

Human Rights

Reflections



Editor
Ranjit Barua

HUMAN RIGHTS

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A collection of selected research papers and articles presented in the National Seminar on 'Human Rights in the 21st Century' on 20th June, 2016 organized by Department of Political Science, Nowgong Girls' College and published by the Principal, Nowgong Girls' College

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FOREWORD

Human rights are the very basis of modern nation-states. The concept of human rights is very old. However the term is of recent origin. Though the concept is as old as human civilization, the term 'human rights' began to be used only in the 20th century. Human rights broadly indicate those rights which all human beings are entitled to for being human. These are commonly understood as inalienable fundamental rights to which a person is inherently entitled to simply because she or he is a human being. The concept of human rights is based on the belief that every human being is entitled to certain rights irrespective of caste, class, religion, language, creed or gender. In other words these rights are non-discriminatory in nature.

The social contract tradition, particularly the writings of Rousseau deeply influenced two epoch making events of history- the American Declaration of Independence (1776) and the French Revolution (1789). Both these events contributed immensely to the growth of human rights. The American Declaration of Independence affirmed that all men are equal and have certain inalienable rights. The French Declaration of the Rights of Man and Citizens (1791) also proclaimed that men were born free and equal in rights. It identified many inalienable, natural and indispensable rights of man. Writings of many other thinkers and scholars like Immanuel Kant, Thomas Paine etc. played an important role in the field of human rights. It was, however, only with the formation of the United Nations after the Second World War that the concept of human rights in modern sense came into existence.

Because of the efforts of the United Nations, human

rights discourse got new shape and a comprehensive and universal approach of human rights emerged. A number of declarations, covenants and conventions followed - the Universal Declaration of Human Rights (UDHR), 1948; International Covenant on Civil and Political Rights (ICCPR), 1966; International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966; Convention on Elimination of All Forms of Discrimination Against Women (1978), Convention on Rights of Child (1989) so on and so forth. The states have also adopted various measures to ensure and protect human rights of their citizens.

But in spite of the efforts of both international community and the states to protect human rights of people, gross violation of human rights all over the world is a reality. Both the state and non-state actors are responsible for violation of rights of people. Social, political, religious, economic, cultural and other factors have resulted in such violation in different ways. In fact the overall human rights scenario cannot be considered very bright in the 21st century. Many challenges and threats are there. Therefore, in order to debate and discuss relevant issues and also to generate awareness about human rights, the Department of Political Science of Nowgong Girls' College, Assam organized a National Seminar on '*Human Rights in the 21st Century*' in 20th June, 2016. The programme was conducted with financial assistance from the UGC under the scheme of Human Rights Education. The present volume is the compilation of selected research papers and relevant articles touching upon wide range of issues related to human rights. Our efforts will be successful if this volume can offer any insight for the policy-makers, planners, analysts, scholars, human rights activists and public in general.

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Contents

- List of Contributors
- Human Rights in the 21st Century : Reflections
Ranjit Barua – 11
- Philosophical Foundations of Human Rights : Major Debates and Conceptual Conflicts
Pranjal Hazarika – 27
- The Role of UN Security Council for Protection of Human Rights: Interface between State Sovereignty and Human Dignity
Dr. Diptimoni Boruah – 37
- Human Rights in Indian Philosophical Tradition
Dr Sanchita Bora – 52
- Human Rights: The Gandhian Perspective
Rimky Kakoty – 63
- Role of Education in Promotion and Protection of Human Rights
Karabi Goswami – 72
- Globalisation and Human Rights
Sankar Jyoti Bora – 82
- Role of NGOs in Protecting Human Rights : A Study of Prahar
Rosy Deka – 91
- Child Labour and Human Rights : A Study of Barak Valley of Assam
Dr. Mithun Nath, Dr. L. Chiro Kumar Singha – 101

- Priority on Child Rights: A Panoramic Outlook
Aparajita Devi, Gitanjali Dutta – 109
- Child Protection and Child Rights with Special Reference to Child Abuse
Anjumoni Sarma – 123
- A Socio-Juridical Study on the Human Rights of the Transgender Community of India
Dr. Baharul Islam, Kaveri Bhattacharyya – 130
- The Rights of Refugees and Chakmas of Arunachal Pradesh: An Overview
Dr. Jnyandeep Saikia, Dr. Kishore Kumar Sarmah, Dr. Lallaisangzuali – 144
- Media's portrayal of Human Rights in India: A Critical Analysis
Kangkana Sharma – 151
- Impact of Shrinkage of Forest on Human Rights of Tribal Forest Villagers A Study of Kaki Reserved Forest
Lakhinanda Bordoloi – 163
- Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and Protection of Economic Rights of Rural Women in India: A Case Study of Kaliabor Sub-Division of Nagaon District of Assam
Binod Goswami – 172
- Economic Freedom for Ensuring Human Rights
Leena Borah Hazari – 186
- Human Rights Education and Economic Development
Dr. Pradip Kumar Das, Debjani Goswami – 196
- Human Rights of Women with special reference to India
Manasweeta Gogoi – 205
- Violation of Women's Rights in Indian Context: An Overview
Pritanku Sut – 215
- Different Types of Violation against Women and Protection of Human Rights by the Constitution of India
Priyanka Gogoi – 223
- Women and Human Rights with special reference to Protection of Women from Domestic Violence Act, 2005
Ashim Hazarika, Dr. Kunhi Sikha Bhuyan – 229
- Witch Hunting and Violation of Women's Rights
Bikash Kumar Bora, Sujata Deka – 240
- Judicial System towards Protection of Women from Gender-based Violence in India
Bidisha Bora – 246
- Human Trafficking : A Fathomable Problem of the Hour
Trailokya Hazarika – 256
- Poetry of Protest: Voicing against Human Rights Violation(s) in the Indian Writings in English from India's North East
Rupam Gogoi, Piklee Buragohain – 271
- Exposing the Violation of Human Rights : A Study of the Novels of Mulk Raj Anand with special reference to the 'Untouchable'
Dr. Chittaranjan Nath – 285
- Problematics of Human Rights and Eco-concern in Amitav Ghosh's 'The Hungry Tide'
Dr. Md. Maidul Islam – 294
- Concept of Human Rights and its Denial presented in Indian novels in English : A Study of selected novels of Mulk Raj Anand and R.K. Narayan
Pyar Md Raina – 305

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Human Rights in the 21st Century : Reflections

Ranjit Barua

One of the most important issues of contemporary world is the issue of human rights. International community including the United Nations has been emphasizing on generating awareness about human rights all over the world. There is need to understand the issues and challenges related to human rights. Human rights, as a concept, is very old though the nomenclature is comparatively new. The phrase 'human rights' was coined by Thomas Paine in the eighteenth century. However it was only in the middle of the twentieth century that the phrase got wide currency with Eleanor Roosevelt's effort to develop a system of human rights within the framework of United Nations.

The subject of human rights is the most powerful new addition to the international agenda of items demanding immediate implementation.¹ Human rights generally refer to those rights possessed by human beings because they are humans. These are moral claims which are inalienable and inherent in all human individuals by virtue of their humanity alone. These claims are articulated and formulated in what we today call human rights and have been translated

into legal rights, established according to the law creating processes of the societies, both national and international. The basis of these legal rights is the consent of the governed.² The United Nations Centre for Human Rights defines human rights as those rights which are inherent in our nature and without which we cannot live as human beings. These are the basic minimum requirements for survival of the human beings. These are necessary to ensure the dignity of every person. These are also necessary as these rights provide suitable conditions for the material and moral uplift of every human being.

The evolution of human rights has been a fascinating one. There is no unanimity regarding the origin of the concept of human rights. While some traced its origin to the Babylonian laws, some others to ancient Greece. It is rightly said that the struggle against oppression and inequalities is also the struggle for recognition of human rights in all societies. The Stoic philosophers, Greek thinkers like Plato and Aristotle, the Romans- all contributed on their own way to the development of human rights. One important landmark in the evolution of human rights was the Magna Carta (1215). It set limitations to absolute and arbitrary rule and laid the foundation for rule of law. The contractualists Hobbes, Locke and Rousseau, through their writings and ideas, also contributed to the field of human rights. In fact the influence of Rousseau had been profound in this regard. His writings deeply influenced the American Declaration of Independence and the French Revolution and subsequent Declaration on the Rights of Man and the Citizens (1791). By the end of the eighteenth century, in Europe and North America, the concept of natural right was secularized, rationalized and democratized.³ However, the struggle for recognition of human rights got momentum

with the establishment of the United Nations after the World War II. The Preamble of the United Nations 'reaffirm faith in fundamental human rights, in dignity and worth of the human person, in the equal rights of man and woman and of nations large and small...' Similarly Article 55 of the UN Charter proclaims in unequivocal terms 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.'

The adoption of the Universal Declaration of Human Rights (UDHR) on December 10, 1948 by the United Nations ushered a new era in the field of human rights. Thereafter a series of steps have been taken internationally, regionally and at national level for protection and promotion of human rights. Some of the important steps taken by the United Nations and allied agencies regarding human rights can be identified as follows-

- Universal Declaration of Human Rights, December 10, 1948
- Convention on the Prevention and Punishment of the Crime of Genocide, 1948
- Convention relating to the Status of Refugees, 1951
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- Convention on Elimination of All forms of Racial Discrimination, 1969
- Convention on Elimination of All Forms of Discrimination Against Women, 1979
- ILO Convention No. 169 concerning Indigenous and Tribal People, 1989
- Convention on the Rights of Child, 1989

- Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, 1992
- Vienna Declaration and Programme of Action, 1993
- Office of the United Nations High Commissioner for Human Rights, 1993
- Declaration on the Elimination of Violence against Women, 1993
- Formation of Human Rights Council, 2006

The evolution of the contemporary concept of human rights is commonly understood in terms of three generations of human rights. These are - human rights of 1st generation, human rights of 2nd generation and human rights of 3rd generation. The first generation rights basically include the civil and political rights of individuals. These rights impose negative obligations on the state to desist from interfering with individual freedom. The first generation rights mostly cover what was known as rights of man till the eighteenth century. The civil and political rights reflect long established human values and as such are incorporated in the constitutions of various states.

The second generation rights aim to ensure economic, social and cultural security of human beings. These are more positive in the sense that the states have to make necessary arrangements for the realization of these rights. The second generation rights emerged during the 19th and early part of the 20th century. The political and economic struggle of the emergent working class particularly in Europe and America, the Russian Revolution, formation of International Labour Organisation (ILO)- all have profound influence on the emergence of these rights.

The human rights of third generation are of recent origin and have evolved in response to various new concerns

having international consensus. These rights such as right to development, peace, clean environment, self-determination etc. are more concerned with groups, communities and people rather than individuals. These are considered as collective rights. This category of rights is based on the sense of solidarity which is essential for the realization of the major concerns of international community such as peace, development and environment.

Though human rights are classified into three generations, it does not mean that these rights are totally separate from one another. In fact these rights can not be separated completely. All the three generation rights are mutually interdependent. It was endorsed by the Vienna Declaration and Programme of Action (1993) which reaffirmed that 'all human rights are universal, indivisible, interdependent and interrelated.' Thus complementary and indivisible nature of human rights is recognized in contemporary world.

Indian Constitution and laws also recognize many human rights though the phrase 'human rights' is not used anywhere in the Constitution. In fact, the Preamble, Fundamental Rights, Directive Principles of State Policy and a large number of laws enacted since independence try to ensure various rights of people. Some institutional mechanisms like National Human Rights Commission, State Human Rights Commissions, National Commission of Women etc. have also been created. Adoption of Protection of Human Rights Act, 1993 has been the milestone in the efforts to ensure human rights in India.

However in spite of the best efforts of the international community and national authorities, violation of human rights remained a major concern in the 21st century. Gross violation of human rights has been going on unabated in

different parts of the world. Social practices, religious fundamentalism, civil war, internal conflict, terrorism, hunger, poverty, state persecution and many other factors are responsible for such violation of human rights. Lack of awareness about human rights among common people is also another factor leading to violation of human rights. All these indicate that there is an urgent necessity to debate and discuss different aspects of human rights in the light of latest developments. The present volume is the result of such realization wherein different aspects of human rights have been analysed, debated and discussed by the scholars in their research papers and articles. It covers wide range of issues including theoretical conflicts, role of the UN Security Council, women's rights, globalization, rights of child including child labour, Gandhian perspective, education, rights of tribal forest villagers, rights of refugees, MNREGA, role of NGOs and media, human trafficking, rights of transgender community, practice of witch-hunting, economic freedom, domestic violence, human rights as reflected in literature through novels and poems etc.

Pranjal Hazarika tries to make an analysis of the major conceptual conflicts and debates in the field of human rights in his paper. He opines that the discourse of human rights may be a relatively modern creation, but its genesis can be traced back to ancient times. He clearly explains the growth of human rights with reference to the American Declaration of Independence (1776), the French Declaration of the Rights of Man and Citizen (1791) and the Socialist Movement of the 20th century. The formation of UNO had a profound influence on universalisation of human rights. But this universalisation is challenged in many forms. In his paper, Hazarika elaborates such conflicts and argue that one needs to be clear whether human rights support a

comprehensive universal application or minimum standards of political philosophy for good governance.

The role of UN Security Council for protection of human rights is taken up by *Dr. Diptimoni Boruah*. She deals with one of the most controversial issue in the field of human rights, i.e. international interference vis-à-vis state sovereignty. She points out that for decades human rights were seen as being largely outside the scope of the Security Council and were seldom mentioned within its purview. States were reluctant to include a set of issues widely perceived as a matter of state sovereignty in their deliberations about international peace and security. However there has been remarkable change in recent times and now UN Security Council is playing a very active role in protection and promotion of human rights in a variety of ways.

Dr. Sanchita Bora makes a critical assessment of human rights in Indian philosophical tradition. She argues that human rights from historical perspective are neither entirely Western in origin nor so modern. Indian thought was historically very generous to human rights. Humanitarian traditions were impelled from Vedas, Purānas, Mahābhārata, Rāmāyaṇa, Bhagavad-Gītā, Smṛtis and Śāstra. Contemporary Indian philosophers and thinkers have also contributed in their own ways to human rights. Universal benevolence and kindness reflected in Indian philosophical tradition are rare in other cultures. These have been playing significant role in the promotion of the cause of human rights. She concludes that Indian sense of human rights is not restricted to the physiological needs only; rather it encircles the ecological, cultural and finally the spiritual dimensions of human beings.

Gandhian perspective of human rights is dealt with by *Rimky Kakoty* in her paper 'Human Rights: The Gandhian

Perspective'. She analyses the basic concepts of Gandhiji and tries to assess how these concepts are related to human rights. Though Gandhiji never talked directly about human rights, his ideas always reflected and embraced rights and dignity of human beings. His philosophy and his love for mankind stand as an ideal for all in enjoying our rights.

Karabi Goswami discusses the role of education in protection and promotion of human rights with special reference to India. Initiatives like District Primary Education Programme (DPEP), Sarva Siksha Abhiyan (SSA), Rashtriya Madhyamik Siksha Abhiyan (RMSA), Right to Education etc. have been analysed by the researcher. She has also come forward with some suggestive measures in order to ensure education for all.

The human rights discourse has been greatly influenced by the process of liberalization, privatization and globalization (LPG). Impact of globalization on human rights is debated and discussed by *Sankar Jyoti Bora*. He points out that the western countries are increasingly using their concept of human rights as a yardstick to judge developing countries and to deal with economic and trade relations to extend development assistance. At the same time globalization intensifies impoverishment by increasing poverty, insecurity, fragmentation of society and thus violates human rights and human dignity of millions of people.

Non-Governmental Organisations (NGOs) are part of larger civil society and they also play very important role in modern state. Many NGOs are working in the field of human rights too. *Rosy Deka* takes up this issue in her paper 'Role of NGOs in Protecting Human Rights: A Study of 'Prahar'. Prahar is a NGO having Special Consultative Status with Economic and Social Council (ECOSOC) of the

United Nations. It has raised its voice in the UN on several occasions on issues related to human rights, protection of indigenous people etc.

Dr. L. Chiro Kumar Singha and *Dr. Mithun Nath* in their paper explore the issue of child labour in Barak Valley of Assam. They point out that although there are many acts and regulations regarding the prevention of child labour and protection of rights of the children, still child labour is prevalent in different parts of India. In this paper, an attempt is made to understand the root causes of child labour and its consequent effects on the rights of the children. Data collected through stratified random sampling have been analysed which reflect the pathetic condition of the child labours. It is pointed out that mere legislative measure is not enough to prevent child labour. Apart from legislation, initiatives should also be taken with proper mechanisms of social engineering to bring a positive change in our social outlook and to promote the socio economic conditions of those families which have no earning members.

Aparajita Devi and *Gitanjali Dutta* deal with rights of child particularly from international perspective. They take up the rights of child which are internationally recognised and also the Optional Protocols to the Convention to the Rights of Child. They point out the legal and institutional mechanisms and emphasis on the need of proper implementation of these arrangements in order to protect and promote rights of children.

A very crucial and sensitive issue related to children is child abuse. *Anjumoni Sarma* discusses this serious problem and tries to suggest the steps for prevention of such abuse. She points out that government agencies, Child Line, non-governmental organisations and the community can play very positive role in preventing abuse

of children. it is essential to protect the rights and ensure their overall well-being and development.

The rights of people living in forest villages have been discussed by *Lakhinanda Bordoloi* in his research paper 'Impact of Shrinkage of Forest on Human Rights of Tribal Forest Villagers'. The impact of deforestation on the life of people and their rights has been vividly explained by Bordoloi. He has come forward with a number of suggestions to mitigate the problem of deforestation vis-à-vis the rights of tribal people of the forest villages. He points out that the tradition, culture, economy, rituals and social ceremonies of the forest villagers can survive only with the existence of forest.

Government of India initiated ambitious Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) as an important tool for empowering economically disadvantaged group of people particularly those who are below poverty line (BPL). It is one of the most progressive legislations since independence and unique experiment in the field of rural employment in India. Further, it was the first expression of the right to work as an enforceable legal entitlement irrespective of sex. *Binod Goswami* analyses the role of MGNREGA in generating employment among women and its role in protecting the economic rights with special reference to Kaliabor sub-division of Nagaon District of Assam.

Rights of transgender community have been analysed by *Baharul Islam* and *Kaveri Bhattacharya* in their paper 'A Socio-Juridical Study on the Human Rights of the Transgender Community of India'. They discuss the legal aspects regarding rights of transgender people and maintain that the protection of human rights of this group of people can be ensured only when the prejudice associated with

transgender is removed. This prejudice is a result of a stereotyping this sexual minority. Discussions on the topic shall create awareness and only this can result in the social acceptance of the transgender people. They also suggest amendments of relevant provisions of Indian Constitution to incorporate the rights of these people.

The tragic realities of another group of people have found expression in the paper 'The Rights of Refugees and Chakmas of Arunachal Pradesh: An Overview'. *Dr. Jnyandeep Saikia, Dr. Kishore Kumar Sarmah* and *Dr. Lallaisangzuali* explain how political, socio-religious and economic causes were responsible for expulsion of the Chakmas from their own homeland Chittagong Hill Tracts of present Bangladesh and erstwhile East Pakistan. A large number of Chakmas were compelled to migrate and take refuge in India. But presence of this group of people has again created tension with the local communities particularly in Arunachal Pradesh. Competition for scarce resources has resulted in social tension between the Chakmas and the local people of Arunachal Pradesh.

Kangkana Sharma analyses the role of media in the field of human rights in her paper 'Media's Portrayal of Human Rights in India: A Critical Analysis'. She points out that media can play a role of mediator between the state and its people. The paper explores the concepts of 'self' and 'other' to understand how media portray issues of human rights and enquires as to how media images in India have created the imagery of the 'other' (at the same time created a notion of the 'self' which is socially structured) and thereby producing a dominant culture to which many have been conditioned to believe and comply with.

Economic freedom is a very important aspect of human life and is considered as an important right. *Leena*

Borah Hazari tries to deal with economic freedom in her paper 'Economic Freedom for Ensuring Human Rights'. Economic freedom offers people the best hope for achieving healthier, safer, wealthier, and more productive lives, as well as the dignity of self-reliance. It is not a guarantee, but in the most general terms it is a prerequisite for these things on a long-term, sustainable basis.

Dr. Pradip Kumar Das and Debjani Goswami analyse the relation between human rights education and economic development. It is expressed that human rights based approach is essential to achieve the developmental goals. In fact development has been redefined on a normative framework based on internationally defined human rights. They argue that human rights education can help in more effective monitoring of development activities and promote understanding of the rationale of development.

Manasweeta Gogoi in her paper focuses on women's human rights with special reference to India. She analyses how several traditional customs were responsible for violation of women's rights. Gogoi also discusses present situation and highlights the legal-constitutional provisions for protection of rights of women.

'Human Rights and Violation of Women's Rights in Indian Context: An Overview' of *Pritanku Sut* also deals with status of rights of women in India. Different aspects of this crucial issue is debated and discussed to comprehend the problem. She points out that in spite of the best efforts by the Government and Constitutional provisions, still there is need of more positive steps in terms of women empowerment.

Priyanka Gogoi takes a different perspective of women issues in her paper. She critically examines the constitutional provisions regarding protection of human rights of women

and rightly observes that change in the outlook and mentality of the people is the need of the hour in order to protect the rights of women.

Women in India have been subjected to domestic violence for centuries. In fact domestic violence continued even after independence and promulgation of the Constitution of India. Though some provisions were incorporated in Indian Penal Code (IPC) and there are some laws for protection of rights of women, domestic violence remained a major area of concern. Finally Protection of Women from Domestic Violence Act was enacted in 2005 to provide more effective protection of the rights of the women guaranteed under the Constitution, who are victims of violence of many kinds occurring in the family and for matters connected therewith or incidental thereto. *Ashim Hazarika* and *Dr. Kunhi Sikha Bhuyan* have taken up this Act for discussion in their paper 'Women and Human Rights with special reference to Protection of Women from Domestic Violence Act, 2005'.

Witch hunting is a draconian practice that prevails in many backward societies even today. Many parts of India are also not free from this evil practice. In fact hundreds of people, mostly women, are branded as 'witch' and have to suffer in a number of ways. *Bikash Kumar Bora* and *Sujata Deka* critically analyse this important issue in their paper 'Witch-hunting and Violation of Women's Rights in the 21st Century'. They analyse the social context and legal provisions against this cruel practice and lament that in spite of various steps, witch-hunting has not been eradicated totally from the society. They rightly point out that proper education and change in the mindset of people is very important in this regard.

Women's rights have found expression in another

paper 'Judicial System towards Protection of Women from Gender based Violence' by *Bidisha Bora*. This paper looks into the role of the justice delivery system in imparting justice towards women and also deal with the judicial trends towards gender based violence against women. The role of the judiciary in protecting gender based violence against women has been critically examined in the light of various judgments and judicial decisions.

Trailukya Hazarika takes up another crucial issue human trafficking for analysis. Millions of people are trafficked throughout the globe for forced labour, prostitution and other activities. Of all the organized crimes across the world, human trafficking perhaps is the most serious one as its prime targets always remain poor people, women and children. He discusses the factors contributing to human trafficking, legal and constitutional measures in India to prevent it and suggests various steps which may be taken for effective controlling of this crime.

Human rights have found expression in the writings of noted writers, novelists and poets too. Real situations, conflicts and insurgencies which have impact on overall human rights scenario are also reflected in contemporary literature. *Rupam Gogoi* and *Piklee Buragohain* have come forward with an analysis of contemporary period in the North East in their paper 'Poetry of Protest: Voicing against Human Rights Violation(s) in the Indian Writings in English from India's North East'. Armed Forces Special Powers Act, 1958; fast unto death of Irom Sharmila demanding repeal of AFSPA, challenges posed to indigenous culture and traditions because of the drive for 'national integration', infamous secrete killings and many other issues are beautifully expressed through poems of different poets which are analysed by Gogoi and Buragohain in this paper.

Dr. Chittaranjan Nath analyses issue of violation human rights as expressed in the novels of famous novelist Mulk Raj Anand in his paper 'Exposing the Violation of Human Rights: A Study of the Novels of Mulk Raj Anand with special reference to the Untouchable'. The plight of the untouchable people as expressed in the novel by Anand is critically examined by Nath. He appreciates the fact that Anand rightly introduced Gandhi in the novel as a preacher of humanism and endorsed humanistic ideologies of Gandhi. Anand exposed the violation of human rights in pre-independent India and compelled his readers to think on this issue and bring justice and equality for all section of people.

Another famous novel 'The Hungry Tide' of Amitav Ghosh is analysed by *Md. Maidul Islam* in 'Problematics of Human Rights and Eco-concern in Amitav Ghosh's The Hungry Tide'. The plight of migrant people in the Sunderbans, the tide country, was vividly and lucidly expressed in this novel vis-à-vis the attempt of government for conservation and protection of wildlife, more particularly the Royal Bengal tigers. The Hungry Tide is a stunning record of human breadth which is epic in scope, sophisticated in its observations of people and their milieu, poetic in its evocation of the terrible beauty of the Sunderbans and astute in its analysis of the geographical and socio-cultural forces that have shaped this region.

Pyar Md. Raina deals with 'Concept of Human Rights and its denial presented in Indian Novels in English: A Study of selected Novels of Mulk Raj Anand and RK Narayan'. He throws particular light on Anand's novels like 'Untouchable' and 'Coolie' and Narayan's novel 'Dark Room'. Writings of Narayan represent the ironies of life and the deprivation and exploitation of common house-

wives who are denied equal rights with man. Anand also reacts sharply against the social injustice, deprivation and discrimination existing in the society. Both the novelists react against the denial and deprivation of human rights and civil liberties. They effectively expose the social ills gripping the society where the vulnerable sections such as women, children and the downtrodden are denied the basic rights altogether.

The present volume is the outcome of a national seminar organized as a part of awareness drive under the UGC financed scheme of Human Rights Education. We offer our sincere gratitude to the UGC at this juncture. Selected research papers and few other relevant research articles have been incorporated in this book for the benefit of all concerned. Our Principal Dr. Balin Kumar Bhuyan and my colleagues Mrs. Ranjana Borah, Ms. Rosy Deka and Mr. Sankar Jyoti Bora always remain source of inspiration all along. I take this opportunity to thank all of them. I also thank my wife Nemika and daughters Dikshita and Ipsita for reliving me from many family obligations in order to complete this work. I also thank Mr. Kangkon Goswami and his team of Gigabytes Press and Publication for bringing out this volume.

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Philosophical Foundations of Human Rights : Major Debates and Conceptual Conflicts

Pranjal Hazarika

Peace, in the sense of absence of war, is of little value to someone who is dying of hunger or cold. It will not remove the pain of torture inflicted on a prisoner of conscience. It does not comfort those who have lost their loved ones in flood caused by senseless deforestation in a neighbouring country. Peace can only last where human rights are respected, where the individuals and nations are free.¹

Human rights are those rights which are inherent in our nature and without which we cannot live as human beings. Human beings are rational beings. They are, by virtue of being human, possess certain basic and inalienable rights which are commonly known as human rights, since these rights belong to them because of their very existence, they became operative with their birth. Human rights, being birth rights, are therefore inherent in all the individuals irrespective of their caste, creed, religion, sex and nationality.² That is why these rights are inalienable. These rights represent claims and demands essential to the protection of human life and enhancement of human dignity.³

The concept of human rights is based on the principle that human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all human individuals by virtue of their humanity alone.⁴ These rights are essential for all the individuals as they are consonant with their freedom and dignity and are conducive to physical, moral, social and spiritual welfare. In fact the idea of human rights is bound up with the idea of human dignity. The World Conference on Human Rights in 1993 in Vienna stated in declaration that all human rights derive from the dignity and worth inherent in human person, and that the human person is the central subject of human rights and fundamental freedoms.⁵

The discourse of human rights may be a relatively modern creation, but its genesis can be traced back to ancient times. Indeed the ancient religions included codes of practice which might be interpreted as implying certain rights. However the last quarter of the 18th century drastically changed the track of human rights evolution. The emergence of revolutionary movements began to challenge the despotic and authoritarian political regimes of the time. The rights of the man were made as the fundamental basis of these struggles. The American Declaration of Independence (1776), the French Declaration of the Rights of Man and Citizen (1779) made a profound impact on the revolutionary movements all over the world. To a large extent these declarations contain universal character. The socialist movements of the 20th century incorporated the principles of social and economic equality which provide a new orientation in the evolution of the concept of human rights.

However the most important development in the field of human rights took place after the formation of United

Nations Organization. The Universal Declaration of Human Rights (UDHR) of 1948 was the milestone in the evolution of the process. Although not legally binding, the main principles of this Declaration have acquired the status of standards for all the nations to follow. The Declaration has exercised profound influence on the constitutions of new nations and regional agreements. It also provided a yardstick by which the progress of the states and the people in the field of human rights could be assessed. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 also consolidated this process.

But in spite of so many international declarations and covenants, human rights of people are violated all over the world. In the international field, it is generally the responsibility of international organization lie the UNO to monitor the implementation of human rights standards. But as the sovereign power of the states limits the penetrative vigilance of such organizations, the responsibility is basically left for the states to implement the norms of human rights within their respective national boundaries. Being signatory of various international human rights declarations and covenants, states are bound to follow the human rights norms in their respective states. But the problem starts when the forces or institutions which are supposed to protect and promote these rights are themselves indulge in violation of basic human rights of the people.

The role of the state in this regard needs to be analysed. The state as an institution is supposed to provide protection of the rights and liberties of its citizens. In fact the very existence of the state system is based on this principle. Though state has gone through many stages of transformation, today's liberal democratic state is by

definition a limited state. It confers upon personal rights and claims of justice, which governments must acknowledge and respect and which can be invoked against the government.⁶ A liberal state has constitutional restraints on its exercise of power. But the problem gets complicated when the state itself indulges in violation of human rights. It is very interesting to see that the institutions which exist to protect and promote the basic human rights and freedoms often indulge in the violation of the same.

In India, human rights are respected since ancient times. However human rights in the present sense developed during the colonial period. The freedom movement provided the platform for generating awareness about the modern concept of civil and political rights among the people. The demand for the formulation of a new constitution of India which can protect the basic human rights among the people found expression in the Constitution of India Bill, 1895. The Indian National Congress, since its formation in 1885, was also particularly assertive about demand of human rights to the people. It was fairly manifested in the Karachi session of the Congress in 1931 which adopted a detailed and clear cut programme listing the fundamental rights proposed to be included in the Government of India Act of 1935. The Constituent Assembly also did a fair job in successfully listing certain fundamental rights in the Constitution of independent India. The Preamble, Fundamental Rights and Directive Principles of State Policy (DPSP) together provide the basic human rights for the people of India. The Protection of Human Rights Act, 1993 has provided the much needed mechanism for effective implementation of human rights and its monitoring system.

Human rights violation has become a common feature in most of the third world countries including India. The

brutalization of state power is reflected in the form of state repression. Apart from the occasional outburst from the judiciary, press, human rights activists and nongovernmental organizations, there is no meaningful attempt to formulate a clear-cut methodology for the protection of human rights⁷ though India is a signatory of a number of international human rights documents. The efforts and sincerity of the state to implement the provisions of these documents in practical field remains a big question. There are numerous cases of gross human rights violation involving the state institutions which reflect the pathetic implementation of international human rights norms and principles in India.

Theoretical foundations

Though scholars follow different approaches to define the theories of human rights, yet the genesis of the concept of human rights can be traced back to the emergence of classical liberalism. The term human rights is used as a 20th century version of what has been traditionally known as natural rights of man. Here the status of the individual is held as the holder of rights and the nature of the community is considered as the aggregate of the individuals. Here the status of authority is subservient to individual and the object of commitment is self interest. Moreover, this theory proclaims the status of right as most prominent. According to the classical theory of natural rights developed by John Locke in the 17th century, every human being has certain rights which were derived from nature and not from their government or laws. The legitimacy of the government rested on the respect that it accorded to these rights. The modern concept of human rights is a reformation of this idea and refers primarily to the relations between governments and their citizens.

The universalisation of the concept of human rights

is challenged in many forms. As the natural law theory is based on western model, so its universalisation and secularization were questioned. The Cultural Relativist Approach is severely critical of the universal principles of natural rights. It held that universality of human rights by no way includes or addresses the cultural diversity and regional particularism, rather it reflects a western bias. However some theorists have tried to defend the concept of human rights theoretically. David Forsythe argues that philosophical theories are inherently controversial and concern with theory will undermine human rights practice. He is interested primarily in human rights laws. He suggests that human rights laws and practices should be evaluated not by ideal standards, but by real possibilities.⁸ Different persons make conflicting human rights claims and without a theory of human rights we cannot choose between them. Human rights theory seeks to answer questions such as- Are there any human rights? How do we know what they are? What are their content and scope? How are they related to each other? Are any of them absolute or may they all be overridden in certain circumstances?⁹

Effort was made in the time of drafting of the UDHR to investigate and project a justified theoretical foundation of human rights. But a consensus on the justification of the concept of human rights was impossible in view of the diversity of philosophies in the world. There could be agreement on what human rights were, but not on why there were these rights.¹⁰ There must be different kind of approaches to justify human rights philosophically. But different underlying philosophies may generate disagreement about the proper limits to the exercise of human rights. It is also argued that it might be possible to get agreement on words, but agreement on implementation of human rights

standards would require values.¹¹ The relationship between rights and duties is also an important aspect in this regard. Several thinkers argued that the rights and duties have close relationship. In fact Mahatma Gandhi suggested all rights had to be deserved by performance of the corresponding duties.¹²

EH Carr argued that rights implied duties because governments could not protect the rights of the citizens if citizens failed to support their governments and to provide them necessary resources.¹³ But although scholars by and large agreed that there is relation between the two, some theorists reject the proposition that the performance of duties is a precondition of human rights. The existence of various oppressive laws and coercive steps taken by numerous states violating the basic human rights of the citizens have found justification on the ground that citizens do not perform their respective duties as loyal citizens of the state. Demanding separate statehood or questioning of a certain government or rule is certainly considered as violation of duties as good citizens inviting the violation and suppression of their basic human rights.

The philosophical justification of human rights was very uncertain at the time when the United Nations introduced the concept of human rights into international law. This uncertainty was produced both by historical critique of the concept of natural rights and by the lack of any philosophical consensus on the basis of human rights at the time of adoption of UDHR in 1948. It is said that we cannot find the existence of human rights in pre-state society. Hence it was basically the creation of citizens after the formation of the state system, so these rights cannot be termed as self-evident natural rights as they are rather some morally compelling guiding principles to the state. Again the concept of morality, values and good society differ

from region to region, culture to culture and as such we cannot find any universal conception of human rights.

The UDHR states that the recognition of human rights is the foundation of justice in the world. However the relation between human rights and justice has proved to be controversial. Liberal theories of justice argued that the concept of justice is more fundamental than that of human rights, and theories of justice can say more about how rights should be allocated than the concept of human rights.¹⁴ Some theorists believe that human rights claim is valid or not dependent on whether it is endorsed by justice.¹⁵ In contrast, Donnelly argued that human rights is clearer and less controversial than that of justice.¹⁶

The concept of human rights demands respect for human individuals as moral agents and concern for them as vulnerable creatures. It is neither egoistic nor anti-social. It denies neither individual responsibility nor the value of the community. It is a concept that affirms human solidarity while respecting individual autonomy. However, given the religious and philosophical diversity of the world, and the essentially contested nature of philosophy itself, consensus on the philosophical foundations of human rights as the very idea of philosophical foundation is problematic.¹⁷

There are various reasons for supporting human rights, derived from respect for human dignity as advocated by Donnelly, or bases of moral action advocated by Gewirth, the demands of human sympathy by Rorty, or the conditions of human flourishing by Nassbaun. Human rights do not constitute the whole of morality or politics. They are not absolute, for human rights can conflict with each other. The moral and humanitarian case for assigning the concept of human rights to a leading role in political theory is, however, very powerful.

Major Conceptual Conflicts

There exists some major conceptual conflicts regarding the scope and philosophical base of human rights.

We do not have human rights to everything that is good, or everything that we need. We may need to be loved, or require friendship for living. But we do not have a human right to be loved because no one has the obligation or duty to love us. The relation among rights and other moral values is very complex.

Human rights do not exist in nature. They are human inventions. They are, therefore, neither natural nor self evident. Rather they are morally compelling only if followed from a morally compelling justificatory argument.

The concept of human rights is criticized because it is individualistic. It emphasises on rights rather than responsibilities and thus encourages selfishness. Moreover, it is confusing. For example, it is difficult to define the right to freedom of religion of those whose religion denies that all human beings are equal in rights.

Different cultures promote different kinds of values and concepts of rights. It is relative from religion to religion and culture to culture. So human rights cannot be universally applied to all over the world. Moreover the UDHR is based on western value system, so it has led to conflict between the western and non-western value systems.

Therefore it can be said that human rights may not be rights alone simply because one is human being, but they are rights of exceptional importance, designed to protect morally valid and fundamental human rights interests especially against the abuse of political power. They carry special weightage against other claims, and can be violated only for exceptionally strong reasons. So it would be good to say that human rights establish minimum standards of

good governance. But claiming too much for human rights may make it harder to defend against their critics. In this process it will weaken its appeal and effects. So there is need to be clear whether human rights support a comprehensive universal application or minimum standards of political philosophy for good governance.

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The Role of UN Security Council for Protection of Human Rights: Interface between State Sovereignty and Human Dignity

Dr. Diptimoni Boruah

Introduction

Protection of human rights is one of the key features of the United Nations Charter. The Preamble of the Charter states that the 'People of the United Nations' are determined to solve succeeding generations from the scourge of war and reaffirmed its faith in fundamental human rights. Promoting the respect for human rights is included among the purposes and principles of the organization. It is reflected in Article 55 of the Charter which affirms 'universal respect for, and observance of human rights' as integral to the 'creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations.'

The Security Council is one of the main organs of the UN, responsible for the maintenance of world peace and security. If any situation threatens international peace and security, the Council can take preventive measures

under the UN Charter. Generally, the Council works unanimously as a facilitator, such as between civil war parties or in negotiation with dictatorial regimes. It is when the peaceful measures fail the Council can use more repressive measures. The Council has the right to intervene by peaceful or military means against a sovereign state in order to protect the rights of its people.

In 1945, the founders of the United of Nations realized that the League of Nations had been too democratic and gave too much attention to the sovereign equality of the states, which was found to be a drawback of the global body.¹ It is for this reason; the Security Council was created with five permanent members, which possess a veto over Council resolutions in the attempt to mesh power with international action to respond the crisis situations. The founding fathers of the United Nations realised that all sovereign states were equal, but pragmatic recognition of power factors meant that some needed to be more equal than others. Consequently, the Security Council was created with 5 permanent members having veto power and 6 non-permanent members without veto power who are elected for a period of two years by the General Assembly. The number of non-permanent members was increased to 10 in 1965. The Council is legally supreme over UN Members, each Member being required to carry out the decisions of the UN Security Council.²

Powers and Functions of the UN Security Council

The Charter of the United Nations precisely sets out powers and functions of the Security Council. Article 24 of the Charter states that Members 'confer on Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties

under this responsibility the Security Council acts on their behalf.'³ In discharging its mandates, the Council has to act in accordance with the purposes and principles of the United Nations.⁴ In exercising its power under Chapter VII of the UN Charter the Council can determine the existence of any threat to the peace, breach of peace, or act of aggression and can make recommendations, or decide what measures can be taken in accordance with Articles 41 and 42, to maintain international peace and security.⁵

Article 41 authorizes the Security Council to adopt peaceful means, including economic sanctions against states that have violated Article 39, while Article 42 permits it to use force, that is, to order military action including 'demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.' Although the Charter does not specifically grant the Council the authority to initiate economic sanctions or military intervention to protect human rights in crisis situations, such inherent power has validated by Resolution 794, adopted in December 1992 in response to the Somalia crisis.

Security Council's involvement with Human Rights

As history attests, many international disputes are precipitated by violations of human rights and non observance of human rights may constitute a threat to international peace and security. Support for it can be drawn not only from history but also from the UN Charter. As per the language of the Charter, Article 1(2) the purpose of developing friendly relations between nations is firmly based on mutual respect for the principle of equality and is second only to maintenance of international peace and security in the stated purposes of the organization. To meet this objective, it is necessary 'to achieve international co-

operation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respects for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.⁶ Where human rights violations are contributing to frictions between states, the Security Council may take action to restore the peace under the terms of the Charter. This is the obvious situation in which the Security Council can involve itself in human rights issues. In discharging its mandates, the Security Council is required under Article 24 to act in accordance with the purpose and principles of the United Nations.

