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PROTECTION AND PROMOTION OF HUMAN RIGHTS IN INDIA



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ABSTRACT

Human Rights refer to the idea of human beings as having universal rights, or status, in spite of illegal jurisdiction, and similarly other localizing factors, such as nationality and ethnicity. For various, the concept of “human rights” is based in religious principles, or else is otherwise directly interrelated to them. Human Rights can be regarded as the civic complement of political power which is vested in those who administer the state. There is power of people and there is power of the state arising from human rights. One side there is the government and on the other side there is the people’s work out of human rights. Human rights imitate basic human needs. They set up basic standards without which people cannot live in pride. To violate someone’s human rights is to treat that person as though he or she were not a human being. To activist human rights is to demand that the individual dignity of all people be respected. Human rights, as the word is most commonly used, are the rights that every human being is permitted to enjoy and to have sheltered. The essential idea of such rights fundamental values that should be respected in the treatment of all men, women and children exists in several forms in all societies and cultures. A human right is a universal moral right, something which all men, all over the place, at all times must to have, something of which no one may be destitute without a serious affront to justice, something which is outstanding to every human just because he is human. This paper will attempt on promotion and protection of human rights India. This paper will also throw some lights on different mechanisms basic for the protection of human rights.

KEYWORDS :Human rights, NHRC, NGOs, Protection.

INTRODUCTION

All human beings, for the simple reason that they belong to human category, are allowed to enjoy convinced rights from the cot to the serious. These rights are their birth rights and, consequently, called natural rights. These are the vital entitlements of human beings without which life is not value living, agreeable, enjoyable and significant. The idea of natural rights i.e. birth rights is as old as the derivation of mankind. But flat then these rights could not be enjoyed by every section of human beings in the ancient age i.e. before the rise of the sun of civilization when “survival of the fittest was the order of the day”. It can, consequently, be deduced that in those shady days the idea of Human rights was not born. People in democratic countries enjoy certain rights, which are sheltered by judicial system of the country concerns and which are very necessary for human survival. In Indian circumstance, India respects the rights of the people, which are scheduled in our constitution under the heading “Fundamental Rights”.

India is a nation that took the lead fifty years ago to embrace human rights both in the U.N. Charter and in India's own Constitution. Its people are rightly proud of their social and philosophical tradition of humanism and universalism based on non-violence, pluralism, tolerance, coexistence, and the individual chase of truth. These values are entrenched in its civilization and manifested in national facts such as Lord Buddha, Emperor Akbar, Rabindranath Tagore, and Mahatma Gandhi. India has established its commitment to democracy and the growth of human rights in all parts of the world.

1. IMPLICATIONS OF HUMAN RIGHTS UNDER INDIAN CONSTITUTION

Since the days of the Indus Valley Civilization, Indian culture has been the product of a fusion of diverse cultures and religions that came into contact with the massive Indian sub continent over a very long extend of time. As Jawaharlal Nehru notes, there is an endless continuity between the most modern and the most ancient phases of Hindu idea extending over three thousand years.

When the British came to India, the country was ruled by many rulers who exercised sovereignty in their territories, with internecine wars being very common. While this was the political state of the country, there was a running golden thread of Indian culture that held them jointly as Indians. That golden thread comprised the manner in which society was constituted in unity with the scriptural injunctions in the Shrutis, Smritis, Itihasa, Puranas and the vast body of literature which goes under the name of Shastras. The rights and duties of the people and the rulers were set out within and a survey of them gives an apercu into the Indian thinking on different issues including human rights. In 1931, the Indian National Congress approve several resolutions committing itself to the protection of fundamental civil rights and economic-social rights for example, the minimum wage and the abolition of Untouchability and serfdom. The Karachi Resolution adopted by Congress was also a landmark as it demanded to include the economic freedom with political freedom to end the exploitation of the people and lastly the Sapru Committee. India has been called the “world’s largest democracy.” It is merely “A democracy of the few for the few and by the few” and is probably the biggest violators of human right acts in human history. India became independent in 1947 and we gave to ourselves a constitution which guaranteed to all its citizen equality, liberty and justice, political and social irrespective of color, caste, creed or sex. The Constitution of India, one of the world’s lengthier written constitutions (with 395 Articles and 12 Schedules in 117369 words in English) was passed by the constituent assembly on November 26, 1949. It has been in effect since January 26, 1950. In Indian

