, qualitatively and quantitatively has led to such an extent that we have had never witnessed such an amazing concern as we are experiencing today. As a result, it has posed serious challenges to any kind of state or government. Thus there is a greater need to explain such an alarming issue at length and breadth in context of terrorism and globalization in order to understand the correct perspective of human rights culture all across the world in general and India in particular.

Meaning and Historical Growth of Human Rights

Human rights are as old as the human civilization itself. These have always remained as the powerful forces in the development of the society throughout the ages, i.e., since the dawn of the human society till the emergence of the nation-state system. In the name of rights great Indian epics like Ramayan and Mahabharat have been written and many wars and revolutions have been led against tyranny, injustice and autocracy in past. History is the witness of unending struggles for human rights though its connotation has undergone radical changes throughout the recorded history. Hence today we talk about the rights of citizens, women, children, ethnic groups, religious minorities, poor tribals, mines-workers, daily-labourers, land-farmers and so on. That struggle still continues in the form of Strikes, Hartals, Popular Protests, Social Movements like Peasant, Tribal, Feminist, Secessionist, Religious, Ethnic and even Environmental Movements.

Before peeping into the deeper and broader meaning of human rights and examining their historical development and dimension, it is pertinent to define rights at first. According to Harold J. Laski, "Rights are those conditions of social life without which no man can be at his best". These are the claims based on general moral standards on the part of the human beings which are recognized and guaranteed by the state. No individual could develop his inner potentiality and personality without the enjoyment of some sort of rights in the society. The rights are innate and inherent in all individuals irrespective of their caste, creed, religion, sex etc. Since the rights are integrally and inextricably interwoven with human beings, consequently, these are called human rights. These are universally applicable to all individual beings and are commonly shared by all the countries of the world.

Though the international concept of human rights has its origin only in the twentieth century yet the western idea of rights can be traced back to the ancient Greece. The people of ancient Greek enjoyed some sort of rights in the form of "isegoria" which means "freedom of speech" and "isonomia" denotes "equality before law". In later period the stoic philosophers formulated the doctrine of natural rights

which belonged to all men at all times. The great Greek philosopher Plato favoured equality of opportunity to all men and women in the matters of administration and public service. But the notion of rights and men-centered ideas were in a stage of infancy during the Greek Period which got eroded and eclipsed during the Middle Ages. It is pertinent to refer here that the struggle for the rights started to come out of the tarantule clutches of absolute monarchy and got crystallized in form of Magna Carta in 1215. John Locke, the British Philosopher gave an impetus to the conception of rights who emphatically stressed upon the "right to life, right to liberty and right to property". He said that the individual had right to resist the government and revolt against it if the later failed to discharge its prime responsibility of safeguarding the life, liberty and property of the former. Later on, the utilitarian thinkers in general, laid emphasis on the importance of people's participation in the political process to achieve the "greatest happiness of the greatest number". Jeremy Bentham, the proponent of "pleasure and pain" theory advocated universal adult franchise while John Stuart Mill emphasized the need of enhancing the quality of democracy by increasing the quality of people's political participation. Similarly, the German idealist Hegel provided some sort of impetus to the development of the concept of human rights through his work "Philosophy of Rights". He considered freedom as the essence of man and its denial to a man tantamounts to the denial of his personality and humanity.

However, the Glorious Revolution of 1688 in England entirely changed the socio-political structure by subjecting monarchy to the power of Parliament. The American Declaration of Independence in 1776 drafted by Thomas Jafferson explicitly expounded that all men are created equal and thus they are endowed with certain rights. In addition to it, French Revolution led to unilateral declaration of rights by the French National Assembly in 1789 which emphatically declared that rights are by nature inherent, inalienable and universal.

The concept of human rights transcended the boundaries and acquired utmost importance after the Universal Declaration of Human Rights, also called as 'International Magna Carta of all Mankind' on 10th December, 1948 made by the General Assembly of the United Nations. Subsequently, the United Nations General Assembly adopted two covenants of rights in 1966 i.e., on Civil and Political Rights; and Economic, Social and Cultural Rights containing 53 and 31 articles which are popularly called as the "First and Second Generation of Rights" respectively. A few years later in December 1986, the United Nations made another declaration on 'Right to Development' containing 10 articles which is commonly known as "Third Generation of Rights". The stress of these Declarations and Covenants not only put restraints on the power of the state but also to evolve the opportunities and positive environment for its fulfillment and dignified development of all human beings. It may be referred here that Article 1 of the Universal Declaration of Human Rights reads, "All

human beings are born free and equal in dignity and rights". But this objective still remains utopia. There are widespread inequalities among the people of developing and developed countries. With the dynamics of globalization the inequalities are becoming increasingly alarming and astounding.

The scientific and technological advancements are the welcome steps; however scientism has also led to negative developments leading to innumerable problems to mankind. An inadvertent and blind armament race including the nuclear weapons has put the entire mankind under a constant threat that has even endangered the survival of human species on earth. Now-a-days violence and state-sponsored terrorism are quite common in international areas. The leviathan countries play gimmicks and tricks on the pretext of human rights and even thrust wars upon weak nations to achieve their vested interests and spread out their hegemonic tentacles. Though the United Nations has adopted a Universal Declaration of Human Rights yet it lacks universal application. Different countries have different sets of rights depending upon their social settings and cultural specialties. Therefore, the theocratic, communist and liberal democracies have different notion of rights. The liberal democracies cherish and promote the culture of human rights more than the earlier two but their societies are not still free from the problem of violations of human rights.