However, for decades human rights were seen as being largely outside the scope of the Security Council and were seldom mentioned within its purview. States were reluctant to include a set of issues widely perceived as a matter of state sovereignty in their deliberations about international peace and security. However, after several decades when most items on the Council agenda had been conflicts between states, the nature of the situations the Council needed to address changed towards the end of the 1980s increasingly to internal conflicts. In most of the cases, gross human rights violations are the root causes of armed conflict. A failure to accept human rights as an aspect of the reality which the Council needed to deal with would considerably hamper the Council's effectiveness as the principal organ to maintain international peace and security.

Moreover, over the last twenty-five years, the Security Council has significantly changed its attitude to human rights. Now it seems human rights is a crucial factor striving to address by the Council. Currently, most missions created or authorised by the Council have various human rights tasks within their mandates, and most missions have

substantive human rights capacities or components. Additionally, the Council has used or developed an impressive range of mechanisms, such as commissions of inquiry, judicial mechanisms, visiting missions or sanctions, to achieve goals with an impact on human rights in different parts of the world.

Security Council Resolutions on Protection of Human Rights

Over the periods the Security Council did not exercise its powers extensively against aggressor states or states that had engaged in serious and persistent violations of their citizen's human rights.⁷ The reason for such inaction was the use or threat to use veto by one or more of the Council's permanent members.⁸ However, in a few selected cases, the Security Council, acting under Article 39 of the UN Charter adopted mandatory sanctions against States responsible for gross human rights violations. The first instance occurred in 1966, when the Council imposed mandatory economic sanctions against Southern Rhodesia.⁹ In 1977 the Security Council imposed mandatory arms embargo against South Africa.¹⁰ Between 1963 and the late 1980s, the Council passed numerous resolutions that called on the racial government of South Africa to take specific measures strictly dealing with the protection of human rights, such as the release of the political prisoners (Resolutions 181 and 182); stopping executions and granting amnesties for political prisoners (Resolution 190); abolishing detention without charge, without access to counsel and without the right to a prompt trial (Resolution 191); or commutation of death sentences or stays of execution concerning a specific prisoner (Resolution 547). Although in some situations the Council could act, until the Gulf War and its aftermath the threat to use of veto power effectively prevented the Council

from taking strong action against states which were responsible for human rights violations within their borders.

With the end of Cold War and the apparent diminishing need of Russia and the United States to exercise veto power, the Council could able to take action under Articles 41 and 42 against both aggressor states and states engaging in serious internal human rights violations. For Example, the Council, by adopting Resolution 678, reaffirmed that Iraq had committed a breach of the peace and authorised Member States 'to use all necessary means to uphold and implement [its resolutions concerning the invasion] and to restore international peace and security in the area.'¹¹ With adoption of this Resolution the Council could able to act as its founders had intended.

More innovative was the post-Gulf War Resolution 688, designed to protect Iraqi citizens, mainly Kurds, from further repression by their own government.¹² However, there was nothing the Council's responsibilities for the maintenance of international peace and security- an implied reference to Chapter VII of the Charter, the Resolution expressed concern that Iraqi's actions had 'led to a massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security in the region.'¹³ Even the Resolution 688 remains controversial among international lawyers. The Resolution has in fact proved to be ground-breaking in that it was the first time the Council has characterised severe human rights deprivations having minimal external effects as a threat to international peace and security.¹⁴

The crucial normative step validating UN humanitarian intervention for human rights purposes was Resolution 794 of December 3, 1992, in which the Security Council authorised the use of force 'to restore peace, stability and

law and order' in Somalia.¹⁵ In this situation, after first determining that 'the magnitude of the human rights tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitute[d] a threat to international peace and security,' the Council resolved 'to restore peace, stability and law and order with a view to facilitating the process of a political settlement under the auspices of the United Nations.'¹⁶ To achieve such objectives, the Security Council, invoking Chapter VII of the UN Charter, authorised both the Secretary-General and cooperating Member States 'to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia.'¹⁷

Conflict Prevention and Protection of Human Rights

An increase in human rights violations in numerous situations preceded the eruption of an acute armed conflict. In many occasions the Council has adopted measures for prevention of conflicts from occurring or expanding. However, even with plenty of warning, the Council and the UN system were unable to prevent massive human rights violations even when there was a full-fledged peacekeeping operation on the scene, as in the cases of the 1994 genocide in Rwanda and the 1995 mass executions of male civilians in Srebrenica and other Bosnian towns designated by the UN as 'safe area'. In Resolution 1366 adopted on 30 August 2001, the Council acknowledged 'the lessons to be learned for all concerned from the failure of preventive efforts that preceded such tragedies as the genocide in Rwanda (S/1999/1257) and the massacre in Srebrenica (A/54/549)', and resolved 'to take appropriate action within its competence, combined with the efforts of

Member States, to prevent the recurrence of such tragedies'.

Despite the much-vaunted 'New World Order', the Council was slow with a meaningful response. With the former Yugoslavia fractured along ethnic lines, the targeting of civilians became common as different fractions sought to drive rival ethnic groups from what they consider as their territory. By May 1992, Serbian forces had begun an aggressive ethnic cleansing campaign in Bosnia, and thousands of Bosnian civilians were killed by Serb forces. Torture, rape and executions in the camps were frequent, but it was not until August 1992 that the Security Council took note to this situation through Resolution 771.¹⁸ In October 1992, the Council declared a no-fly zone over Bosnia.¹⁹ but only in March 1993 did the Council authorise to the use of force by the Member States to enforce the no-fly zone.²⁰ On May 25, in Resolution 827, the Council authorised for creation of an international criminal tribunal to prosecute 'persons responsible for serious violations of international humanitarian law' in the former Yugoslavia.²¹ The Council did it under Chapter VII of the UN Charter, asserting that such a criminal tribunal 'would contribute to the restoration and maintenance of peace.'²² However, within a short period, the establishment of the Ad Hoc International Criminal Tribunal for Former Yugoslavia (ICTY) could not prevent the continuation of atrocities. Finally, in 1993 the Council authorised the UN Protection Force (UN PROFOR) to use force 'to ensure the protection to the civilian population' and protect civilian in designated safe areas.²³

In 1994, the Council created a similar tribunal for adjudicate crimes committed in Rwanda, the International Criminal Tribunal for Rwanda, to prosecute perpetrators responsible for commission of crimes of genocide, crimes

against humanity and violation of the Additional Protocol II and Common Article 3 of the Geneva Conventions of 1949.²⁴ Subsequently, the Council voted for various sanctions and arms embargoes on more than a half-dozen occasions, including Sudan, Liberia, Sierra Leone, Democratic Republic of Congo, Libya, Syria, etc., primarily because of human rights violations. Brutal local fractions in places like the western Balkans, Somalia, and Rwanda, inter alia, could care less about the niceties of Council pronouncements based on Charter provisions and other parts of international law. In their struggle for power, and sometimes extermination of their perceived enemies, only countervailing power - not diplomatic and legal niceties - could check their brutal ambitions. It is evident that in Somalia in the early 1990s, no local fighter carrying a weapon had ever heard of the 1949 Geneva Conventions, the law of war, or war crimes. Therefore, as earlier, questions about legality were joined to questions about effectiveness.

It can be noted that in 2011 in early Council voting on the Libyan situation, both India and Brazil abstained rather than support a Western-sponsored resolution authorising a no-fly zone for the ostensible purpose of protecting civilians from attacks by Muammar Kaddafi forces. The Council, often after calling on conflicting parties to pay proper attention to human rights, can request diplomacy by the Secretary-General on human rights matters as an effort in peaceful conflict resolution. Further the Council may itself appoint one or more of its members to try to make out an agreement on human rights issues.

Debate between State Sovereignty and Human Dignity

The UN Charter not only gives the Council primary

responsibility for the maintenance of international peace and security but also it is capable of super-seeding the view of any state. Article 103 states that the provisions of the Charter shall prevail over any other international agreement. It is therefore up to the Security Council to decide what actions are required for the maintenance of international peace and security, or for advancement of human rights and fundamental freedoms that might be linked to security. The Charter requires the Organization to avoid intervening in matters that are essentially within the jurisdiction of States. However, it is the Council that can determine meaning of the Charter's wordings. There are no clear mechanisms of international judicial review or any other mechanism which can authoritatively determine the legality of Council actions. Consequently, it is widely establishing norm under international law that gross human rights violations are not inherently internal matter of a domestic jurisdiction. It is a matter of international concern and the UN Security Council in such situations can take action under Chapter VII of the UN Charter.

It is impossible to separate human rights from security in reality. One could not reduce the tensions and fighting without improving the protection of human rights. Certain parties would not lay down their arms unless death squads are controlled and unless there are prospects for free and fair elections leading to some power sharing. Because of the total or partial collapse of the legal system, it is not possible for such a country involved in armed conflict for prevention of atrocities and to bring into justice the culprits responsible for the commission of gross human rights violations. In such situations, the Security Council intervention is indispensable.

Developing a consistently effective Security Council

that could manage a broad array of complicated human rights problems - even if redefined as security problems - remained an elusive goal. While some human rights groups gave priority to human rights, human security, human dignity, or the humanitarian imperative, the UN Member States rarely did so in any simple way. If development of a world of democratic states and human rights protections was sometimes seen as part of national values and may be even national interests, other considerations of self-interest often clouded the situation.

It has been noticed that almost all states bring to the UN Security Council table their narrow conceptions of parochial national interests. They bring to the Council their national experiences and preoccupations. When the Council deals with peace and justice issues, narrow national interests are rarely absent.

Conclusion

The UN Security Council has undoubtedly come a long way in its evolution of the manner in which it treats human rights. Since the end of the Cold War, the Council has been paying much more attention to human rights and humanitarian affairs. It has resorted more often to enforcement actions under Chapter VII of the Charter, framing the agenda item as both concerning the human dignity of individuals and a matter of international peace and security. During last two and half decades, the Council has increasingly emphasised for prevention and suppression of the most serious crimes, such as genocide, crimes against humanity, war crimes, and ethnic cleansing, on the one hand, and on the other hand, it has also emphasised on humanity law, which is a combination of human rights, humanitarian, and criminal law.

The Council's approach to human rights provides one of the examples of its ability to accept the changing nature of the very phenomenon with which it works, particularly in armed conflict situations; and thus to modify one of its seemingly most inviolable tenet, that is, human rights fall strictly within states' sovereignty, and to invent or adapt its tools to better fit the changing nature of international peace and security. However, looking at the various conflict situations, the Council's human rights approaches to them have been uneven and that a great proportion of human rights-related approaches in Council's resolutions are declaratory or hortative, rather than operative. From the existing world situation it is evident that meaningful human rights results on the ground in conflict situations are achieved when there is burden sharing both within the Council and among the different organs of the UN, maximising all resources. In certain situations, years at a time are needed to produce lasting human rights improvements. Sometimes, it has been seen that long term commitment is hard to maintain, especially when multiple crisis compete for the Council's attention, and a sense of fatigue sets in when the conflict continues despite all the measures deployed.

The Council helped to shrink the domain of absolute and defensive state sovereignty, while expanding the rights of international action under the notions of the global responsibility and humanity to protect individuals. A concern for absolute consistency may indeed be the hobgoblin of small mind, and the historical record shows increased, albeit uneven, Council attention to human dignity, as linked to international peace and security. Claims to state sovereignty and domestic jurisdiction are not always absent, but they do not always control. In many situations the fate of

individuals would have been worse without Council action, as in Zimbabwe and Syria.

Despite some success, the Council's credibility as a protector and enforcer of human rights is at stake. The use of limited military forces in post-Gulf War Iraq and Somalia and in the former Yugoslavia has given some credibility to the Council's decisions because it has demonstrated a resolve to enforce them coercively, if need be. Prior UN actions in Somalia and, lamentably, even to this day, in most of the former Yugoslavia were not backstopped by either a credible authorization of even a serious threat to use force if Council demands were not met. Another aspect of credibility problem concerns the Council's willingness to act consistently in the face of widespread human rights deprivations. While it has focused its attention on Iraq, the former Yugoslavia, Somalia, and Haiti, equally severe deprivations have been occurring, inter alia, but in Angola, Liberia, the Sudan, and other states without provoking meaningful Council action. Such situations demand the Council's frequent humanitarian interventions for prevention of gross human rights violations.

The Council lacks independent power and it has to rely on borrowed power to act as human rights protector. It can only do what state political will and consensus and cooperation allow it to do. To the extent that state members of the Council fail to adequately manage serious human rights violations, this failure will encourage various actors to proceed outside the Council, with a loss of reputation and power for that UN organ - and a decline in orderly international relations. It can also be mentioned that human rights improvements are never just one actor's success and that the different actors can reinforce each other's value added, such as what may often be useful is advocacy, not

only from civil society alone, but also from concerned member states and across the different UN bodies.

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- 3 UN Charter, Article 24(1)
- 4 Article 24(2). In turn Article 25 asks Members agree to accept and carry out the decisions of the Security Council. Article 48(1) states that the Security Council has the power to determine which Member States shall be authorised to carry out its decisions.
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- 6 United Nations Charter, Article 1, Para 3
- 7 Exceptions to the Security Council's historic pattern of inactivity include the Korean War and the Gulf War
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Human Rights in Indian Philosophical Tradition

Dr Sanchita Bora

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness.

– United States Declaration of Independence, 1776

Introduction

Each individual in society needs to be respected and treated in a certain way. He or she possesses some inherent and undeniable rights by virtue of his/her being a human being. These are the rights which every human being is entitled to enjoy and to have protected. In other words, such rights are necessary to ensure the dignity of every person as a human being irrespective of one's caste, religion, race, colour, language, sex, nationality or any other factor. Scholars and philosophers in both domestic and international level accepted that human beings possess some basic rights. These rights originate with the very birth of the individuals. "To have human rights, one need not do anything special than be born a human being."¹ These rights are called Human Rights and are essential for the development of the

human personality. United Nations Universal Declaration of Human Rights categorically said that all human beings are born free and equal in dignity and rights. (Article 1) So, each person has a right to be treated respectfully. Occasionally, human rights are called birth rights, natural rights, inherent rights and basic rights. These rights have moral, legal, and political bearing.

Objectives

The objectives of the paper are-

1. To introduce the notion of human rights;
2. To find out the genesis of human rights in Indian philosophical tradition.

Methodology

The paper is based on the data collected from the secondary source i.e. published literature of the subject (books, journals, articles and write-ups, news, etc.). The method followed in this paper is descriptive and evaluative.

The Notion of Human Rights and its growth

Being human essentially means possessing some rights. Generally, rights are those conditions of social life which are necessary for all round development of an individual. But, 'Human Rights' is the vocabulary of 20th century. The word 'Human Rights' is first used by Thomas Paine in the English translation of the French Declaration of the Rights of Man and Citizen. The United Nations Centre for Human Rights defines Human Rights as "those rights which are inherent in our nature and without which we cannot live as human beings."² The shocking experiences of World War II actually established human rights as a movement and proved that human rights issues were

significant at both national and international level. Suppression of fundamental human rights during war resulted in a systematic articulation of the concept of human rights.

Earlier human rights were named as natural laws, natural rights and rights of man. Social, economic, political and philosophical factors strongly influenced the development of human rights. Western scholars date the genesis of this ideal of natural law to Sophocles, more than 400 years before Christ. Greek and Roman philosophers had recognized the idea of natural rights. Some thinkers maintain that roots for the protection of the rights of man can be traced as far back as to the Babylonian laws. The Babylonian King Hammurabi had issued 'Hammurabi's Codes',³ a set of laws which introduced fair wages and protection of property. The Assyrian Laws, the Hittite laws and the Dharma of the Vedic period in India also articulated different sets of standards. Cicero (106-43 B.C), a Roman statesman, laid down the foundations of 'natural law' and 'human rights' in his work, *The Laws* (52 B.C). Plato, the great Greek philosopher (427-348 BC) advocated a universal standard of ethical conduct. Aristotle (384-322 BC) was often said to be the father of natural law.

The history of human rights can be traced to some important documents of the past, particularly, Constitution of Medina (622), *Al-Risalah al-Huquq* (659-713), Magna Carta (1215), the English Bill of Rights (1689), the French Declaration of the Rights of Man and of the Citizen (1789), and the Bill of Rights in the Constitution of the United States of America (1791). The first written evidence of human rights was the 'Magna Carta'. In the seventeenth and eighteenth centuries, the concept of human rights was one of the most important issues in the world. Thomas

Hobbes (1588-1679), John Locke (1632-1704) and Jean Jacques Rousseau (1712-1778) amply developed the natural rights theory. Thomas Paine (1731-1809), an American revolutionary thinker advanced the doctrine of natural rights without linking it to Rousseau's social contract theory. Immanuel Kant (1724-1804) put human rights distinct from other rights. Finally, on 10th December, 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly. According to the Declaration, all states have to protect and promote human rights on its own territories. In UDHR, specific reasons for studying and teaching human rights were also forwarded. The World Conference on Human Rights held in 1993 in Vienna stated in the declaration that human rights are possessed by every individual by virtue of being a member of human family.

Indian Philosophical Tradition and Human Rights

Human rights from historical perspective are neither entirely Western in origin nor so modern. It is the crystallization of values that are the common heritage of mankind.⁴ Every great civilization maintained that dignity and equality of each member should be valued. The concept of human rights is as old as the civilized life of mankind. Even in the *Vedic* literature of ancient India protection of human rights had been mentioned. The ancient kings in India cared for the welfare of the people. Indian thought was historically very generous to human rights. The rights of people was recognized and protected by moral and spiritual dictates. More than five thousand years ago, the ancient Indian philosophers and thinkers interpreted a theory of higher moral law. The aim of that law was to establish harmonious social order. It brought a balance

between spiritual and material aspects of life. The broad principles of human rights, such as equality and freedom, have been expressed repeatedly in the earliest texts of Indian culture. In ancient India, the individual existed as a citizen of the state and in that capacity he had both rights and obligations.

Humanitarian traditions were impelled from *Vedas*, *Purānas*, *Mahābhārata*, *Rāmāyaṇa*, *Bhagavad-Gītā*, *Smṛtis* and *Śāstra*. The ancient Indian seers recognized a cosmic order which served as the foundation of ethics. They called it *Ṛta*. A. L. Basham described *Ṛta* as 'the highest flight of *Ṛg-Vedic* thought'. Originally *Ṛta* was a concept pertaining to the physical universe, denoting the Law of Nature. Gradually, the cosmic sense of *Ṛta* as Natural Law developed into the social sense of *Ṛta* as Moral Law and it became a salient feature of *Vedic* thought. The highest good is to be identified with the total harmony of the cosmic or natural order. *Ṛg-Veda* also referred three civil rights i.e. *Tana* (body), *Skridhi* (dwelling place) and *Jibhasi* (life).

According to ancient Indian scriptures one must consider the conception of man's duties known as the 'triad of obligations' or *ṛṇatraya* (three debts). Fulfilment of these *ṛṇas* or obligations should be the first aim of man. The ideal of *ṛṇatraya* is a comprehensive ideal, including man's duty to the gods, perpetuation of the race and the cultural heritage. The individual who fulfils all of these obligations is a good man. *ṛṇa* and *ṛta* led to the evolution of the concept of *dharma*. The conception of *dharma* includes all the other two concepts do (*ṛṇa* and *ṛta*) and also makes an advance on them. *Dharma* means functioning in accord with reality. R. Pannikar puts that *Dharma* is perhaps the most fundamental word in the Indian tradition which could lead us to the discovery of a possible homeomorphic symbol

corresponding to the Western notion of 'Human Rights'. *Dharma* was a model for the universal legal order. The *Dharmaśāstra* is basically a code of conduct; it speaks more of human duties than of rights. Therefore, it uses the word '*adhikāra*' only occasionally while it uses the word '*dharma*' frequently.

Three doctrines have often been identified in the context of Indian civilization as its distinctive markers: the doctrine of *varṇas* (doctrine of four classes), the doctrine of *āśramas* (doctrine of four stages of life), and the doctrine of *puruṣārthas* (doctrine of four goals of life). These three represent dignity, worth and potentiality and aspirations of human being. Ancient Indian society was a highly structured and well-organised society with the fundamental rights and duties not only of individuals, but of classes, communities etc. The Indian tradition recognizes four ends or *puruṣārthas* to be pursued. They are *kāma* or pleasure, *artha* or wealth, *dharma* or righteousness and *mokṣa* or liberation. According to B.K. Iyre, "The term *puruṣārtha* means and connotes the aims and purposes of life or the fundamental aspirations of man."⁵ The purpose of Indian philosophy is to practice human values. It is quite clear that human rights are inseparable from positive human values. Human values play a significant role for the promotion and realization of human rights in any society. Values help to crystallize any legal action, and play a very important role in the development of society. Since the concept of right and its exercise and regulation base on a number of values, they have had a great impact in the realization, promotion and protection of human rights. Therefore, values are one of the basic aspects of human rights. *Puruṣārthas* which explain the performance and responsibility of voluntary actions have been the Indian perspective of human values. Besides *Puruṣārthas*, Indian

philosophical tradition promoted values like *Ahimsā*, *Satya*, *Brahmacharya*, *Asteya* and *Aparigraha* and so on. The motto of Indian philosophy was reflected on this *mahāvākya* (great saying)-

Om Sarve Bhavantu Sukhinah
Sarve Santu Nirāmayāh
Sarve Bhadrānni Pushyantu
Mā Kashcid-Duhkha-Bhāg-Bhavet
 (May all be happy;
 May all be without disease;
 May all have well-being;
 May none have misery of any sort.)

The prime importance of human rights in the rich Indian legacy of *Vashudhaiva-kutumbakam*

(We are all human family).⁶

Long before Hobbes, the epic *Mahābhārata*, (written more than 2000 years ago and describing a war in 1500 BC) described the civil liberties of the individual in a political state. Kautilya, the author of the celebrated political treatise *Arthashastra* advocated civil, legal and economic rights. Kautilya had used the concepts of *prajāsukha* (happiness of subjects), *prajāhita* (interest of subjects) and *yogakshema* (welfare). In *Arthashastra* he writes,

Prajāsukhe sukham rājnah,
Prajānām cha hite hitam,
Nātmapriyam hitam rājnah,
Prajānam tu priyam hitam.

(In the happiness and wellbeing of the subjects, lies the well being of the king, In the welfare of the subjects, is the welfare of the king, What is desirable and beneficial to the subjects And not his personal desires and ambitions are desirable and beneficial to the king)⁷

The concept of human rights is related to the concept of human dignity. Human dignity and human rights imply each other. Rights are seen as tools in the hands of each individual to maintain his dignity and worth. In this way all such rights which are essential for the maintenance of human dignity can be put in the category of human rights. The purpose of rights is served by *svadharma*, the philosophical concept of age old Indian culture. The human being has a 'right' to survive only in so far as it performs the duty of maintaining the world.

In the post *Vedic* period Buddhism and Jainism were a reaction against the rights of the privileged class. Rights of equality, fraternity, liberty and happiness were considered as most precious rights. Buddhism, founded approximately 2,500 years ago by Lord Buddha addressed the universal issues of human relationships. This philosophical system had a profound respect for the life of each person and kind enough towards the suffering of fellow human beings. Buddha explicitly attacked the rigid caste system of his day and practised universal brotherhood and equality. Scriptures like *Tripitika* and *Anguttara-Nikaya* paid considerable attention to the enduring problem of human suffering (*dukha*), and stressed that one's duty is to overcome selfish desires and private fulfilment by practising charity and compassion (*karuna*) towards those in need. Jainism accepted that 'human race is one'. It believes in equal rights of men and women. Fundamental concepts like non-violence, justice, non-possessiveness etc. are advocated by Jainism. The concept of *Anuvrata* or ethical code is to promote social harmony and brotherhood.

In Contemporary Indian philosophy, Lokamanya Tilak declared that freedom is the birth right of Indians for which they will have to fight. Swami Daya Nanda Saraswati

denounced caste system and subordination of women. Thinkers like Raja Rammohan Roy, Swami Vivekananda, M K Gandhi also have great respect for *Vedic* tradition. Gandhi said to renounce Hinduism if anyone could prove that untouchability was one of its tenets. Contemporary social philosophers denounced evils like child marriage and polygamy, which may be called violation of human rights. Keshab Chandra Sen, Sri Aurobindo, Rabindra Nath Tagore, Dada Bhai Naoroji, Mahadev Gobinda Ranade etc. made valuable contribution in the field of human rights and human welfare. Later Jawaharlal Nehru, B R Ambedkar and S Radhakrishnan also contributed in promoting humanism.

The issue of human rights in the modern sense took shape during the course of British rule. The struggle for independence manifested the demand for fundamental freedoms and civil and political rights of the people of India. The concrete demand for fundamental rights for the Indian people came along with the birth of the Indian National Congress on 28th December 1885. The framers of the constitution of India adopted a number of rights. They emphasized on the formulation of a constitution which would guarantee every citizen basic human rights. The Indian constitution duly recognizes the concept of human rights in the Preamble itself. The expression 'fundamental' denotes that these rights are inherent in all human beings and are essential for the individuals for blossoming of the human personality and soul. Fundamental rights are modern name for natural rights. These rights represent the basic values of a civilized society. For the protection of human rights the National Human Rights Commission was established in 1993. It is observed that there is an unbroken continuity between the most modern and the most ancient phase of thought.

Conclusion

Human rights do not have to be given, bought or earned; they cannot be deprived from any other person for any reason. 'Right' has become the most powerful idiom of our contemporary intellectual discourse. UNESCO International Congress on Education for Human Rights and Democracy in Montreal (1993) adopted human rights as pre condition for sustainable development. But, the twenty first century has witnessed large scale human rights violation. Communal conflicts, rivalries, threat of terrorism are growing everywhere. Mutual harmony, love, peace and sense of fraternity are decreasing day by day. At this moment, the panacea lies in the nectar of Indian tradition. Philosophical scriptures demonstrate the art of winning over hatred by love, tension by meditation, violence by non-violence and misery by benevolence.

The culture of India has been formed by its old and long history, unique geography, various demographics and different customs, tradition and philosophy. The particular spirit that India had possessed in the old golden days is that India looks within. To find out that 'within' is the basis of Indian civilization. Man, as distinguished from a brute, should live a life worthy of a man; this was the main approach of deep spiritual thought of India right from the Vedic age. Social and spiritual welfare both are determined by the human rights. *Rg Veda* declares that no one is superior (*ajyeshtho*) or inferior (*akanishtasha*). All are brothers (*bhrataraha*). All should strive for the interest of all and should progress collectively.⁸

Universal benevolence and kindness reflected in Indian philosophical tradition are rare in other cultures. These have been playing significant role in the promotion of the cause of human rights. Western community's opinion

of human rights seems to be more or less restricted to the physical and social needs of the human beings. The Indian sense of human rights is not restricted to the physiological needs only; rather it encircles the ecological, cultural and finally the spiritual dimensions of human beings. Indian philosophy promotes duty-centric world-view, a world-view which maintains that 'obligation' and not 'right' is the fundamental notion to understand human reality. The relevance of this view is that duty bound society can only ensure freedom and equality. Once we practice human values as depicted in our tradition, there will be no single occasion where we will violate human rights. The more we practice these values, the more we protect human rights.

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Human Rights: The Gandhian Perspective

Rimky Kakoty

Introduction

Man is a member of the society. Man's individual existence cannot be thought without society. They are inseparable. Social life is the part and parcel of the very being of a human. Every society consists of various rules, regulations and rights. Being a member of the society man is confined to these rules, regulations and rights. These are common to every individual residing in a society. Likewise, every person is entitled to certain rights - simply by the fact that, he/she is a human being. Such rights are universally present and are termed as human rights. Every human being is equal in terms of dignity and rights. Human rights are inherent and inalienable rights which are due to an individual by virtue of his/her being a human being. Human rights ensure the dignity of every person irrespective of caste, creed, sex, language etc.

The history of human rights covers thousands of years which draw upon religious, cultural, philosophical and legal developments throughout the history. It seems that the concept of human rights is as old as civilization. This is evident that almost at all stages of mankind there have

been human rights documents in one form or the other. Several ancient documents and later religions and philosophies included a variety of concepts that may be considered to be human rights. Even in the Vedic literature of ancient India protection of human rights was mentioned. However, the idea for the protection of human rights grew after the tragic experiences of the World War II. Prior to the world war, there was not much codification done either at the national or the international levels for the protection and implementation of human rights.

There are various definitions of human rights. Different centers, institutions, notable personalities have defined human rights in different ways. Some of the widely accepted definitions of human rights are as follows-

- a. The United Nations Centre for Human Rights defines human rights "as those rights which are inherent in our nature and without which we cannot live as human beings."¹
- b. Nickel characterizes human rights as "norms which are definite, high priority, universal and existing and valid independently of recognition or implementation in the customs or legal systems of particular countries."²

Objectives

The following are the objectives of this paper-

1. To conceptualise human rights;
2. To analyse the philosophy of Gandhiji;
3. To highlight the Gandhian perspective of human rights.

Methodology

The method used in this paper is descriptive-

evaluative method. The study is mainly review based. It is purely supported by secondary and tertiary source of data, i.e. books, journals, papers, articles and internet.

General appraisal of Gandhiji's philosophy

Mahatma Gandhi, the celebrated propounder of Truth and Non-violence is the most outstanding figure of the twentieth century. He contributed much for the independence and uplift of India. He was a great nationalist, realist and was considered as the champion of freedom. But, even though he was an ordinary man like any other, he was able to achieve that realization which made him the 'Mahatma'.

The entire philosophy of Gandhi plays an important role in the improvement of social atmosphere. His philosophy revolves around some basic thoughts. Truth, God, Non-violence or ahimsā, Satyāgraha, Sarvodaya etc. are some of the basic tenets of his philosophy. These concepts has not only led us to the creation of a better social atmosphere but also revolutionized the society in every aspect i.e., socially, economically, politically and predominantly morally.

1.1 Truth is that principle with which Gandhiji experimented all through his life. The world for Gandhi rests upon the bed-rock of Satya or Truth. Gandhiji loved Truth so steadfastly that he preferred to describe Truth as God. One can afford to deny God, but one cannot afford to deny Truth. The second important principle of Gandhi's philosophy is his love for God. According to Gandhiji there is no difference between Truth and God. His God is a living reality for him. For him God is one. Gandhiji always believed that God is the creator, sustainer of all beings and an embodiment of moral virtues. Gandhiji says, "To me God is truth and love, God is ethics and morality; God is

fearlessness, God is the source of light and life, and He is above and beyond all these. God is conscience. He is the personal God to those who need His personal presence. He is embodied to those who need His touch. He is the purest essence. He simply is to those who have faith. He is all things to all men. He is in us and yet above and beyond us".³

1.2 Non-violence or ahimsā is the keynote principle of Gandhiji's philosophy. In other words, it is the central concept of Gandhi's philosophy. According to Gandhiji, non-violence is the greatest and the most active force in the world. He uses the word 'non-violence' in order to bring out the true meaning of ahimsā. The prefix 'non' of the word non-violence does not imply any negative force. Literally, ahimsā means non-killing. To Gandhiji, ahimsā means more than that. It has a "world of meaning".⁴ For it is a superior force which surpasses all the forces. Gandhiji says, "It does not express a negative force, but a force superior to all the forces put together. One person who can express Ahimsa? in life exercises a force superior to all the forces of brutality".⁵

1.3 Satyāgraha is that non-violent method which Gandhiji had used in the entire freedom movement. Satyāgraha literally means clinging to Truth. For Gandhiji, it means Truth-force or soul-force. "Truth is soul or spirit. It is, therefore, known as soul-force".⁶ The concept of Satyāgraha is based on the principle of ahimsā. Satyāgraha teaches man not to inflict pain or suffering on the opponent, but to suffer himself in order to proceed towards Truth or God. A man can be regarded as a true satyāgrahi only when he dedicates his life for the realization of Truth or God.

1.4 Sarvodaya etymologically means 'the betterment

of all'. It is based on 'love', which proceeds on the faith that a sarvodayi will also be prepared for maximum possible self-sacrifice for the good of the others. The end of all activities, social or political, has to be nothing else but the uplift of everybody. Sarvodaya is also based on the belief that there is an essential unity behind everything.

Human Rights and Gandhiji's Perspective

Human rights are inseparable from the very existence of human beings, and therefore precisely there cannot be different kinds of human rights. Human rights are same to each and every individual. Gandhiji had always worked for the rights and welfare of mankind. So, Gandhiji's attitude towards human rights occupies an important place. His sacrifice during the freedom movement clearly shows his keen concern towards his love for humanity.

2.1 Gandhiji believed all human beings belong to one family and one God. Gandhiji said, "For we.....are children of one and the same creator, and as such the divine powers within us are infinite. To slight a single human being is to slight those divine powers, and thus to harm not only that being but with him the whole world."⁷ Thus, all individuals are the creations of one God. So, they must be considered as brothers and sisters of the same family. Moreover, Gandhiji dreamt, "The moment, we have restored real living equality between man and the whole creation. When that day comes, we shall have peace on earth and goodwill among men."⁸

2.2 Gandhiji loved the creations of the world, so he won't hurt them by any violent means. His philosophy is based on non-violence. Non-violence is not a negative virtue, but a positive state of doing well even to the evil-doers. It is a law of love which aims at the construction of

a well-developed and well-ordered society. Violence always results in anger, pride, hatred, selfish consideration, bad intention and similar other considerations. Hence, he adopted the method of non-violence for safeguarding the human rights and to eradicate violence from the entire society. But, in the present scenario where violence and conflict prevails everywhere, where human rights have been violated; Gandhiji's concept of non-violence is the only way to reform the society and to protect human rights.

2.3 Satyāgraha is another non-violent technique which Gandhiji has applied against all evils, social, political, economic and moral. It is the highest and infallible means, the greatest force. Human rights violation is a social evil. It can be removed through the practice of satyāgraha techniques like - strike, dharna, picketing, non-payment of taxes etc. Satyāgraha has great potentialities. It has the capacity to transform societies which are based on the principles of exploitation, violence, conflict etc. Thus, satyāgraha is one of the non-violent technique which Gandhiji has applied during the freedom struggle and to fight against violation of rights.

2.4 Gandhiji said, "The true source of rights is duty." Without duty we have no right. Duty is the base of right. Gandhiji considered duties as equally important as rights. Every individual has to enjoy duties without having any violation or religious discrimination. The exercise of right depends on one's sense of duty.¹⁰ When a man makes a variation in his duty then he violation of right to the person concerned. Hence, Gandhiji considered rights and duties as inseparable. According to Gandhiji, "Swarāj consists of knowing our rights and duties."¹¹ Every right has a corresponding duty. My right to live with dignity implies that others have the duty not to kill me or injure me. At the

same time my right to live with dignity also implies my duty to respect other's right to live with dignity and also not to injure them. Hence, it is the duty of every individual to be conscious of their rights and duties as well as the constitutional laws of the state regarding human rights.

2.5 Gandhiji was in the favour of establishing a classless society where every individual can enjoy equal rights and where there will be no oppression of one class by the other. Therefore, he established a Sarvodaya Samāj where 'Service to all' would be the ideal of each citizen. It is clear from his advocacy that- I shall work for an India, in which the poorest shall feel that it is their country, in whose making they have an effective voice, an India in which there shall be no high class or low class of people, an India in which all communities shall live in perfect harmony. However, in the present society everyone is engaged in their own goodness and progress. Nobody has time to work for the welfare of others. There is tension all around. In this context, Gandhi's principle of sarvodaya is a useful means as it stands for 'the betterment of all'.

2.6 Gandhiji evinces profound faith in the basic goodness of men. He wants to touch the good side of every human being. Gandhiji holds, "We must appeal to the good in the human beings and expects response."¹² Gandhiji's doctrine of Trusteeship is based on a sense of morality and love. Trusteeship holds, "Take what you require for your legitimate needs and use the remainder for society."¹³ Through trusteeship, Gandhi wanted to establish an equitable economic order through a proper scheme of distribution of the accumulated wealth to all members of the society. But more important than this consideration was his concern to remove selfishness from human beings by appealing to the moral consciousness of the individuals.

2.7 Gandhiji wants every man to be treated as equal. His concept of 'bread labour' is a useful device to introduce social equality among people. According to him, the labour of man in all essential occupations is considered as bread-labour. By labour, Gandhi refers to both physical and mental labour. Though intellectual labour has great importance in our day to day life, but the utility of physical labour cannot be denied as it enables man to realize the dignity of his/her labour. If this principle is observed uniformly equality will be established among people and no one will starve in the world.

2.8 Gandhiji's concept of education has also played an important role in the overall development of individual. According to him, "Education is an elementary right and it is necessary for the development of individuals. And it is the fundamental right to protect culture, language, scripts of minorities, etc. has to be defended and protected."¹⁴ Gandhiji's concept of education is entirely based on the development of human personality, to maintain discipline, to create manual work with learning and to develop the culture of peace. Gandhiji believed that education is the only means in the society which can be used as an instrument of socio-economic progress, material advancement, political evolution as well as moral development of an individual.

2.9 Gandhiji was much concerned regarding the rights of the deprived sections of the society. According to him all human beings are alike under the same sky. There is no high and low among the people. Thus, every individual has to enjoy equal rights and respect irrespective of everything.

Conclusion

From the above discussion it is clear that human rights are the rights which every human being is entitled to enjoy irrespective of caste, creed, sex, colour etc. Human rights are same to every individual existing in society. But, in the due course of time it is seen that human rights has been violated to a large extent. Several controversies and conflicts exist regarding human rights. So, in this regard Gandhiji's concept of human rights plays an important role. His philosophy and his love for mankind stand as an ideal for all in enjoying our rights and duties. Thus, Gandhiji's concept of human rights has great relevance for the present as well as the future generations.

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Role of Education in Promotion and Protection of Human Rights

Karabi Goswami

Introduction

Human rights are the basic rights and freedom that belong to every person in the world, from birth until death. These rights are applicable to all regardless of where we are from, what we believe or how we choose to live our life. These can never be taken away, although can sometimes be restricted, as for example if a person breaks the law, or in the interests of national security.

Human rights are the moral principles or norms which describe certain standards of human behaviour. These basic rights are based on values like dignity, fairness, equality, respect and independence. Human rights are inherent in all human beings regardless of their nation, location, language, religion, ethnic origin or any other status. But human rights are not just abstract concept. These are defined and protected by law. These are applicable everywhere and all the time in the sense of being universal. These rights are relevant to all of us, not just to those who face repression or mistreatment.

Human rights are those fundamental rights that a

person cannot be denied by any individual or any government simply because he/she is a human being. They are same for everyone. They entail both rights and obligations. The following are some of the most important characteristics of human rights-

- Human rights are founded on respect for dignity and worth of each individual.
- Human rights are universal, i.e. they are applied equally and without discrimination to all people.
- Human rights are inalienable in that no one can have his or her human rights taken away though these can be limited in some specific situations. For example, the right to liberty can be restricted if a person is found guilty of a crime by a court of law.
- Human rights are indivisible, interrelated and inter dependent for the sense that it is insufficient to respect some human rights and not the others. In practice, the violation of one right will often affect the respect for other rights.
- All human rights are equally essential to respect for the dignity and worth of every person.

Human rights are that powerful tool which can maintain the standard and developmental process of man. Realizing this truth, on December 10, 1948 the General Assembly of the United Nations adopted Universal Declaration of Human Rights. The General Assembly appealed to all the member states to follow this Declaration for the sake of human welfare. Realizing the importance of this Declaration, all the member states celebrate 10th December as the Human Rights Day.

Role of Education for Protection and Promotion of Human Rights

Keeping in view the importance of human rights for

their welfare, it is very important to protect them to reduce the chances of tyranny and so on. People everywhere should understand what human rights are. When people better understand the human rights, it will be easier for them to promote justice and the well being of society. In this regard, education can serve as a means for creating awareness among the individual about their civil, political, social, economic, cultural rights. The concept of expanding the human rights through education is regarded as an important issue now-a-days. So, it is very important to know the crucial role of education in protection and promotion of human rights.

Education itself is a right and also a powerful means to promote and protect human rights. As a right, education is universal to all i.e. every individual has the right to access quality education. Education is the universal need of every human being. Because it is the only source through which knowledge, understanding and skill can be developed and with the help of these capabilities an individual can actively participate in the social life. Education can make him aware about the rights and responsibilities as democratic citizen. Therefore, it is the duty of the Government to provide education to all without discrimination.

Being a tool, education can generate awareness among the masses. A comprehensive education in human rights mainly create awareness and it comprises of two elements i.e. - knowledge and information regarding the human rights and the mechanisms that protect and promote these inalienable rights. The promotion and protection of human rights is not possible without mass awareness and sensitivity of human rights issues. Awareness is also needed for eliminating the violations of human rights. When individuals are aware about their rights and responsibilities then they

can take necessary steps for enjoyment and protection of their rights.