context, a few reasons made the articulation of the fundamental rights in the Constitution. The need to have the Fundamental Rights was so very well accepted on all hands that in the Constituent Assembly, the point was not even consider whether or not to incorporate such rights in the Constitution.

2. PROTECTION AND PROMOTION OF HUMAN RIGHTS IN INDIA

When we speak of Human Rights in universal terms, we speak of certain basic rights guaranteed to all individuals, in spite of local jurisdiction and other factors such as nationality and ethnicity. It must be unstated that a formal meaning of Human Rights has not been universally made or accepted by different social scientists. Human rights reflect the minimum standards essential for people to live with dignity. Human rights give people the liberty to choose how they live, how they articulate themselves, and what kind of government they want to support, amongst many other things. Human rights also guarantee people the means needed to satisfy their basic needs, such as housing, food and education, so they can take full advantage of all opportunities. Finally, by guaranteeing life, liberty, equality, and security, human rights protect people against abuse by those who are more powerful. Human Rights are not constantly interpreted similarly across societies; these norms nevertheless form a common human rights terminology in which the claims of various cultures can be uttered. To protect human rights is to make sure that people receive some degree of decent, humane treatment. Dependability to protect human rights resides first and leading with the states themselves.

2.1 ROLE OF CONSTITUTION IN PROTECTING HUMAN RIGHTS

In India, human rights simply did not come to force with the embracing of the Constitution and necessary a concrete plan and system to implement as well as bring this Constitution in real practice. The fight for human rights was a vital part of our freedom struggle. It was not simply a fight for national or political independence, but also one, which envisaged a just, and pluralistic society based on respect and patience for the dissimilar sections of our diverse society. The Constitution of India is one of the most rights-based constitutions in the world. Drafted around the same time as the Universal Declaration of the Human Rights, the Indian Constitution captures the core of human rights in its Preamble, and the sections on the Fundamental Rights and the Directive Principles of State Policy. As in the international covenants on Civil and Political Rights and Economic, Social and Cultural Rights, in the Indian Constitution, the justified human rights are included in Part III on Fundamental Rights and non-justifiable economic and social rights are set forth in Part IV containing Directive Principles of State Policy. It is the duty of an individual to enjoy these fundamental rights without creating rift in the society so that there must not be any kind of Human Rights issue.

The Fundamental Rights according to Indian Constitution are:

- 1.Right to Equality
- 2.Right to Freedom
- 3.Right against Exploitation
- 4.Right to Freedom of Religion
- 5.Cultural and Educational Rights
- 6.Right to Constitutional Remedies

1. Right to equality

Article 14 of the constitution guarantees the right to equality to every citizen of India. It

embodies the general principles of equality before law and prohibits unreasonable discrimination between persons. Article 14 embodies the idea of equality expressed in preamble. The Constitution also says that we should not show any favorite or treat someone unfavorably because “of religion, caste, race, sex or place of birth.”

2. Right to Freedom

Article 19 of Indian Constitution enumerates certain positive rights in order to promote the ideal of liberty promised in the Preamble. Six fundamental rights in the nature of freedom are guaranteed to the citizens in the Article. Freedom of speech and expression subject to logical restrictions on grounds of sovereignty and integrity of India, security of the State, friendly dealings with foreign states, decency and morality, incitement to an offence, public order, defamation and contempt of court.