Human Rights in India - A Constitutional Face

The concept of human rights is an important concern in present scenario. Though it has its roots in different forms yet in India human rights exist from the Vedic Period. With the passage of time our country has played a significant role in the promotion of these rights.

India is known for her specific culture. There is no direct reference to the notion of rights in India. However, it lies embedded in its culture. The notion of Purusharthas: Dharma (religious rites), Artha (material prosperity), Kama (marital enjoyment) and Moksha (eternal bliss) reflects four values of life for human development. The Vedic sages also emphasize on the development and happiness of entire humanity: "Sarve Bhavantu Sukhina" or "Let all be happy". However, one can't overlook the plethora of social evils like intolerant casteism, Sati (burning widow while living), female infanticide, religious orthodoxy, communalism etc. which viciated the society and blatantly violated human rights. Several social reformers like Raja Ram Mohan Roy, Dayananda Saraswati, Swami Vivekananda, Iswar Chandra Vidyasagar and Rabindra Nath Tagore endeavoured to prune the superstitions, dogmatism and social evils from the Hindu Society but could not eradicate those completely.

With the attainment of Independence, the constitution-makers resolved to build India a free, fair, equal and just society. Thus they paid special attention towards human rights to achieve this purpose. 'Fundamental Rights' was incorporated in Part-III of Indian Constitution under Articles 14-35 for all without any discrimination to achieve political

democracy. Apart from this, 'Directive Principles of State Policy' were also included in Part-IV under Articles 38-51 of the Constitution to attain social and economic democracy. The objective of the both was to check the arbitrariness of the state as well as to evolve necessary mechanisms and opportunities for the common goodness of the people. Since then India, the largest democracy in the world has made the most sincere efforts for the protection and promotion of human rights all over the world and is the greatest champion of human rights in the Third World.

To revive the philosophy of human rights in modern sense, the concerned efforts were made by the Indian National Congress which demanded basic human rights in the Constitution of India Bill, 1895. This bill asked for Indian Constitution guaranteeing to every citizen freedom of expression, right to equality before law, right to free education etc. The demand for recognition of civil rights was reviewed by the Indian National Congress in the first quarter of the twentieth century and it adopted several resolutions to this effect from 1917 to 1919. Another major development in this direction was the drafting of Mrs Annie Besant's Common Wealth of India Bill of 1925. In 1927 Indian National Congress set up a Committee to draft a 'Swaraj' Constitution on the basis of declaration of rights. The Committee set up in May 1929 under the Chairmanship of Pandit Moti Lal Nehru, suggested that the Fundamental Rights adopted, should be embodied in the future Indian Constitution. After Independence in 1947 while the Constitution of India was in the process of making, the U.N.O. General Assembly proclaimed the Universal Declaration of Human Rights on 10th December, 1948 which enormously influenced the framing of Indian Constitution.

Indian Constitution is one of the ideal constitutions of the world. The inclusion of "Fundamental Rights" and "Directive Principle of State Policy" ensure human liberty and personality, and an effective social and democratic life. The duty to safeguard and protect these basic human rights is in Supreme Court and High Courts under Articles 32 and 226 respectively. Apart from the aforesaid constitutional provisions, various statutes have also been enacted by the Indian Legislatures with a view to protect and promote human rights. Some of the important statutes enacted by the Central Legislature are The Persons with Disabilities Act 1955, The Dowry Prohibition Act, 1961, The Child Labour Prohibition and Regulation Act, 1986, The Scheduled Castes and Scheduled Tribes Act, 1989, The National Commission for Women Act, 1990, The National Commission for Minorities Act, 1992, The Protection of Human Rights Act, 1993 etc.

However, in spite of the laws enacted to eradicate discrimination and social evils in Indian society, these are still haunting our society today. Further the problems of poverty, unemployment, inequality, ill-health, illiteracy, infanticide, child labour and prostitution etc. have got aggravated and alarming. A big chunk of people are still living in

inhuman conditions and facing the trauma of human rights violation. Apart from these, the emergence of growing political crime and violence, regionalism, communalism, misuse of power by Government mechanisms, vandalism and terrorism in recent past have not only led to the sheer violation of human rights but also to huge losses of lives and property in present India. Thus the mere legal safeguards and constitutional provisions may not ensure human rights in present scenario. In this context an effective role of the state is required. Further the decisive role of police and military, different democratic mechanisms, strong political leadership, proper implementation of public policies and above all the welfare principles of the state would enhance human rights culture in India.

Conclusion

In the end, it is imperative to mention that in spite of much debates and discussions and even enactment of laws for the protection of human rights, the volume and intensity of violation of such rights are also multiplying. Therefore, there is an urgent need for the establishment and propagation of human rights culture on certain objective moral standards for the maximum fulfillment of man and welfare of mankind. There is a greater need to bring an attitudinal transformation committed to human values. Man needs not only human rights to be a human being but also a perception to behave like a human being. Despite a number of problems and obstacles, challenges and difficulties, Indian Constitution is still a potent instrument to safeguard the code of human rights, though much has to be done in near future.

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