Thus it can be said that education both as a right and as a means are interrelated and interdependent and is necessary to promote and protect the human rights. When an individual is aware about the rights and responsibilities then he/she can fully enjoy the rights and thus education can generate awareness. In other words, when a person gets education the knowledge and understanding level of the person is develop and hence he/she will promote human rights. According to Kofi Annan, the former Secretary General of the United Nations, "Without education, we can not see beyond ourselves and our narrow surroundings to the reality of global interdependence. Without education, we cannot realize how people of other races and religions share the same dreams, the same hopes. Without education, we cannot recognize the universality of human aims and aspirations." So, it is the duty of the Government to provide education to all the masses. In this regard some Government initiatives in India are discussed below-

Government initiatives

It will not be out of place to refer to certain major initiatives taken by the Government of India in the field of education for its proper development. Some important steps taken by Government of India are as follows-

District Primary Education Programme (DPEP)

District Primary Education Programme (DPEP) is one of the important programme for realize the constitutional obligation of compulsory elementary education. DPEP was launched in 1994. It was a time bound programme of 5 years duration. The main objective of this programme is to

provide all children with access to primary education (Class I-V), to reduce dropout rates at primary level to less than 5%, to reduce the differences in enrolment dropout rates and learning achievements among gender and social groups. The most important aspect of DPEP is that it aims at chalking out the programme to provide integrated education for the disabled children. The programme was implemented in the backward districts of different states on selective basis. It can be said that DPEP is a new milestone of progress in our primary education by the end of the 20th century.

Sarva Shiksha Abhiyan (SSA)

Sarva Shiksha Abhiyan was launched in 2001 on national basis by Government of India. It is the biggest ever national plan of primary education in the country. It involves the Central and State Governments and the community as a whole, for which it is called total education. It stands for quality, equality and universalisation of elementary education within a limited time frame. As such its main aim is to provide useful and relevant elementary education for all children in the age group of 6-14 years by 2010. Keeping in view of its nature and structure, it is quite justified to call this mission as 'Sarva Shiksha Abhiyan' or Total Educational Adventure.

Right to Education Act

Right to Education Act, 2009 is one of the significant efforts of the Government to realize the constitutional provision of free and compulsory education to the children. As per the provisions of the Act, it is mandatory for the state to provide free and compulsory education to every child within the age group of 6-14 years. The clause 3.1 of the Act states, "Every Child of the age of six to fourteen years shall have a right to free and compulsory education

in a neighbourhood school till completion of elementary education." This Act is considered as revolutionary act as it aims at universalisation of primary education.

Rashtriya Madhyamik Shiksha Abhiyan (RMSA)

Rashtriya Madhyamik Shiksha Abhiyan is a scheme of the Government of India for universalisation of access to and improvement of quality of education at the secondary stage. RMSA is a shared scheme of the Centre and State Government to achieve universalisation of secondary education viz. standards IX and X and to contain dropout after elementary education. RMSA was launched in 2nd March, 2009 with an aim to provide good quality secondary education accessible and affordable to all children in the age group of 14-18 years.

These are some of the educational schemes taken up by the Government of India for the development of both primary and secondary education. Because when the citizens of the country are educated then only they will understand the plan and policies provided by the Government for their welfare. Education can contribute to resolve conflicts and develop the possibilities of peace and prosperity. Human rights of people cannot be assured unless it is accompanied by the right to education. Therefore, education should be imparted to each and everyone so that they understand the importance of human rights.

For implementing education for all, equality is the primary consideration. But there exists some hurdles regarding the implementation of education for all. Some of these are discussed below-

Population explosion

The alarming rate of population growth in the country may be described as both the cause and effect of the slow

progress in the field of education. Growth rate of population is found to be higher among the illiterate and economically poorer section of people. As such there is concomitant relationship between illiteracy and increase in population, thereby making the problems more complicated.

Lack of trained teacher

The teachers appointed in the primary schools, especially in rural schools are not properly and adequately trained to work in rural areas. They lack knowledge of local conditions and can hardly create any positive impact on child's education.

Absence of provision for part time education

The need based useful, non-formal part time education has not been given due attention in our educational system. Non availability of part time education for the school dropouts is virtually depriving the young ones from enjoying the benefits of right to education.

Social hurdles

Illiteracy naturally makes the people conservative who do not easily accept progressive changes in society. As such, practices like child marriage, bonded labour, dowry system, disparity in education of the girls etc. still exist.

Absence of Teacher's Orientation Programme

The school teachers need proper training for reorientation of thoughts and ideas and revitalization of mind and outlook. But such training programmes are not given due attention by the authorities concerned. The teachers also often lack the initiative and motivation to such orientation programme.

Single teacher school

There are many single teacher schools especially in the rural areas. It becomes very difficult for such teacher to control and provide education to students of all the classes. As a result the students become the victim and many of them leave school without completion of studies.

Small habitation

Small habitation constitutes around 15% of total rural population which has created a major problem in our country. Teachers are reluctant to go to such places. Such school lacks trained teacher and the objectives of education for all remained unfulfilled.

These are some of the hurdles for which many children are deprived of access to education.

Suggestions

Some measures can be suggested through which access to education for all can be made a reality.

- Now-a-days non-governmental organizations are playing a vital role in every aspect of our society. So, the Government must encourage those organizations to work for imparting education mainly in the rural and backward areas.
- Government should make strong legislative provisions to stop inhuman practices like child labour, witch hunting, dowry etc.
- Corruption in appointment of teachers must be stopped. The teachers must be appointed on the basis of merit and professional qualification.
- Single teacher school system should be abolished and at least two/three teachers should be appointed keeping in view the enrolment of students on that

particular school.

- Voluntary organizations can play an effective role by organizing awareness camps, seminars, discussions, talks, exhibitions, film show etc. in the backward and rural areas in order to tackle the problem of population explosion.
- The school campus should be transformed into community development centres in the rural areas.
- Refresher course for the teachers should be made compulsory.
- Regular session of school should be ensured and irregular admission should be stopped.
- The schools must be under regular inspection.

These are some suggestive measures which can be adopted by the Government with the help of non-governmental organization and community involvement which will surely enhance the educational system and fulfil the most desirable goal i.e. – education for all. When each and every person of our country has access to education he or she can enjoy the human rights freely with dignity and protect them from violation. In such situation we can easily achieve the goal of democracy.

Conclusion

It can be said that protection and promotion of human rights require the insight of the individuals which can be achieved through education. Therefore, free and compulsory basic primary education should be provided to all children. While it is important to protect human rights, it is also equally important to convert those rights into meaningful action. So, in the 21st century, education is playing a crucial role in developing a new human rights perspective- a perspective that considers education to be vital human rights

as well as a vital means to protect and promote other human rights. Thus, it is the need of the hour to ensure right to education for each child, which is focused on the need to develop its own autonomy and potential for independent society to which the child belongs and within the global society in which the child will interact. Thus education for all is an important phenomenon because only it can develop the insight and capabilities of the individuals through which they develop sense of self, sense of community and sense of citizenship and hence, protect and promote their human rights and enjoy their life as democratic citizens.

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Globalisation and Human Rights

Sankar Jyoti Bora

Introduction

Human being is social by nature and it lived in society. The formation of society differ themselves from the other species of the nature. The society leads a systematic life with some rules and regulations. The concept of rights, liberty, power, authority etc. gradually evolved in the society as the time passes. The rights are those essential conditions of life without which man cannot be at his best. 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.

Though the international concept of human rights has its origin in the twentieth century yet the western idea of rights can be traced back to the ancient Greek period. Plato and Aristotle were the champions of natural rights. The exponents of Social Contract Theory Hobbes, Locke and Rousseau developed the ideas of right to life, individual liberty and freedom as well as the concept of general will. In the Middle Ages the notions of supernaturalism and absolute monarchy were prevalent which restricted the rights of man. Man became a mere onlooker whose destiny was

controlled both by ecclesiastical masters and the monarch together. Since liberalism stood as a reaction to authoritarianism and absolutism of both the church and monarchy, therefore, it emphasized on freedom of man in all spheres of life. It worked on the principle of *laissez faire* where state was considered as a necessary evil. It minimizes the state function and maximizes individual liberty and restricted state interference on individuals. The concept of free market and open competition prevailed. However the Marxists oppose the notion and argued that rights are possible only in a communist society.

The period from 1914 to 1945 witnessed two world wars and this period is considered as period of catastrophe. The period also witnessed the war against fascism, colonialism, racism, oppression and discrimination that the conceptualization and articulation of human rights in its present form took place. However in 1945 the United Nations Organization came into existence to save the mankind from the scourge of war and for maintaining world peace. The UN General Assembly adopted the Universal Declaration of Human Rights on 10 December 1948. The UDHR declares in unequivocal terms that "All human beings are born free and equal in dignity and rights." (Art.1)

The evolution of these rights can be conceptualised into three generations rights. The first generations of human rights include the civil and political rights i.e. right to life, freedom of speech, equality before law, right to religion, right to vote etc. The second generation human rights evolved after the Second World War and provide social, economic and cultural security. It includes right to employment in just and favorable conditions, right to food, social security etc. The third generation rights are basically *collective rights* in nature which laid importance on groups

rather than individual. These include right to self determination, right to development, special provisions or rights for community and religion and deals with environment.

Thus, human rights are those inherent and inalienable rights which are due to an individual by virtue of his/her being a human. It based on the assumptions that human beings are born equal in dignity and rights.

Violation of human rights

Though the issue of human rights has gained importance all over but humanity is caught in a whirlpool of problems, which lead to blatant violations of human rights. The objective of the Universal Declaration of Human Rights still remains a utopia. The violations of human rights not only occurs due to war, civil war, ethnic conflicts, genocide, terrorism, migration, sexual and domestic violence, child labour, religious fundamentalism etc. but also due to absolute poverty, hunger, ill-health, malnutrition and impact of Globalisation so on and so forth.

Science and technology have brought comforts for man and improved the conditions of livelihood. But at the same time it has also led to negative developments with several problems to mankind. The inventions of sophisticated and WMD (Weapons of Mass Destructions) including the nuclear weapons has put the entire mankind under a constant threat that has endangered even the survival of human species. Now-a-day's violence and state sponsored terrorism are quite common in regional, national and international areas.

Impact of Globalisation: Violation of Human Rights

The 21st century is engulfed by the phenomenon of Globalisation. Globalisation simply means free trade without

barriers. The world has rapidly been turned into an integrated whole via international trade, internationalization of production and financial market and the internationalization of consumer-culture, promoted by an increasingly networked global telecommunication systems. It allows free flows of goods and capital, which would usher in economic growth and development. However, the industrialized countries of Europe and North America themselves are resorting to protectionist measures and formation of regional trade blocs. Thus, consumer goods produced in industrialized countries could have unrestricted entry in developing countries. But the goods produced in the third world countries, for instance, in India, cannot have the same unrestricted access to North America and Europe.

Trade between the West and countries in the non-western world may destroy subsistence agriculture, co-opting third world farmers into production for the international market-place, while their societies are made dependent on imported foods. Local artisan productions can be wrecked by international competition, causing more unemployment than the new employment opportunities created by international investment.

Free market economy sets the goal of more production at less cost and more profits. Glossed over in this approach is the human face and day-to-day problems faced by the common people. Such an approach not only ignores human rights aspect but further widens the gap between the rich and the poor and aggravates, what Peter Drucker calls, social crisis.

Richard Barnet of the Institute of Policy Studies describes Globalisation in terms of four increasing webs of global commercial activity: global cultural *bazaar*, the global shopping mall, the global financial network and the global

workplace. The Globalisation and market oriented economic reforms helped transnational companies shift their manufacturing units to developing countries. Because of more people are crossing borders in search of jobs and in most conditions people are forced to work in inhuman conditions for lower wages. The transnational companies (TNC) are the spearheads of Globalisation and have become the dominant economic and political force in the world economy. Increasing competition and pressure on TNC to increase profits leads to a relentless search for cheap labour market. Many of the companies from developed and newly industrialized countries (NIC) have shifted their manufacturing and service industries to developing countries. It may be mentioned here that a large number of software professionals in Bangalore, India, works at less than one fifth of price in developed countries. Though work has moved to the less developed countries; the shift does not automatically bring western level of employment and prosperity to the host countries. The western countries are increasingly using their concept of human rights as a yardstick to judge the developing countries and to deal with economic and trade relations to extend development assistance. At the same time Globalisation intensifies impoverishment by increasing poverty, insecurity, fragmentation of society and thus violates human rights and human dignity of millions of people.

The Human Development Report 1997 provides asserting evidence of how Globalisation and systematic violation of human rights go hand in hand. Its statistics provide gloomy confirmation of the fact that many countries are worse off today than they were 20 or 30 years ago and that the global distribution of income is the worst it has

been for at least three decades. The Report indicates that in 1997, 30 developing countries registered a decline in their 'Human Development Index' (HDI), a construct based on life expectancy, literacy and income more than in any other year since the United Nations Development Programme (UNDP) began publishing its annual report in 1990.

The Preamble of the Declaration of the Right to Development, adopted by the UN General Assembly in 1986 describes 'development as a comprehensive economic, social, cultural and political process that aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in their fair distribution of resulting benefits.' It was further maintained that the right to development is the right of individuals, groups and people to participate in, which all human rights and fundamental freedom can be fully realized. But these so called development models are not compatible with human rights standards. As a result of the globalisation process, more negative results are visible now. Global integration of structure, processes, and ideologies produce injustice, oppression, exploitation and imbalanced development in the societies. The systematic integration of forces that are dominant in the Globalisation process intensifies human rights violations.

Globalisation has its winners and losers. With the expansion of trade, market and foreign investment, the gap among the developing countries has widened. The imperative to liberalize has demanded shrinking of state involvement in national life, producing a wave of privatization, cutting jobs, slashing health, education and food subsidies etc. affecting the poor people in the society. In many cases, liberalisation has been accompanied by

greater inequality and people are left trapped in utter poverty. It ultimately causes increased impoverishment, social disparities and violation of human rights.

Globalisation in Indian context has also witnessed the violation of human rights. In June 1991, India initiated the New Economic Policy to liberalise its economy, sought Foreign Direct Investment (FDI) to cut down subsidies, and opted for free-trade and market based policies. Thus, India began its experiment with the forces of globalisation, beginning in 1991. One significant development since then has been the improvement in annual economic growth rate ranging between five percent and seven percent. Indian markets are now flooded with consumer goods and products mostly from MNCs. Foreign made colour TVs, cellular phones and various models of cars-German, French, South Korean, Italian cosmetics, textiles, ready-made cloths, shoes, etc. have flooded the market. Food giants such as Kentucky Fried Chicken (KFC), Pizza Hut, and MacDonal'd's have their restaurants and food shops all over India. Pepsi and Coke have captured soft drinks market. The Indian companies have vanished.

The arrival of TNCs has increased rental and market value of real-estate many folds depending on the site and the areas of metropolitan cities. On the other hand city like Delhi itself continues to experience acute shortage of power and water supply. States like Bihar, U.P, Madhya Pradesh, and Rajasthan continue to be the worst in terms of power and water supply. Prices of electronic goods like TV, mobile phones, computers, refrigerators of various makes, which are now easily available, have come down, while the prices of essential commodities of day to day needs such as vegetables, food grains, edible oils, etc, have gone up. Invitations of FDI create a situation where backward regions

become more backward and the rich becomes richer. We should keep in mind that it is the responsibility of the government to protect human rights of the people. Otherwise the suicide of the farmers, selling of their children to fight against poverty would be continued. The labours have been forced to work in 3Ds condition such as dangerous, dirty and degradation.

International Covenant of Economic, Social and Cultural Rights, Article 6 to 15 emphasize on the right to work, the right to just and favourable conditions of work, the right to form and join trade unions, the right to social security and above all the right to adequate standard of living including food and shelter. Similarly the Constitution of India has spelled out these rights and the Directive Principles of State Policies have directed the state to secure a social order for the promotion and welfare of the people. The government should not surrender its economic resources to private entrepreneurs, especially the TNCs at the cost of common people.

Conclusion

Human rights are not derived from some understanding of human nature; instead they are the articulation of aspirations immanent in a culture. As ideals, human rights define the community within which people want to live, but have their roots in the community in which they in fact live. It is more a social ideals than a legal claim. But violation of human rights is one of the most worrying problems of our times for the entire civilization. To protect these rights, beyond the state machinery the NGOs and civil society should play an important role. There must be a universal education policy from the grass root level to conceptualize the problem of

violation of human rights for all.

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Role of NGOs in Protecting Human Rights : A Study of *Prahar*

Rosy Deka

Human Rights are simply defined as the rights which every human being is entitled to enjoy and to have protected by virtue of his/her being a human being. These rights are necessary to ensure the dignity of every person as a human being irrespective of one's race, religion, nationality, language, sex or any other factor. These rights are the basic minimum requirement for survival of human beings in the society.

The prime rights and freedoms provided in the Universal Declaration of Human Rights, 1948 make it clear that all human beings are born free and equal in dignity and rights, particularly equality before law – that everyone has the right to life, liberty and security of person and property. It is further provided that no one shall be subjected to torture or to cruel or inhuman treatment or punishment and that no one shall be subjected to arbitrary arrest, detention or exile and shall be entitled to a fair and public hearing in respect of any criminal charge, that everyone has the right to freedom of thought, conscience, religion, opinion and expression and that everyone has the right to freedom of peaceful assembly and association. This Declaration is a mirror of international commitment to protect

human rights on a global perspective.

So far various national and international associations and organizations are working towards the protection of human rights at different levels. Among such organizations, *Prahar*, a non-governmental organization is worth mentioning which has been working with a vision of violence free society based on justice, liberty, equality and security of life and property.

Basically a NGO is any non profit, voluntary citizens group which is organized on a local, national or international level. That is independent from states and international government organization. They are usually funded by donation but some avoid formal funding altogether and are run primarily by volunteers. The primary purpose of an NGO is to defend or promote a primary cause. These organizations typically try to raise awareness, acceptance and knowledge by lobbying, press work and activist event.

Prahar is a non-governmental organization, established in 1991, having the Special Consultative Status with Economic and Social Council (ECOSOC) of the United Nations since 2014 and also a leading State awarded voluntary organization, with a non-political, non-communal and social character duly registered under Societies Registration Act, 1860. It is also a partner institute of Indian Institute of Entrepreneurship (IIE), Guwahati. *Prahar* is registered under FCRA, 1976 under Ministry of Home Affairs, Government of India. It is certified as Nodal NGO of District A.A.C.P. Co-ordination Committee, Nagaon. *Prahar* is located at the heart of Nagaon town. It has a strong executive body duly constituted with 14 nos. of executive members which make decision on implementation of various developmental activities undertaken. Special emphasis is given to women, children, youth, elders, poor

and backward communities of the society. So, the organization has been rendering its best service towards the society for nation building activities through its ideology, vision, skill and efforts.

Vision of the Organization

The vision of *Prahar* is to form a society where every individual avails the basic needs and services so as to have a life with self-respect, dignity and pride.

Mission of the Organization

The mission is to form a society free from chaotic, mechanized, self centric, epicurean and to begin with a special journey towards the formation of a disciplined, peaceful and developed society.

Management of the Organization

Management of *Prahar* comprises of Board of Advisors, Advisors to the Chief Executive, Executive Body and General Body. The Executive Body is the principal authority to over-see the management affairs of the society. The chief functioning officer is the Chief Executive of the Organization (CEO).

Area of Operation

Prahar mainly deals with the marginalized sections of the society with focus on women and children in various aspects of life like basic amenities, right of human beings, health, socio-economic development in the North Eastern states of India.

Strategy

Empowerment of human resources and its proper

utilization for the development of the society as well as of nation is the primary mission of *Prahar*. In this connection, it has designed multi dimensional strategy which include organizing training programmes, workshops, seminars, campaign for capacity building, field surveys, basic awareness camps etc.

Aims and Objectives

- i) To provide and encourage primary education among rural and Tea Tribes without any distinction of caste, creed, religion and gender.
- ii) To provide welfare schemes to the poor, widow, destitute women and children of rural tea garden, semi urban and urban areas.
- iii) To provide adequate training to the rural youths, women and girls for attaining leadership, discipline, determined and responsible citizen for social and common causes.
- iv) To open, form, establish, promote, set up, run, maintain, assist, finance, support and/or help the various community development programmes/ activities and also construct and develop community hall, sanitation, public roads, public cemetery, charitable dispensaries, libraries, reading room, short stay home, rest house and building/institution for use and welfare of the general public.
- v) To establish, promote, run, maintain, assist community health centre, day care centre, blood bank, ambulance service, de-addiction cum rehabilitation centre, care and support centre etc. for use and welfare of the general public.
- vi) To act as mediator for micro finance, micro insurance & micro credits linkages and to bridge the gaps

between the apex funding agencies, financial institutions, banking organization, development institution etc. and the under privileged people. Self Help Group (SHG) etc. & to procure, promote, take over and carry out insurance activities & act as corporate agent for such activities.

- vii) To establish, arrange, implement & construct facilities to develop condition of drinking water, low cost housing, low cost sanitation programmes in rural, semi-urban and urban areas.
- viii) To start, establish, run, take over, arrange &/or manage production centre, vocational training centre, including computer training centre, fine arts, craft, handloom weaving, jute & handicrafts, music, painting, yoga & other vocational, professional and income generation subjects and activities like agriculture, animal husbandry, jute, bamboo craft, food processing & preservation etc.)
- ix) To conduct, arrange, undertake, organize & implement various kinds of child welfare programmes/ activities, assist and help child labour, labour welfare programmes.
- x) To start, maintain, assist, take over programme in relief measure in those parts which are/or become subject to natural calamities like famine, food poisoning, fire, flood, earthquake, cyclone etc. and establish any home, institution or society for the welfare of victims of natural calamities and/or to provide food/shelter to any person from time to time.
- xi) To start, establish, arrange, maintain, organize and assist any welfare programme/project for upliftment of disabled, blind and physically handicapped person, street children and orphan.

- xii) To implement, arrange, provide, organize, assist medical camps such as health checkup, eye operation camp, blood donation camp, mobile health programme, immunization programme, leprosy education, malaria prevention and provide assistance necessary for living to the needy person who are otherwise incapable or handicapped or mentally or physically retarded.
- xiii) To open, fund, establish, maintain and assist in leper asylum, old age home, orphan home, and other institutions for providing and helping poor, destitute, elderly person, widow and orphan of all faith and communities.
- xiv) To establish, arrange, organize, run agricultural production activities animal husbandry development, fishery development, supply of power tiller, agricultural machinery, tractor, irrigation appliances, seeds, fertilizers etc.
- xv) To organize procurement and marketing activities of agricultural, livestock, diary, poultry and ancillary product of the farmers and to construct its own storage facilities and to organize transport facility for the same.
- xvi) To organize, foster electronics usage, creation of employment in rural areas through the use of electronic products as well as electronic production, servicing and maintenance in rural areas.
- xvii) To implement, organize, monitor, arrange and collaborate in programmes on environmental awareness, forest, wildlife, pollution control, environmental degradation, protest against cruelty to animals, creation of social forestry and to develop community and private non-forest waste lands for soil moisture conservation, plantation afforestation,

horticulture, floriculture, herbarium and pasture development and other ecological development programmes etc.

It may be mentioned here that *Prahar* has been undertaking a lot of awareness activities since last few years. It has also set up a Human Rights Cell in its Administrative Office located at Nagaon. In 2015 it has organized a day long awareness camp in the field of Human Rights in collaboration with Nagaon Bar Association on the occasion of International Solidarity Day. The programme was officially sponsored by Centre for Social Concern, Tamil Nadu. The basic objective was to generate awareness among the mass people about human rights.

Emphasis on Rights of Women

As a non-governmental organization, *Prahar* covers every sphere of society. Women play their role with great responsibilities in upbringing of a healthy society, but they are abiding by much strict rules and regulations in the society. The organization's main goal is to empower women and to help them bloom their hidden potentialities. As a human rights organization it stresses on promoting human rights of women.

Education is a strong agent of social change and it can eliminate all odds from the society. Illiteracy is a major cause for which women are discriminated against in the male-dominated society for a long time. Therefore, *Prahar* tries to provide elementary and fundamental education as well as higher education to them so that they can take part in all activities of the society and can face the challenges of life. *Prahar* ensures that women will not be discriminated against on the basis of sex. It arranges programmes, workshops on human rights for women so that they can be

aware of their rights covering all social, political and economic aspects as well as they can actively take part on democratic and developmental process of the state. Women living in villages or remote areas and in small towns suffer from multiple problems in terms of conventional drifts, discrimination and family sufferings in general. Therefore *Prahar* has been conducting not only basic education but also various skill development programmes, technical trainings, workshops, and awareness programmes so that they can be self employed and self dependent. *Prahar* tries to promote innovative design makings by lady entrepreneurs. *Prahar* has also formulated self help groups for the socio-economic development of women in both rural and urban areas and provided all necessary help for up gradation of the groups by trainings, proper monitoring and link up with the funding agencies. It has adopted adequate policies for generation of awareness among women beneficiaries for social welfare programmes. *Prahar* has been undertaking a lot of awareness activity since its inception. Women are the basic unit of society, as women makes a family, family makes a home and home makes a society. But it is seen that violence and discriminations always starts from their own homes by their own family members. Nowadays, level of domestic violence is increasing mostly in developing countries. Hence, *Prahar* offers special awareness and training programmes for women on domestic violence, so that they can resist discriminations and violence and speak up for their rights. No development is possible if there is no education. A good healthy society doesn't habitually appear on its own and for its emergence women have to play a key role. Taking this in mind, *Prahar* always endeavours to empower women from grassroot level.

Total number of beneficiaries on Entrepreneurship & Skill Development Program (ESDP) and formation of self help group for women are given below:

Year	No. of beneficiaries
2012-13	200
2013-14	550
2014-15	400

After completion of the program most of the participants had linked-up themselves with various agencies like DIC&C, NABARD, Rural Bank, KVIC etc. and they have started their self employment activities very smoothly.

Recognition/Status achieved by the Organization

1. Special Consultative Status with Economic and Social Council of United Nations since 2014
2. Selected for 'State Youth Club Award' from Nehru Yuva Kendra Sangathan, an autonomous body under Ministry of Youth Affairs & Sports, Government of India for outstanding social service to the Nation during 2008-09.

Raising its voice in the United Nations

Prahar, having special consultative status with ECOSOC of UN, is also playing a vital role as it has raised its voice for protection of human rights in the platform of United Nations Organization. Participating in the 31st Session of Human Rights Council on August 2015 in Geneva, the representative from *Prahar* placed in the floor of the Council various issues relating to human rights violation such as problems faced by Indo-Chinese population (Chinese – Assamese community), violation against Assamese kingdom in Koch-Bihar, unsolved issues and identity crises in Assam and appealed to the United Nations and the international

community for interference and to put pressure on the Government of India for the cause of the effected people.

Representative from *Prahar* participated in the 32nd Session of Human Rights Council and presented some matters of grave concern and threat to human rights. The matters include issue of medical terrorism, river inter-linking, construction of big dams in the North-East among others.

Conclusion

Thus, since its inception, *Prahar* with its sincere, hard working and dedicated members with an urge to serve the society is doing a commendable job, in spite of many constraints and problems it has to face at different times. It has adhered to its vision to form a society where every person will avail the basic needs and services so as to have a life with self respect, dignity and pride.

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Child Labour and Human Rights : A Study of Barak Valley of Assam

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Introduction

Child labour is the practice of having children engaged in various activities which are mentally, physically, socially or morally dangerous and harmful to children. It includes the engagement of children in productive activities by depriving them from their childhood. It also takes away their opportunity to attend regular school and enjoy such things that experience a healthy childhood.

In India child labour prevails in many economic activities like agriculture, transportation sector, construction works, shops, brick industries, household works and so on. Being extremely disadvantageous, they have always been over burdened and under paid everywhere. They are not even entitled to have the basic amenities like proper food and nutrition, education, entertainment, rest and leisure. All these lead to gross violation of their human rights.

Although there are many acts and regulations regarding the prevention of child labour and protection of

rights of the children, yet it becomes an urgent necessity for some as cheap and faithful labourers and for some as a means of earning a little more. But altogether it takes away the childhood of a child and violates the provisions of the Child Labour (Prohibition and Regulation) Act of 1986 which prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law.

In this paper, an attempt has been made to understand the root causes of child labour and its consequent effects on the rights of the children. To understand the causes of child labour, we picked up 100 child labourers, 20 each from five different employment sectors of Barak Valley viz. agriculture, domestic work, shops, small scale industries and transport. This sample has been taken by means of stratified random sampling method and the respondents have been interviewed with the help of a designed interview schedule. Data thus collected have been presented and analyzed to draw a concrete conclusion in this regard.

Analysis of Data

1. Age

As age constitutes an important factor of determining whether a labourer is child labourer or not, it is very important to know the age of the respondents. For this purpose the sample respondents have been distributed into four age groups viz. 5 to 7 years, 8 to 10 years, 11 to 12 years and 13 to 14 years.

Table- 1

Distribution of Respondents on the basis of age

Employment sectors	5 to 7 years	8 to 10 years	11 to 12 years	13 to 14 years	Total
Agriculture	0	0	6	14	20
Domestic work	0	1	9	10	20
Shops	0	3	4	13	20
Small scale industries	0	2	7	11	20
Transportation sector	0	0	10	10	20
Total	0	6	36	58	100

Above data reveal that an overwhelming majority of 58 per cent of the respondents belongs to the age group 13 to 14 years and the remaining are mostly belong to 10 to 12 years group and they constitute 36 per cent. Only 6 belong to 8 to 10 years age group while, no one was found from the age group 5 to 7 years.

2. Source of family income

To understand the sources of family income of the child labourers, data related to the same have been collected and analyzed.

Table- 2

Distribution of Respondents on the basis of sources of family income

Sources of family income	No. of child labourers
Agriculture	13
Daily labour	33
Small business	19
Bagging	9
Not known	26
Total	100

Source: field study

Above data reveal that 33 percent of the respondents belong to the family having daily labour as main source of income, while a large portion of child labourers constituting 26 percent do not know the source of their family income. 19 percent of the respondents were found to belong to the families having small business as main source of income and nine respondents were found to belong to the families dependent on begging for livelihood. This shows that almost all the respondents come from very needy families and are working to support their parents to earn bread.

3. *Compelling factors*

There are many forces that drive or compel a child to involve him with a job not suitable for his health and psychology. Thus, to understand the same the respondents have been interviewed about what had led them to such occupation.

Table- 3

Distribution of Respondents on the basis the compelling factors that led them to work

<i>Compelling factors</i>	<i>No. of child labourers</i>
Lack of parents	21
Parents inability to maintain family	49
Ignorance	23
Social exploitation	7
Total	100

Above data show that almost half of the children are forced to work because of the inability of their parents to maintain the family and they constitute 49 percent. Ignorance on the part of the parents is identified by 23 respondents as a compelling factor while 21 respondents were found compelled to work because they lack either

of their parents and only 7 respondents are victims of social exploitations.

4. *Hours of work*

Child labour is very cheap and everyone who employs children at work can get it easy to exploit in terms of working hours, payment and fulfilling other basic requirements. The child labourers are often deprived of the just and human condition of work. They have to work almost whole day with lots of physical and mental torture. Thus, to understand the condition under which a child has to work, we have asked them about their daily working hours and data thus found have been distributed into three categories. They are- 6 to 8 hours, 8 to 10 hours and more than 10 hours.

Table- 4

Working Hours

<i>Employment Sectors</i>	<i>6 to 8 hours</i>	<i>9 to 10 hours</i>	<i>More than 10 hours</i>	<i>Total</i>
Agricultural sector	9	11	0	20
Domestic Works	0	0	20	20
Shop	0	0	20	20
Small Scale Industries	13	7	0	20
Transportation	0	2	18	20
Total	22	20	58	100

Above data shows that overwhelming majority of 58% child labourers have to work more than 10(ten) hours a day. Percentage of child labourers from domestic works and shops are found to have been working for more than 10 hours per day and almost all the labourers of transportation sector are also found and engaged in work for more than 10 hours a day. The picture is little different

in agricultural sector and small scale industries where the working hour of the child labourers are found to be below 10 hours. Thus, it is clear that the employers of the child labourers are used to exploit them by imposing burden of work beyond the permissible limit that has hazardous impact on the body and mind of a child.

5. Wage

Child labourers are mostly preferred by people not because they are highly skillful but because they are cheap and can be managed and maintained easily. Thus to understand to size of wages of the child labourers, they have been interviewed regarding their payment or wages and data thus found have been distributed into four groups i.e. Rs. 10 to 20 per day, Rs. 21 to 30 per day, Rs.31 to 40 per day and more than Rs. 40. Though the child labourers are not paid on daily basis always, yet their payments have been calculated and presented here on daily basis.

Table- 5

Distribution of Respondents on the Basis of Their Size of Wages

Employment Sector	Rs.10 to 20	Rs.21 to 30	Rs.31 to 40	More than Rs. 40
Agricultural Sectors	7	9	4	0
Domestic Works	9	11	0	0
Shop	2	8	9	1
Small Scale Industries	7	12	1	0
Transport	0	3	14	3
Total	25	43	28	4

Above data shows that a large number child labourers has been receiving a miserable amount of wage in between Rs. 21 to 30 per day (43 percent), 24 percent of them are having wage in between Rs. 31 to 40 per

day. Eighteen respondents were getting wage in between Rs.11 to 20 per day and only four were found to have been receiving a wage more than Rs. 40 per day. This shows miserable condition of child labourer where they have not even been entitled to a living wage.

6. Satisfaction of work

As underpayment and overwork have become a part of child labour, an attempt has been made to understand whether the child labourers are satisfied with the work they are engaged in.

Table- 6

Distribution of Respondents on the basis of their satisfaction of work

Employment Sector	Yes	No	Total
Agriculture	2	18	20
Domestic Works	4	16	20
Shop	7	13	20
Small Scale Industries	3	17	20
Transportation	16	4	20
Total	32	68	100

The above data reveal that overwhelming majority of 68% of the child labourers are not satisfied with their jobs while 32% are satisfied with the jobs they are engaged in and among them 50% i.e. 16 respondents belong to transportation. This may be not because of healthy working condition but because of the fun of travelling here and there all day.

Forced by the circumstances, children often come to work keeping aside their likes or dislikes and some of them come at a very early age. Overburdening of work along with ill treatment on the part of the employers cause serious harm to the body and mind of the children.

Nobody takes care of their rest, leisure, food and nutrition. They are deprived of the opportunity to play, to get education with children of their age. Such a situation is definitely not conducive to a child's physical and moral wellbeing. Thus their basic human rights are violated at every step.

Conclusion

The above discussion has made it clear that the child labour is a social evil and is deep rooted in the socio economic conditions of our society. It takes away the rights and the liberties of the children and deprives them of their childhood fun and education. Thus, child labour needs to be prevented. But mere legislative measure is not enough in this regard. Apart from legislation, initiatives should also be taken with proper mechanisms of social engineering to bring a positive change in our social outlook and to promote the socio economic conditions of those families which have no earning members. This will indeed help us to provide and protect the rights and liberties of children.

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Priority on Child Rights: A Panoramic Outlook

**Aparajita Devi
Gitanjali Dutta**

Introduction

The Convention on the Rights of the Child incorporates the whole spectrum of human rights –civil, political, economic, social and cultural—and provides that respect and protection of all the children's rights are the starting point for the full development of the potential of the individual in an atmosphere of freedom, dignity and justice. (Jan Martenson, UN Under-Secretary-General for Human Rights at the Convention signing ceremony, 26 January, 1990)

Human beings are rational beings. They by virtue of their being human possess certain basic and inalienable rights which are commonly known as human rights. Thus human rights are those rights which every individual are entitled by virtue of being human.

There are certain groups in the society which either by nature or because of deep-rooted customs is weak and vulnerable such as child, woman, minority, disabled persons, aged persons, migrant workers etc. This paper

particularly focuses on the provisions of rights of the children and thereby tries to identify the tools of protecting them from further exploitation or violence.

Convention on the Rights of the Child

A number of rights have been stipulated in the Convention on the Rights of the Child adopted by the United Nations in 1989. These include the following:

- Right to life (Article 6, Para 1)
- Right to acquire nationality (Article 7)
- Right to freedom of expression (Article 13)
- Right to freedom of thought, conscience and religion (Article 14)
- Right to freedom of association and to freedom of peaceful assembly (Article 15)
- Right to privacy (Article 16)
- Right to family environment(Article 20)
- Right to Education(Article 28)
- Right to benefit from social security (Article 26, Para 1)
- Right to a standard of living adequate for the child's physical, mental, spiritual and social development (Article 27 Para 1)
- Right to enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (Article 24, Para 1)
- Right to the protection of the law against arbitrary or unlawful interference with his or her privacy, family, home or correspondence (Article 16, Para 1)
- Right against exploitation of child labour (Article 32)
- Right against sexual exploitation (Article 34)
- Right against abduction, sale or traffic (Article 35)
- Right against other forms of exploitation prejudicial to any aspect of child's welfare.

Implementation Procedure

A Committee on the Rights of the Child (CRC) has been created to monitor the Convention since 1991. The Committee in accordance with Article 43 of the Convention is composed of ten experts of high moral standing and recognized competence. The members of the Committee are elected for a term of four years and are eligible for re-election. The first session of the Committee was held in Geneva in 1991. The Conference of State Parties to the Convention on December 12, 1995 adopted an amendment to Article 43 increasing the membership of the Committee to 18 experts. The amendment was approved by the General Assembly on December 21, 1995. The members of the Committee are elected by secret ballot from a list of persons nominated by State Parties. Each State Party may nominate one person from among its own nationals.

State Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized therein and on the progress made on the enjoyment of those rights. States are required to submit their first report within two years of the entry into force of the Convention in the country concerned. The Committee may request from State Parties further information relevant to the implementation. The Committee is required to submit reports on its activities every two years to the General Assembly through the Economic and Social Council (ECOSOC). The Committee may recommend to the General Assembly that the Secretary-General be requested to undertake on its behalf studies on specific issues relating to the rights of the child and may make suggestions and general recommendations.

The rights of the child are inalienable and the State

which neglects their rights is indeed guilty of lack of humanism. Presently, millions of victims of human rights violation are children. They continue to be one of the most vulnerable groups of the society particularly in situation of conflicts or in other emergencies. A concerted effort is required to be taken by the States, civil society and inter-governmental institutions in order to further initiatives that focus attention on children's issues.

Optional Protocols to the Convention on the Rights of the Child

Two Optional Protocols to the Convention on the Rights of the Child were adopted on May 25, 2000 and another on December 19, 2011.

□ *Optional Protocol on the Involvement of Children in Armed Conflict*

The Geneva Convention of 1949 did not lay down any specific provision regarding the involvement of children in armed conflicts. Additional Protocol I to Geneva Conventions adopted in 1977 provided under Article 77 Para 1 that the Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.

It has been estimated by the United Nations that over 300000 boys and girls are serving in government or rebel forces in over 30 armed conflicts in the world as soldiers, runner guards, sex slaves, cook or spies. Frequently,

abducted from their homes, schools or refugee camps and forced into combat, these children are beaten or killed if they attempt to escape.

□ *Optional Protocol on Child Prostitution, Child Trafficking and Child Pornography*

This Optional Protocol supplements the provisions of the Convention on the Rights of the Child by providing detailed requirements for the sale of children, child prostitution and child pornography. The Protocol had 167 State Parties. India ratified the Protocol on April 16, 2005. The Protocol provides definition for the offences of sale of children, child prostitution and child pornography. It sets standards for the treatment of violations under domestic law, including with regard to offenders, protection of victims and preventive efforts. It also provides a framework for the increased international cooperation in these areas, in particular for the prosecution of offenders.

□ *Third Optional Protocol to the Rights of the Child on a Communication Procedure*

The CRC and its two Protocols did not lay down any procedure for individual complaints from children. In order to provide complaint mechanism to the children, an Optional Protocol was adopted on December 19, 2011 by the UN General Assembly which entered into force on April 14, 2014. As on May 4, 2014, the Protocol had 10 State Parties.

This Protocol allows individual children or their representatives of the ratifying States to submit communications in writing regarding specific violations of their rights mentioned under the Convention on the Rights of the Child and its two Protocols. The communications should not be anonymous. When the communication has

been accepted by the Committee, the Committee may contact the State party with a request that the State party takes steps to protect the alleged victims from irreparable harm. The Protocol also provides the inquiry procedure that allows the Committee to initiate confidential investigation by its members.

Child Labour

Child Labour is one of the most pressing social problems which the international community has been facing. According to the International Labour Organization (ILO) estimates, in 2000, some 211 million children between 5 to 14 years of age work in the developing countries, with about half of them working full time. Another ILO survey shows that 50 to 60 million children between the age group of 5 to 11 worldwide are working in hazardous circumstances.

The goal of the United Nations, in terms of child labour, are to protect working children from exploitation and hazardous conditions that endanger their physical and mental developments, to ensure children's access to at least minimum levels of education, nutrition and health care, and to achieve the progressive elimination of child labour. In order to achieve the above goals different bodies of the United Nations have initiated some steps.