3. Right against Exploitation

Child labour and Beggar is prohibited under Right against Exploitation. The right against exploitation, given in Articles 23 and 24, provides for two provisions, namely the abolition of trafficking in human beings and Beggar (forced labor), and abolition of employment of children below the age of 14 years in risky jobs like factories and mines. In an environment of all pervading poverty, children are frequently forced to seek employment to earn a living. Employers often find it less costly to employ child labour at a cheap price. But children so employed do not get opportunities for development. Thus, employment of child labor is a form of traffic in human beings. Hence it is justifiably forbidden. But employment of child labor cannot be in effect checked unless there is in general improvement of economic conditions of the poorer sections of the society. This provision of the constitution remains a devout wish even today.

4. Right to Freedom Religion

Religious freedom is a fundamental human right of every person on earth. It has been recognized by international accords and by the Second Vatican Council. But religious liberty is under attack in various countries around the world. One of the rights guaranteed by the Indian Constitution is the right to Freedom of Religion. As a secular nation, every citizen of India has the right to freedom of religion i.e right to follow any religion. As one can find so many religions being practiced in India, the constitution guarantees to every citizen the liberty to follow the religion of their choice. According to this fundamental right, every citizen has the opportunity to practice and extend their religion peacefully. And if any incidence of religious intolerance occurs in India, it is the duty of the Indian government to curb these incidences and take strict actions against it. Right to freedom of religion is well described in the Articles 25, 26, 27 and 28 of Indian constitution.

5. Cultural and Educational Rights

India is a land of mystifying diversity. It is a accumulation of people, languages, cultures and religions. In the words of Octavio Paz, renowned Mexican poet and Nobel Laureate, “India is an ethnographic and historical museum, but is a living museum-one in which the most modern modernity coexists with archaisms that have survived for millennia”.

The Articles 29 and 30 contain provisions to provide cultural and lingual autonomy to minorities in India. These Articles provide:

1. Protection of interests of minorities:

- a. Any section of the citizens residing in the territory of India or any part thereof having distinct language, script or culture of its own shall have the right to conserve the same.
- b. 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, language or any of them. (Art. 29).

2. Right of minorities to establish and administer educational institutions:

- a. All minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice.
- b. The state shall not, in granting aid to educational institutions, discriminate against any education institution on the ground that it is under the management of a minority, whether based on religion or language. (Art.30).

6. Right to Constitutional Remedies

Article 32 of the Indian constitution provides for constitutional remedies against the violation or transgression of fundamental rights. The fundamental rights are of highest importance to the individuals. They are basic conditions for the fullest development of personality. According to Ambedkar out of 395 Articles of the Constitution, Article 32 was the most important, because it provide for a guaranteed remedy for the violation of any of the rights. For the enforcement of Fundamental rights, the individual can approach the highest court of the land, i.e., the Supreme Court, even at the very first occurrence under Article 32 of the Constitution.

2.2 ROLE OF JUDICIARY IN PROTECTING AND PROMOTING HUMAN RIGHTS

The role of the India Judiciary and the scope of judicial analysis have expanded remarkably in recent times, partly because of the marvelous growth of statutory intervention in the present era. The judiciary plays an important role in the protection of fundamental rights of the citizen and non-citizens equally. The twin safeguards of equality before law and equal protection of laws are acknowledge as two of the most important pillars of human rights of the universe of freedom that is wherever ever freedom to declare human rights is familiar, whether under an unwritten or a written constitution. The Supreme Court of India has undertaken many ventures such as Bihar under trials, Bhagalpur building etc. It has adopted a proactive approach since last few years, principally having regard to the peculiar socio-economic conditions existing in the country. Infect, there are two different kinds of approaches which characterizes the performance of the highest court in every democracy.

The new activism of the courts goes along with a sense of public consciousness fostered by the press (Maxi, 1985). After having themselves been showing to illegitimate aggression during the emergency of 1975 to 1977, many members of the Indian middle classes became more awake of the significance of the rule of law. They were less willing to bear violations of human rights of members of destitute social groups. Public interest litigation by public spirited persons for actual public causes is encouraged to voice and address the grievances of the public at large and the poor in particular.