International Labour Organization (ILO) since its inception has been committed to the protection of the rights of children and young persons as an essential prerequisite for social justice. Over the years, the ILO has adopted 12 major Conventions, which either prohibits the employment of children or set basic conditions above a certain age may be permitted to work in different sectors of employment. International Labour Organization in 1990 launched a major

global offensive by establishing the International Programme on the Elimination of Child Labour (IPEC). The Programme provides, upon the request of individuals, technical advisory services focusing on the worst abuses: hazardous work, forced labour, street children, girls and the employment of children who are less than 13 years old.

The most effective step was taken by the International Labour Organization when it adopted on June 17, 1999 in Geneva, a Landmark Treaty on Worst Forms of Child Labour Convention (ILO Convention No. 182). The Convention came into force on November 19, 2000. By the end of April 2012, the Convention had 175 State Parties. The Convention is applicable to all children under the age of 18 and calls upon the countries to prohibit and eliminate the worst forms of child labour as a matter of urgency. The Convention provides for the prohibition of exploitative practices such as slavery, or practices similar to slavery such as sale and trafficking of children, debt bondage and child prostitution and also forced recruitment of children in armed conflict. The Convention also requires the ratifying countries to provide support for removing children from dangerous labour and ensure access to education or vocational training.

The General Assembly in 1992 urged governments and the Commission on Human Rights to take action on the problems of street children, who are increasingly involved in and affected by serious crime, drug abuse, violence and prostitution.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities has called for steps to halt the recruitment or conscription of children into armed forces.

The Commission on Human Right has appointed a Special Report on the sale of children, child prostitution

and child pornography and the use of adoption for commercial purposes.

Although these steps have not been able to abolish child labour altogether, it is indeed commendable that there has been a substantial awareness towards the prevention of child labour especially in the worst form of exploitative job. It is to be noted that education is one of the most effective instruments for the prevention of child labour.

UNICEF International Child Development Centre

The International Child Development Centre was established in Florence, in 1988, with financial support from the Government of Italy to serve as a centre for learning about children. The primary purpose of the Centre is to strengthen the capacity of UNICEF and its co-operating institutions to respond to the evolving needs of children and to help promote an emerging global ethic for caring for children. It helps to identify and to mobilize support for new directions and challenges, particularly emphasizing the 'development' aspects of the child survival and development strategy of UNICEF and its co-operating institutions.

The Centre provides a forum for international professional exchange of experiences and undertakes and promotes policy analysis, applied research and field experimentation, as well as advocacy of innovative strategies and dissemination of ideas towards the goals of child survival, protection and development. It is also to provide, on a selective and gradually expanded basis, special training opportunities for UNICEF staff, concerned government officials, and staff of other institutions with which UNICEF co-operate, including National Committees for UNICEF.

Children's rights have been one of the main programme areas of the Centre since its establishment. With the remarkably rapid and widespread ratification of the 1989 United Nations Convention on the Rights of the Child, the setting of end-decade goals at the 1990 World Summit for Children, and the on-going preparation of National Programmes of Action (NPAs) to realize these goals on a country-by-country basis, work in this area has become increasingly urgent. The Centre's Child Rights Programme seeks to promote the effective implementation of several important articles of the Convention. Initial research has focused on the general principles contained in the Convention's umbrella provisions, particularly Articles 2, 3 and 4. More broadly, the Centre is investigating mechanisms for monitoring the protection of children's rights, examining successful strategies and techniques of decentralization relating to NPAs, and supporting the development of a children's rights information network.

UNESCO's the Young Child and the Family Environment Unit

With the help of UNESCO's specialized services, its roster of consultants, its partnership with sister agencies of the United Nations and the co-operation of major institutes and NGOs, the Young Child and the Family Environment Unit seeks to:

- Improve access to early childhood care and education by making such programmes more widely available and improving school-readiness;
- Support family education and policy formulation by encouraging the participation and promoting the role of families and communities in basic education programmes;

- Improve the content of early childhood programmes, in particular their design and quality.
- Redirect and strength early childhood by improving the availability and quality of information and data on young children and their families;
- Promote the application of the United Nations Convention on the Rights of the child through awareness raising and advocacy.

Child Labour in India

The India Constitution under Article 24 provides that no child below the age of fourteen years shall be employed in any factory or mine or engaged in any other hazardous employment. The above provision was made in order to protect children from exploitation and to provide them education so that they may develop their personality and may live a dignified life.

In India, the Employment of Children Act of 1938 was the first statutory enactment dealing with child labour. The Act prohibited employment of children below 14 years of age in the railways and other means of transport. According to Article 24 of the Constitution, no child below the age of 14 years can be employed in the construction work even if the construction industry is not specified in the Schedule appended to the Act. The enactment of Child Labour (Prohibition and Regulation) Act of 1986 is indeed a bold step to prohibit the child labour. Section 3 of the Act prohibits employment of children in certain occupations and processes. Part I of the Schedule to the Act mentions the names of occupations in which no child can be employed or permitted to work. They are: occupation connected with (1) transport of passengers, goods or mails by railway; (2) Cinder picking, clearing of an ash pit or

building operation in the railway premises; (3) work in a catering establishment at a railway station involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train; (4) work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines; and (5) a port authority within the limits of any port.

In order to expand the scope of ban on child labour, in the year 2006 a notification was issued by the Government which amended the Child Labour (Prohibition and Regulation) Act, 1986. The notification prohibits employment of children under the age of 14 as domestic servants or in dhabas (roadside eateries), restaurants, hotels, motels, tea-shops, resorts, spas and recreational centres. The ban is accompanied by provisions imposing punishment which includes a jail term up to one year and fine of Rs. 20,000/.

The Supreme Court in *M.C. Mehta v. State of Tamil Nadu*, laid down exhaustive guidelines so that State authorities may protect economic, social and humanitarian rights of the millions of child who are working either in hazardous or non-hazardous jobs. In so far the non-hazardous jobs are not more than four to six hours a day and it receives education at least for two hours each day. The entire cost of education shall be borne by the employer. What one finds today is that the children in a large number are employed in hazardous and non-hazardous jobs because of poverty, unemployment and also because they are cheaply available. Illiteracy and ignorance of parents and their attitude towards educating the child is also responsible for the child labour. Childhood is required to be protected against exploitation and against morale and material

abandonment. Children with no access to basic education have little or no alternative but to enter the labour market where they are often forced to work in hazardous and exploitative conditions. Experience of the International Programme for Elimination of Child Labour (PECL) under the auspices of International Labour Organisation has demonstrated that educational interventions are central to the prevention and elimination of worst forms of child labour. The efforts to achieve Education For All (EFA) and the elimination of child labour are closely linked.

Role of National Commission for the Protection of Child Rights (NCPCR)

Respect of human rights begins with the way society treats its children. A caring society will give freedom and dignity to young people, creating the conditions in which they can develop their full potential and so look forward to a full and satisfying adult life.

Today's child is tomorrow's citizen. Children are vital resources and the most important national asset. Children need special protection and care because of their physique and tender age, as well as mental immaturity and incapacity to look after themselves. Hence, it becomes so essential that they are brought up in an atmosphere of love, affection, care and attention, intellectual, spiritual stability and maturity.

The National Commission for the Protection of Child Rights was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an act of Parliament. Thus the Commission sees as indispensable role with decentralization at the local bodies and community level and larger societal concern for children and their well-being. The functions of the Commission include -

- Examine any law or constitutional provisions to ensure that the safeguards of the law protect child rights.
- Provide the central government with recommendations to improve correct the safeguards
- Inquire into child rights violations
- Examine the risk factors for children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures.
- Look into the special care and protection of children from distress.
- Conduct research in the field of child rights.
- Create awareness through various mediums.
- Inspect any children's home or observations homes where children have been detained.
- Inspect any juvenile's custodial home, or place of residence or institution for children, under the control of the central government or any other authority, and take up with authorities for remedial action.

Conclusion

The Second National Commission on Labour has suggested that the first step to prevent child labour is to ensure compulsory primary education for all children. It has to be effectively implemented with the help of NGO's and parents. Children are not an expense, they are an investment. They shape the future of the country. It is the duty of the parents, NGO's and the Government to see that every child goes to school.

India has ratified the Convention on the Rights of the Child of 1989 which provided under Article 28(1) for compulsory primary education which shall be available free to all. India has therefore an obligation to implement the above provision of the Convention. No doubt, more children go to schools in India than ever before. But free primary education to all children is still a distant dream due to other pressing social and economic problems.

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Child Protection and Child Rights with Special Reference to Child Abuse

Anjumoni Sarma

Introduction

The United Nations has been playing a very crucial role in codifying and ensuring human rights including the rights of various vulnerable groups including children. In order to ensure, protect and promote the rights of children, it has adopted the Convention on the Rights of Child in 1989. The rights included in this Convention can be broadly classified into four categories- right to survival, right to protection, right to participation and right to development.

Right to Survival

A child's right to survival begins even before a child is born. The right to survival is inclusive of the child's right to be born, right to adequate food, shelter and clothing and the right to live with dignity.

Right to Protection

A child has the right to be protected from neglect, exploitation and abuse at home and elsewhere.

Right to Participation

A child has the right to participate in any decision making that involves him/ her directly or indirectly. There

may be varying degrees of participation depending on the age and maturity of the child.

Right to Development

A child has the right to all forms of development—emotional, mental and physical. Emotional development is fulfilled by proper care and love of a support system, mental development through education and learning and physical development through recreation, play and nutrition.

UNICEF considers child protection as the prevention of or responding to the incidence of abuse, exploitation, trafficking, child labour and harmful traditional practices such as female genital mutilation/ cutting and child marriage. Protection also allows children to have access to their other rights of survival, development, growth and participation.

Child's Protection with special reference to Child Abuse

Child abuse takes place when a parent or caregiver, whether through action or because of his or her failure to act, causes injury, death, emotional harm or risk of serious harm to a child. There are many forms of child maltreatment including neglect, physical abuse, sexual abuse, exploitation and emotional abuse.

WHO defines child abuse and child maltreatment as 'all forms of physical and/or emotional ill-treatment, serial abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power'. WHO distinguishes four types of child maltreatment—physical abuse, sexual abuse, emotional and psychological abuse and neglect.

Famous psychologist Alice Miller, known for her books on child abuse, opines that humiliations, spankings and beatings, slaps in the face etc. are all forms of abuse, because they injure the integrity and dignity of a child, even if their consequences may not be visible right away. In 1999, the BBC reported on a survey of sexual abuse in India, in which 76% of respondents revealed that they had been abused as children and 40% of those also admitted that the perpetrator was a family member.

In 2014, the American Psychological Association observed that 'childhood psychological abuse (is) as harmful as sexual or physical abuse'. Several researchers found that victims of neglect have more difficult time in forming and maintaining a relationship in later life due to the lack of attachment they had in their earlier stages of life.

Objective

Regardless of the type of child abuse the result is serious emotional harm. So an attempt has been made to find out if child abuse has an effect on the intellectual and emotional development of the child and if it has effect on their adulthood.

Methodology

The present paper is mainly based on secondary data. Information gathered from several books and internet sources have been discussed and analysed keeping in mind the objective mentioned above.

Result & Discussion

Child abuse can cause a range of emotional effects. Abused children can grow up experiencing insecurities, low self-esteem, and lack of development. Many abused

children experience ongoing difficulties with trust, social withdrawal, trouble in school and forming relationship.

The effect of abused children can also differ when it comes to babies and young children. Babies and pre-school children may be over affectionate towards strangers or people they haven't known for very long. They can lack confidence or become anxious, appear not to have a close relationship with their parent, exhibit aggressive behavior towards other children and animals. Older children may use foul language or act in a markedly different way to other children of the same age, struggle to control strong emotions, seem isolated from their parents, lack social skills or have few friends. Emotional abuse has been linked to increased depression, anxiety and difficulties in interpersonal relationship (Spertus, Wong, Halligan & Seremetis 2003). Victims of child abuse and neglect are more likely to commit crimes as juveniles and adults. Thus emotional effects caused by child abuse can result in long term and short term effects that ultimately affect a child's upbringing and development. One long term study found that up to 80% of abused people had at least one psychiatric disorder at the age of 21, with problems including depression, anxiety, eating disorders and suicide attempts. One Canadian hospital found that 76% women had been abused and 58% of women and 23% of men were schizophrenic. According to Georges Menahem, a French sociologist, health inequality also has its origin in the family, where it is associated with the degrees of lasting affective problem (lack of affection, parental discord, prolonged absence of parents or a serious illness of either the mother or father) that individuals report having experienced in childhood.

In another study, it was revealed that majority of the children were physically or emotionally abused by parent(s)

or step parent(s). Most of the children reported that they were either being mistreated by a parent(s) who were abused as child or the abuser has problems with drugs or alcohol. 78% of total sample were abused at times and 22% were abused very often. The research finding concluded that child abuse does have an effect on the intellectual and emotional development of the child and its effects on their adulthood. 30% of them were abused physically, 31% emotionally, 28% sexually and 11% were neglected. Research findings show that 30% of the children who experienced physical abuse are more likely to be arrested as an adult and more likely to commit violent crime. The children who were sexually abused were also emotionally affected because they were not in a position to develop friendship with others due to lack of trust and it often led to depression.

The children were asked about possible reasons of abuse and the children answered that they were wrong in some way and they deserved it. The children's understanding of the reason lowered their self-esteem and it also affected their psychological development. Majority of the children revealed that they were often insulted, humiliated, embarrassed in front of others and felt guilty and felt like bad human being. Also when children are abused they get an understanding that abusing someone is acceptable and there is every possibility that they become abusive adults in their later life. Abusing children physically, sexually and emotionally seriously impairs their intellectual, emotional and social development which may result in criminal tendencies in their later life.

India has launched an integrated child protection scheme which aims at shielding children from violence. Child Line 1098 also protects the child if intimidated on

time. Apart from various acts concerning children, the Indian Penal Code (IPC) also contains a list of offences against children. Section 317 states that it is a crime against children, if the mother or father exposed or leave a child in a place with the intention of abandonment which result in the death of the child. The parents would be then charged with culpable homicide or murder. In the USA, anyone having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect must report the case immediately to a law enforcement agency or protective and regulatory services, under Chapter 261 of the Texas Family Code. Failure to report suspected child abuse or neglect is a class B misdemeanor punishable by imprisonment for up to 180 days and/ or a fine of up to \$ 2000. In Assam, support service for abused children is offered by Child Line 1098. There is District Child Protection Unit in every district to deal with issues related to abuse and violation of child rights. Moreover there are many NGOs working in this field who can rescue the abused children.

Conclusion

As we come to know that any type of child abuse can cause emotional and psychological harm, we must be very careful and attentive to our kids. Sometimes it happens that knowingly or unknowingly the child is abused in the home itself by the parents or other family members. A good parent-child relationship may lower the incidences of child abuse. Incidence of child abuse is different in different countries depending on the type of parenting, upbringing, culture, marriage system, disciplinary method adopted for the child, profession, family size, employment status of parents, intake of alcohol, physical and emotional closeness

etc. A good parenting is very essential to lower the incidence of child abuse and we should try to give ample amount of time to our family so as to make the society a healthy one. Former President of our country and renowned scientist APJ Abdul Kalam rightly pointed out, "Always leave the work place on time. It indicates that you have a good family and social life. It is better to understand your family and let them understand you."

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A Socio-Juridical Study on the Human Rights of the Transgender Community of India

**Dr. Baharul Islam
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Introduction

Transgender is an umbrella term for persons whose gender identity, gender expression or behaviour does not conform to what is typically associated with the sex to which they were assigned at birth. Gender identity refers to a person's internal sense of being male, female or something else; gender expression refers to the way a person communicates gender identity to others through behaviour, clothing, hairstyles, voice or body characteristics. 'Trans' is sometimes used as shorthand for 'transgender.'¹

The transgender people often resort to sex reassignment surgeries in order to make themselves a part of either of the two recognized genders, male or female. Sex reassignment surgery is the surgical procedure(s) by which a transgender person's physical appearance and function of their existing sexual characteristics are altered to resemble that of their identified gender. It is part of a treatment for gender dysphoria in transgender people. It

may also be performed on inter-sex people, often in infancy. A 2013 statement by the United Nations condemns the non consensual use of normalization surgery on inter-sex people.²

The protection of human rights of transgender people shall be ensued only when the prejudice associated with transgender is removed. This prejudice is a result of a stereotyping this sexual minority. Discussions on the topic shall create awareness and only this can result in the social acceptance of the transgender people. Law is dynamic and when there is social acceptance of the transgender(s), legal rights have to be ensured to protect both the trans-sexual and inter-sex groups.

Methodology

The methodology adopted by the investigators for the preparation of this research paper entitled 'A Socio-Juridical Study on the Human Rights of the Transgender Community of India' is doctrinal legal research. The research is based mainly on the theoretical analysis and reviews the various international and national humanitarian laws and judicial response to the human rights of transgender people and uses only the secondary sources of data. The investigators have collected materials relating to the topic by visiting various libraries and internet cafe.

Religious Views on Transgender People

Transgender people may be lesbian, gay, bisexual, heterosexual or asexual, but that is beside the point.³ The relationship between transgender people and religion varies widely around the world. Views within a religion like Abrahamic religions⁴, Buddhism⁵ can also vary considerably.

Hindu philosophy has the concept of a third sex or third gender (*tritiya-prakriti* – literally, 'third nature'). This category includes a wide range of people with mixed male and female natures such as homosexuals, transsexual(s), bisexuals, the inter-sexed, and so on. Such persons were not considered fully male or female in traditional Hinduism, being a combination of both.⁶

In Christianity there are a variety of views on the issues of gender identity and transgender-ism. Many Christian denominations vary in their position, ranging from condemning transgender acts as sinful, to remaining divided on the issue, to seeing it as morally acceptable.⁷

In Islam the term *mukhannathun*⁸ is used to describe gender-variant people, usually male-to-female trans-sexual and recognized transgender people.

Rights of Transgender People under International Laws

International legal instruments take the form of a *treaty* which may be binding on the contracting states. The binding treaties can be used to force government to respect the treaty provisions that are relevant for the human rights of the Transgender. The non-binding instruments, such as declarations and resolutions, can be used in relevant situations to embarrass governments by public exposure. The following international treaties determine standards for the protection of Transgenders:

The Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly on 10 December 1948 as a common standard of achievements

for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected."

ILO Convention (No. 111) on Discrimination in Employment or Occupation, 1958

Article 1 of this treaty of the International Labour Organization does not itself prohibit discrimination on the basis of sexual orientation, but permits State parties to add additional grounds. In Australia implementation of the Convention in domestic law contributed to the ban on lesbians and gay men in the armed forces in 1992.¹⁰

International Covenant on Civil and Political Rights, 1966

For sexual orientation the Covenant - the main international treaty on civil and political rights - is important because in 1994, in the case *Toonen vs. Australia*, the Human Rights Committee held that the references to 'sex' in Articles 2, paragraph 1, (non-discrimination) and 26 (equality before the law) of the ICCPR should be taken to include sexual orientation. As a result of this case, Australia repealed the law criminalizing sexual acts between males in its State of Tasmania. With this case, the Human Rights Committee created a precedent within the UN human rights system in addressing discrimination against lesbian, gays and bisexuals.¹¹

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

This treaty prohibits torture and other cruel, inhuman or degrading treatment and discrimination of any kind.¹²

Convention on the Rights of the Child, 1989

Article 2 of the Children's Convention prohibits discrimination and requires governments to ensure protection against discrimination. This treaty can be relevant in addressing sexual orientation discrimination of lesbian,

gay or bisexual children and/or parents.¹³

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

This treaty can be relevant in cases of discrimination against lesbian, bisexual or transgender women.

United Nations High Commissioner for Refugees

Since April 1993 the UNHCR has recognized in several Advisory Opinions that gays and lesbians qualify as members of a 'particular social group' for the purposes of the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees. In its publication 'Protecting Refugees', the UNHCR states:

*"Homosexuals may be eligible for refugee status on the basis of persecution because of their membership of a particular social group. It is the policy of the UNHCR that persons facing attack, inhuman treatment, or serious discrimination because of their homosexuality, and whose governments are unable or unwilling to protect them, should be recognized as refugees."*¹⁴

The Yogyakarta Principles, 2006

The *Yogyakarta Principles on the Application of International Law in Relation to Issues of Sexual Orientation and Gender Identity* were adopted by a meeting of experts in international law in Yogyakarta, Indonesia, in November 2006. They confirm legal standards for how governments and other actors should end violence, abuse, and discrimination against lesbian, gay, bisexual, and transgender people, and ensure full equality.¹⁵ The principles prohibit discrimination in work, health, education, housing, access to justice, and immigration. The principles also call for action from the UN's human rights system, national human rights institutions, the media, nongovernmental

organizations, and others.¹⁶ The Preamble acknowledges human rights violations based on sexual orientation and gender identity, establishes the relevant legal framework, and provides definitions of key terms.

Fundamental Rights of Transgender under the Constitution of India

Part III of the Constitution of India deals with 'Fundamental Rights' from Article 12 to 35, some of which can be claimed only by a citizen of India while others can equally be claimed by non-citizens and groups also.¹⁷ A law which violates any of the Fundamental Rights is void. The Fundamental Rights are binding. A Fundamental Right cannot be taken away even by a constitutional amendment if it forms the basic structure of the Constitution.¹⁸ Speaking about the importance of Fundamental Rights in the historic judgment of *Maneka Gandhi v. Union of India*¹⁹ Justice Bhagwati observed that Fundamental Rights represent the basic values cherished by the people of India since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a 'patters of guarantee' on the basic structure of human rights and impose negative obligation on the State not to encroach on individual liberty in its various dimensions.

The most important fundamental rights which have relation with rights of transgender people are right to equality, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment, protection of life and personal liberty.

Many countries like the USA, Canada, Australia, Nepal etc. have already accorded constitutional recognition to the

rights of trans-genders.

A comparative analysis of constitutional rights for trans-genders under the Constitution of the Republic of India, the United States of America, the Dominion of Canada, the Commonwealth of Australia and the Republic of Nepal, is tabulated below.²⁰

Sl. No	Name of the Country	Year of Implementation	Constitutional Validity
1	Republic of India	1950	No ²¹
2	United States of America	1789	Yes ²²
3	The Dominion of Canada	1982	Yes ²³
4	The Commonwealth of Australia	1900	Yes ²⁴
5	The Republic of Nepal	2015	Yes ²⁵

Judicial Activism in India on the Rights of the Transgender People

A declaration of fundamental rights in a Constitution may not be of much avail if there is no adequate machinery for their enforcement. In the United States this function was assumed by the Supreme Court of the United States of America. The Constitution of India followed the same pattern. The Courts have power to determine if a fundamental right guaranteed by the Constitution has been infringed. To ensure that the fundamental rights are properly protected, the Constitution has conferred on the Supreme Court under Article 32, and concurrently with the High Courts, under Article 226, the power to grant most effective remedies whenever such rights are violated. It may thus issue the writs of habeas corpus, mandamus, prohibition, quo-warranto and certiorari.

National Legal Services Authority vs. Union of India and others (2013)

This case was concerned with the grievances of the

members of Transgender Community who seek a legal declaration of their gender identity than the one assigned to them, male or female, at the time of birth and their prayer is that non-recognition of their gender identity is violative of Articles 14 and 21 of the Constitution of India. *Hijras/Eunuchs*, who also fall in that group, claim legal status as a third gender with all legal and constitutional protection. The Court recognised TGs as 'third gender' for the purposes of safeguarding and enforcing appropriately their rights guaranteed under the Constitution.

Suggestions

The investigator has analysed the topic and on analysing the topic, certain lacunae has come to light. In pursuance of the title of the Article, so as to realize in the pragmatic aspect and maintain the utility of the Protocols, Conventions, Principles, Covenants and Guidelines, the investigator humbly submits the following changes to be made to the Constitution of India:

A. Replacement of the terms 'women' and 'children' with 'vulnerable groups' in Article 15(3)

The present Article 15(3) entitles the State to make special laws for women and children, to ensure their protection which reads as follows:

Nothing in this Article shall prevent the State from making any special provision for women and children.

The recommended Article 15(3) shall be as follows:

Nothing in this Article shall prevent the State from making any special provision for the vulnerable groups of people.

Provided that vulnerable groups shall include women, children and trans-genders.

This shall ensure the Constitutional safeguard and

empower the State to implement all legal measures necessary to ensure the Human Rights of the Transgender group.

B. Inclusion of the word 'transgender communities' in Article 16(4).

Article 16(4) empowers the State to make reservation of appointments in favour of any backward class of citizens, which in the opinion of the State is not adequately represented in the services under the State. The current version reads as follows:

Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

The recommended version shall read as:

Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class and transgender communities of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

C. Inclusion of sexual minorities in Article 29 and 30.

The present Article 29 safeguards the rights of citizens having a distinct language, script or culture of their own. Clause 1 protects their right to conserve their language, script or culture. Here, after the term script 'sexual orientation' should be added. The Article shall then read as follows:

Article 29(1): Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script, sexual orientation or culture of its own shall have the right to conserve the same.

Clause 2 prohibits the denial of admission into any educational institution ran by State or State aid on the basis of religion, race, caste, language or any of them. In the above clause too, the term 'sexual orientation' should be added in the following manner:

No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, sexual orientation, language or any of them.

D. Article 51A(e) to be amended.

The present Article 51A(e) should be amended to accommodate the term 'social', 'economic', 'sexual' and 'any gender' in the following manner:

to promote harmony and the spirit of common brotherhood amongst all the people of India transcending social, economic, religious, sexual, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of any gender;

E. Inclusion of Article 330A, 332A and 338AA in Part XVI of the Constitution of India

Part XVI of the Constitution of India, from Article 330 to 342 deals with special provisions relating to certain classes. The investigator humbly suggests the inclusion of Article 330A, 332A, 338AA into this part which shall be in the following words:

Article 330A -Reservation of Seats for Transgender Community in the House of the People.

1. *Seats shall be reserved in the House of the People for the transgender community of Indian citizens.*

2. *The number of such seats shall be in proportion to the total population of transgender people, who are Indian citizens.*

Article 332A -Reservation of Seats for the Transgender Community in the Legislative Assemblies of the State.

There shall be reservation of 1% seats in the Legislative Assembly of every State for the transgender group, irrespective of the size of the Legislative Assembly.

The basic idea underlying this recommendation is that the Transgender Community shall remain vulnerable until they are bestowed upon the power of being givers. Till the date they are dependent on someone else and remain receivers, they shall be unduly exploited.

Article 338AA -National Commission for Transgender Community.

There shall be a Commission for the Transgender community to be known as the National Commission for the Transgender Community. The Commission shall be constituted and perform such duties like Minority Commission.

F. Creation of a Ministry for the sexual minority

The Ministry of Minority Affairs was carved out of Ministry of Social Justice & Empowerment and created on 29th January, 2006 to ensure a more focused approach towards issues relating to the notified minority communities namely Muslim, Christian, Buddhist, Sikhs, Parsis and Jain. The mandate of the Ministry includes formulation of overall policy and planning, coordination, evaluation and review of the regulatory framework and development programmes for the benefit of the minority communities.

It is suggested that the sexual minority of India, too, be included in the notified group so that the dignity and the improvement of the standard of living of this community can be looked into.

The investigators humbly submit these aforesaid changes in the Constitution of India to bring about gender equality in India. However, changes in the Constitution shall not ensure the social guarantee of the rights of this third gender community. Amendments to the Constitution, judicial activism and discussions on the topic will remove the taboo. Only when the prejudice associated with transsexual and inter-sex people is slowly done away with, the legal measures will prove fruitful.

Conclusion

Transgender people suffer persistent inequalities in all aspects of life. This group of sexual minority experience rampant discrimination at work-place, may be met with challenges to their parental relationships, lack sufficient access to quality healthcare free from discrimination and face difficulties in obtaining appropriate name and gender designations on their identity documents. Trans-people should be recognized and treated as the gender they live in, whether or not they have undergone surgery, or their identity documents are up to date. The duty to accommodate the needs of trans-people is a shared responsibility. Everyone involved should cooperate in the process, exchange only necessary information and explore options while respecting privacy.

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The Rights of Refugees and Chakmas of Arunachal Pradesh: An Overview

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Introduction

Every person has the right to live free from persecution or the fear of persecution based on their race, religion, nationality, membership in a particular social group or political opinion. Every government is obliged to protect this right but in most cases it fails. When government fails to protect the rights of the people, they have the right to move to a country that will protect them. This is the right to asylum. People who seek to exercise this right are called asylum seekers or 'Refugees'. In 1951, the formal basis for exercising the right to asylum was established by an international treaty, the Geneva Convention relating to the Status of Refugees.

United Nations Convention relating to Status of Refugees (1951) defines a 'Refugee' as a person who owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality and is unable to or owing to such fear, is

unwilling to avail him/herself of the protection of that country. Persecution often occurs in situations where there is conflict over political and economic power. Research indicates that these disputes are at their most intense during period of rapid political change, typically in midst of revolutionary upheaval, immediately following a regime transition or at the emergence of a new state.

When people's rights are at grave risk, people become refugees. They sever the link with their own status and seek the protection of another state, because their own government is persecuting them or cannot be relied on to protect them. When refugees seek the protection of another state, they rarely receive a warm welcome. Many are turned back at the border without any hearing; detained as illegal immigrants or sent back to the country they fled from.

According to international legal norms, a refugee is a person who has fled across the physical border of his/her homeland to seek refuge in another place and who upon being granted refugee status receives certain rights not available to other international migrants, including the rights of resettlement and legal protection from deportation or forcible return to his country of origin.

Political Crisis and Influx of Refugees into the North-Eastern Region of India

The name *Chakma* is derived from the Sanskrit word *Sakthiman* or beholder of power. This name was given to Chakmas by one of the Burmese kings during the Bagan era. Burmese kings hired Chakmas as ministers, advisers and translators of Buddhist Pali texts. As employees of the king, the Chakmas wielded power in Burmese court disproportionate to their number. The Burmese people still refer Chakmas as *Sak* or *Thit* which are shortened and

corrupted forms of *Sakthiman*. At one stage, the accepted name of the tribe was *Sakma*. Later it was further corrupted to *Chakma*.

The Chakma, also known as the Daingnet people, is an ethnic group concentrated in the Chittagong Hill Tracts of Bangladesh. Today, the geographic distribution of Chakmas is spread across Bangladesh and parts of North-Eastern India, western Burma, and diaspora communities in Yunnan Province of South West China, USA, Canada, UK, France, South Korea, Japan and Australia. Within the Chittagong Hill Tracts, the Chakma are the largest ethnic group and make up half of the region's population. They have their own language, customs and culture.

There were two main reasons for the Chakmas, an indigenous Chittagong Hill Tribe, to leave Bangladesh, erstwhile East Pakistan. One was the Kaptai Hydro-electric Power Project by East Pakistan, which ruined all the houses on the Chittagong hills. All cultivable lands were submerged underwater, all houses were devastated. It resulted in the migration of a large population of Chakmas into Diyun in Arunachal Pradesh of India during 1964-1969. The second reason was religious persecution. The Chakmas are Buddhists and they were a minority in Muslim-dominated East Pakistan where there was a constant fear of religious tensions flaring up.

The then Government of India led by Jawaharlal Nehru offered the Chakmas refugee status in India. They crossed over the border legitimately, with the consent of the Indian Government. But the Chakmas in Arunachal haven't been given refugee status. In February 1972, Prime Ministers of India and Bangladesh issued a joint statement by virtue of which the Government of India took a decision to confer citizenship to the Chakmas under Section 5(1) (a)

of the Citizenship Act, 1955. But the State of Arunachal Pradesh has reservations on this count. The Chakmas in Arunachal haven't been given refugee status whereas they have representations in Mizoram Legislative Assembly, Tripura Legislative Assembly and Tripura Tribal Area Autonomous District Council.

Rights and Ethnic Conflict

The North-Eastern Region has a long history of ethnic conflict and insurgency which started from the colonial rule. The British made separate land settlement, fiscal arrangement and special administrative structure for the North-Eastern Region. They also restricted the entry of people from other parts of India in these hilly tracts and this was done primarily to keep isolated the tribal people from the rest of the people rather than to protect the tribal interests. On the eve of independence, the first voice of secession was heard from the North-Eastern Region because the people of this region thought that their merger with India would destroy their cultural autonomy and also feared the encroachment of outsiders and snatching of their customary rights on forest and land. As a result armed conflict emerged in Naga Hills and gradually it spread to other areas of the region.

At this juncture, it is important to say that in its initial stage the ethnic movement were primarily motivated to fight against the agencies of the Indian State and maintenance of cultural autonomy as well as the control over the territory which they perceived as their own. In due course these movements have reoriented to spread their power to grasp all the benefits provided by the state agencies for their own respective groups. This led to conflict among different groups and sometimes even resulted in attempts

of ethnic cleansing. The indigenous tribes started to target the minority groups like the Chakmas. The fallout of this target is the large scale migration of these people from other places to Arunachal Pradesh.

It needs to mention here that when the Chittagong Hill Tracts was awarded to East Pakistan; a large number of Chakmas emigrated to Tripura and Lushai Hills or present day Mizoram for settlement. Quite a large number of these people were dispatched to North Eastern Frontier Agency (NEFA), now Arunachal Pradesh and most of them tried to settle themselves in different parts of Arunachal Pradesh, Tripura and Mizoram particularly along the Indo-Bangladesh border thus creating unrest among the local inhabitants.

There are several areas where this refugee influx has created problems and brought negative repercussions on India's security system and created ethnic tension. It is noticeable in Arunachal Pradesh that the local inhabitants attacked the Chakma concentrations several times, torching down their homes and creating economic blockade against them. The Government of India had to deploy paramilitary forces in large numbers.

Tension between the local and the Chakmas cropped up mostly due to ethnic nationalism and the fear of demographic imbalance and competition over economic interests. This problem has emerged as an issue of irritant between the central and the state government. In Arunachal Pradesh while the state government and the All Arunachal Pradesh Students' Union (AAPSU) strongly opposed the move for granting Indian citizenship to the Chakmas in the state and issued 'quit' notices against them from time to time but the central government held the view that the Chakma refugees were eligible for Indian Citizenship.

According to some Chakma people, it is said that

they are not getting facilities because the indigenous tribes in the state has dominated local politics since the first elections were held in the region. They think that if voting right is given to the Chakmas, they won't stay in power any longer. In Arunachal the Chakmas wouldn't get government job though they are qualified, even they cannot go to the school. According to some Chakma people if anybody of the Chakma community dares to do so then they will be beaten up or harassed. They have a tough time acquiring a birth certificate also. Officially, they are offered certificates, but the reality on the ground is different.

In September 2015, Supreme Court of India passed a judgment directing the Government of India and of Arunachal Pradesh to grant India citizenship to all the Chakmas holding that they could not be discriminated against any other Indian and directed the state government to secure their life and properties. This created strikes in the state. On the other hand the refugees with assured ration and relief in the camps together with business activities became economically better off than the locals. Employment opportunities for the locals have also been freezed with the refugees getting employed as cheap labour. This occasionally created social tension between local people and the Chakmas.

Conclusion

In India the economic development is accompanied by increased inequalities because the rewards are allocated on the basis of strength and persistence of the organized sector of the societies. Therefore, it appeared to them that unless they are on a sound footing nobody would care for their development and the refugees are people who sever their link with their own state and seek protection of another

state because their own government is persecuting them. These people rarely receive a warm welcome and many are turned back and termed as illegal immigrants. This has what happened to the Chakmas because the local people were already deprived from many governmental facilities and to add, more people from other countries have migrated to their areas thus creating tension and this in turn has led to violation of human rights. The government should take concrete steps to solve the issue as maintenance of the refugees is not only an economic burden for the Government of India but also a threat to communal harmony in the states like Arunachal Pradesh, Mizoram and Tripura to some extent.

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Media's portrayal of Human Rights in India: A Critical Analysis

Kangkana Sharma

Introduction

Apart from the state and other institutions, the media also plays a pivotal role in protecting human rights of people. The role of media lies in creating awareness among people regarding their human rights and violation of the same. Media can also play a role of mediator between the state and the common people and can appraise the state of the problems of their citizens.

But has media been successful in playing its role? The present paper will try to explore that. For this purpose the understanding of Foucault and Gramsci will be taken into account. The concepts of 'self' and 'other' will also be studied in detail to understand how media portray issues of human rights and what are the pros and cons in doing that. Taking this in account, the main thrust of the paper, thereby is to enquire as to how media images in India have created the imagery of the 'other' (at the same time created a notion of the self which is socially structured) and thereby producing a dominant culture to which many have been conditioned to believe and comply with as it is often said

people believe what they see. In this regard what role does the media play in protecting human rights of people is questionable. Therefore, this paper will try to see how media houses/ popular culture portray human rights issues specially those of lower castes, women, environmental concerns and people from the minority communities.

Media's creation of 'Self' and 'Other'

The idea of the 'self' and the 'other' have gained currency in social sciences specially in anthropology, history, political science, communications, and literary studies. However one dominant understanding of self is regards to power shaping the very idea of self and very well portrayed by Michel Foucault¹. For Foucault the very existence of the 'self' is the result of power. Such understanding of power brings the self into being through imposition of disciplinary practices on the body. Thereby the self here is rather than being an agent becomes a site of coerced existence and a mechanism of control². Power, according to Foucault, is not possessed by a dominant agent, but it is distributed through complex social networks. Here power comes from multiple sources (e.g. schools, asylums etc.) in contrast to the Marxist-Leninist conception of power as emanating from one source i.e. capital. Thus, one of the primary effects of such notion of power is that 'certain bodies, certain gestures, certain discourses come to be identified and constituted as individuals.' Taking Foucault's understanding in mind one can throw light on the role played by media in modern times in terms of advocacy and agenda setting and thereby normalizing people to accept the dominant culture (and lifestyle) and marginalizing those who don't adhere to the socially set norms. This idea also finds resemblance with Gramsci's views. Antonio Gramsci's

writing also had a decisive influence on the study of media. Unlike Marx who focused on economic domination, Gramsci emphasised on the ideological influence and such scenario can be seen with media industries imposing their idea (or of the dominant class) and such practice through media images often go unnoticed. He argued that a social group or class exercises dominance in part by force, but more importantly by consent, by obtaining the consent of the majority. The media thus has a central role in developing public compliance.

Here Foucault's understanding of Bentham's *Panopticon* can also be applied to growing media power as they in a way constantly scans society for signs of deviance with the threat of punishment by disclosure which is particularly threatening to those in public life. Bentham's panopticon, according to Foucault, was used to regulate the behavior of prisoner as they act in a certain way for the fear of getting watched. This, Foucault claims, is 'the major effect of the Panopticon: to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power'³. This idea can also be linked to the sphere of social media whereby our activities are recorded and monitored by it (or by the state specially with the onset of security state). Thereby, it would be interesting to see how Foucault's idea can be applied to the Indian media scenario to decipher how the idea of self gets constructed through it and how the image of the other is created. One of the important conditions for the realization of the self comes in presence of the idea of the other. The basic self/other binary makes sense in that when one sees another person and recognizes that that individual is separate physically and mentally, then one understands that the separate person is not the self, is another which is separate

and cannot be controlled or comprehended physically and mentally, at least not as much as the self can be⁴. As regards to the social position of 'the self', 'the other' might act either confirming or rejecting such stereotypes. Media provides an important forum for the assertion of one's identities be it the self or the other. As far as identities are concerned in present time one has many of it – some privileged and some marginalized. Thus the idea of self has in a sense multiplied specially in this multicultural society and more so because of media. Media nevertheless influences a person's understanding of the world. Media outlets do not have that sort of control, but the piling up of various skewed, damaging or demeaning media images does seem to create an environment where, even if choices and actions aren't literally limited by laws, the created mental limitations for thinking about certain groups do have a direct impact on the consciousness of contemporary individuals.

Indian Media and Human Rights

The mass media is an important forum whereby the task of reaching to the common people and mobilizing them becomes much easier. Thereby, what media portrays is very important as media images create perception about a particular issue amongst people. Traditionally, this involves some form of public spectacle - like a protest - to attract media attention. These activities have become accepted as mechanisms by which human rights problems are communicated in the public sphere. Alongside public opinion polls and elections, they act as vital means by which citizens can signal their discontent. As far as India is concerned, though media was present from an early time, it had expanded only after the liberalization phase (specially

social media). As mentioned, there has been increasing number of newspapers in English, Hindi and vernacular languages. The number of TV channels had also increased in the post liberalization phase. Internet has also been welcomed by Indians in this phase which has become a site of voicing their protest against irregularities. Media in the present time has been widely covering many issues ranging from sexual violence, corruption, environmental degradation and so on.

Media covering Gender Issues

Media has been very instrumental in portraying gender issues and concerns in India. They have regularly been featuring many cases of govt. policies on women health and nutrition, cases of gender violence and also went to provide solution for these. In the last decade, India has experienced citizen activism among middleclass, upwardly mobile young men and women, especially against police corruption and the failure of the judiciary to act in gender-based crimes. In this context, role of media in covering cases of Priyadarshini Matoo, Jessica Lal and the Delhi rape incident should be mentioned. Priyadarshini Matoo was a 25-year-old law student who was found raped and strangled at her house in Delhi in January 1996. The main accused, Santosh Kumar Singh, the son of a high-level police Inspector General, was acquitted by a trial court in 1999. Wall-to-wall coverage by the media led to the reversal of the decision in 2006 by the Delhi High Court which awarded Singh the death penalty – a sentence commuted in 2010 to life imprisonment⁵. Jessica Lal murder case also deserves special note. Jessica Lal was a fashion model in Delhi who was working as a bartender at a high-end party when she was shot dead in April 1999. The accused, Manu

Sharma, was the son of a wealthy and influential Member of Parliament. Several news channels (especially NDTV 24X7) and newspapers (magazine Tehelka) took up Lal family's cause and started a campaign focusing on justice for Jessica. After first being acquitted in a lower court, Sharma was eventually retried and found guilty and sentenced to life in prison⁶. An important factor to notice is that in both cases the media stood against people from influential background. However, the landmark case of media's role against sexual violence is the Delhi gang rape case which led to the death of a 23 year old student. Intense media reports of the incident mobilized people who came down to the streets to protest but faced brutalities of the state. The media not only highlighted the brutality of the attack, it covered the demonstrations day and night, following the protesters to every street and corner, giving a voice to their demand for justice and bringing them to the centre of political debate. Moreover, it exposed the growing crime statistics, especially in the national capital, against women. These instances show the vital role played by media as far as gender issues are concerned.

Media Coverage of Environmental Issues

Media is also very instrumental in portraying environmental issues and movements. The role of media in influencing policy circles and public opinion has been pertinent in the second half of the twentieth century, particularly from the 1980s when environmental issues gained more visibility in the public sphere. This got reflected in the *Narmada Bachao Andolan*⁷. NBA's hunger strike, although eventually unsuccessful in its ultimate goal, succeeded in one of its sub-goals of publicity for the cause. It was covered extensively by the media. Reports appeared

in the papers almost every day. The Indian media's coverage of the Supreme Court decision and the subsequent acts of the NBA activists continued actively throughout the month after the verdict. Much of the coverage immediately after construction resumed on October 31, 2000 covered the violence of some of the protests that occurred. Thus, through sufficient media attention NBA had been able to cater support for their cause⁸. Almost same situation was witnessed in the *Chipko* Movement, which started when a group of women in Uttarakhand hugged trees in order to prevent them from being cut down. Photographs of these women captured the news headlines. Prolific and charismatic leaders of this movement like Sunderlal Bahuguna interacted with the media person in a very attractive manner which encouraged mass support for the movement⁹. Besides these movements, media has also been vocal against the adverse effects of developmental projects¹⁰ in Orissa, environmental movements in Dakshina Kannada¹¹ and so on.

Media Coverage of Caste Issues

Mass Media has the potential to play an important role in the process of empowerment – political, economic, social, cultural, and so on in the over-all development of the society. It can serve as an important instrument in achieving social justice by educating, raising awareness and questioning caste discrimination. Media has covered major incidents of caste atrocities like those in Kilvenmani, Chundururu, Karamchedu, Khairlanji, to the more recent Lakshimpet incident¹². Many dalit movements and activists are also putting the internet to good use. They opened blogs, websites to post their comments and react on policies. The Facebook and other networking sites too are in use. However, the print and electronic media portrayal of caste

issues has not been welcomed by major section of people which will be discussed later.

Media Coverage on Issues of Governance and Transparency

Indian media has also been focusing on increasing transparency on the part of the govt. and has been instrumental in exposing large scale corruptions which have robbed the nation like 'the Commonwealth Games Scam', 'the Adarsh Housing Society Scam', 'Cash for Vote Scam', the '2G Scam' and 'the Bofors Scam'. Media technology can also result in social change by using the Right to Information effectively¹³. Right to Information Act, 2005 is a major legislative step in the Indian anti-corruption movement. Media powered with the right to information can cater to key issues of society such as issues related to public service delivery, exposing mal-administration, citizen grievances, corruption and inefficiency thereby instituting transparency, accountability, effective administration and good governance. In this context, special mention needs to be given to media's intense involvement in the movement for Jan Lokpal by Anna Hazare in 2011 for better transparency of the government and to curb the menace of corruption.

Conclusion

Indian media's coverage of human rights issues has had its loopholes. Media has often been criticized of creating stereotypical image particularly of women, Dalits and Muslims. The drastically changing media (print) can be seen through years or especially in post-liberalization period, media has become more market-oriented. Media-market on one hand has expanded opportunities for women but the

kind of beats or job are assigned to women journalists is to keep them confined to soft-beats like handling feature writing or shallow writings. Also, representation of women in various media houses is also very less¹⁴. Thus, the pictorial presentation of women¹⁵ in mass media has changed dramatically, playing decisive role in reinforcing gender stereotypes and patriarchal culture by constructing new images and meanings by setting agendas for public opinion through selective themes and views¹⁶. Coverage of feminist movements by media also reflects a much skewed representation. For example, the Delhi Rape Case was widely covered, but they hardly portrayed any case of rape of women by army and other cases of rape happening in other parts of the country. Having said so, now the question arises how the media can then be a true advocate of women's movement.

Same is the case with the lower castes of the society, specially Dalits. The media which reports violence and attacks on Dalits, has rarely questioned the system of caste which is the basis for such incidents and exposed the State policies on protecting dalits. It is good that the media covered the Delhi rape incident well and gave it the required prominence. But the same attention is not given when such attacks take place on Dalits and tribals. As far as representation of Dalits in media houses are concerned, The Hoot study suggests the number of Dalits in the mainstream media has grown over the last two decades, though still nowhere in proportion to their countrywide population of 15 percent; and mostly they're perched on the lower rungs of the hierarchy in newspaper and TV outlets¹⁷.

The situation faced by Muslims is also same. If we take into account the coverage of a communal confrontation or of a community issue, it becomes evident that the

'mainstream' (national and regionally dominant) media tends to forget that it has a Muslim readership¹⁸. This biasness on the part of Indian media is disturbing and is really a drawback for movements based on caste and communal lines.

To conclude, one can say that instances in the present time like Anna Hazare Movement, Movement against Delhi Rape Case, media activism in Jessica Lal Murder Case etc., signals the vital role played by media in mobilizing people and it (media) in a way has become one of the important factors for the success of these movements. However, there are certain flaws inherent in Indian media, which can adversely affect portrayal of any movement and thereby misleading people. Such factors include – corporate ownership of media, political influence on media, state censorship of media, discretion of media on coverage of events far as reporting of incidents (such as instances of female foeticide, the suicides of two lakh farmers over the past 12 years, 14 year long fast of Irom Sharmila demanding repeal of AFSPA) so on and so forth. Thus, the threat of press freedom comes basically from two ways – from owners who are ready to sacrifice the reputation and credibility of the newspapers they own for the sake of personal profit and influence from positions of power. The present scenario is not quite encouraging and certain areas need to be addressed. The freedom of press in the country is a blessing for the people. However, this blessing can go terribly wrong when manipulations set in. The onus thereby lies with the common citizenry who should also be responsible while dealing with media. They should know how to make best use of it and should always have a critical insight and shouldn't always go by what the media has to say.

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Impact of Shrinkage of Forest on Human Rights of Tribal Forest Villagers

A Study of Kaki Reserved Forest

Lakhinanda Bordoloi

Introduction

In Assam, Reserved Forest accounts for 20% of the total geographical area wherein a sizeable section of tribal people live. The settlements of the tribal people in the Reserved Forests are classified as Forest Villages and governed under the rules of establishment of forest villages and overall provisions of the Assam Forest Regulation Act, 1891. But all the settlements are not classified forest villages. At present there are 499 forest villages in Assam as per official records. Out of these, 234 villages are inhabited by the tribal people. In Nagaon district of Assam there are three forest divisions, namely, Nagaon, Nagaon South and Nagaon Wildlife Division with 24 forest villages having a population of 56,751 as per 2011 Census. There are 16 forest villages with a population of 36,130 in the Kaki Reserved Forest of Nagaon South Division which come under recently formed Hojai district. The villages are: (1) Ram Nagar (Kaki Ram Nagar F.V.) (2) Rampur F.V. (Kaki Rampur F.V.) (3) F.T.V.No.1 (Kakitangia F.V.No.1) (4)

F.T.V.No.2 (Kakitangia No.2) (5) Kaki Tapanpur. (6) F.T.V.No.3 (Kaki Tangia No.3) (7) Barmangsu F.V. (8) Paddy Land (F.T.V.) (9) Hemari Camp Area (F.V.) (10) Natun F.V. (11) Ram Nagar (F.V.) (12) Ramnagar F.V. (13) Dimaru Pathar F.V. (14) Lal Mati (15) Ram Nagar Camp Area (16) Kakijan Camp Area. The Natun F.V. is the new village which has no record in the censuses prior to 2011. Out of the 16 forest villages, the first six are recognized forest villages established by the rules of the establishment.

Objectives

The basic objectives of the study are:

- (a) To know the Kaki Reserved Forest, forest villagers and forest environment in the past and present.
- (b) To assess the shrinkage of forest and its impact on human rights of the tribal forest villagers.
- (c) To find out remedial measures for protection of human rights violated by the process of shrinkage of forest.

Methodology

Data for the present study are collected basically through primarily sources that include field observation, interview and experiment. The secondary sources of data are also used. In analyzing and interpretation of data historical, analytical and qualitative methods are used.

The Study Area

Kaki Reserved Forest had been rich in flora and fauna till massive deforestation was started. It had resources like different kinds of herbs, shrubs, valuable trees, and different forest products. The reserved forest had two physiographic divisions-

- (a) The east part starting from Karbi hills comprising Klurdung, Lalmati to Simlaipahar foothill area covering around 3500 hectares and

- (b) The main plains (U shaped) in the west part covering an average area of 7500 hectares.

There are three streams- Kakijan, Dimarujan and Thaisujan flowing across Kaki Reserved Forest towards west and all merge with river Jamuna and Kapili in the lower catchments.

The shrinkage of the forest started due to illegal felling of trees. During 1990s when encroachers settled for permanent cultivation massive deforestation started. The population growth was steady till 1991. But thereafter growth rate of population has increased alarmingly as revealed from Census of 2001 and 2011. It was chiefly because of the migratory encroachment. The total population of the forest villages as per Census of 1991 was 9,010. In 2001 it was 20,481 and in 2011 it rose to 36,130. The population density in the deforested encroached areas has been increasing day by day. The hill areas of the reserved forest record comparatively low scattered population even though people have begun to settle there for practicing highland crops.

Violation of Human Rights of the Forest Villagers

The shrinkage of forest has adversely affected the eco-system of the area as well as the socio-economic life of the tribal society. The impact of shrinkage of forest on human rights of the tribal populace of the forest villages can be outlined in the following manner:

The forest needs to absorb water and anchor soil which provides perennial source of water for surface as well as subsoil irrigation. But the whole process is obstructed by shrinkage of forest in the area. Due to the shrinkage of forest there is irregular rainfall. Because of massive deforestation the streams often flow full of sands and eroded soil in the upper banks. It is unusable to the crop field. It destroys the nitrogen carrying capacity of the

soil and the natural supply of organic manure. It has been observed in the area that water transpiration by the forest to the atmosphere is affected by the deforestation process. It has deprived the villagers from right to enjoyment of clean environment and their socio-economic conditions are also affected.

The people who live in forest traditionally enjoy traditional rights over the forest. Living with forest was so simple that most of their requirements were fulfilled from the forest. During the days of want they could run their live by feeding 'Alu' (edible roots) from the forest. The villagers enjoy rights to cut fuel wood, small timber, and collection of grasses, herbs, thatches and other minor forest products for their domestic use besides domestic and agricultural tools like plough, bullock cart, hoes, and so on. But the process of deforestation has adverse effect on all these. The practices of enjoyment of rights free of cost and failure of meeting their basic requirements from forest affected the villagers. The resources of employment generation like dairy, farming, silk and cocoon rearing, fruit processing, and related traditional and managerial skills and knowledge is hampered by the deforestation process. The employment in manual work like preparation of nursery farm, site cleaning, and soil work in the forest are no more in practice.

The traditional medicines from plants were collected easily by the tribal medicine men which were used in almost all kind of diseases. The villagers knew the species of medicinal plants which possess highest medicinal quality. It had enriched the traditional knowledge system. With the process of shrinkage of forest the villagers are deprived of the facilities of health. Traditional medicinal plants have gradually vanished and there is loss of traditional knowledge

system. It is also observed that no health centre is available in the entire area. Sometimes the diseases are due to drinking of contaminated water. It is observed that during summer the villagers are very much affected by diseases like malaria, typhoid, dysentery, diarrhea, jaundice and so on. Lack of proper healthcare facilities is a major problem for the villagers. It is a threat to their basic right to life. The facilities and the searching and gathering practices have been distorted by deforestation process.

Before the forest shrinkage process was started in the area, the forest served as the protective fencing, wind shelter belt and checked the windstorm as windbreak and maintained fertility of the crop-fields. The windbreak protected the agricultural crops of the tribal villagers from wild beasts and insects. It acted as the shelter belt for many harboured birds which devour the harmful insects, pests, rats etc. and worked as a natural checking agent in the crop field. The people of the forest villages are now deprived of such sort of natural rights they enjoyed earlier from the neighbouring forest.

The tribal people living in the forest villages have their own language or dialect. They use different words to mean different flora and fauna. When the shrinkage of the reserved forest started in their vicinity, need to practice languages in terms of forest orientation begin to loss. When the forest is under threat, the valuable words or terminologies of tribal dialect are also under threat of being extinct. The linguistic loss can be considered as great humanitarian loss.

Many tribal folk-tales, folk-songs and folk-dances are based on forest. So shrinkage of forest threatens the folk-culture of the tribal villagers to a great extent. The forestry based tribal rituals are under threat of being lost in the area. It is the tradition and practice of the forest villagers

that they collect the materials needed for performing socio-cultural rituals and festivals from the forest. The villagers are now deprived of such materials and services of the forest.

The shrinkage of forest also has an impact on the livestock and rearing cattle of the forest villagers. The grazing land which the forest provided prior to the settlement of people for cultivation is no more. Earlier forest provided them the grazing facilities for their domestic animals and cattles which was free of cost. They could keep more cattles or live stocks without much effort. It contributed much to income generation of the tribal forest villagers. But the reduction of fodder resources and grazing space due to shrinkage of forest has adversely affected the villagers and their cattle population.

The education and literacy of the forest villagers is a matter of great concern. It is always below the national and state average. The lack of proper infrastructure and educational facilities are the main factors for their educational backwardness. The overall literacy rate of the study area was 31.9% in 1991, 37.57% in 2001 and 45.64% in 2011. The decadal growth rate from 1991 to 2001 was about 6% and from 2001 to 2011 it was 7 % only. The female literacy rate is even more disappointing with 24% in 1991, 28% in 2001 and 39.88% in 2011. All these clearly reveal that the forest villagers are deprived of one of the basic human rights i.e. right to education.

Protective measures

From above discussion it is clear that deforestation and shrinkage of forest have affected the rights of the people of the forest villages in a number of ways. As such there is need of some protective steps for ensuring enjoyment of human rights of the tribal forest villagers.

Multidimensional approach of conservation should get top priority which includes community-based and participatory forestry programme. It is a feasible and well accepted approach adopted in many countries as a measure for sustainable development.

Access to forest resources without having restrictions to enter into the forest areas is a tool to the protection of human rights of the villagers. It can improve the economic condition of local people with the use of forest resources. Many countries are now working to strengthen forest governance, some through decentralization process that allows the poor people living in and around to derive more benefits from forests and be more involved in the forest management. Joint forest management practices can also play an important role in this regard. The sustainable use of forest is environmentally accepted.

There is need to respect traditional and indigenous knowledge on forest which helps in the conservation of biodiversity. The Vienna Declaration and Program of Action emerging from the World Conference on Human Rights, 1993 also recognized the dignity and unique cultural contributions of indigenous people to forest. It strongly reaffirms the commitment to the economic, social, and cultural well-being of indigenous people and their enjoyment of the fruits of sustainable development.

Ensuring economic security through resource mobilisation is another measure for the protection of human rights of the forest villagers. Economic insecurity demonstrates lack of resource mobilization. Poverty compels the children of the villages to discontinue education and take some vocation or assist in the family occupation. Therefore various schemes of development for resource mobilization are of utmost importance.

Conclusion

The shrinkage of forest has resulted in the violation of human rights of the forest villagers in the Kaki Reserved Forest. Knowingly or unknowingly the local poor people themselves are sometimes involved in shrinking the forest in search of land for cultivation. The ecology of the forest and tribal has deteriorated by the way. Earlier there were plenty of open spaces, natural herbs and shrubs, flora and fauna, marshy lands, perennial streams in the area. But these are no more available. Present agro based economy of the villagers alone is not sufficient to run their families. The villagers are suffering from problems like low production, natural droughts etc. Moreover the use of chemicals and pesticides has also created environmental problems. Hence, piggyery and poultry can play an important role in generating income.

It has been observed that the way of life, living standard and socio-economic condition of the people of the forest villages cannot be compared to those of other villagers. There is a marked difference between the revenue and forest villagers. They are very much poor, illiterate, and their villages face acute problem of infrastructure development.

The villagers have deep rooted sentiments in respect to many social, cultural, economic and environmental aspects. The tribal forest villagers still depend on forest. In fact forest is their last succor. The tradition, culture, economy, rituals and social ceremonies of the forest villagers can survive only with the existence of the forest.

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Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and Protection of Economic Rights of Rural Women in India: A Case Study of Kaliabor Sub-Division of Nagaon District of Assam

Binod Goswami

"The wages of a worker should be paid before the sweat of his brow dries up."

Baihiji, Ibn-e-Majah

Introduction

The UN Charter declares gender equality as a fundamental human right. But even today women are subjected to oppression and discrimination on ground of gender. They generally have lower income and seldom have equal opportunities to develop their capacities. Women suffer from poverty on a more widespread basis than men. Women constitute 48% of the total population in India. But

even after 60 years of independence they suffer from several known disabilities: virtual deprivation of ownership and control over means of production due to traditional inheritance laws favouring men; division of labour by sex, lack of skills and training and of access to position involving decision making in the society; inadequate allocation of society's resources and of investment in technology for improving the efficiency and productivity of occupation in which women are engaged, and discrimination against women in labour market. Almost 72 percent women of India who live in rural areas are found to suffer from these disadvantages in much more acute form than urban women. Women in poorer households in rural areas are the worst victims since in addition to the burden of oppressive traditions they bear the burden of poverty disproportionately. Women work for much longer hours than men and their work is more fundamental to the survival and progress of the society. Yet their work gets less recognition because they are shown to participate less in the 'workforce'. Even when they are in the workforce, such work is termed as marginal and without independent earning. This is not only true for India but almost for all the countries whether they are developed nation or developing or underdeveloped. From the UNO (2000) observation it is found that women produce 50 % of world's food supply, accounts for 60% workforce and contribute 30% of the official labour force but receive only 10% of the world's income and more surprisingly owns less than 1% of world's real estate. In such circumstances world's peace and prosperity can never be enduring. Hence the economic rights of women must be protected because economic rights of women are part and parcel of women's human rights. Economic rights include the right to work, the right to the free choice of employment,

irrespective of sex.

A lot of provisions have been made in the Act for empowerment of women. The Act stipulates that wages will be equal for men and women. It is also committed to ensuring that at least 33% of the workers shall be women. There is no gender discrimination in getting a job in NREGA scheme. Any male or female of rural area who is above the age of 18 years is eligible for getting NREGA jobs. Another important feature of MNREGA is that the applicant will get job within 15 days of application. Thus job security has been ensured by the Act. Further it has been said that the applicant will get job within a radius of 5 kilometer. This provision of the Act will attract large rural women towards NREGA jobs because rural women do not want to travel long distances for job as they have to perform some daily task at home before going to job.

The Act provides some worksite facilities such as drinking water facility, shades for rest, first aid, child care facility etc. The provision of child care facility at the worksite is supposed to encourage the young mothers to get them engaged in NREGA jobs.

Objectives

The following are the objectives of the paper-

- 1) To examine the role of MNREGA in protecting economic rights of rural women.
- 2) To find out the satisfaction of women workers regarding wage rate and mode of payment.

Methodology

For the study both primary and secondary data are collected. Primary data have been collected through field work and secondary data have been collected from panchayat office.

Findings and analysis

1. Sex ratio

In 12 villages selected, 313 NREGA workers were found. Out of them, 100 were women. Thus the sex ratio of male and female workers was 2.13:1. It is an important indicator of women's awareness regarding the economic security.

2. Waiting period for getting job

19 percent of women NREGA workers got job within 15 days of application, 20 percent got within the month and 61 percent had to wait more than a month for NREGA job.

3. Age of the respondents

Statistics about age of women workers revealed that 8 percent of total selected workers belong to the age group of 18-25 years, 33 percent belong to 26-35 age group, 43 percent belong to 36-45 age group, 10 percent belong to 46-55 age group, 5 percent belong to 56-65 age group and 1 percent belong to the age group 66 and above. The average age of the women workers was 36.6 years.

4. Marital status

It was found that out of the 100 women NREGA workers, 67 were married, 10 were unmarried and 23 were widows. Thus married women workers were more than the unmarried workers. It refers that the scheme is much popular among the married woman. Widows have also accepted the NREGA jobs as source of income.

5. Occupation of the head of the family of women NREGA workers

The occupation of husbands of married NREGA women workers were investigated and those who were unmarried their father's occupation were investigated. It is found that 15 women NREGA workers' husbands or fathers

do not work or are unable to work. 83 women NREGA workers' husbands are casual labour. They earn less than Rs 100/- per day. Only one woman NREGA worker's husband who is a casual labour earn more than Rs 100/- per day. On the other hand only one woman NREGA worker's husband was a permanent labour in organized sector (Tea Garden). Thus the low family income is the reason for choosing the NREGA work by women.

6. Facilities available at the work site

According to the Act, certain facilities should be made available by the respective panchayats. Among them, important ones are- shades for rest, drinking water, first aid kit, and child care facilities. To know whether these facilities are available at the work site or not, questions on them were prepared and response was noted down as follows:-

- Shades for period of rest were not available at any work site of selected villages of the four panchayats. When panchayat officials were asked regarding it, they said since some big trees are available at and around the work site, the workers can take rest under the shadow of these trees.
- 71% of the MNREGA women workers found Drinking water facilities at the work site and 29% said that they could not avail the facilities of drinking water facilities at the worksite. The panchayat officials said that they arranged drinking water from the households nearby the work site.
- Only 40% women MNREGA workers found first aid kit at the work site, 60% answered in negative. The panchayat officials informed that they would make arrangement for the treatment if any problem arises.

- 37% of the women MNREGA workers could avail the facilities of child care at the work site of the selected villages of the four panchayats.

7. Annual income of the NREGA workers before the NREGA job

An investigation was carried out regarding the annual income of the NREGA workers before the NREGA job. It has been found that 26% of the NREGA workers did not involve themselves in any kind of economically gainful work and thus their annual income was zero. 11% had annual income less than Rs 5,000/-, 48% had income between Rs 5,000/- to Rs 10,000/- and 15% had income more than Rs 10,000/-

8. Working days under NREGA (Person days completed)

The NREG Act assures 100 days of employment anyone who seeks employment. From 1st April, 2008 onwards the Act has been implemented in the study area. In 2012-13 financial year, the Act provided employment at an average of 13.36 days to the woman workers in the study area. The situation improved in the financial year 2013-14. In this year the women workers got employment at an average of 37.18 days. It was found that 98% of the women NREGA workers got employment less than 25 days in the financial year 2012-13. Only 2% got opportunity to work between 25 days to 50 days under NREGA. No one got employment between 51 days to 99 days and no one achieved the target of 100 days of work. There was a little improvement in the financial year 2013-14. 61% women workers worked less than 25 days. Between 25 days to 50 days, 38% of the workers got employment. Only 1% of the women workers got employment between 51 days to 99 days. In that financial year too, none achieved the target of 100 days employment.

9. Income from NREGA

29% of the women NREGA workers earned less than Rs. 1000/- in the 2012-13 financial year while 28% earned between Rs. 1000 and Rs. 2000. 25% earned between Rs. 2000 and Rs. 3000 and 14% earned between Rs. 3000 and Rs. 4000. Only 3% earned between Rs. 4000 and Rs. 5000 and only 1% earned more than Rs. 5000 from NREGA job. The average annual income of woman worker was only Rs. 1540.2 in the financial year 2013-14. About 80 percent of the total selected women NREGA workers reported that their income have increased considerably due to NREGA job.

10. Heads and share of expenditure from NREGA income

An investigation was also carried on the heads of expenditure of the workers that they met from the NREGA income. The various heads of expenditure were- a) Food, b) Health, c) Shelter, d) Investment, e) Saving, f) Repayment of debt and g) Education of children.

a) Expenditure on Food

About 90% Of the NREGA women workers said that they spent lion's share of NREGA income on purchasing food items. Their average expenditure on food items during the year 2012-13 was Rs. 1305.72/-. They also said that they were able to reduce the burden of their husband / father by spending money on food.

From the study it is found that 38% of women NREGA workers spent less than Rs. 1000 on food item in the year 2012-13, 35% spend between Rs. 1000 to Rs. 2000, 21% spend between Rs. 2000 to Rs. 3000, 3% were able to spend between Rs. 3000 to Rs. 4000 and 2% spent between Rs. 4000 to Rs. 5000. Only 1 percent of the workers spent more than Rs. 5000 on purchasing food items. All most all the women NREGA workers had said that they were able to spend more money on food items than

earlier years. They generally purchased fish, eggs, meat and vegetables for their family.

b) Expenditure on health

Health was the second largest head of expenditure of the NREGA women workers. They need not to depend on other family members for medicine. Not only that, they can now purchase medicine for other members of the family. The average expenditure from NREGA income of the selected women workers was Rs. 232.18 during the year 2012-13.

c) Expenditure on Shelter

Shelter is one of the basic needs of human being. From the study it is found that NREGA income is not enough for meeting the needs of housing material. 98% of the respondents reported that NREGA income did not have any positive impact on shelter. They said that most of their income was spent on food item or on medicine. However 2% said that they had used the income from NREGA either to repair their shelter or to purchase some housing materials.

d) Impact on investment

99% of the respondents said that NREGA income is not enough for investment. Only 1% of NREGA women workers were able to invest the NREGA income. They had purchased chicken or ducks for eggs.

e) Impact on Saving

Most of the NREGA women workers reported that they were unable to save income earned from NREGA. Only five respondents said that they had saved a part of the NREGA income. The average saving from NREGA income was only Rs. 53.81.

f) Impact on Repayment of debt

From the survey it is found that most of the women NREGA workers belonged to BPL (Below Poverty Line) families. They generally borrow money during emergencies. When asked whether NREGA income was useful to repay debt, most of them replied in negative. Only 8% of them reported that with the help of NREGA income they had repaid their debts. The average of debt repayment was Rs. 60.56 from NREGA income.

g) Impact on children's education

66% of the selected NREGA women workers reported that they had not spent any part of their NREGA income on children's education. But 34% of the selected NREGA women workers said that NREGA job had enabled them to spend money on their children's education. From NREGA income they had purchased some educational materials for their children. The average expenditure on education from NREGA income was Rs. 88.32. Though this amount seems to be very less, but it is a good sign that NREGA has positive impacts on education.

11. Satisfaction with the current wage rate

A study was also conducted regarding the satisfaction with the current wage rate of NREGA job. The workers were asked whether they were satisfied with the current wage rate of Rs. 150/- per day. 86% of the selected women NREGA workers said that they were satisfied with the current wage rate and 14% of the workers reported that they were not satisfied because in some other work the wage rate is higher. They were further asked why they were not satisfied. Then they said that the prices of necessary goods are increasing at high rate and it was not possible for them to fulfill their basic needs with the current wage rate. Some of

the workers said that they get much higher wage rate on farm work.

12. Satisfaction with current procedure of payment of remuneration

NREGA workers do not receive their remuneration directly from the panchayat officials. For this they have to open an account either in post office or in a scheduled commercial bank. 70% of the selected women NREGA workers received their wages through banks and the rest 30% received from post offices. 21% of the selected workers were satisfied with the current procedure of payment of wages where as 79% reported that they were not satisfied with the procedure. Following are the reasons for their dissatisfaction.

- a) Opening an account with the banks was time consuming. They had to spend 3 to 10 days for this. A daily wage earner cannot afford this.
- b) They found difficulty in filling the forms of the bank for opening account.
- c) The branch offices of the banks as well as of post office were 3 to 5 kilometer away from the residence of the workers.
- d) Some workers did not know the process of withdrawals. Therefore they had to depend on the GRS (Gram Rojgar Sevak) for it. Some of the GRS demand Rs. 10 to Rs. 30 for per withdrawals.

Suggestions

- The policy makers and implementing authority should ensure at least 100 days of work to women workers.
- Wage rate should be modified from time to time keeping in mind the inflation rate.

- Mode of payment should be transparent.
- Women should be paid remuneration on daily basis.
- Worksite facilities should be properly provided and monitored.

Conclusion

From the analysis it has been found the MNREGA scheme has been able to protect economic rights of rural women to some extent. Their income has increased after engagement in NREGA works. From the study it has been found that most of the women NREGA workers spend lion's share of their NREGA income on food and basic necessities. A part of NREGA income is spent on health by purchasing medicines. Some NREGA workers used the NREGA income on education for their children. Some of them save income for future needs. Some women have invested the income of NREGA on purchasing chattels, goats, ducks etc.

But there is another picture of NREGA scheme also. For getting a job through this scheme, one has to register his/her name with panchayat. Some women found the process difficult. The NREGA workers are paid wages through post offices or through banks and for this they have to open an account in post offices and banks. They have to wait weeks after weeks for getting remuneration. This is another burden for them. Though there is provision for 100 days employment under NREGA, but it has not been fulfilled on many occasions. Some women NREGA workers reported that shades for their children are not available at their work places. Moreover the NREGA officials are not transparent in counting the numbers of days of work. Many of the workers are not satisfied with the wage rate of NREGA. These issues should be addressed by the authorities.

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Economic Freedom for Ensuring Human Rights

Leena Borah Hazari

Introduction

The cornerstones of economic freedom are (1) personal choice, (2) voluntary exchange coordinated by markets, (3) freedom to enter and compete in markets, and (4) protection of persons and their property from aggression by others. Economic freedom is present when individuals are permitted to choose for themselves and engage in voluntary transactions as long as they do not harm the person or property of others. Individuals have a right to their own time, talents, and resources, but they do not have a right to take things from others or demand that others provide things for them. The use of violence, theft, fraud, and physical invasions are not permissible in an economically free society, but otherwise, individuals are free to choose, trade, and cooperate with others, and compete as they see fit. Freedom is an intrinsic element of the life of every person, yet is noticed only when attempts are made to limit it. The foundations of economic freedom are personal choice, voluntary exchange and open markets. High levels of economic freedom are good for economic

development and removal of poverty. Economic freedom is the fundamental right of every human to control his or her own labour and property. In an economically free society, individuals are free to work, produce, consume and invest. In a free state, the government allows labour, capital and goods to move within the state with very limited interventions. It is important because it affects every aspect of an individual's life. Living in a society with high level of economic freedom leads to higher income, lower poverty, less unemployment, longer life expectancies and cleaner environment and some other benefits. More economic freedom improves well being and leads to a higher quality of life. Economic freedom has positive social and economic values such as more per capita income, economic growth, human development, democracy, elimination of poverty and environmental protection.

Across the Globe

The Report of 2013 on economic freedom covered 157 countries across the world. Hong Kong and Singapore occupy the top two positions. The other nations in the top ten are New Zealand, Switzerland, United Arab Emirates, Mauritius, Jordan, Ireland, Canada and the United Kingdom and Chile, tied for the 10th. The rankings of some other major countries are Australia (12th), the United States of America (16th), Japan (26th), Germany (29th), South Korea (tied for 39th), Italy (tied for 68th), France (tied for 70th), Mexico (93rd), Russia (99th), China (tied for 111th) and Brazil (tied for 118th). The lowest-rated countries are Angola, Zimbabwe, Central African Republic, Algeria, Argentina, Syria, Chad, Libya, Republic of Congo and Venezuela at the bottom.

Economic Freedom in India

Economic reforms began in India in the late 1970s, but became much more comprehensive since 1991. These reforms involve a reliance on the market and reduced government intervention. It is thus understandable that India's scores should improve over time. One should also mention that Indian growth rates have picked up in the 1990s, more so from 2003-04. Yet again, one notices the positive correlation between higher levels of economic freedom and growth. India is a federal country, and its Constitution has a Seventh Schedule that lists the topics falling under the jurisdiction of the Central government, the topics that are the responsibility of the state governments, and the topics that are the concurrent responsibility of both. The academic literature often refers to first and second generation reforms. First generation reforms include the external sector (where the first flush of reforms was introduced in 1991), while second generation reforms pertain more to the domestic economy. Besides, first generation reforms often refer to agenda items that are the province of the Central government (such as product markets), whereas second generation reforms often concern agenda items falling within the purview of the states (such as markets for land and labour). India continues to perform relatively poor in the regulation of credit, labour and business, and labour is in the Concurrent List of the Seventh Schedule. Indeed, if one compares the 1995 scores with those of 2007, one finds that India has not improved much on transfers and subsidies, government enterprises and investment, money growth, freedom to own foreign currency bank accounts, non-tariff barriers, capital controls, ownership of banks and hiring and firing regulations and has slipped on general government consumption expenditure, judicial

independence, impartial courts, price controls and bureaucracy costs. PSU (public sector undertaking) reforms, reform of public sector banks, targeting of subsidies, dismantling of exchange controls, labour market reforms and judicial reforms are long overdue. Public expenditure and price control have both increased since 2004.

Inter-state Economic Freedom Ranking

India's economic freedom score is 54.6, making its economy the 128th freest in the 2015 Index. Its score is down by 1.1 points from last year, with modest improvements in business freedom, property rights, and freedom from corruption offset by declines in labor freedom and trade freedom. India is ranked 26th out of 41 countries in the Asia-Pacific region, and its overall score continues to be below the regional and world averages.

The overall ratings for states are simple equally weighted averages of the ratings in the three areas. The top three states are Gujarat, Tamil Nadu and Andhra Pradesh. These are followed by Haryana, Himachal Pradesh and Madhya Pradesh. Gujarat has not only stayed on top but significantly improved its overall rating from 0.46 in 2005 to 0.65 in 2013, driven mainly by better legal and regulatory performance. Tamil Nadu is well behind in 2nd place with a score of 0.54. It was in the top position in 2005 (with a score of 0.57) as well as in 2009 (0.59), but has since deteriorated, and fallen behind Gujarat. Andhra Pradesh has moved up from 6th rank in 2011 to 3rd rank in 2013, not because of any improvement in its index value but because some other states like Himachal Pradesh, Haryana and Madhya Pradesh witnessed a significant fall.

As many as seven states have suffered a fall in their economic freedom ratings in 2013 compared with 2011.

The worst performers in 2013 are Bihar, Jharkhand, Assam and West Bengal. While Bihar, Jharkhand and West Bengal had shown some positive growth in their index ratings since 2011, Assam has gone further down. Other states with declining index values in this period are Tamil Nadu, Himachal Pradesh, Haryana, Madhya Pradesh and Jammu & Kashmir. Bihar has not been able to break out of the bottom position it has always held, but its score has improved significantly, from 0.25 in 2005 to 0.31 in 2013.

Compared to performance of 2005, Gujarat has shown the steepest growth. On the other hand, Jharkhand, Madhya Pradesh, Tamil Nadu, Punjab and Odisha have experienced declines in index value. Overall, the median value for economic freedom of the states of India decreased from 0.38 in 2005 to 0.36 in 2009 but improved in 2013 to 0.43. The overall increase is due mainly to improvements in Area 1 (Size of government) and Area 3 (Regulation of labour and business). As India opens its national markets to international investment and commodity flows, it cannot afford to constrain its own entrepreneurs. The biggest improvements in overall economic freedom scores have been registered by Gujarat (0.19 points), Chhattisgarh (0.11 points) and Andhra Pradesh (0.10 points). Unsurprisingly, all three have registered very good growth in state GDP; averaging 12.0 per cent in Gujarat, 10.6 per cent in Chhattisgarh and 10.4 per cent in Andhra Pradesh.

Economic Freedom as Human Rights

At the beginning of the 21st century, Governments' disrespect for human rights is still evident in all regions of the world. Human rights violations continue to be the norm rather than the exception. According to Amnesty International (2006), millions of people worldwide are still

denied human rights and fundamental freedom. That being said, Government's respect for human rights is higher in some countries than in others and over the last few decades improvement has been visible in many of these countries. At the same time, globalization and economic freedom has had dramatic consequences on the policies and outcomes around the world. It is the foundation of true democracy and human rights. Freedom is the engine that drives sustainable economic growth and provides increased access to prosperity for all people everywhere.

Gwartney et al. (1996) opine that individuals have economic freedom when-

- (a) Property they acquire without the use of force, fraud, or theft is protected from physical invasions by others, and
- (b) They are free to use, exchange, or give their property to another as long as their actions do not violate the identical rights of others.

On the basis of this definition, an index of economic freedom should measure the extent to which rightly acquired property is protected and individuals are free to engage in voluntary transactions. In an economically free society, the fundamental function of government is the protection of private property and the enforcement of contracts. When a government fails to protect private property, takes property itself without full compensation or establishes restrictions that limit voluntary exchange, it violates the economic freedom of its citizens. Institutional arrangements that restrain trade, increase transaction costs, weaken property rights, and create uncertainty will reduce the realization of gains from trade and also the incentive of individuals to engage in productive activities.

A different view has been put forward by Freedom House. Wright (1982, pp. 51-52), for instance, argues: "To examine economic freedom is to assess the degree to which persons are free individually and collectively to undertake economic activities of their choice, regardless of political structure. Collectively, a fundamental aspect of this freedom is the extent to which the economic system that controls choice reflects the expressed preferences of the majority of the citizenry rather than those of a ruling few....In those societies that guarantee effective participation by the citizenry in the political decision-making process, the nature of the economic system is most likely to reflect the preferences of a majority of the groups in society for certain economic arrangements and relationships....Economic freedoms existing within a democratic political framework may be called legitimated or voter-approved economic freedoms, reflecting the participatory and legitimating process by which the range and limits of economic activities are established." In the reasoning of Freedom House there is thus a substantial difference between the degrees to which people are free individually and collectively to undertake economic activities. Individual freedom means the right to pursue economic activities free from arbitrary control and interference by the state and other individuals. Collective freedom refers to the extent to which the economic system that controls choice reflects the expressed preferences of the majority of the citizenry rather than those of a ruling few. Rabushka (1991c, p. 61) rejects this line of reasoning: "Wright's definition of collective economic freedom ... is not a statement about some collective economic right that exists apart from the sum of the rights enjoyed by all the individuals in any society. This concept of collective economic freedom has no foundation in the classical liberal

tradition of John Locke and Adam Smith. It represents a complete departure from the premise of methodological individualism in favour of group action." As we will show below, this issue is of crucial importance with respect to certain elements to be taken into account in the construction of an indicator of economic freedom.

Dreher et al. (2010) investigate whether economic freedom and globalization have a significant effect on the way governments perceive human rights. The authors have used KOF Index of globalization and two major indices of economic freedom- Fraser's index and Heritage Foundation's index to test the effect of globalization and economic freedom and governments' respect for human rights in 106 countries between 1981 and 2004. The analysis shows that some human rights are affected by globalization and economic freedom, physical integrity rights increase significantly with the increase of economic freedom and globalization, whereas empowerment rights, such as freedom of speech, religious freedom, political participation etc are not much affected.

It can be said that more economic freedom improves well being and leads to higher quality of life with positive social and economic value. Thus it contributes to better enjoyment of human rights.

Conclusion

Eco-nomic freedom offers people around the world the best hope for achieving healthier, safer, wealthier, and more productive lives, as well as the dignity of self-reliance. It is not a guarantee, of course, but in the most general terms it is a prerequisite for these things on a long-term, sustainable basis. In an economically free society, individuals succeed or fail based on their individual effort

and ability. The institutions of society do not discriminate against or favour individuals based on their race, ethnic background, gender, class, family connections, or any other factor unrelated to individual merit. Government decision-making is characterized by transparency and openness, and the light of opportunity replaces the shadows where discrimination can be most insidious.