The contribution made by the Supreme Court of India in conservation the human rights of the people is very important. Initially, the attitudes of judiciary in India towards the directive principle of state policy were not favorable and it had nullified several important legislation embody socio-economic reforms. However, with the passage of time there has been a change in the attitudes of the

India judiciary towards social- economic rights claimed in part IV of the India Constitution. The independence of the judiciary of any State determined to protect human rights, is the only guarantee of justice in the State, and is the most important building block of justice. The independence of the judiciary is the key factor that allows the members of the judiciary to be out spoken. Further, the efficiency of judiciary is a significant needle of the encroachment and civilization of a Nation.

Nilabati Behera V. State of Orissa the Supreme Court while consider the question of grant of relief in a case of custodial death of the son of the petitioner opined that the old doctrine of only relegating the distressed to the remedies available in civil law limits the role of the courts too much as the "protector and guarantor of the indefeasible human rights of the citizens" and went on to say that the courts have an compulsion to satisfy the social aspiration of the citizens because the courts and the law are for the people and predictable to respond to their aspiration. The Court, therefore, in that case moulded the relief by granting recompense by way of punishing the wrongdoer and fixing the legal responsibility for the public wrong on the State which disastrous in its public duty to protect human rights of the citizen.

In Bandhua Mukti Morcha case the Supreme Court reiterated once more that right to life guaranteed by Article 21 included the right to live with human dignity, free from exploitation.

In Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360, the PIL was filed by an advocate on the basis of the news item published in the Indian Express, stress the plight of thousands of under trial prisoners languishing in different jails in Bihar. These proceeding led to the release of more than 40, 000 under trial prisoners.

The court's increased activism has been good and contributed a lot for India's democracy. The expensive, technical justice now becomes cheap and nontechnical through the growth of Public Interest Litigations. The important question today is not whether the Supreme Court could activate its judicial role, but to what extent the concepts of Judicial Activism and creativity are exercised. A balance between the powers of Judiciary, Legislature and executive is essential to carry the nation on the true path of democracy.

In this regards, the performance of the Indian Judiciary stands out as a indication contribution to the completion of human rights.

2.3 MECHANISMS FOR PROTECTION OF HUMAN RIGHTS

While enjoying our human rights, we should not violate the rights of others. The proper mechanism for enforcement of human rights is to create respect for human rights of others. But there have been conflicts and dissensions in the society. There happen situations where one violates human rights of others. Persons working in dissimilar capacities under the state and other authorities occasionally violate the rights of others. There are number of mechanisms by which human rights can be protected.

2.3.1 The Protection of Human Rights ACT, 1993

Broadly speaking, in line with the international guidelines, the government of India enacted a split full-fledged statute permitted: Protection of Human Right Act, 1993, in spite of the fact that 23 out of 30 articles of the UN Declaration have already been integrated in the Indian constitution. The Supreme Court of India had admitted that provisions of international instruments are not in conflict with National Laws. The Human Rights Act, 1993 has been created after consideration of said provisions. The said Act defines Human Rights as the rights relating to Life, Liberty and Equality and

Dignity of the individual.

2.3.2 STATE HUMAN RIGHTS COMMISSION

The protection and Human Rights Act 1993, enacted afterward, paved a way for the formation of the State Human Rights Commission in different states of the country. According to the statement the Objects and Reasons of the Act, State Human Rights commissions were constituted “for better protection of human rights and for matters related therewith or incidental thereto.”