Economic policy is generally said to aim at securing increase in national income, an acceptable distribution of income, human well being and certain environmental goals. The question is how all of these goals can be best obtained. Policies that rely increasingly on the processes of the market economy within the framework of a stable legal system seem to influence positively or at least are compatible with these goals. Research on economic freedom is still at an early stage; however, though the roots of this approach lie in the deep insights of classical political economy, much more remains to be done. India needs to take initiatives to improve her overall economic and legal environment which will go hand in hand with true economic freedom.

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Human Rights Education and Economic Development

Dr. Pradip Kumar Das
Debjani Goswami

Introduction

Human rights education is an integral part of the right to education and is increasingly gaining recognition as a human right in itself. It involves all learning that develops the knowledge, skills, and values of human rights. References to the concept of education in and for human rights appear in a number of international human rights instruments, including the Universal Declaration of Human Rights (Art. 26)¹, the International Covenant on Economic, Social and Cultural Rights (Art. 13)², the Convention of the Rights of the Child (Art. 29)³ and most recently, the Vienna Declaration and Programme of Action (Sec. D, Paras 78-82)⁴. Taken together, the international instruments provide a legal definition of Human Rights Education that many nations signed over the years. In accordance with those provisions the Human Rights Education may be defined as 'training, dissemination, and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the molding of

attitudes which are directed to the strengthening of respect for human rights and fundamental freedoms; the full development of the human personality and the sense of its dignity; the promotion of understanding, respect, gender equality, and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups; the enabling of all persons to participate effectively in a free society; and the furtherance of the activities of the United Nations for the maintenance of peace.'⁵

Human rights education can be used as the strategy of development and it can influence the development process significantly. There are clear and relevant links between human rights education and development. Human rights education, as defined by Nancy Flowers, involves 'All learning that develops the knowledge, skills and values of human rights.'⁶ Human rights education has been defined as the conscious effort, both through specific content as well as process, to develop in students an awareness of their rights (and responsibilities) to sensitize them to the rights of others, and to encourage responsible action to secure the rights of all.⁷

Thus it may be concluded that Human rights education is a lifelong process that builds knowledge and skills, as well as attitudes and behaviours, to promote and uphold human rights. It promotes values, beliefs and attitudes that encourage all individuals to uphold their own rights and those of others. It develops an understanding of everyone's common responsibility to make human rights a reality in each community. Human rights education plays a great role in the process of development of the society. The present study focuses on the role of human rights education as a strategy towards economic development of a country.

Objectives of the Study

1. To examine the interrelationship between the process of economic growth and human rights education, and
2. To examine the impact of human rights education on the reduction of the abasement of human rights via the process of economic growth.

Methodology

The study is mainly descriptive and is based on secondary data in presenting the facts pertaining to the human rights education as the strategy of economic development. Relevant books, journals and research papers have been reviewed and different websites have been accessed for the purpose. Based on available data and articles a library method is followed to carry out an analytical study in its present form.

Major Findings

The major findings of the study can be summarized under the following two heads:

1. Impact of Human Rights Education on Economic Development

Human rights education can be a good strategy of development. The right to development is regarded as an unchallengeable human right which all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.⁸ The link between human rights education and economic development can be understood from the assertion made by UN Secretary-General Kofi Annan in his 2005 report on UN Reforms that 'we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.'⁹

Human rights based approach is viewed by many as essential to achieve the development goals. Development has been redefined on a normative framework based on internationally defined human rights. Following this new definition, economic growth alone is not the only objective of development; it also aims at the realization of human rights. The pursuit of economic growth is not an end in itself. The United Nations Declaration on Right to Development¹⁰ clearly states that development is a comprehensive process aiming to improve 'the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution' of the benefits emerged in the process of development. Like all human rights, the right to development belongs to all individuals, everywhere, without discrimination and with their participation. The economic growth generated by development must be directed towards the progressive realization of all human rights of the people. The Declaration unambiguously asserts that development is an inalienable human right. The human being is both the central subject of development and the beneficiary of the right to development, and that international human rights must be seen as essential, interdependent ends and means of development. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.

Human rights education can foster economic development in several ways.¹¹ It can help in more effective monitoring of existing development activities in terms of their human rights impact. Thus effective steps can be adopted to

discontinue the illegitimate and perverse development programmes that violate rather than promote human rights and such development programmes can be redesigned to limit the human, social and environmental damage.

Human rights education can give impetus to the struggle for justice for development victims. Human rights education can help the public assembly behind such victims in their strenuous struggle for rehabilitation, redress and justice. For example, Human rights education has helped the people in recognizing the truth that the industrial disasters are not mere unfortunate accidents but they represent a case of mass and grave human rights violation as well.

Human rights education can promote understanding of the rationale of development as the betterment of the human condition. This in turn can help to catalyze people-initiated development.

Human rights education can help secure more effective participation in all stages of development process: of project design, intimation, management, monitoring, evaluation and redesign.

Human rights education can help to secure the accountability of economic development actors with respect to projects, policies, and budgets and to acts of both commission and omission.

Human rights education can help in finding remedy to existing defects of development policies, projects and practices. It can help in the fight against racial and gender discrimination in development. It can help to build pressure for resolving historic neglects, for example, of indigenous people or ethnic minority groups in development.¹²

Human rights education can challenge skewed development priorities, for example, showpiece cardiac centers that were constructed at great expense in the Philippines by

President Marcos while infant health and mortality issues and the provisions of basic healthcare in the rural areas were ignored.¹³

2. Impact of Human Rights Education on reducing the abasement of Human Rights

The 'Millennium Development Goals' (MDGs) adopted at the UN Millennium Summit in 2000 recognised the relationship between human rights and development. In the Summit, the world leaders agreed upon a set of time-bound and measurable goals and targets for combating poverty, hunger, disease, illiteracy, environmental degradation and discrimination against women. These goals aimed at achieving measurable progress in a number of specific fields which are considered essential for human development. The goals provide a framework to work coherently together towards achieving a common end.

Human rights education constitutes an essential contribution to the long-term prevention of human rights abuses and thus it represents an important investment in the endeavour to achieve a just society in which all human rights of the people are valued and respected. Human rights education promotes values, beliefs and attitudes that encourage all individuals to uphold their own rights and those of others. It develops an understanding of common responsibility of everyone to make human rights a reality in each community.

The process of economic development as currently practiced has been blamed itself to be a significant cause of human rights violation in different forms. Because development policies and programmes often involve wasteful exploitation and consumption of resources leading to the conversion of renewable resources to non-renewable

resources causing harm to the vulnerable communities.

Socio-economic underdevelopment which is the result of vicious circle of poverty and powerlessness breed widespread human rights violation. The process of development can help to break this vicious circle of poverty both from the demand and supply side and thereby can eventually eliminate poverty. This will develop human resources of the country and will especially make the marginalized and excluded sections of the society available for participation in the process of development of the country. Thus development may be considered a vital factor in eliminating the structural causes of the violation and abuses of human rights.

After the country reaches to a certain level of economic development, the process of economic growth must facilitate the realization of human rights. Otherwise, various restrictions on human rights cannot be justified in the name of economic growth, and that human rights, a critical factor of desirable democracy, cannot be pushed aside until economic development is consolidated.¹⁴

Thus Human rights education provides the basis of development. It provides the normative framework for development and criteria by which those who undertake development can be held accountable. Human rights education thus becomes extremely important in ensuring genuine development of the country. Such development, in turn, fosters empowerment and the realization of human rights. Hence the vicious circle of poverty and powerlessness can be replaced by a cycle of empowerment.

Conclusion

Economic development, as is practiced today has proved itself to be the major cause of serious and mass

human rights violation. World-wide spread of human rights education about development may act as a remedy to this situation. While the developing countries of Asia and Africa have accelerated the process of industrialisation under the development strategy, the developed countries are pushing MNCs away from their territories as environmental safety standards. Thus industrialisation, in the name of development, is becoming a mechanism for dumping hazardous technological products, substances and wastes in the third world countries.

Globalisation, economic liberalisation and privatisation in the present day world have produced masses of victims of development and development induced displacement and growing numbers of marginalised people whose very right to subsistence are being denied. There is an urgent need for human rights education about development to break the vicious circle of poverty and powerlessness and replace it with a much-needed circle of empowerment. Only then development can help in protection and promotion of human rights.

Development processes – traditionally technically and economically orientated – should focus increasingly on enjoyment of rights and promotion of values. One of the most important aspects of this approach is the increased recognition of poverty as one of the greatest barriers to the universal enjoyment of human rights. Therefore, the human rights education should aim at sustainable results by analysing and addressing the inequalities, discriminatory practices and unjust power relations which are often at the heart of development problems.

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Human Rights of Women with special reference to India

Manasweeta Gogoi

Introduction

Human Rights are those minimum rights which are compulsorily obtainable by every individual as he/she is a member of human family. Human rights are moral principles or norms which describe certain standards of human achievements. Human Rights of women assume great significance in present day world. There are several reasons behind this: first, women represent almost half of the world's population; secondly, women are discriminated throughout the world in different spheres and at different stages; thirdly, women are supposed to carry out some special functions, therefore they needed human rights desperately. Swami Vivekananda said, 'Men and women are like the two wings of a bird.' A bird can't fly without any one of the wings. Similarly, a society cannot run without the participation of either men or women. So, men and women are equally important for any society. However it has been observed that women are always deprived of their rights, they are suppressed, considered as subordinate to male and are not allowed to enjoy their rights equally with men. They are

not even considered as equal human beings. Over the years, much progress has been made to gain equal rights for women around the world. During the last century traditional role of women changed to include movement towards gender equality but many still live without the rights to which all people are entitled. For the development of the society men and women have to play their role equally. It is the duty of the society to create an atmosphere where men and women can enjoy their rights equally. The women's human rights have been elaborated in various provisions of the Part III and Part IV of the Indian Constitution. In spite of the assurance of various enactments passed by Indian legislature, the violation of human rights of women are going on in varied manner. Ignorance of law and absence of courage are root causes of this kind of violation. Therefore, a change in attitude towards women's rights is a crying need of the hour.

Methodology

In this paper, an attempt has been made to study the violation of women rights in India and government initiatives such as law and various acts for securing and protecting women rights. The methodology of this paper is descriptive and required information are collected from different secondary sources like books, research articles, different publications relating to women rights, domestic violence, crime against women and documents, different news papers, websites etc.

Violation of Women's Human Rights in India

Despite the constitutional provisions, the Report of the Parliamentary Committee on the Status of Women titled 'Towards Equality' highlighted the fact that Indian women

continued to suffer from neglect and deprivation. Many practices of the past like Devadasi, Jauhar, Purdah, Sati etc. were direct violation of human rights of women in India.

The Indian Constitution guarantees certain basic rights to women, which are often being violated by the traditional practices or by the system prevailing in the present society. These rights include right to equality, right to education, right to live with dignity, right to liberty, political rights, right to property, right to equal opportunity for employment, right to free choice of profession, right to livelihood, right to work in equitable condition, right to get equal wages for equal work, right to protection from gender discrimination, right to social protection in the eventuality of retirement, old age and sickness, right to protection from inhuman treatment, right to protection of health, right to privacy in terms of personal life, family, correspondence etc. and right to protection from society, state and family system.

Some major Human Rights Violations of Women in India

Child Marriage

Child marriage has been traditionally prevailed in India and continues even today. UNICEF defines child marriage as marriage before 18 years of age and considers this practice as a violation human rights. A girl child in India is taken as a burden on the family. Sometimes the marriages are settled even before the birth of the child. In southern parts in India, marriages between cousins are common as they believe that a girl is secured as she has been married within the clan. Parents also believe that it is easy for the child bride to adapt to new environment as well as it is easy for others to mould the child to suit the family environment. Basically, this phenomenon of child marriage is linked to poverty, illiteracy, dowry, landlessness

and other social evils. The impact of child marriage is widowhood, inadequate socialisation, educational deprivation, lack of independence to select the life partner, lack of economic independence, low health/nutritional levels as a result of early/ frequent pregnancies in an unprepared psychological state of young bride. A study conducted by Family Planning Foundation showed that the mortality rate is higher among babies born to women under 18. Another study showed that around 56% girls from poor families are married underage and become mothers. All these indicate that immediate steps should be taken to stop the evil of child marriage.

Harassment for Dowry and Bride Burning

Bride burning is linked to the custom of dowry, the money, goods, estate that a woman brings to her husband in marriage. Thousands of young married women in India are routinely tortured and many are even murdered by husbands and in laws who want more dowries from the bride's parents. In spite of the Dowry Prohibition Act passed by the Government, which has made demand of dowry in wedding illegal, the dowry incidents are increasing day by day.

Domestic Violence

Domestic violence is undoubtedly a human right issue where it is very important to know what actually leads to the act of domestic violence. The most common causes for exploitation of women are demand more dowry, discrimination, alienation of women's self acquired property fraudulently, torture by husband and in-laws, arguing with the partner, refusing to have sex with the partner, neglecting children, going out of home without informing the partner,

not cooking properly or on time, indulging in extra marital affairs, not looking after in-laws, cruelty by husband or in-laws mentally or physically.

In India, according to the National Crime Records Bureau's (NCRB) 2005 Crime Clock, there is:

- ❑ 1 crime committed against women in every three minutes.
- ❑ 1 molestation case in every 15 minutes.
- ❑ 1 sexual harassment case in every 53 minutes.
- ❑ 1 kidnapping and abduction case in every 23 minutes.
- ❑ 1 rape case every in every 29 minutes.
- ❑ Four out of 10 women in India have experienced violence in the home.
- ❑ 45% of women have suffered at least one incident of physical or psychological violence in their life.
- ❑ 26% have experienced at least one moderate form of physical violence.
- ❑ More than 50% of pregnant women have experienced severe violent physical injuries.

According to the NCRB, approximately 6,000 women are killed in India every year because of dowry. Unofficial estimates are as high as 15,000 deaths a year.

Rights of woman are violated because of being a woman, which means her gender is the reason for violation of her rights. For example, a woman faces domestic violence if she does not follow the traditional role of a wife. It is the form of violation that is sex/gender-specific. For example, being raped is very gender-specific. Although men also get raped, it is primarily women who are at the receiving end of sexually-penetrative violence.

The table below illustrates the percentage of crimes against women in few major cities:

Crimes Against Women in few Major Cities

Rank	Name of the City	Percentage of Crimes Against Women
1 st	Delhi	16
2 nd	Hyderabad	8.1
3 rd	Bangalore	6.5
4 th	Ahmadabad	6.4
5 th	Mumbai	5.8

Source: Crimes in India-2010, NCRB, Ministry of Home Affairs

Among the crimes listed by the NCRB, rape, molestation, sexual harassment, murder and dowry deaths are reported more frequently than dacoity, arson or counterfeiting. The frequency and intensity with which violence against women is perpetuated is no less than the 'terrorist' attacks India is experiencing. What makes violence against women more dangerous is the fact that the State, on several occasions, chooses to ignore it as something that happens within the 'private' sphere of the family, something not of 'public' significance, and hence donot deserve State intervention.

Role of Indian Constitution in terms of Women's Human Rights

The framing of the Constitution of India had started about two years before the Universal Declaration of Human Rights was adopted. However, most of the articles of the Universal Declaration are reflected in the Indian Constitution, which was adopted by the Constituent Assembly on 26th November 1949. Indian Constitution guarantees the equality of rights of men and women. But it is imperative to discuss the women's human rights separately because of certain situational factors. Women in Indian society are always exploited. They face different types of violence in their daily life.

The framers of the Indian Constitution were conscious enough about the violence against women. Therefore, they incorporated certain provisions mainly to protect the rights of the women and to give them equal status with men and for the development and welfare of women. The women's human rights are reflected in various Fundamental Rights and Directive Principles of State Policies like right to equality, right to education, right to life with dignity, right to liberty, political rights, right to property, right to equal opportunity for employment, right to free choice of profession, right to livelihood, right to work in equitable condition, right to get equal wages for equal work, right to protection from gender discrimination, right to social protection in the eventuality of retirement, old age or sickness, right to protection from inhuman treatment, right to protection of health, right to privacy in terms of personal life, family, residence, correspondence etc. The 73rd and 74th Constitution Amendment Acts, 1992 have provided 33% reservation of seats to women in rural and urban local bodies. In the Preamble of the Constitution equal respect has been given to all individual irrespective of class, caste, sex etc. People in India can enjoy all the constitutional provisions and facilities equally. In Part III of the Indian Constitution the right to equality is prominently mentioned. In Article 15 it is stated that state will take adequate steps for the welfare of women and children. In Part IV of the Indian Constitution i.e. Directive Principles of State Policy, some special provisions relating to the development of women have been included. Government has also enacted relevant laws for the promotion of welfare and empowerment of women from time to time. These include Dowry Prohibition Act, 1961; Protection of Muslim Women Rights Act; Equal Wages Act, 1976; Sati Prevention Act,

1987; National Commission for Women Act, 1990; Domestic Violence Prevention Act, 2005; etc.

In recent years, the empowerment of women has been recognized as the central issue in determining the status of women. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlement of women.

The following main committees are related with the development and welfare of women directly or indirectly, whose suggestions are used to design various schemes:

- National Committee on the Education of Women (1958-1959)
- National Committee on the Status of Women (1974)
- National Committee on the Role and Participation of Women in Agriculture and Rural Development. (1977-1978)
- National Committee on Women Prisoners
- National Committee on Working Women in the field of Self Employment and Informal Sectors, (1988)

Recommendations

1. There is urgent need to create awareness especially in rural areas to disseminate information on legal safeguards, constitutional provisions and rights provided by the Constitution of India for women. Women should be encouraged to participate in the decision making process. Women should be motivated to participate in political representation.
2. Strengthening the women empowerment programme which is helpful for women to participate in economic activities and for upgrading their skills.
3. Training and professional development of women is very important for professionals who come into

contact with the women issues.

4. The NGOs along with the women's organizations can play a positive role to eradicate the discrimination prevailing in society and to make the movement for women's rights stronger.
5. Special emphasis must be given on education of female child so that she can stand on her own feet.
6. There is need for more research and study on the status of women which can help in establishing a society based on gender equality.
7. Media should play a major role to educate and mobilise communities, organise camps in the interior and remote areas to generate awareness women about health education, family planning, their rights, effects of early marriage, importance of female education, available schemes for women etc.
8. Women should be encouraged to organize themselves in women's groups, self-help groups, N.G.O.s etc. Some successful organisation's can also act as catalytic agents for encouraging women's participation in social and political activities. The government should provide financial support and infrastructure to such organisations to take up the responsibility to safeguard women's rights.
9. Gender equality in leadership leads to more equal allocation of public financial resources, and more targeted delivery of services such as water, education and healthcare.

Conclusion

In conclusion it can be said that in urban areas of India women are more conscious about their rights. They are more empowered both economically and socially as

compared to the rural women. There is an urgent need to create awareness about women's rights in rural areas also. We should educate them about various Government services and schemes for improvement of their status which are provided specially for women. In India various laws have been made by the legislature in the interest of women. The need of the hour is for the women to realize their rights and be vigilant.

*"As long as there is one person suffering injustice;
As long as one person is forced to bear an unnecessary sorrow;
As long as one person is subject to an undeserved pain;
The worship of God is demoralizing humiliation".*

— Joseph Lewis

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Violation of Women's Rights in Indian Context: An Overview

Pritanku Sut

Introduction

Human rights are those rights which every person should enjoy to lead an honourable life as a human being. All individuals should enjoy these rights without any distinction of race, religion, caste, colour or sex. Human rights are as old as human civilization. Human beings and human rights both are absolute and cannot be separated. During the recent years their use and relevance have been well defined when it has gathered more importance in the post Second World War period, particularly after the adoption of Universal Declaration of Human Rights (UDHR) in 1948.

Human Rights must be ensured to all human beings for their prosperity and happiness. These rights are fundamental to every human being. But still there are several occurrences of human rights violations in India. Discrimination against women is a routine practice in male dominated society. Though Indian Constitution guarantees absence of discrimination on grounds of sex, caste, race etc., women still manacled to tradition, customs, age-old

superstitions and beliefs, dogmatism like witch hunting and conservatism, dowry etc.

Objectives

1. To find out the crucial issues faced by women in an analytical manner;
2. To promote basic human rights of women and safeguarding their rights;
3. To enhance better understanding of human rights standards for women.

Methodology of the study

The main sources of primary data are:

- Prominent social workers, intellectuals who have been consistently working for this issue.
- Government authorities.

The sources of secondary data for the study are as follows:

- Special editions of newspapers.
- Books.
- Internet.

Discussion

Human rights are essential, universal, fundamental and absolute. Human rights help us to develop and use our human faculties, talents and intelligence and seek to satisfy human needs. Human rights belong to all humans everywhere and they are inalienable. The Universal Declaration of Human Rights enumerates two sets of human rights. The first set of rights is civil and political rights which include right to freedom of speech, right to life and liberty, right to equality before law, right to have judicial remedy, right to move freely and right to vote or take part in the governance of one's country. The second set of rights is economic and social rights. These rights include

right to work, right to have rest and leisure, right to have a good standard of living, right to education and right to have equal pay for equal work.

The status of women in India has undergone many changes over the years from a largely unknown status in ancient times through the low points of the medieval period, to the promotion of equal rights in recent decades. But with the changes of time, poverty, illiteracy, superstition crept silently into the general people's lives and as a result women became victims of all these odds.

Witch hunting has become a burning issue faced by women in Assam, Bihar, Chhattisgarh, Jharkhand etc. Women branded as witch not only have to suffer from mental and physical harassment but also have lost their lives in the hands of highly superstitious people. Unfortunately death rate of women has increased day by day in the regions where witch hunting is practiced. Not only those particular women but also their families face threat to their lives.

The National Crime Records Bureau reveals that 2,097 murders were committed between 2000 and 2012 where witch hunting was the motive. Out of these, 363 were reported from Jharkhand and this figure does not include the murders in 2000 when Jharkhand was a part of Bihar. The Jharkhand office of Central Bureau of Investigation (CBI) puts the total number of such murders from 2001 to October 2013 at 414 and cases registered for witchcraft at 2,854.

Apart from Jharkhand, at least 11 other states— Assam, Haryana, Chhattisgarh, Orissa, West Bengal, Madhya Pradesh, Rajasthan, Andhra Pradesh, Gujarat, Maharashtra and Bihar—still report cases of witch hunting.

Rape cases are also on rise at an alarming rate in

several parts in India. India had been rocked in December 2012 by the ghastly incident in Delhi in which a paramedical student was gang-raped and brutalised on a moving bus. The victim later succumbed to her injuries. After this shocking case, the Indian media and society urge Government of India to implement strict laws to protect women. It is very shameful that even a blooming girl child also cannot escape from this brutal behavior. Domestic violence and rape are serious social disproportionality focused on women. Women belonging to different age groups suffer from brutal behavior of some distorted people of society in India. Now a day it can be seen that many women even lose their lives in such tragic incidents. According to National Crime Record Bureau, every day 93 women are being raped in the country. There is gradual increase in the number of rape cases reported in the National Crime Record Bureau data in India from 24,923 in 2012 to 33,707 in 2013. The number of rapes in Delhi has almost doubled from 585 in 2012 to 1,441 in 2013. Delhi is followed by Mumbai (391), Jaipur (192) and Pune (171) among the top unsafe cities in the country. Delhi remains the most unsafe city in India as it has doubled data from 585 in 2012 to 1441 in 2013. It is also revealed that Madhya Pradesh has recorded maximum rape cases and it is followed by Rajasthan, Maharashtra and Uttar Pradesh.

Women demand peace because they are directly and specifically impacted by conflict and violence. They are assaulted, beaten, humiliated, raped and murdered during conflict. The North East Region has been the most continuously militarised region in India after independence. North East India is one of the regions which is infamous for unaccountable mass rape cases. Cries for justice have faded over the time lapse and justice is buried now.

In India, ancient texts describe women as *power* which rules over God's creation. But current scenario shows a contrasting picture. The demand for dowry has become most essential condition of marriage settlement. The huge dowry demand has led to female infanticides and selective abortions. This inhuman practice can be seen in states like Uttar Pradesh, Andhra Pradesh, Bihar etc. Dowry system was absent in North East Region in the past. But it has become a curse in recent times especially in Assam. It poses a challenge which seems difficult to meet. Dowry as part of marriage consideration is prohibited by law in India. The Dowry Prohibition Act, 1961 was enacted to help the women who are victim of dowry system. But government has even failed to check its growth. A shocking government report documented that in Assam daily seven cases of violation of women's rights are registered on an average.

Human trafficking has been documented as a critical issue all over the world. The number of trafficked victims has been rising day by day in India. The purpose of human trafficking includes forced prostitution, marriage, domestic labor, bonded labor, begging, drugs smuggling and peddling and organ transplantation. Most common trafficking routes in India are Assam, Goa, Mumbai, Haryana, Delhi, Bihar, Punjab etc. Around 80% of the human trafficking across the world is done for sexual exploitation and India is considered as the hub of this crime in Asia. According to the latest report on human trafficking by the United Nations Office on Drugs and Crime reveals that Tamil Nadu has 528 cases of human trafficking in 2012. The number is really high and more than any other state except for West Bengal (549). As per the data from Home Ministry, 1379 cases of human trafficking were reported from Karnataka in the period of four years, in Tamil Nadu the number is

2,244 whereas Andhra Pradesh has 2,157 cases of human trafficking. Recently 300 bonded labourers in Bangalore have been rescued. The North East remains as the most important transit point of human trafficking as this region shares international border with China, Bhutan, Bangladesh and Myanmar.

The greatest challenge today is to improve the status of women who constitute half the population of India. Geographically, economically and socially North Eastern part is slightly different than other parts of India. That is why women of this part are facing different kind of health issues like malnutrition, anemia, maternal mortality etc. Malnutrition is a critical issue that badly affects not only women but also children in India. Observing various surveys we found that almost 48% children of the country, under age of five years have stunted growth indicating that half of the children are chronically malnourished in India. Anemia in women in Assam is fairly high in comparison to other parts of India. Life expectancy at birth for both rural and urban areas is lower in the state than the national average.

Gender inequality issue is present in India in many ways, many fields and many classes. The issue is very complex and diversified. Society would have never come into existence without the contribution of women. Women make a family, family makes a home and home makes a society. In this way, women can be regarded as the basic unit of society. But it is noticed that discrimination and violence always starts from their own homes by their own family members. India is the largest democratic country in world. But at the same time it has been key witness of largely practiced gender inequality values for a long period of time. In India, women are backward socially,

economically and politically compared to many other countries of the world. By and large, Indian society is male dominated and male centered. They set the glass high enough, so that women can't reach to break it, keeping the male in the dominant position. Women's rights are now protected by Indian Constitution, but the patriarchal rules are still followed. These traditional patriarchal norms have relegated women to secondary position within the households and workplace. These drastically affect health, financial status, education and political involvement of women. They are assaulted, beaten, humiliated and murdered as result of gender inequality.

Status of Women has improved to a great extent as many women have proved themselves in their respective fields. But still a lot of improvement is needed for women. There are lots of challenges in front of women and in front of the society, specially in developing countries like India. The contribution of women is omnipresent and all-pervasive in every sphere of life as India seeks to march steadily towards the path of growth. Women also contribute towards expanding political, social and economic participation once they can have access to and the sharing of knowledge, establishing networks and strengthening decision-making power. The modern world today is proud to recognize the equality that has been acknowledged between age, gender and race. Women have begun to be treated as equals with men, in new customs, lifestyle, society and economy. Today, women are freer and are liberated from their traditional roles as housewives, and are pursuing their hopes and dreams. However, this is not the case in many regions of the world. With all these scenario of great upliftment apparently visible, the state of the majority of women of the developing countries remained a neglected and an

oppressed class. In the developing countries, thousands of females are dehumanised. Women have long been fighting for equal rights in every sphere of society. Those in the western world have been luckier. They do not have to face daily conflict or discrimination like those who live in the third world. Indian women had an extremely difficult time under the oppression of a male-dominated society, class and religion. Women's place in society has been extremely fixed in nature and they are kept at a low rung on the status ladder.

Conclusion

Women play a vital role in human lives. They are the basic roots of our life. But their rights are seemed to be collapsed in the black shadow of violation. Though there are numbers of acts and rules available for protecting their rights but these are not sufficient. We, the mass people, have to be aware about these crucial issues. Many voluntary groups and NGOs have come up for their upliftment. But there is still much scope for enhancement. Let's come out with hand to hand for ensuring development of women in the contemporary world.

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Different Types of Violation against Women and Protection of Human Rights by the Constitution of India

Priyanka Gogoi

Introduction

Human rights are moral principles or norms, which describe certain standards of human behaviour, and are protected as legal rights in municipal and international law. They are applicable everywhere and at any time in the sense of being universal, and they are egalitarian in the sense for everyone. The Constitution of India also guarantees the equality of rights of men and women. However, in the sphere of human rights in India, there exists a wide gulf between theory and practice. In India women face discrimination in almost every aspect and most of them are not even aware that they have equal rights in this world.

The Constitution of India has guaranteed equal rights for both men and women. Article 14 maintenance that the State shall not deny to any person equality before law or the equal protection of law within the territory of India. Similarly Article 15 states that the State shall not discriminate against any citizen on grounds of religion, race, cast, sex, place of birth or any of them.

Violation of Human Rights of Women

Violence against women, also known as gender based violence, is collectively those violent acts which are primarily or exclusively committed against women. It is one of the most widespread violations of human rights.

The United Nations defines violence against women as 'any act of gender-based violation that results in, or is likely to result in physical, sexual or psychological threats of such of liberty, whether occurring in public or in private life.'

The Government of India is playing a significant role in women empowerment by implementing various rules and regulation. Since most of the women are not properly aware of their rights, so many of them are treated as slaves in their adulthood, and most don't even enjoy their childhood. National Commission for Women was set up in 1993 which is the apex organisation for protecting rights of women. Beside this, there are state commissions set up in each state of the country to protect and uplift women. Similarly there are many committed organisations and non-governmental organisations (NGOs) in India working for the advancement of women's rights in addition to government appointed agencies.

The exploitation of women in India is not a new problem. In fact they are being exploited from the ancient time. They never received equal status with men right from the early times. Many practices derogatory to women prevailed during ancient period.

Devdasis

Devdasis, also known as joginis, is a religious practice where a girl between age group 8-16 yrs is married to the temple's deity. Devdasi is considered a *nitya sumangali*

which means eternally free from the adversity of widowhood. In the later period, the illegitimate sexual exploitation of the devdasis became a norm in some part of the country.

Jauhar

Jauhar, also spelled as Johar or Juhar was a Hindu custom practised in northwest regions of India. It is the practice of the voluntary immolation of all wives and daughters of defeated warriors in order to avoid capture and consequent molestation by the enemy. The practice was followed by the wives of Rajput rulers who were known for their pride and honour. During that period many Rajput women committed suicide with their children and valuables in massive fire, to avoid capture and abuse in the face of inescapable military defeat.

Purdah

Purdah or pardah or ghoonghat is a religious and social practice where women are bound to cover their bodies so as to cover their skin and conceal their form. It curtails their right to interact and live freely and it symbolizes the subordination of women.

Sati

Sati is an ancient Indian custom where a widow immolates herself on her husband's pyre or commits suicide in another fashion shortly after her husband's death. Although the act was supposed to be voluntary on the widow's part, it is believed to have been forced on the widow on many occasions.

Common violations in present society

- Domestic violence
- Matrimonial disputes

Comclusion

Thus it can be concluded that violence against women results in the backwardness of the society in sphere of politics, economics, education etc. The attitude toward women can be changed not only by implementation of laws but effort is also needed by the common people. Changing the mentality of the people is definitely not an easy task. But quality education at the primary level to the children will help to a great extent in eradication of gender inequality from the society.

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Women and Human Rights with special reference to Protection of Women from Domestic Violence Act, 2005

Ashim Hazarika
Dr. Kunhi Sikha Bhuyan

Inrtoduction

Gender discrimination and inequality is a global phenomenon. But in order to ensure peace, equality, democratic value and justice every individual should be endowed with human rights. Human dignity, it includes both men and women and in a male dominated society women are often considered as weaker section, being the shadows of male. But the first identity is that as a human being. When we put her identity only in a stereotype role, as per socio-cultural settings, her dignity as a human being is often ignored. Human rights are commonly understood as 'inalienable fundamental rights to which a person is inherently entitled simply because he or she is a human being'. Human rights are the basic rights without which no one can develop his or her personality. These rights constitute those very rights which one has precisely because of being a human. Human rights are thus conceived as universal and egalitarian which are applicable to all alike.

A woman is a female human. The term 'women' usually is used for an adult, with the term girl being used for a female child or adolescent. However, the term woman is also sometimes used to identify a female human, regardless of age, as in phrases such as 'women rights'. Various international conventions of women and women movements try to ascertain her dignified and equal status in the society. It is a movement against injustice and inequality, not against anybody else. Thus a woman's rights become a part of human right agenda. In fact women's rights are human rights. We must recognise and appreciate her first as a human being and then only as a mother or a wife as assigned by the social values.

The Concept of Human Rights

Human rights are the basic rights without which no one can develop his or her personality. Human rights constitute those very rights which one has precisely because of being a human. In basic meaning, human rights are claims of the individual for such conditions which are essential for the fullest realization of the innate characteristics which nature has bestowed him or her with as a human being. Human rights are very essential for the development of individual personality and for physical and mental upliftment. Human rights are those minimal rights which are available to every human being without distinction of language, religion, sex, caste, nationality and social or economic conditions in the society.

The Magna Charta in England, the American Bill of Rights, French Declaration of the Rights of Man, the Russian Revolution as well as the efforts of the League of Nations to unite the nations of the world are the landmarks in the development of human

rights. The first and foremost step taken by the United Nations was the adoption of Universal Declaration of Human Rights (UDHR) on 10th December, 1948.

Indian Constitution also provides the basic human rights irrespective of sex differences. Preamble, Fundamental Rights (Article 12-35; Part-III), Directive Principles of State Policies (Article 36-51, Part-IV) all provide for basic human rights to the people of India. But in spite of all these provisions women rights are not well protected. Her rights are violated at every period of human history.

Women's Human Rights

The Charter of the UN expressed the determination of member states, "to reaffirm faith in fundamental human rights, in the dignity and worth of every human person, in the equal rights of men and women ..." Though more than sixty five years have passed since the adoption of UDHR, human life and human dignity have been disregarded throughout history and this has been continued even today. Violation of basic human rights against women is a universal phenomenon even in the so called progressive societies. The Vienna Declaration and Programme of Action, 1993 called for increased integration of women's rights into the United Nations human rights system. It endorsed the need to recognize the particularly of women rights and the development of means to implement them. The term 'women's human rights' is the continuously evolving product of an international movement to improve the status of women. In the 1980s and 1990s, women's movements around the world formed networks and coalitions to give greater visibility both to the problems that women face

every day and to the centrality of women's experiences in economic, social, political and environmental issues.

In 1994, the International Conference on Population and Development in Cairo stated the relationship between advancement and fulfillment of rights and gender equality and equity. In 1995, the Fourth World Conference on Women held in Beijing generated global commitments to advance a wider range of women's rights. Inclusion of gender equality and women's empowerment in Millennium Development Goals was a reminder that many of those promises have yet to be fulfilled.

Though various world conferences and conventions and United Nations also give importance to or have tried to raise the social status of women and thereby ensure her dignity as human being, social exploitation and violation of human rights of women are frequently observed in various countries including India. The concept of women's human rights has provided opportunity to the women around the world to know the widespread discrimination and violence that women are facing every day. The UDHR defines human rights as universal inalienable and indivisible. By invoking the universality of human rights, women have demanded that their very humanity be acknowledged.

For centuries, women not only in India but all over the world have been treated as occupying secondary position to men. Throughout human history men have had far greater power than women to name, classify and order the world in which they both live. It was only in the 20th century, particularly after the Second World War that human rights for all came to be recognized as one of the key objectives of our civilized life.

The Universal Declaration of Human Rights (UDHR) says that all human beings are born free and equal in dignity

and rights, everyone has the right of life, liberty and security of persons. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) acknowledges the right of women to be free from discrimination and sets the core principles to protect this right. It establishes an agenda for national action to end discrimination and provides the basis for achieving equality between men and women through ensuring women's equal access to and equal opportunities in, political and public life as well as education, health and employment. Equal rights of men and women are explicitly mentioned in the Charter of the United Nations. One must not only refrain from violating the human rights of women, but must also work actively to promote and protect these rights. The World Conference on Human Rights reaffirmed clearly that the human rights of women throughout the life cycle are inalienable, integral and indivisible part of universal human rights.

Violence Against Women

The United Nations defines violence against women as 'any act of gender-based violence that results in or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.' (UN Declaration on the Elimination of Violence against Women, 1993.) The scope of this definition is very wide and goes beyond the traditional view. This form of violence manifests itself in many ways. They range from domestic violence, sexual violence by intimate partners, sexual assault, molestation, rape, sexual harassment to eve-teasing. Women are an integral part of our society. During civil wars, violence against women

is used as a systematic weapon by each of the warring sides to impair, humiliate, terrorise and regress the society for generations to come (e.g.- Bosnian War of 1992).

Realizing the impact and the social consequences of violence against women, India has taken a very firm stand in dealing with this issue. In the *State of Maharashtra vs. Chandra Prakash Kewalchand Jain Case*, the apex court of the country observed that "Ours is a conservative society where it concerns sexual behavior, ours is not a permissive society as in some of the western and European countries. Our standard of decency and morality in public life is not same as in those countries. It is however, unfortunate that respect for womanhood in our country is on the decline and cases of molestation and rape are steadily growing. An Indian woman is now required to suffer indignities in different forms, from lewd remarks to eve-teasing, from molestation to rape. Decency and morality in public life can be promoted and protected only if we deal strictly with those who violate the societal norms". Another ruling of Supreme Court in 1992 also states that 'Offenders of sexual assault who are a menace to the civilized society should be mercilessly punished.'

According to the World Health Organisation, the consequences of violent acts committed against women are extremely far reaching. A woman who has been abused goes through immense psychological, social and physical torture. Depression, alcoholism, suicidal tendencies, headaches, nightmares, addiction, impact on study and normal life coupled up with social ostracisation, shame, humiliation not only for the girl

but for her family. Physical effects include sexual unintended pregnancies, gynecological problems, induced abortions and sexually transmitted infections (e.g. HIV), which in turn affect the productivity and development of a state by producing an ineffective work-force, and also increasing state medical expenditure.

Though men are more susceptible to crime as well as physical injury from gang fights, street violence etc., women on the other hand are very susceptible to sexual crimes. Women by the virtue of their gender become very vulnerable to various forms of sexual crimes. There are various factors perpetuating crimes against women and these can be clubbed into cultural factors, biological factors, state inaction, legislative, economic and social constraints etc.

Protection of Women from Domestic Violence Act, 2005

Domestic violence is a global issue. Domestic violence can be described as the power misused by one adult to the other in a relationship through violence and other forms of abuse. It's a pattern of coercive control. Sexual violence, threats, emotional insults, physical harm, economic deprivation are the example of domestic violence. According to the Protection of Women from Domestic Violence Act, 2005, domestic violence means any act that harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for dowry or other property or valuables.

The role of civil society and public are also important to protect the rights of women. Social boycott is one of the ways to punish the culprits who violate women dignity and rights or commit crime against women.

The role of police is also crucial in preventing all types of violent activities against women including domestic violence. They are the protectors of law. But in some cases their actions are not satisfactory. The police must act as protector of women rights.

Lawyers can also play an important part in protecting the women rights. They should take the cases of violation of women rights seriously and ensure that the culprits do not go scot free.

Women themselves must come forward to protect their rights and dignity. For that education is very important. Moreover women must have the courage to protest and to raise their voice against the violation of basic rights. Media can also play an important role in generating awareness about and in protecting women rights.

Conclusion

There is need to make all round attempt to educate people about dignity and rights of women, to treat women as human beings, and persons demanding respect and dignity. Thus there is a need for better protection through strong legislation and policy with proper implementation and reform in criminal justice system. Education and legal awareness can widen women's perspective, lay confidence to stand up to the oppressor, and if need be, take recourse to the courts for redressal. Educational and economic independence of woman can play very important role in the realisation and protection of her own rights. The contribution of women in the family as well as in society

should be recognised so that women may also enjoy their rights and a society based on equality, justice and human rights may be build.

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Witch Hunting and Violation of Women's Rights

Bikash Kumar Bora
Sujata Deka

Introduction

Witch-Hunting is like an evil practice and is gradually spreading to new areas. It is a serious threat to a nation; it is a great shame for a civilized society. In an era of modernisation, where a part of India is enjoying the blessings of technology and sophisticated lifestyle; the other part practices witch-hunting, where women are being branded as witches, humiliated, assaulted and even gang raped. The practice of witch hunting in India includes violence and beliefs that have led to the torture and even murder of alleged witches. This evil practice has deadly consequences. Reminiscent of the witchcraft craze can be found all over the world including India.

Conceptual Analysis

Practice of witch craft that often results in murder has long been a part of rural India's history. This practice has continued, though with irregularity, even today. It is a legacy from ancient times. Witch-hunt still occurs in societies,

where belief in black magic is predominant. It may be noted that witch-hunting refers to stigmatisation of people belonging to specific groups, mostly women by labeling them as 'witches' and they are regarded as the causes of misfortune to the society. It generally happens in places where there is almost no economic development, with little or no access to basic education and health care. In this kind of atmosphere, people tend to develop very strong superstitious beliefs. What is even more surprising is that these practices prevail not because these women are believed to be evil or possessing evil powers actually, but they are victimised for settling personal scores, grabbing land or to punish them for turning down sexual advances.

What is witch

In simple terms it is an age old superstitious belief. Witch simply indicates 'sorcerer' which means a person who practices black magic. It may be noted that, from the beginning of the human civilisation, this blind practice has been going on among various communities in different parts of the world. No evidence has ever been found in support of this belief. This practice was very much deep rooted in western society in the medieval period. In the Old Testament, it is noted that

"Thou shall not suffer a witch to live-Exodus 22:18"

It implies that the only punishment of so-called 'witch' is death sentence. It is a matter of ill-luck that this evil practice is still going on in the society and many innocent people are victimised on the basis of this draconian practice.

The legacy of violence against women

Witch-hunting is essentially a legacy of violence against women in our society. Moreover, witch-hunting has

become a customary practice glorified by upper caste 'witch doctors.' In case of Assam, witch-hunting is quite common among the communities who are socially, economically and educationally backward. It may be noted that the trend is not only confined to females, but males have also become targets of witchcraft. It may be mentioned here that between 2001 and 2017, 193 people have been killed after being branded as witch. Out of them, 114 were women. 202 cases have been registered by the police during this period.

The helpless 'witches' are tortured and punished inhumanly, often their houses are burnt down and sometimes they are even killed. Not only the witches but their family members also have to bear the burnt. This belief is so deep rooted in the society that the so-called 'witches' are considered inauspicious and malevolent and are forced to forego their livelihood.

Superstition is not the only reason of witch-hunting. Often it aims to rob the women of her property. Sometimes, it is also directed as punishment for turning down sexual advances. Those who seek to rob the woman may be her own family members. But in situation where the woman is unprotected such as widow or single woman, there is no shortage of people eyeing at her land and property.

One easy way to break a strong woman is to call her a witch and punish her. For example, Lata Sahu in Raipur, Madhya Pradesh contested elections against the wishes of landowning castes. So she was condemned as a witch. Subhadra in Goalpara district of Assam challenged the draconian practices of the local ojhas. She also compounded her 'crime' by seeking a share of her dead father's property. She was declared a witch by local ojha and her stepbrother. So, it is not only superstition but greedy mentality, sexual revenge and attempt to occupy property also are some

influential factors of witch-hunting. Another example of witch-hunting in Assam was the barbaric killing of Purni Orang in Bhimajuli of Sonitpur District on 20th July, 2015. Although she had well established family with five self employed sons and courageous husband, she was condemned as a witch and was killed in barbaric manner by local people. It was a shame towards the civilised society as the local people did not feel guilty for her killing. Rather they gave justifications in favour of her murder.

Role of women organizations and the civil society

It may be noted that Assam State Commission for Women has undertaken various projects. One of the projects titled 'Targeted Intervention and Prevention of Witch-hunting in affected areas of Assam.' As a part of this project, the Commission organised a sensitisation programme for police personnel on witch-hunting on July 19, 2013. Police personnel of 14 selected districts of the state which had reported incidents of witch-hunting were trained. The Police personnel were sensitised on the issue of barbaric witch-hunting.

Several women's rights groups like Assam Mahila Samata Society and several NGOs including 'Mission Birubala' have taken various initiatives to address the issue of witch-hunting. 'Mission Birubala' has contributed a lot in order to increase awareness on this barbaric practice.

Laws against witch hunt

The increasing graph of crimes against women under the pretext of them being witches has compelled some states in India to formulate necessary legislation against this appalling practice. Bihar was the first state in India to pass an act against this evil practice in 1999. This was followed

by Jharkhand and Rajasthan during 2005-2006. Because of continuous pressure of various organisations, the Government of Assam also initiated a bill in order to curb witch-hunting in Assam in 2015. The state Assembly passed the bill in the same year. The Assam Witch Hunting (Prohibition, Prevention and Protection) Bill, 2015 received presidential assent only in July, 2018 and has become a law. Mission Birubala played a very crucial role in framing this Act where any offence under the Act has been made non-bailable, cognizable and non-compoundable.

But the Government of India is not willing to bring in a national law to prevent witch-hunting. It is of the view that the witchcraft killings are being committed at the village level and therefore the states should deal with them. Social activists, on the other hand, opine that the issue of witch-hunting is too widely prevalent in the country to be seen as a regional or local problem. It should also be mentioned here that out of 29 states of India, at least 12 states are severely affected by this evil practice. So we need a national legislation to combat the menace.

Conclusion

As this evil practice is deep rooted in the society we should take proper initiatives to change the mindset of the people. Witch-hunt, now-a-days, has no more remained a gender based issue. Both males and females have become its victims. However, only having a law will not solve the problem. Awareness and sensitization at the grass root level and vulnerable areas is the need of the hour. Villagers should be sensitized against superstitions and evil practices and made to realize the importance of medical treatment when someone falls ill. As a remedial measure, mobile health services may be provided to the interior places so

that people can get medical facilities at their doorsteps. Moreover, regular police patrolling should be introduced in vulnerable areas. The most important fact is that there should be proper educational facilities so that mindset of the people can be built up in a reformist manner. It has to be remembered that 'witch' is the creation of the society; no one born as 'witch'.

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Judicial System towards Protection of Women from Gender-based Violence in India

Bidisha Bora

Introduction

Gender based violence is a burning issue. It 'is a major public health and human rights problem involving all ages and sexes' (Oladepo, Yusuf and Arulogun, 2011). It occurs to all genders. The United Nations Declaration on the Elimination of Violence against Women, 1993 defines violence against women as 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.' United Nations and World Health Organisation have advocated gender equality to have a society free of gender violence. According to the World Health Organisation (WHO) and the United Nations, domestic and other forms of gender-based violence are inextricably linked to each other and are the key obstacles to gender equality; the lack of which increases the risk of violence by men against

women and inhibits the ability of those affected to seek protection' (Sharma 2015).

Gender-based violence is wide spread and takes place in different places i.e. homes, colleges, workplace, during conflict, peace time etc. Thus the fundamental rights are hampered. It is all because of the patriarchal nature of the Indian society and the unequal power relations. In order to combat such type of violence many international and national initiatives have been undertaken. Internationally, it is seen that there are lot of conventions and laws which are passed with a view to provide protection to women. In this context, the United Nations has taken worthy initiatives. Conventions like Convention on the Elimination of Discrimination Against Women (CEDAW), the United Nations Conference on Human Rights in Vienna, 1993, took this issue of discrimination against women as an important issue and recommended the formulation of an international instrument on violence against women. Consecutively, in 1994 and 1995, United Nations General Assembly adopted and appointed a Special Rapporteur on the Violence Against Women.

Though gender-based violence involves all genders, yet this paper will study the violence against women only. This paper will analyse the legislations made for the protection of women in India and the justice delivery system so that the real picture of legal protection can be drawn. It will deal with the judicial trends towards gender based violence against women.

Objectives

The objectives of this paper are- firstly, to explore the activation of the legislations meant for the protection of women in India and secondly, to examine the role of

legislations to combat gender-based violence against women in India.

Methodology

In order to carry out the research study, the methodology undertaken is theoretical and analytical. Theoretically, this paper deals with the provisions in the legislations meant for the protection of women. And analytically, this paper analyses the records of National Crime Report Bureau (NCRB) of Ministry of Home Affairs, Government of India; cases filed in the courts and the judgements delivered therein. The survey undertaken is based on the judgements delivered in the cases filed against gender-based violence against women.

The International Resolutions and Agreements for Gender Based Violence (GBV)

Implementation of the 'resolutions and agreements in the reality of war-situations and preventing GBV from happening is the issue that is to be focused on. In response to persistent advocacy from civil society the UN Security Council has so far, adopted five resolutions on 'Women, Peace and Security'. These resolutions are: Security Council's Resolution 1325 (2000); 1820 (2009); 1888 (2009); 1889 (2010) and 1960 (2011). These five resolutions should be taken together under a single umbrella, as they comprise the 'Women, Peace and Security' international policy framework. They guide works to promote and protect the rights of women in conflict and post-conflict situations. Additionally, as binding Security Council resolutions, they should be implemented by all Member States and relevant factors, including UN system entities and parties to conflict.

- *UN-Resolution 1325 on Women, Peace and Security*
Essential and fundamental UN-resolution about 'impact of armed conflict on women and girls', with proposals how to realize targets. - UN 2000
- *UN-Resolution 1820 on sexual violence against civilians in conflict*
Essential UN-resolution, with proposals how to monitor and how to realize targets. - UN 2008
- *Strengthening the protection of Women from Torture*
UNHCR, Report of the Special Rapporteur on Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, A/HRC/7/13, 15 January 2008. The term 'torture' seen in connection with 'violence against women', and some conclusions to be drawn international, with implications on justice, reparation, other (human) rights.
- *Indicators on Violence Against Women and State Response*
Report of the Special Rapporteur on Violence Against Women, its causes and consequences / Human Rights Council, 2008
- *International legal instruments protecting women's rights*
Collection of international resolutions, conventions, declarations (with all links), a great overview over the legal instruments which can be used. - UN Office for the Coordination of Human Affairs 2004
- *Nairobi Declaration on Women's and Girl's Right to Remedy and Reparation*
Conclusion/declaration as a result of an international meeting on 'Women's and Girls' Right to a Remedy and Reparation', held in Nairobi from 19 to 21 March 2007. Participants have been women's rights advocates and activists, as well as survivors of sexual violence in

situations of conflict, from Africa, Asia, Europe, Central, North and South America. Here's the focus on remedy and reparation for the survivors of GBV. - Nairobi 2007

- *Combating Gender Based Violence – Millennium Development Goals*
Gender-based violence seen in different contexts, with the goal to present an 'advocacy kit' for some of the most important topics: in combination with poverty, reproductive health, HIV, in conflict situations. Issues and challenges with all these topics. - UN Population Fund, 2005
- *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women*
A declaration elaborated as a result after an international meeting on the topic about 'violence against women'. An attempt to define women's rights, duties of the states, etc. - Belém/Brazil, 1995'.
(<http://www.healthandhumanrightsinfo>, accessed on 5/9/2014).

The Legal Provisions for Women in India

In the Indian Constitution, Article 14 guarantees equality before law or equal treatment of the laws. Article 15 (1) mentions there should be no discrimination against any citizen. Article 15 (3) provides special provision for women and children. Article 16 (1) & (2) prohibits discrimination in general and in offices. Article 39 (a) of the Constitution mentions that state shall in particular direct its policy towards securing that all citizens have the right to have adequate means of livelihood which is also a directive principle. Article 39 (c) provides that state should secure the health and strength of the citizens and are not forced to enter into paid work unsuited to their age and strength.

Article 51(A) (e) guarantees duty of the citizen to renounce practices derogatory to the dignity of women. These provisions are there but women are not getting the benefits out of these (Reddy, 1999). In the Indian legal framework, special laws for women can be broadly categorised as constitutional laws, labour laws, criminal laws, family laws, and other civil laws. Some of these laws are: The Minimum Wages Act, 1948; The Employees State Insurance Act, 1948; The Factories Act, 1948; The Immoral Traffic (Prevention) Act, 1956; The Dowry Prohibition Act, 1961 (amended in 1986) ; The Indecent Representation of Women (Prohibition) Act, 1986; The Commission of Sati (Prevention) Act, 1987 (3 of 1988); Protection of Women from Domestic Violence Act, 2005; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 etc.

The Survey

Gender-based crime, particularly sexual violence in India has captured national and international attention. The rising graph of various gender-based crimes (National Crime Records Bureau, 2011) poses a serious question on the safety of women and girls at homes as well as in public spaces. 'According to the NCRB, the rate of total crime in 2011 reported a decrease by 7.4% while that against women increased by 7.1% over 2010' (Sharma, 2015).

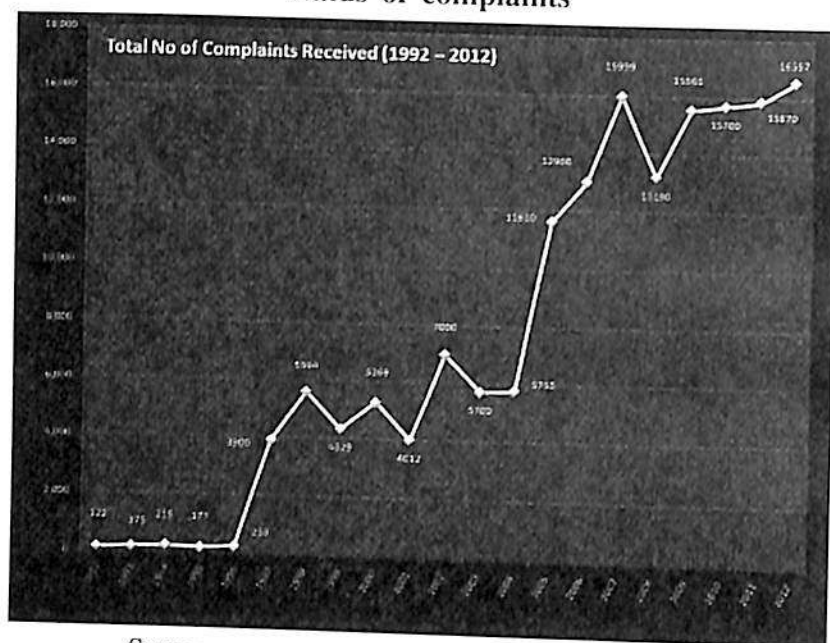
Table: Crimes against Women

Year	Incidents	Rate
2011	2,28,650	18.9
2012	2,44,270	41.74

(Source: NCRB)

The status of cases filed on the crime against women (CAW) shows a rising trend in India.

Status of complaints



Source: www.womencommissionofindia.nic.org, Statistical Overview, visited on 11/10/ 2014.

The judgements of cases against GBV have also been surveyed. Some landmark judgements delivered by the judiciary are:

- In a case filed under Protection of Women from Domestic Violence Act (PWDVA), 2005; Miss Kalyani P Thakuria was thrown out of her parental house along with her sisters by her brother after the death of their parents. The Domestic Violence Lawyer provided interim relief to put back into their house which was later passed by Chief Judicial Magistrate, Kamrup, Assam against her brother (Domestic Violence Awareness and cases in Assam). The researcher found that some provisions of the Act helps in getting justice

but after that what happens to the victim or victims is not a lookout of the judiciary. There is no provision in the Act to stop it happen on the same victim again (www.domesticviolences.com, accessed on 10/6/2014).

- The Nirbhaya Case which involved the brutal gang rape and death of a college student in Delhi on 2012 generated nationwide protest and called for reforms in rape laws (Sharma, 2015). The law has some loopholes and is not addressing the violence properly.
- The Court, in *Ramgopal vs. State of MP* (2010 SCALE 711), observed that an offence under Section 498A IPC is essentially private in nature, and should be made compoundable if the parties are willing to settle their dispute amicably (<http://dowrycasesindia.wordpress.com/tag/allahabad-high-courtjudgement-in-498a-ipc-dowry-case/>). There is alleged misuse of Section 498A of the IPC because of the complexities of law enforcement from the survivors' perspective (Trivedi, Singh, 2014).

Findings

1. The legislations meant for the protection of women have failed to impart justice to the victims in the perfect way.
2. There is the misuse of legislations meant for combating gender-based violence.
3. All the possibilities of the causes of GBV have not been addressed in the provisions of the legislations for the protection of women.

4. The legislations only provide justice for the time being, the crime against women may again take place.

Recommendations

1. The justice delivery system should be properly supervised so that there is no delay in delivering justice.
2. All the possible causes of the crime against women should be addressed in the respective legislations.
3. The provisions should be made clear and precise to avoid misuse.
4. Legislations should have provisions or limitations to stop reoccurring of crime to the victims.

Conclusion

The above analysis has made it clear that the laws enforced by the Government of India (GOI) for the protection of women from GBV have faced lots of hurdles in delivering justice. Legislations are in its place but the actual delivery of justice for the violence has failed. As we are aware of the fact that justice delayed is justice denied, so stress must be laid on quick deliverance of judicial decisions. In pursuance of the international resolutions for GBV against women, India is not lagging behind. India has developed its legislations in accordance with international standards, but the Indian society still has miles to go for women to speak up about their plight in public. Until and unless there is change in the mindset and attitude of the people, mere legislations will have little impact.

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Human Trafficking : A Fathomable Problem of the Hour

Trailukya Hazarika

Introduction

Millions of people are trafficked throughout the globe for forced labour, prostitution and other activities. Of all the organised crimes across the world, human trafficking is perhaps the most serious one as its prime targets always remain poor people, women and children for various illegal purposes.

The term human trafficking, in the international context, has evolved to mean contemporary slavery and forced or bonded labour, which often includes commercial sex trade, tourist industry, child soldiers, factory workers and other forms of bondage. The phrase 'human trafficking' is in some form of a misnomer as human trafficking simply indicates a process that often leads to slavery instead of being slavery itself as it is often interpreted in modern times. The two phenomena of 'human trafficking' and 'human smuggling' are often perceived as meaning the same, because both have their roots in irregular migration

and involve people being moved clandestinely.¹

The problem of human trafficking has been haunting the world and India in particular, as India is not only the point of origin but also a country of destination and transit.

Cause of Trafficking in Human beings

The enormous disparity in the legitimate mobility of people in the world, during the historical apex of mutual global awareness and interconnectedness, problems such as widening social inequalities, within regions and on a worldwide scale, gender, ethnic and caste discriminations play a vital role in this regard. The penetration of invasion by the electronic media, specially television, beaming down pictures of western affluence and lifestyle into the cultures of developing nations curving the problem into a gloomy hole. Corrupt officials, poor economic conditions and scarcity of jobs, which force many families to turn to the urban area, where they are allured, coerced and trapped by organised gangs, are some of the factors contributing to human trafficking.

Human Trafficking in India

In India the crime of human trafficking has acquired a dangerous proportion in the last few decades; the reason being that India is a source, transit and destination for the crime. Bordering Nepal and Bangladesh, India is a fit place for the traffickers. The abundance of poor population in the country is a boon for traffickers. The poor law enforcement machineries further aggravate the situation. In India, the trafficking is done for almost all illegal and immoral purposes such as sexual abuse, pornography, forced labour and slavery. The root cause of the problem is poverty, unemployment and underemployment and hence

the problem is social as well as legal. The Government has failed to address the issue of poverty effectively. Widespread corruption in the poverty alleviation programmes has made the situation worse. What is more worrisome is that some of the religious places in India and tourist destinations are getting affected by sex tourism and prostitution. The victims include women and children who work in India's brick kilns, rice mills, farms, embroidery factories, mines, stone quarries, and as domestic workers, beggars, agricultural workers etc. No doubt, India is a source, destination and transit for men, women and children who are trafficked for commercial sex exploitation. Indian women are also trafficked to West Asia for commercial sex purposes. The areas of the greatest concern are poverty-stricken areas such as Andhra Pradesh, Bihar, Karnataka, Uttar Pradesh, Maharashtra, Madhya Pradesh, Rajasthan, Orissa and West Bengal. Only 10 per cent of human trafficking in India is international, while almost 90 percent is inter-state. According to a report by the National Human Rights Commission of India, nearly 40,000 children are abducted every year of which 11,000 remain untraced and possibly fell prey to the traffickers.²

Some of the problems in dealing with human trafficking in India

Traditionally, women and children in India are the deprived sections of the society, and not many avenues have been available to them. Their families and the society have exploited them in various forms. The Indian society has been very unfair to the fairer sex.

Though there is unity in diversity in India, within specific regions, the racial, ethnic and sociological differences are very difficult to discern. Even within the

Indian subcontinent the racial differences are not very wide. This makes the illegal trafficking easier, and the task of interception and intervention in such trafficking much difficult.

The trafficking in human beings within India apart from being a phenomenon of 'socio-cultural exploitation' is also a phenomenon in 'economic migration' of the deprived sections of the society from the economically backward areas which offer very few opportunities for socio-cultural and economic advancement, to areas which are relatively more prosperous (Gujarat, Maharashtra, Tamil Nadu and the Metropolitan Cities).

The subjects of the trafficking are normally also the victims, and often they are under so much duress that the fact of their being victimised hardly gets reported to the law enforcement agencies. The victims often live in pitiable conditions and have no access to any means of communication.

In a society which guarantees basic fundamental rights to speech and expression, movement and employment and occupation, often the weaker sections consider avenues like prostitution and child labour as means of earning livelihood, thereby making the task of intervention in human trafficking even more difficult.

The issue of human trafficking is a 'low priority job' for Indian Police and law enforcement agencies.

When it comes to trafficking in human beings from India, apart from the children and, in some cases, women, most men are willing participants to the activity of trafficking. This trafficking or illegal immigration is mainly with the aim of economic gains.

The detection and prosecution of traffickers becomes difficult because of some or all of the aforesaid reasons

and so it becomes difficult to break the nexus between the objects and subjects on the one hand and the perpetrators of the crime on the other.

Summoning the female witnesses abroad often fails because their addresses cannot be established or because they are no longer willing to enter another country for trial. Very often, the offenders in the meantime, also influence the witnessing victim in her willingness to testify or the statement itself. If the witnesses or victim agree to travel to another country to attend the trial after all, this entails considerable bureaucratic efforts and very often also, immense pressure.

A lot of legal difficulties are experienced in bringing foreign offenders to book to stand trial in a court of law as the extradition procedures are different in different countries. Also, since there are no uniform procedures for MLAT in criminal matters, prosecution of such cases becomes difficult.

At times, it is difficult to ensure the attendance of witnesses from abroad because of administrative problems bearing air flights, hotel bills, etc.³

Contributory Factors in Trafficking

A. Economic Factors

- Poverty
- Globalization and export oriented growth
- Growth of consumerism
- Migration
- Unemployment / Lack of alternate employment
- Triggering factors like natural disasters leading to homelessness and disintegration
- Feminisation of 'poverty' and 'migration'
- Lack of income, earning opportunities in rural areas

- Industrialization
- Urbanization
- Desirability of easy and luxurious life

B. Socio-Cultural Causes

- Existence of patriarchal order of society with an unequal power relation which leads to domination of women by men.
- Religious fundamentalism and misinterpretation of religion regarding women.
- Cultural sanctions to the prostitution of women and girl children, e.g., Devkanya, Rajnartaki, Devki, community based prostitution among Tamangs in Nepal, Devdasi, Jogins, Berias of Rajasthan, Nats, Koltas in India.
- Child marriages, polygamy etc.
- Importance of Virginity and marriage for girls, leading to fraudulent and incompatible marriages.
- Breaking up of families.

C. Psycho-social factors

- Discrimination against the girl child.
- Stigmatisation of single, abandoned, raped women and girls.
- Incest, rape, torture of girls and women, within the family and outside.
- Incompatible marriage, easy divorces, dysfunctional families.
- Frustration in love.
- Lack of self-esteem.
- Easy, trusting nature/Suggestibility.
- Breakdown of Joint Family System.
- Lack of moral values.

- Westernization and Erosion of social values.
- Commodification of women.

Other Factors

- Illiteracy
- Lack of creative educational opportunities at rural level.
- Lack of vocational training.
- Lack of awareness about trafficking/HIV/AIDS etc.
- No access to healthcare and such other facilities.
- Lack of legal knowledge about women and children related issues.
- Lack of knowledge and access to government run schemes.
- Lack of political will or commitment.
- Corruption and excesses at the hands of police, Border Security Force, with the support of businessmen, politicians and powerful people at the local level.
- Lack of sensitised media/media explosion.
- Lack of effective NGO networking at grassroot level.
- Lack of research and documentation on the subject.
- Lack of prioritation of issues.
- Lack of rehabilitation process or schemes.
- Lack of 'coping mechanisms' with famines, floods, homelessness, abandonment etc.
- Lack of effective Policing.
- Increased sex tourism.
- Misuse of Information Technology.⁴

Human Trafficking and Indian Law *Constitutional Provisions*

To start with, the Indian Constitution, which is the basic document providing legal framework for the governance of the country, provides in Article 23 that trafficking in human beings and beggar and other forms of forced labour are prohibited. The importance of Article 23 lies in the fact that it comes under Part III of the Constitution which deals with the Fundamental Rights.

The important provision under the Constitution of India is Article 21, as we all know, includes right to live with human dignity. Article 15 (3) provides that the State shall make special provision for women and children. Article 39 (e), which comes under the Directive Principles of State Policy, provides that the health and strength of workers, men and women, and the tender aged children are not being abused and that citizens are not forced by economic necessity to enter allocations unsuited to their age or strength. Similarly, Article 39(f) provides that children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 42 provides that the State shall make provision for securing just and humane conditions of work and for maternity relief. Article 38 provides that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

Indian Penal Code

Sections 370 of the Indian Penal Code provides that whoever imports, exports, remove, buys, sells or disposes of any person as a slave, or accepts, receives or detains

against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Section 371 provides that whoever habitually imports, exports, removes, buys, sells, traffic or deals in slaves, shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine. Section 372 provides that whoever sells, lets to hire, or otherwise disposes of any person under the age of 18 years with intent that such person shall be employed or used for the purpose of prostitution of illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purposes, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Section 373 provides that whoever buys, hires or otherwise obtains possession of any person under the age of 18 years with the intent that such person shall be employed or used for the purpose of prostitution or illicit intercourse with any person or for any immoral or unlawful purpose knowing fully well that such person shall be used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Section 374 provides that whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Suppression of Immoral Trafficking Act, 1956 and Immoral Trafficking Prevention Act, 1986

In the year 1950 the Government of India ratified the International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of Others and in the year 1956, India passed the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA). This Act, was further amended and changed in 1986, resulting in the Immoral Traffic Prevention Act also known as PITA. The aim of the 1986 Act was to criminalise various aspects of sex work. However, the Act has not been very successful in curbing the menace of trafficking of women and children for the purpose of prostitution as the problem of trafficking has acquired dangerous proportion. The weakest area has been its implementation. The enforcement mechanisms under the Act also proved to be very ineffective.

Other Legal Provisions

Some other laws which prohibits trafficking, indirectly or directly, for various unlawful or immoral purposes includes the Bonded Labour Abolition Act, 1976, the Child Labour Abolition Act, 1986, the Prohibition of Child Marriage Act, 2006 and the Human Organs Transplantation (Amendment) Act, 2011 (It has provisions for stringent punishment for illegal human organ and tissue transplantation. It provides for increase in jail term from five to ten years and a fine of Rs. 20 lakh extendable to Rs. 1 crore for those indulging in illegal activities of human organ transplantation). Since trafficking is an organized crime, it also comes under the purview of various states legislations such as Maharashtra Control of Organized Crime Act, 1999 and Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986.⁵

Steps for Prevention of Trafficking

Identification of Vulnerable Areas and Groups

- State and national highways.
- Border Areas.
- Areas prone to natural disasters, deserts, mountain and arid zones.
- Displacement of local community due to closing of projects.
- Children institutions, prisons, custodial care etc.
- Beauty parlours, massage parlours, health clubs, casinos.
- Tourist resorts.
- Coastal areas.

Identification of States

- Andhra Pradesh
- West Bengal
- Rajasthan
- Karnataka
- Maharashtra
- Uttar Pradesh
- Gujarat
- Tamil Nadu
- Delhi

Identification of District

- Identification of vulnerable districts.

Identification of Village

- Identification of vulnerable villages.

Identification of vulnerable families

- Large-sized family
- Low income-group families
- Lack of education

- Families having acute/severe health problems from long time

Identification of vulnerable individual women

- Single/Unmarried
- Divorced/Separated
- Widow
- Stigmatized

Adolescent Girls

- From Poor/illiterate families.
- Large families.
- Having little or no education/skills.
- Ill-treated, sexually abused, raped or molested, within the family or outside
- Daughters of Devdasi or similar systems
- Dysfunctional families
- Alcoholic father
- Drug Addicted parent
- Sick parent
- Deserted

Children

- Runaways
- Abundant
- Lost
- Kidnapped/Abducted

Identification of Major contributory factors behind trafficking

- Economical
- Social
- Psychological
- Religious
- Other factors

Identification of Existing Resources in Community/Village

- Family
- Health Care Facilities: Hospitals, PHC, Dispensaries
- Educational Institution : College/Universities, Schools, Creches, No Formal Centre
- Panchayats/Zila Parishad
- Existing unions at village level
- Cooperative societies
- Youth groups
- Mahila Mandal/SHGs
- NGOs
- Banks
- Police
- Govt. Schemes : Swa-Shakti, Stri-Shakti, Other Schemes

What can be done at village level ?

- Formation of small vigilance group/committee.
- Eye on strangers who are visiting the community.
- Watch on vulnerable families.
- Recording of marriage
- Help lines and awareness generation programmes
- Health awareness programmes
- Vocational Skills Training Programme
- Sensitization of Police/Media/Legal Officials

The number of women and children who become victims of trafficking for commercial sexual exploitation or other forms of abuse is unknown mainly due to the dispersed and criminal nature of the act. Though it is almost impossible to obtain accurate figures, it is guessed that million of girls and boys worldwide are used in various forms of sexual exploitation. According to a report released by the US State Department, at least 700,000 persons,

especially women and children, are trafficked each year across international borders. Based on the statement released at the World Congress against the Commercial Sexual Exploitation of the Children, in 1996, each year, more than one million children worldwide are reportedly forced into prostitution. India is a country of continental dimensions. A formidable challenge is the enormity of the problem, both in the number of trafficked persons and the increasing number of locations. A recent survey undertaken by the Government of India revealed that new areas like the states Jharkhand and Chhattisgarh, which were not in the list of sources areas, are now emerging as such, in addition to state like Andhra Pradesh, Karnataka, Tamil Nadu, Maharashtra, Rajasthan, Madhya Pradesh, Bihar, Orissa, West Bengal etc. The survey has revealed that approximately 60% of women/ children working as commercial sex workers have taken recourse in this profession due to economic compulsions.

It is needless to say that the overall development of a nation depends on the development of its women. The Constitution of India not only ensures equality to women but also empowers the state to adopt effective measures in favour of women, for neutralizing the cumulative socio-economic, educational and political disadvantages faced by them. The Directive Principles of State Policy also lays down the major goals of a welfare state with gender equity as a core objective. In spite of this, the violence against women particularly trafficking in women is on the rise.⁶

Conclusion

It is clear from the various reports and surveys that many of these women are suffering from HIV/AIDS & other psychological/psychiatric problems. Apart from the

tragedy of the trafficked women and girls having been inducted into the profession, they also suffer social stigma and alienation from the society once it is known that they are infected by HIV/AIDS & other psychology/psychiatric problems. A related problem is the transmission of the infection by the clients of brothel, to their partners. The infection then passes on the child from the mother.

There is now an expanding market for commercial sexual exploitation through brothel based modalities like hotels, bars, lodges, massage parlours and guest-houses etc. So human trafficking is becoming a challenge for the society as well as the country. India has signed and ratified the SAARC Convention on Combating Trafficking, to prevent cross border trafficking and is keen to start programmes for prevention, rescue, rehabilitation and repatriation of the unfortunate victims of trafficking. So, it is clear that the problem of human trafficking is becoming very serious and it is the need of the hour to handle this problem on priority basis.

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Poetry of Protest: Voicing against Human Rights Violation(s) in the Indian Writings in English from India's North East

**Rupam Gogoi
Piklee Buragohain**

Human Rights are as those conditions of life that allow human beings to fully develop and utilize the human qualities of intelligence and conscience as well as to satisfy spiritual needs. Such rights are fundamental for our existence and whenever such rights have been denied to people there has been social unrest and hostility between nations and various groups within a nation. Such rights are not only an abstract subject for philosophizing and political theorization but are something that has become a part and parcel of every individual's life. The expression 'human rights' is all comprehensive in nature and includes civil, political, economic and cultural rights and even rights like rights of minorities, indigenous people and right to development. They are universal moral rights with non-discrimination as the guiding principle. Professor Hohfield has enumerated four aspects that the term 'right' covers- claims, privileges or liberties, powers and immunities. These are necessary if

tragedy of the trafficked women and girls having been inducted into the profession, they also suffer social stigma and alienation from the society once it is known that they are infected by HIV/AIDS & other psychology/psychiatric problems. A related problem is the transmission of the infection by the clients of brothel, to their partners. The infection then passes on the child from the mother.

There is now an expanding market for commercial sexual exploitation through brothel based modalities like hotels, bars, lodges, massage parlours and guest-houses etc. So human trafficking is becoming a challenge for the society as well as the country. India has signed and ratified the SAARC Convention on Combating Trafficking, to prevent cross border trafficking and is keen to start programmes for prevention, rescue, rehabilitation and repatriation of the unfortunate victims of trafficking. So, it is clear that the problem of human trafficking is becoming very serious and it is the need of the hour to handle this problem on priority basis.

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Poetry of Protest: Voicing against Human Rights Violation(s) in the Indian Writings in English from India's North East

**Rupam Gogoi
Piklee Buragohain**

Human Rights are as those conditions of life that allow human beings to fully develop and utilize the human qualities of intelligence and conscience as well as to satisfy spiritual needs. Such rights are fundamental for our existence and whenever such rights have been denied to people there has been social unrest and hostility between nations and various groups within a nation. Such rights are not only an abstract subject for philosophizing and political theorization but are something that has become a part and parcel of every individual's life. The expression 'human rights' is all comprehensive in nature and includes civil, political, economic and cultural rights and even rights like rights of minorities, indigenous people and right to development. They are universal moral rights with non-discrimination as the guiding principle. Professor Hohfield has enumerated four aspects that the term 'right' covers- claims, privileges or liberties, powers and immunities. These are necessary if

an individual is to live a dignified life or the society is to remain perennially peaceful.

The sad case is that there has been a continuous flow of records and news related to issues of human rights violation. There are different ways of protecting human rights. A pluralist and accountable parliament, an executive who is ultimately subject to the authority of elected representatives and an independent, impartial judiciary are necessary, but not sufficient, institutional prerequisites. Besides these basic 'institutions' there may be other mechanisms whose establishment and strengthening will enhance the existing mechanisms. The case with northeast India is that decades of social unrest has made the human rights a fragile issue to handle. Atrocities have been too many and the government machineries are themselves responsible for the sufferings of the people. In fact the situation is so grave that there is evidence of the former Prime Minister of India Dr. Manmohan Singh assuring tribal leaders from Tripura that the Central Government would suitably amend the controversial Armed Forces (Special Powers) Act (AFSPA) 1958 that gives unlimited powers to the armed forces to shoot at sight and arrest anybody without a warrant. Creative writers from the region have been ceaselessly trying to draw the attention of mainland India towards the incidents of northeast which have made life difficult to endure for the common man. The region has quite a few unsung heroes who have never received due attention from the centre or even national media at most times. Deepthi Priya Mehrotra's *Burning Bright* is a tribute to Irom Sharmila who was on an indefinite fast since 5th November, 2000 protesting against the controversial Armed Forces (Special Powers) Act, 1958. The North-East is a highly volatile zone today and it is increasingly getting

difficult for the policy makers to reach at an acceptable solution for everybody. Sanjay Borbora has described the space as "politically convenient shorthand to gloss over complicated historical formations and dense loci of social unrest" (Borbora May- June 2008). This has resulted in some rash steps on the part of the governments both at the centre and the state often leading to heart rending harassments on the part of the common man. Irom Sharmila is one of the many who has directly borne the burnt of military atrocities but one of the few the world has seen till date who has the courage to protest in the manner chosen by her. She has been jailed, hospitalized and on nasal feed yet her unflinching spirit continues to simmer. It is a tragedy not for Manipur only but for the entire nation that despite of such a protest the draconian law continues to exist and Sharmila's crusade continues unhinged by her failing health. She has been liberally compared to the American pioneer of civil disobedience, Henry David Thoreau; the ancient Greek philosopher who stressed on asking questions before accepting something, Socrates; the Burmese epitome of fearlessness and champion of democracy, Aung San Suu Kyi and to the likes of Mahatma Gandhi, Martin Luther King and Rosa Parks. It is a truth that India has no crusader of her strength today yet the government has not thought it proper to look at the issue from a humanitarian perspective. It can be surmised that such an environment would breed artists with a strong voice of protest against the system at large.

Paul Lyngdoh is one of the budding political leaders of Meghalaya. Acutely aware of the nightmares lashing his society, his poetry attempts to shake off his tribe out of its slumber. Deeply concerned about the rapidly changing patterns of social demography he wants his people to realise

the hazard that is being posed by expressions as high sounding as 'national integration'. He has seen the truth that lies beneath these innocuous expressions in the form of influx of other cultures that have started to pose as threats for the natives. Their cultural and social rights are being threatened. Lyngdoh's Meghalaya, Khasi Hills to be more precise, is no more the Scotland of the East that the imperial rulers once boasted of it to be. Probably its beauty and the rich natural resources have taken its own toll. Tourists and entrepreneurs gathered around Lyngdoh's home to leave behind their own foot prints. His *For Sale* is a poignant account of how his land and people are being exploited by the 'outsiders'- a terminology that is debatable considering the application of it in case of the Indian citizens as well. However the terminology is the resultant of the apprehension of their rights being under threat in the wake of outside intervention. The poet, and his people, believes that in disguise of the need to create a pan-Indian identity what is being stealthily snatched is the unique socio-cultural identity of a tribe and hence he says:

For Sale,
 this battered, autistic land with its lucre-laden earth,
 our precious minerals, medicinal herbs, rare orchids
 and trees and fields and waters
 all those, and all else.

(Ngangom, Robin S. & Kynpham S. Nongkynrih 171)

The angst of the poet is sharp and the desperation and discontentment has every chance of exploding in the form of armed rebellion. When home becomes 'unfamiliar', 'uniqueness' yields place to 'strangeness', the poet cannot but brood over the turn of events and act, as an artist as well as an activist. The desperation and the contemporary indecision make it impossible for the poet to go to the root

of his dilemma and seek a way out of it or to trace out whom to blame for the current state of affairs in a scenario where the issue of Khasi identity hangs precariously. In *Imported Nightmares* he says:

I do not know what saddens me more
 the bitterness of a fellow poet
 disowned by the soil of his birth,
 or seeing my brothers importing nightmares
 from that deathly valley
 to haunt the happy sleep
 of our hills.

(Ngangom, Robin S. & Kynpham S. Nongkynrih 174)

Paul Lyngdoh's anxieties are many- commercial over-exploitation of his state's natural resources negating the expectations and basic rights of the common people, marital relationships between girls of his tribe and men from the plains which obliquely implies that the plainsmen get a safe refuge and reap benefits of their spouse's property because of being a matrilineal society. He has derogatorily, coultured with angst, used expressions like 'pot belly' to denote those people. He wants to create a consciousness among the people regarding their 'tribal roots' and:

our pride, values, work culture,
 our sense of shame, our collective conscience,

(*Dancing Earth*)

For Sale reminds one of the large scale protests against Uranium mining at Domiasiat by students, social activists and ecologists- their apprehension being the ill impact of such massive scale mining threatening the right to live a decent life. Domiasiat is another location of exploitation encouraged by mining lobbies and myopic policy makers without honouring the sentiments of the local people.

Uddipana Goswami shuttles between the region of her domicile and the Indian mainland in terms of the vantage point of the poet speaker. With a significant chunk of youth from North-East having started to travel towards the metros and other big cities seeking greater and better opportunities, we now have people who look at their home from the other side of the mainland-periphery divide. In case of India's North-East the space of segregation is the Chicken's Neck which acts both as a psychological as well as a political barrier between the region and the rest of the nation. Fed by media, internet, phone calls and letters to and from home they have their own image of the land they have left behind which is watered by occasional visits to 'home'. Despite the spatial separation, Goswami's thoughts are rooted in the land of her birth which has of late caught the imagination of the mainland media and government agencies for reasons ranging from national security to international business to armed insurgency. The blurb of Goswami's *We Called the River Red* reads:

In times of political turbulence social upheavals, the individual cannot remain isolated. The poetic conscience comes to understand gradually that love and the agony of personal loss are not independent of the larger social, historical and political environment. And with this understanding comes a sense of responsibility- towards one's identity, community and nation....Leading up to the point where the personal entity is fused with the political identity. (Goswami blurb)

Rootedness is one of the prominent traits of a good number of poets from this region. The love for one's nation

in the case of the patriotic resounding from the Indian mainland is replaced by a concern for this region. Despite the heterogeneity of cultures there is a unifying factor that is not to be encountered in either the pan Indian discourses of the Indian mainland or even the separatist rhetoric in some provinces. *Bohag is not Merely a Season* is Goswami's attempt to present her home in difficult times. Bihu is a magnificent unifier in Assam when cultural differences sink, at least for the time being and at such times the poet could feel the hardships of being at home in politically volatile times where the basic rights are snatched away by force or guile:

It is Bihu back home
 Perhaps there is Bohag in the air,
 Perhaps death.
 Perhaps dhol-pepa-gagana sound
 Perhaps bullets.
 Perhaps the kopou is in bloom
 Perhaps blood.

(Goswami 16)

Despite of all such odds she longs to be at home or in other words the feeling of safety attainable from being away from home gets weaker to the desire of getting back to home. *Tell me who should I be?* possibly brings out the socio-cultural differences of the region in a realistic light. The tribal and non-tribal divide which can be sensed in the non-tribal states of the region has been clearly stated and this feature is enough to dissolve the veil of homogeneity woven about the people by the media or academia. Culture becomes so strong a public phenomenon that the private nuances are nowhere to be seen. In fact what is seen is an amalgamation of the cultural ethos and political operations. She says:

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Tell me who should I be?
 What shall be my identity?
 Born a Brahmin, raised a human being
 And deprived of pork and beef,
 Eating some of the tastiest meats on earth
 For me has become a political act.
 With every mouthful I am forced to remember
 The deep divide between me and my 'tribal'
 friends.

(Goswami 55)

There are times that bring the people of the region together by dissolving the intra-regional differences but the times are more often than not the times when somebody from the region is victimized through racial discrimination or prevented from enjoying certain constitutional privileges including liberty. Goswami, like many other poets of the region, is intensely conscious of the tough times that the people of the region face – battered between forces of the state and the underground and surprised by the sheer ignorance of the mainland Indians regarding the region. The deep divide between the communities whether it be on the basis of caste, religion, class, ethnicity or language has been a major area of concern basically for the numerically minuscule tribes and communities who again feel a sense of being the other even within the structure of the *North-Eastern Periphery*.

She is an excellent chronicler in verse of the turbulent 1980s and 1990s in Assam – a period marked by barbarous military operations against ultras but culminating with rape and brutal physical atrocity on the part of the general public; a massive student led movement to send out immigrants; the trauma of secret killing. Human rights were shelved and rule of the law was just a misnomer. *For*

Nilikesh da, Shot Dead is Goswami's portrayal of an ordinary citizen's life in North East India. Based on the killing of Nilikesh Gogoi by the soldiers of the Central Industrial Security Force (CISF) on 23rd January, 2007 in an upper Assam town named Geleky she writes in angst:

Nilikesh da,
 Self-crowned swargadeo of an independent dreamland
 Foul-mouthed rum-drinking stealer of hearts
 Doer of deeds weaver of tales leader of men
 Killed because he happened to be.

(Goswami 43)

In a nation that swears by non-violence and epitomizes Gandhi this is what happens if you happen to reside in a space where insurgents speak a voice different from that of the power centre(s). The military operations like Operation Bajrang and Operation Rhino are reminders that human rights are non-existent if the authorities think so. Meanwhile innocents continue to suffer and die in the name of national integrity and peace.

Yumlam Tana's *The Kurta and the Pyjama* raises the issue of tribal identity and the threat of loss of cultural rights. Tracing subtle but visible cultural changes appearing in the Nyishi society of Arunachal Pradesh the poet starts with clothes, then talks about different religious faiths and then arrives at a plane from where he can witness the unseemly awareness of his tribal identity crafted by the those on the other side of the socio-political divide (being a tribal has to do more with politics than culture today). He asserts:

You see, I am a Nyishi
 A tribal claiming to be a man.

(Nongkynrih & Ngangom 13)

Desmond L. Kharmawphlang speaks of the insider-outsider divide which lies deep rooted in the minds of the people of North-East. The disbelief and suspicion reach such extents that even marriages between girls of tribal communities and boys from the plains are banned thereby converting an individual (or familial) matter into an issue of social or even ethnic significance. Meghalaya has been the witness to many diktats preventing marriages between its women and men from other regions. Metropolitan is a unifying term but not for the Khasis who feel that a metropolitan culture will have adverse impact on their culture and tradition. This apprehension of the people along with the unwelcome arrival of plainsmen which Kharmawphlang equates with the British as being another group of oppressors have been excellently shown by the poet in *The Conquest*:

But in the wavering walk of time
There came those from the sweltering plains,
From everywhere

You stricken land, how they love
Your teeming soil, your bruised children.
One of them told me, "You know,
Yours is a truly metropolitan city".

(Nongkynrih & Ngangom 134-5)

Monalisa Changkija talks of the undesirable changes coming about in the landscape of her homeland in *Of a People Unanswered* and she is critical of the claims of the outsiders that progress and prosperity in her tribal homeland has been brought in by them. She expresses her unhappiness over their diktats on matters political as well as personal on how to lead her life and questions the genuineness of their concern:

But I wonder why you remain silent
When I say we are hungry

.....

But I am more
Than a machine
Or a mass of molecules.

(Nongkynrih & Ngangom 216-7)

Changkija appears to voice the ruminations of the people of her region as regards alleged attempts to dilute their cultural identity.

That all is not well in Robin S. Ngangom's home is evident from his unease regarding the violent and unsavoury developments materializing in front of him. In *Imphal* he says:

There is something sadly inevitable
about this land, something inescapable,
like a beast which stalks its own death,
like an ominous prophecy

(Ngangom 63)

A war zone that Manipur has turned into today the cultural diversity of the state is of secondary concern as violence hardly leaves the people enough scope to celebrate their rich and diverse culture. In his eulogy on Pacha Meetei entitled *To Pacha* he says:

You only said: 'One's homeland is dear.'
I have not seen all of this land.
I have not been able to tread
the grass that grows there.

(Ngangom & Nongkynrih 206)

Deeply aware of the natural beauty and cultural richness of his home and its people Ngangom's grief at the decay of such values is evident in poems like *When you do not Return* where the symbolic 'you' which can be the

sublime humane values or the elusive peace or a messiah whose departure has brought in all misfortunes to his people. Whatever is that 'you' the poet ends the poem by:

.... Asking you
to return to the hills, on
grey pages I send you happiness
because it has left my home.

(Ngangom & Nongkynrih 200)

Thus the image is of a race where the populace is trapped between warring factions and dissenting political power centres resulting in a gradual fainting of the rich cultural heritage. The common people are helpless hostages in this murky web of events.

Kynpham S. Nongkynrih's *Agartala Nights* is a grim tale of the loss of political, social and cultural rights of the Tripuris in Tripura as a result of massive scale immigration of Hindu Bangladeshis due to political instability and threat to the life of the non-Muslim communities in that country. He states with angst:

Agartala, empty space, should I declare
Such is the fate of all empty spaces?

(Nongkynrih 51)

Nigamananda Das, while analysing the poem, has stated that:

The customs and Tripuri heritage are at a very bad state. The Tripuri race is festering with great wounds of hate, struggle and rage. The Tripuri tribes, being driven by the Bengali refugees, are living in hills and jungles. As such Agartala which literally means 'empty space' has really become empty. (Das 55)

There can be few instances like this in India wherein the rights of an indigenous community have been violated to such an extent that now they are compelled to use the language of the immigrants as their official language. There cannot be a greater violation of human rights of such nature in any part of the world.

Commentators and critics say that insurgency, violence, unrest are dominant themes in the English writings from India's North-East and they are not wrong either but for the writers who want to write about the society and life of the people in the region they cannot do away with such themes. Numerous cases of human rights violation are reported from the region and many go unnoticed. There are families who are still waiting for the members who disappeared under mysterious circumstances. After all even the writers have grown up experiencing the fear of being culturally, socially and politically decimated in the wake of mainland intrusion into various spheres of their lives. A region that is still fighting for repeal of draconian acts like the AFSPA needs writers who would take up the plight of the ordinary citizens in front of the world. And in this aspect authors like Paul Lyngdoh, Uddipana Goswami, Kynpham S. Nongkynrih, Robin S. Ngangom, Yumlam Tana, Monalisa Changkija seem to have succeeded considerably.

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Exposing the Violation of Human Rights: A Study of the Novels of Mulk Raj Anand with special reference to the 'Untouchable'

Dr. Chittaranjan Nath

Human rights are the rights which a person has simply because he or she is a human being. Human rights are held by all persons equally and universally. These rights cover economic, social, cultural, political, and civil rights. They demand the human dignity of all people to be respected. The principles of human rights hold up the vision of a free, just, and peaceful world and set minimum standards for how individuals and institutions everywhere should treat people.

The concept of human rights is as old as art and literature. The glimpses of human rights can be traced in religious scriptures like the Vedas, the Bible and the Quran which address questions of people's duties, rights, and responsibilities. Any society in its tradition has had a system to provide justice for the welfare of its members. Many thinkers and philosophers down the ages have expressed their views on social context and insist that man should enjoy some natural rights. In the modern period, the

establishment of American colonies, the Bolshevik Revolution in Russia and very recently the horrors of First World War and Second World War gave momentum to the thoughts of human rights as a result of which rights for all members of the human family were first articulated on 10th December 1948 in the United Nations' Universal Declaration of Human Rights (UDHR). The Declaration enumerates the guarantee of various rights of men and women which include the rights to life, equality, liberty, dignity, profession, property, marriage, education, justice, privacy, and equal access to public services and political institutions.

However, the modern era has witnessed wide scale violation of human rights especially in case women, children, poor people and the downtrodden. The unprivileged and the underprivileged groups of people are always denied of their human dignity and happiness. Acceptance of equality and freedom for all people is still a dream in our society. And literature being the mirror of society presents the violation of human rights in its different forms. At the same time it also contributes to the protection of the same and thereby inspires us to change our society to secure a better future.

Mulk Raj Anand was a socially committed novelist who produced more than a dozen novels along with a good number of stories and essays. He was keenly aware of the society and he chooses to expose various absurdities, eccentricities and other ills of society where basic human rights are denied to any body. Being a humanist, Anand has skillfully depicted the Indian society which is insensitive and hostile to the low-born. His major novels such as *Untouchable* (1935), *Coolie* (1936), *Two Leaves and a Bud* (1937), *The Sword and the Sickle* (1942) and *The Road* (1963) etc. highlight the pitiable condition of downtrodden

people, pains and sufferings of the poor working class and existing hypocrisy of the upper-caste and privileged group of Indian society.

Exposing the violation of human rights of the underprivileged class of the society seems to be the mission of Mulk Raj Anand. Most of the characters in his novels belong to the low caste, downtrodden society. Mulk Raj Anand in his article '*The Source of Protest in my Novels*' says:

"I wished to create the folk, whom I knew intimately, from the lower depths, the lumpens and the suppressed, oppressed repressed, those who have seldom appeared in our literature." (20)

And most importantly, these characters are not fictitious; they embody a particular vision of reality which the novelist has assigned to them. They are normal, simple, credible human beings unaware of their social condition. Anand writes in his special preface to the second edition of *Two Leaves and a Bud*:

"All these heroes and the other men and women... were the reflection of the real people I had known during my childhood and youth.... They were the flesh of my flesh and blood of my blood."

Untouchable, published in 1935, is Anand's first novel. This novel suggests more to the human rights practices; especially that this work was published thirteen years before the adoption of Universal Declaration of Human Rights. The word 'untouchable' refers to an Indian caste system that includes the lowest of the lower working class in India. The plot of this novel revolves around the argument for eradicating the caste system. It depicts a day in the life

of a young 'sweeper', who is 'untouchable' due to his work of cleaning latrines. *Untouchable* is the story of the prolonged indignity and humiliation of this class of society. The opening of the novel strikes the keynote of the theme of the novel:

"The outcastes' colony was a group of mud-walled houses that clustered together in two rows, under the shadow both of the town and the cantonment, but outside boundaries and separate from them." (11)

Set in the fictional Indian town of Bulashah, *Untouchable* is the story of Bakha, the son of Lakha, head of all of Bulashah's sweepers. Bakha is intelligent but naïve, humble yet vain. In spite of all his qualities of head and heart, Bakha suffers and meets humiliation all his life just because he is born in low-caste as a sweeper boy, and is rejected and considered untouchable by so called high caste people. The novel depicts the adventures or rather misadventures that Bakha undergoes in a day of his life, which mirrors the miserable plight of the under-caste people in Indian society.

The novel's format is very simple- it follows the day in the life of 'untouchable' Bakha, a member of India's lowest social caste. Despite its simplicity, *Untouchable* is a powerful work that exposes the dehumanising contradictions and systematic oppressions inherent in India's stratified society. Though intelligent and handsome, the main character, Bakha, is an outcast and forbidden from improving his life situation because his touch and presence are considered impure and corrupting. Bakha serves as a mirror to the pathetic condition of the untouchables. He represents all those sweepers who are doomed to live life worse than the slaves. E.M. Forster in his Preface to

Untouchable rightly observes:

"...The slave may change his master and his duties and may even become free, but the sweeper is bound for ever, born into a state from which he cannot escape and where he is excluded from social intercourse..."(10).

Bakha suffers without any fault of his own. The slap he receives from the high caste Brahmin for defiling him by his touch makes him aware of his true identity. Instead of appreciation, Bakha receives condemnation even when he saves the child from an accident and takes him to his home lifting on his hands. The thankless mother of the child shouts at him for defiling her house and wounding her son. He thus receives inhuman treatment from almost everybody. They throw things at him the way they do to the animals. This inhumanity reaches its climax when a so called mother throws a thin slice of bread at him from the top of her house. He feels ashamed of himself for picking up the bread from the pavement.

The exploitation and injustice to the lower caste reaches to its heights in the situation when Bakha's sister Sohini is molested by the priest. The irony in this situation, Anand exposes, is that hue and cry is raised against the molested and not the molester. The holy priest makes unsuccessful attempts to seduce Bakha's sister Sohini. Sohini raises an alarm to save herself from being molested by the priest Kali Nath but the priest is very clever and extricates himself from the difficult situation by shouting, "Polluted, Polluted". The writer here draws our attention towards the unjust and condemnable behaviour of the so called high caste people who can easily go scot-free by turning the blame on to the suffering, sexually exploited

girl. The author has exposed the contradiction in the thinking of the so called high- caste people, while a mere touch of the clothes of an untouchable is thought to pollute a higher caste, sexual union is non- objectionable.

This incident turns Bakha violent to which he reacts aggressively. The giant stride of the sweeper towards the temple frightens the crowd. But his hereditary serfdom acts as a handicap to his spontaneous rebellion. He realises that he can do no more than being enraged against the brutalities of the high castes.

Bakha is simultaneously an exploited person and a rebel. He is a scapegoat of the rigid caste system. Injustice inflicted upon him makes him rebellious. Excessive abuse and insult makes him think about retaliation. However, he fails to rebel due to the realisation that his own people have made humble submission to this injustice in the name of caste system and accepted it as a part of their destiny. His inability to revolt should be perceived as an outcome of the oppression of the outcastes for thousands of years. He feels helpless.

The outcastes are exploited by almost all on economic level too. The sweetmeat-seller manipulates the scales to cheat the outcastes knowing that they will not protest. 'The shopkeepers always deceived the sweepers and poor people, charging them much higher prices, as if to compensate themselves for the pollution they courted by dealing with the outcastes'.(63)

Anand exposes the hypocrisy of these high caste shop keepers even. They accept the money paid by the outcaste by splashing water on it and throw at them the things they buy.

"He caught the jalebis which the confectioner threw at him like a cricket ball, placed four nickel coins on the shoe-board for

confectioner's assistant who stood ready to splash some water on them." (64)

As exploitation is the major theme of *Untouchable*, it deals with different types of exploitations such as social, economic, political, religious and sexual exploitation. But social exploitation is at the root of all other exploitations. The class discrimination on the basis of birth, which gives some castes undue advantage over other castes, can be called social exploitation. The author shows his concern over this social exploitation in the name of caste system that kills human dignity by giving an unfair advantage to a certain class over the others and damages the homogeneity of the society.

However, amidst such utter dejection Anand shows Bakha a glimpse of hope and faith through Gandhi and his ideology. By Gandhi's spiritual message, Anand brings Bakha back to his normal senses. Gandhi's words 'Harijan' and 'cleaners of Hindu religion' replace his humiliation by pride. Gandhi's speech works as a unifying factor. Bakha looks at Gandhi, "first with a mixed feelings of wonder, reverence and fear" (194). But later he starts feeling "something intimate and warm about him" (197) Gandhi makes him aware of the fact that "untouchability was not sanctioned by religion."(199) Gandhi makes him aware of their rights saying that they should ask for food grains as their right to labour charges and not contaminated, thrown away food or the 'leavings' from the plates of the high caste. Gandhi wanted to remove poverty, which is the cause of exploitation and make them aware of their rights. Anand feels that making the outcastes aware of their exploitation by the high castes is the first step towards their emancipation.

Anand wants to awaken the exploited, suppressed, dehumanised classes of the society. He realises that

exploitation to the lower class has been committed for centuries and it has not allowed them to rise above to make them feel human. Anand wants to uplift them from the deeps and give them their rights as human. Anand wants to highlight that even the untouchables are human beings. Though the patience is the badge of the lower caste, there is limit to human endurance. Anand does not allow his protagonist to revolt against exploitation as it would have been unrealistic in the Indian social scenario of pre-independent India; but he neither humbly submits. Anand wants to expose the pangs of an untouchable who for no fault of his own is exploited by the high caste. He wants the reader to listen to the untouchable's cry.

Thus using Bakha's story as a vehicle, Anand challenges the barriers and rules that inhibit the lives of untouchables and argues for upliftment of the untouchables. Anand thus exposes the violation of human rights in the pre-independent India in the novel *Untouchable* and thereby compels his readers to think on this issue and bring justice and equality for all section of people.

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Problematics of Human Rights and Eco-concern in Amitav Ghosh's 'The Hungry Tide'

Dr. Md. Maidul Islam

Part - I

Introduction

Of all, the humans are the best

All human beings are born free and equal in dignity and rights. Human rights demand recognition and respect for the inherent dignity to ensure that all are protected against abuses which undermine their dignity, and give the opportunities they need to realize their full potential free from discrimination. The right to freedom of expression, the right of freedom of religion or conscience, the right to property, the right to freedom of assembly, the right to freedom of privacy, the right to an adequate standard of living, the right to adequate food, housing, water and sanitation are some of the human rights held by all persons equally, universally and forever. These rights belong to everyone, everywhere or age regardless of nationality, sexuality, gender, race and religion.

One of the most fascinating regions on the earth, the

Sunderbans or 'the tide country', the islets of the Ganges delta lie to the south of Kolkata and just east of the West Bengal-Bangladesh frontier. This area, a unique and immense archipelago, home to several thousand species including the human and nonhuman, is designated by the UNESCO as a World Heritage Site and Biosphere Reserve. In this coastal region between India and Bangladesh in the Bay of Bengal, life of the settlers is extremely precarious. The tiger conservation project in the area in the 1970s prompts the state-led eviction of the Bangladeshi refugees from the islands. Again in 2000 the Government handed over large tracts of the islands to a private company for an eco-tourism project. Violation of human rights in the name of animal conservation gains upper hand here. On the other hand attacks by deadly tigers make the lives of the settlers very pathetic. Every year dozens of people perish in the embrace of the dense foliage of the land, killed by tigers, snakes and crocodiles. Facing this kind of hostile situation of unrest and eviction threats, the settlers struggle to find meaning of their lives. After the famine of 1942 the whole region was devastated when hunger and catastrophe became a way of life. Hunger drove them to hunting and fishing, and the results were often disastrous as thousands risked death in order to collect meager quantities of honey, wax, firewood, and the sour fruit of the Kewra tree. No day seemed to pass without news of someone being killed by a tiger, a snake or a crocodile. Amitav Ghosh, in his 'The Hungry Tide', makes a case for the indigenous inhabitants who were considered a direct threat to the lands, forests and reserve areas and who in turn were dispossessed of their homes to accommodate more space for the tigers.

Subaltern is a term used in the postcolonial theory to represent the oppressed or the marginalised sections of the

society. It echoes the non representation of the subalterns in the mainstream activities of a society. It reflects the issues like the issue of survival, identity or of representation as having less access to the social, political or cultural aspect. Subalterns due to their subject and position are often unable to speak out their problems or the sufferings. Intellectuals as well as the litterateurs can do it on behalf of them by raising their voices. Through their writings many contemporary writers have been trying to voice the subalterns and this voicing of the subalterns or the marginalised is an attempt to bring them from the margins to the center of the society. Amitav Ghosh is one writer amongst them who as an ace story teller of our time has joined the growing number of novelists like Khushwant Singh, Monohar Malgonkar, Chaman Nahal, Shashi Tharoor, Salman Rushdie and others with a sense of historical and political consciousness. He combines the art of nature writing and fiction at once illuminating the struggle between human and animal both forming an integral part of nature. His greatest strength lies in the way he maps the geography of the human heart and examines the nature of man's identity. He engages himself in the rhetoric of storytelling weaving fiction and fact, using the protest of nature and its environment as the foundation from which to study the politics of human life. His novel *The Hungry Tide* (Harper Collins, 2004) is a stunning record of human breadth which is epic in scope, sophisticated in its observations of people and their milieu, poetic in its evocation of the terrible beauty of the Sundarbans and astute in its analysis of the geographical and socio-cultural forces that have shaped this region. It tells us about the people of the Sundarbans and their heroic struggle for survival.

Part - II

Struggle of life to find a place to live in

Ghosh believes that the grand canvass of any incident most of the time overlook individualistic experience during the colossal sweeps of historical, social or political turmoil. So Ghosh, in his novels deals with the characters taken from lower strata of society forming subaltern identity, fits them into the historical events and expresses their sufferings and fights for the survival in respect to that event. His portrayal of the notions of subaltern generates the enquiry of and conception of foundation, to trace their societies and identities to their innate position, an engrossing conformation of centre and margins, involving of cultural identities, intricacy of the nucleus shift, a belief of the fact that the subaltern can speak for themselves or their position can be illustrated either through making them speak their stories or by creating stories on and around them in his writings. In the present novel, Kanai, a forty two year CEO of Bureau of Translators and Interpreters, was on his way from New Delhi to Lucibari, an island of Sunderbans. He was going there to meet his aunt Nilima Bose, the founder and organiser of an NGO called Badabon Trust. She was also maintaining a hospital to provide medical service to the poor and helpless people of the region and thus got well known in that area as 'Mashima'. She asked Kanai to come to Lucibari in order to hand over a sealed note book of her late husband, Nirmal Bose. Because of his links with leftist party; Nirmal Bose was detained by the police and therefore in 1950, he shifted from Calcutta to Lucibari along with his wife Nilima. Kanai, on his way to Lucibari, met Piya in train. She was a cetologist from USA going to Sunderbans, for her research on Dolphins of that area. She was born to Bengali parents

in India but brought up in Seattle, USA and hence was a stranger to her mother country and mother tongue.

Kanai went to Lucibari and met Mashima. She handed him over a sealed note book, as told by her late husband, Nirmal Bose at the time of his death in 1979. The note book was about Nirmal's experiences with the historical Morichjhapi incident of 1979. Kanai happened to know Kusum, a helpless woman who was part of the incident. It was that in 1970 when Kanai visited Lucibari as a teenage boy, he played with her and she told him many stories about the tide country. Now by reading Nirmal's note book he came to know that Kusum died in the Morichjhapi incident. Morichjhapi incident refers to the forcible eviction of Bangladeshi refugees from Morichjhapi island of Sunderbans. After the partition of India in 1947 and the Bangladesh War of 1971, many of the Hindu Bengalees fled from Bangladesh and came to West Bengal. Those rich and affluent people who came earlier could easily settle, but the poor and lower caste people who arrived late, could not be accommodated. They were shifted to rocky and inhospitable Dandakaranya forest. The left parties of West Bengal, who were in opposition at that time, demanded the Government for the accommodation of these refugees in West Bengal. Later in 1977 the left parties came to power in the state and the refugees in Dandakaranya during the year 1978 started arriving in West Bengal. But by that time the left parties in power changed their policy and began to consider these refugees as burden to the state. In the meantime about forty thousand refugees settled in uninhabited island called Morichjhapi of Sunderbans which was by then declared a part of the protected area under Reserve Forest Act. Therefore the Government in power considered this settlement of the refugees as an unauthorized

occupation of Reserve Forest land. The Government tried to send these refugees back, but they did not agree. On 24 January, 1979 the West Bengal Government imposed section 144 and started economic blockade by stopping food and water supply to the island. On 31 January, 1979 when the settlers attacked a police camp, the police opened fire on the settlers. The press was informed and the news became sensational and as a result the Calcutta High Court ordered the Government to stop the economic blockade. After the failure of economic blockade the Government started forcible eviction in May, 1979. The media was not allowed to the area to cover up news. In the incident many people died and their dead bodies were dumped into the water. Some others drowned while trying to flee. The survivors were sent back to Dandakaranya. This incident of Morichjhapi is a part of the public history.

As Amitav Ghosh is more interested in private histories of the individuals who were victimised in the historical incidents, he uses public history as a background for his reconstruction of private history. The migrants who struggled in Morichjhapi fall under the subaltern category. Here Amitav Ghosh reconstructs the private histories of these subalterns through the example of Kusum and thereby tries to voice their plight and sufferings. Kusum is a girl from the island of Sunderbans whose father was killed by a tiger while foraging for firewood. As he did not have any permit for his occupation; Kusum's mother did not get any compensation from the Government. Her mother was sold to a brothel house by a land owner. Kusum was also about to face the same consequences. At this juncture Horen, a man from the village came forward to save her. She then went to Dhanbad in search of her mother. At the railway station she met Rajen, a layman from the tide country who

used to sell Ghugni there. Kusum stayed with him for some days and found information of her mother. Her mother was in a very pathetic situation in a brothel house. Kusum and Rajen somehow managed to save her and then in presence of her they got married in 1974. They had a son named Fokir. After three months Kusum's mother died. In 1978 Rajen died in a train accident leaving Kusum and Fokir in a helpless condition. Kusum heard about a group of people going from Dandakaranya to the tide country. She joined them and came back to her homeland and settled in Morichjhapi. She got herself actively participated in the protest movement against the Government that tried to evict them from the place. During the economic blockade she suffered a lot and became very weak. At that time she said, "*...the worst part is not the hunger and the thirst. It was to sit here, helpless, and listen to the police making announcements, hearing them say that our lives, our existence was worthless than the dirt or dust. This island has to be saved for its trees, it has to be saved for its animals, it is part of a reserve forest, it belongs to a project to save tigers, which is paid for by people all around the world... this whole world has become a place of animals, and our fault, our crime was that we were just human beings, trying to live as human beings always have, from the water and the soil.*" (The Hungry Tide, 261-262). On the final day of the protest when the police attacked the settlers, many people died. Many people along with Kusum were taken away, raped, killed and then thrown away into the waters of the tide country which she loved very much. As the administration barred the media from entering the island, the true report of casualties remained unknown to the world. For example the death toll as per official record was two, but according to news reports of those days the

actual deaths were more than thousand. Amitav Ghosh has successfully brought out the truths through the details found in Nirmal's note book and thus the hungriness of the tides to drown the truths of Morichjhapi is brought into light. Here Ghosh has successfully made the readers feel the pain of all the settlers in the island through the sufferings of Kusum and other migrants who cried wafting across the water, "*...Amra Kara? Bastu Hara. Who are we? We are dispossessed.*" (The Hungry Tide, 255). Here Ghosh has brought out the silenced history of the helpless migrants of the Morichjhapi and gave voice to the subalterns like Kusum.

Part - III

The other creatures also have a right to live

Initially the islands of the Sunderbans were only forests with no people or embankments, but tigers, crocodiles, sharks and leopards. There have been sustained efforts from various quarters both governmental and non governmental to save the Sunderbans in terms of conservation and habitat restoration as a part of restoring the entire ecosystem of the region. But since the first settlers arrived in 1920s, people had been pouring in from different parts of undivided India to settle in the tide country. Human interferences have been such that vegetations were cleared for their settlement and the region has become prone to frequent changes in weather conditions. The waters exploited for fishing, and the increase in the salinity of water has also resulted in loss of species and fall in fish catch. Due to over interference of the human beings, the non human creatures strive for their own eco-space and thereby trying to find their means of survival.

The tigers, the most powerful of the species, have to conflict with man. The depletion of the biodiversity sounds the death knell of several rare species like the Gangetic and Irrawaddy dolphins, crocodiles, deers etc., with other flora and fauna also at the point of extinction. The shrinking mangrove forests of the Sunderbans also pose a threat to the endangered species. Nearly 200 meters of the coastal vegetation disappear every year, due to global warming, cyclones, tidal waves and human activities and as a result nearly 500 species of reptiles, fishes, birds and mammals including the Royal Bengal tigers of the region are fast depleting.

Part - IV

Suggestions

Special policies and measures should be made to address the ecological problems in the Sunderbans. Local people need to be sensitised on environmental issues like global warming and its impact on their islands. Alternative income sources should be provided to local inhabitants so as to prevent them from doing any harm the ecological balance. Basic amenities like water, electricity and health requirements should be provided to them. Involvement of the educational institutions, industries, NGOs and other agencies are must to work with the people of the area towards community development and habitat maintenance. Eco-friendly projects should be implemented in calculating measures and also in consultation with the local people. Well calculated development activities should be undertaken by the Government to eradicate poverty from the area.

Part - V

Conclusion

In spite of the ambiguities in human non-human conflict where the subject-object positions are always overturned, they are equally at the mercy of a bigger force that seeks to destroy both without any preference. While conserving endangered species in the eco-system should not be done at the cost of the livelihood of the economically backward local people, the Sunderbans, which is one of the rarest environmental treasure troves and natural resources of India should be protected and conserved for future generations. Sunderbans is not the only case; there are other several endangered ecosystems on this earth. It is the moral responsibility and accountability on the part of every human being to conserve our environment, as it is increasingly becoming a threatened environment for each and all of its members, human or non-human, where each requires its own space to be. Therefore the need of the hour is to build a future that strikes a balance between man and his surroundings, to live in harmony with his environment.

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Concept of Human Rights and its Denial presented in Indian novels in English : A Study of selected novels of Mulk Raj Anand and R. K. Narayan

Pyar Md. Raina

Human rights are the inseparable fundamental rights to which a person is inherently entitled simply because he or she is a human being. Civil liberties are 'the rights guaranteed to citizens or residents of a country or territory as a matter of fundamental law.' Human rights, being the birth right, are inherent in all human beings irrespective of caste, creed, sex, religion, and nationality. Human rights are prerequisite for all individuals as these are essential for all round development of the personality of the individual in the society and conducive to physical, moral, social and spiritual uplift that ought to be protected and be made available to all. According to the Protection of Human Rights Act, 1993, human rights means the relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the international covenants and enforceable by the Constitution of India.

The Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly on 10 December, 1948 is an unprecedented step in the field of human rights. The Declaration enumerates the guarantee of various rights

of men and women which include the rights to life, quality, liberty, dignity, profession, property, marriage, education, justice, privacy, and equal access to public services and political institutions.

Human rights are based on elementary human needs. But the modern era has witnessed a wide scale violation of human rights especially of women, children, poor people and the downtrodden. Hunger, deprivation, destitution, fear, death, oppression and exploitation are the hallmarks of the times where human rights of the weaker or underprivileged sections are always thwarted and denied. The literary productions are always colored by the forces of the time or age when it is produced. Literary genres— novel, drama, short story etc. are the mirror of the society where the writers portray the observed realities of the society detachment.

Literature has invariably contributed to the protection of human rights. It also unveils the violation or denial of such rights in the lives of the individuals. Literature can be a useful medium for the protection and preservation of human rights. It can arouse our urges and make us feel our needs and shortages. The Indian English novelists are also touched by the incongruities and the problems which human beings are confronting in everyday life. They present the happenings around them as they occur. They look at the society and its development with ironic detachment and accept the reality unquestionably. The heroes of R.K. Narayan present the ironies of life and the heroines expose the deprivation and exploitation of common housewives who are denied equal rights. His central characters show everything that occur in the every walk of life. Mulk Raj Anand reacts sharply against social injustice, deprivation and discrimination existing in the society.

Mulk Raj Anand's *Untouchable* deals with the problem

of casteism in general and untouchability in particular. The novel lays bare the humiliating experiences of Bakha who challenges the Brahmanical norms of high caste people. He says that casteism is a crime against humanity and everyone who believes in human dignity should try to eliminate it. Bakha, the hero of the novel, is a victim as an individual of the caste-conscious society. He is made to feel that he is a sweeper's son and hence untouchable. He has to face the abuses of society because of his low origin. He is denied right to liberty and equality by the social discrimination caused by caste. The feeling of untouchability is so deep-rooted in him that it prevents him from taking any action against the sexual abuse of his sister, Sohini.

The novel depicts a day in the life of Bakha and brings out the impact on him of the various events which take place, by giving us his stream of consciousness in the manner of James Joyce and Virginia Woolf. One of the social concerns that recur in the novel is the inequality between the rich and the poor. Bakha's sufferings are the sufferings of his lot only due to his caste. The novel may be called a psychological novel constituting a close study of the mind of Bakha in which tension is created by a series of humiliations he receives from the high caste people. Only due to his caste, Bakha is abused, ill-treated and denied self-respect, dignity and honour. He was deprived of the fundamental rights of life as he had been subjected to humiliations and mental tortures. Anand exposes religious hypocrisy which denies liberty and equal status among people. Anand also exposes the hypocrisy of the upper class when Sohini was abused and tried to be exploited by Kalinath. But when she did not yield to the sexual desires of Kalinath, she is charged of polluting him as she is from sweeper's family.

Mulk Raj Anand's novels are marked by a deep social consciousness and he chooses a central character, through whose view point he stares at the various absurdities, incongruities and other ills of society where basic human rights are denied to the individuals. Anand's main preoccupation is the human predicament. In his novels, Anand delineates the economic exploitation of weaker section of society and existing class discrimination causing serious inequality. Anand's *Untouchable* (1935) delineates the pitiable condition of downtrodden people in Indian society and *Coolie* (1936) exposes the pains and predicaments of poor working class people and depicts the sad and pathetic life of Munoo, a young boy of Bilaspur from the Kangra Hills of Himachal Pradesh. It is a human tragedy caused by poverty, exploitation, cruelty, greed and selfishness. Munoo is a victim of social forces in his life. He represents the miseries of the poor and the downtrodden that are denied justice, liberty and equality. The values of human rights propounded in our Constitution seem meaningless for people like Munoo who are deprived of their basic rights by the social forces of exploitation.

Coolie represents the picture of an orphan boy Munoo who is despised by the society, rejected by his relatives and oppressed by his masters. At the beginning of the novel, we find that Munoo, a boy of 14 years is studying in Class-V, in a rural school at Bilaspur. But he is deprived of education when his uncle Daya Ram wants to take him to Sham Nagar, a town ten miles away from their village for seeking some job there. Driven by the dire necessity of independent livelihood, he goes with uncle and works as a domestic servant in the house of Babu Nathoo Ram, the Sub-Accountant in the Imperial Bank. Being unable to bear the ill-treatment of Bibi Uttam Kaur, he runs away and

boards a train. In the train, he met a man named Prabha Dayal, who himself was a coolie and an orphan like Munoo, but now he is the owner of a pickle factory at Daulatpur. Munoo is taken to work as a labourer in the factory. Though Prabha and his wife were sympathetic towards Munoo, he had to work hard from morning to late in the night, in the dark suffocating atmosphere. But due to the ill treatments meted out to the workers by Ganpat, the owner of the factory, Munoo feels that it is impossible to work there. So he leaves the factory and embarks upon a new work as a coolie first in the grain market and then in the vegetable market and finally in the railway station. Munoo's sufferings in the factory are indicative of the pathetic condition of the industrial workers who had to work in unhealthy conditions. Inhuman treatment was meted out to them where the rights to liberty, freedom of speech and dignity were suspended in the lives of the poor workers. A kind hearted driver comes to Munoo's help and he reaches Bombay. In Bombay, Munoo starts working in a cotton mill where the conditions are very horrible. The owner of the mill cheats and exploits the poor.

The novel *Coolie* is a powerful indictment of modern capitalistic society and its tragic exploitation of the poor. Munoo, the hero of the novel, wants to live, but the society does not allow him to live. He dies of exploitation, poverty and hunger. M.K. Naik observes, "The central theme of the novel is the tragic denial to a simple, landless peasant of the fundamental right to happiness. The terrible destiny of being a victim of exploitation is indeed Munoo's birthright." The theme of exploitation of the underprivileged is presented in depth in the novel. The final act of Munoo's tragedy begins when Mrs. Mainwaring, whose car knocks him down, takes him to Simla and takes Munoo as her servant. The

poor boy is made to work hard, to pull rickshaw uphill for long hours till his energy is exhausted and he begins to cough and bleed. At last, he passes away in the arms of his friend Mohan. In *Coolie*, Munoo's suffering attains epic dimensions and a universal significance. Munoo is denied his fundamental rights to life and happiness. The life history of Munoo is the history of starving millions of Indians who are overworked, insulted and treated as animals till they die untimely death. Munoo is a universal figure who represents the sufferings and starving millions of the country who fail to enjoy the fundamental rights of life and destined to undergo exploitation and destitution.

R.K. Narayan's *The Dark Room* illustrates the typical attitude to Indian life and unveils the deprivation and predicament of common housewives who are denied equal rights in their day to day lives. Narayan's early novels were written before independence of India, which portrays women as mere orthodox and God-believing entities engaged in household chores, deeply rooted in age old traditions and beliefs. But in his later novels, R.K. Narayan portrays the heroines who are capable of expressing their resistance to male dominance, denial of identity and freedom of expression. *The Dark Room* presents the picture of domestic disharmony where the husband is dominating and unfaithful. The character of Savitri typifies all suffering housewives of our society who are exploited by all means in their lives. Savitri does not receive much pleasure and love from her husband. Her husband, Ramani is proud and dominating. He has strong superiority sense as the chief of the family. He never showers his love or care towards Savitri or even towards his children. Savitri and her children are always bullied over simple mistakes and treated as servants. Her husband dominates her and expects full obedience from

her all the time. She has even to ask him what vegetable she has to cook. Savitri is an uneducated, simple woman who knows little about the world outside. Ramani governs his house according to his own sweet will. He is very domineering and cynical in his ways. He does not let Savitri share her inmost feelings and expectations. As Ramani is always irritable, the atmosphere in his house is generally gloomy and Savitri and her children always remained in a state of terror. They could not enjoy their fundamental needs and had to live under oppression and dominance. Savitri's rights were totally denied by the arrogant husband. She had to tolerate the abuses and negligence by her husband without any question. She is symbol of traditional womanhood and devoted to her husband. But her husband does not respond to her sentiments even with ordinary warmth. Though they have been married for fifteen years, Savitri has received nothing from her husband except rebukes and abuses. Savitri had to endure lots of humiliations from her husband. To find solace and escapism, she takes refuge in the dark room, a musty, unlit storeroom in the house. Savitri was deprived of love and happiness of conjugal life. The right to liberty and equality as enshrined under Article 14 of the Indian Constitution is virtually meaningless for her. Her woes and miseries are enhanced when she comes to know about her husband's infidelity and his affair with Shanta Bai. All her dreams and hopes were shattered. Seeing no way of correcting her husband, Savitri revolts against him and in utter frustration and disgust, she leaves her husband's house with an intention of committing suicide. But Savitri is rescued from drowning by Mari. She embarks upon an independent living of her own by working in the temple. But soon she realises the futility of her attempt to escape from her bonds with the

temporal world and returns to her husband's hateful home. Savitri's return symbolises the rich Indian tradition and strong family ties in Indian culture.

Savitri's character typifies the sufferings of common Indian housewives who are denied equal rights, respect and dignity. She had no scope to express herself and all her dreams were crushed. She had to tolerate only the abuses and mental tortures and was deprived of love, care and affection. Her character exposes the total denial of the values of human rights in a typical male-dominated society.

Both R.K. Narayan and Mulk Raj Anand dwell on the social issues prevalent in the society and presents them realistically in their fictional narratives. Anand is a novelist of urgent social concerns and preoccupations. He is considered the Messiah of the downtrodden, the unwanted and the unloved. Both the writers react against the denial and deprivation of human rights and civil liberties such as inequality, exploitation, discrimination and untouchability. They expose effectively the social ills gripping the society where the vulnerable sections such as women, children and the downtrodden are denied the fundamental rights of life and happiness.

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About the Book

This book is an attempt to discuss and analyse human rights, one of the most crucial issues of contemporary world. It throws light on different dimensions, aspects, issues and challenges of human rights from global, Indian and local perspectives.



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