2.3.3 NATIONAL HUMAN RIGHTS COMMISSION

There are different ways of protecting human rights. A pluralist and accountable parliament, an executive who is eventually subject to the authority of elected representatives and an independent, neutral judiciary are necessary, but not adequate, institutional basics. Besides these basic ‘institutions’ there may be other mechanisms whose organization and strengthening will improve the existing mechanisms. Lately National Human Rights Commissions (NHRCs) have become famous actors in the national, regional and international human rights arena. The UN bodies and other funders in international donor community have directly encouraged and supported both technically and financially the growth of these institutions. The international community lends its support because it considers the process of establishing NHRCs to be a signal that a government is willing to tolerate by international human rights norms.

With a view to strengthen the procedure of the protection of human rights in India, determined to set up at national level an sovereign National Human Rights system. On 14th May 1993 the protection of Human Rights Bill was introduced. But on 29th September 1993 the President of India, under Article 123 of the Constitution promulgated an ordinance for setting up a National Human Rights Commission to query into the complaints of violation of human rights against the public servants in every part of the country.

2.3.4 ROLE OF NGOS

The term, non-governmental organization came into existence in 1945 because of the need for the UN to make distinction in the Charter between the participation procedures of intergovernmental particular agencies and those of international private organizations (Willetts, 2003). NGO have a long history in India. In the past, people in this country have been establishing to have provided help to others in difficulty. Since centuries there exists the tradition of voluntary service to the deprived and helpless in the country. In the commencement, these services were rendered by people aggravated by their religious feelings. In the early years of 19th century, voluntary agencies provided services to the under-privileged and weaker sections of the society. The areas of operation were largely in the fields of religion and social reforms. Raja Rammohan Roy (1772 -1833), Ishwar Chandra Vidyasagar (1820-1891), Sasi Pada Banarjee (1842-1925), Keshab Chandra Sen (1838-1884), Swami Dayanand Saraswati (1824-1883), Swami Vivekananda (1863- 1902), Mahatma phule (1827-1888), Pandit Ramabai (1858-1922), Maharshi Karve (1858-1962), Sir Sayyed Ahmed Khan (1817-1898), Behramji Malbari (1853-1912) were the people who worked with devotion towards removal of caste restrictions, improving conditions of widows, women education, orphans and destitute women etc.. It was the 1970s which saw quick development in the arrangement of legitimately enrolled NGOs and the procedure proceeds right up 'til today. Most NGOs have made their particular topical, social gathering and land needs, for example, neediness mitigation, group wellbeing, training, lodging, human rights, tyke rights, ladies'

rights, common asset administration, water and sanitation; and to these finishes they put to hone an extensive variety of procedures and methodologies. Fundamentally, their emphasis has been on the quest for distinct options for improvement thinking and practice; accomplished through participatory exploration, group limit building and making of provable models. Globalization during the 20th Century gave rise to the importance of NGOs.

Non-government organizations with their advantage of non-rigid, locality specific, felt need based, beneficiary oriented and committed nature of service have established huge number of roles which can effect rural development. A number of NGOs have been playing a critical role in rural community development, besides government intervention. Realizing that the government alone was not able to meet the challenges of the huge enormous tasks in the process of rural development, the non-profit, charitable and non-governmental organizations had to be involved in dissimilar phases and activities at the global, regional and local levels. Summing up we can say NGOs have endeavored to incorporate youngsters inside of the incapacity schools, end rank based shame and segregation, forestall kid work and advance sexual orientation equity bringing about ladies getting break even with wages for the same work contrasted with men. Amid characteristic catastrophes they have assumed a lively part in alleviation and restoration endeavors, specifically, giving psycho-social care and backing to the fiasco influenced youngsters, ladies and men. NGOs have been instrumental in the creation and limit working of ranchers and makers' cooperatives and ladies' self improvement gatherings. The greatly observed NREGA, ICDS, ICPS, Nirmal gram, and Swasthya bima of the administration have their roots in the work of numerous NGOs.

CONCLUSION

The Indian Constitution is a document rich in human rights jurisprudence. This is a complicated charter on human rights ever framed by any State in the world. In India human rights are protected by the judiciary, human rights commissions, separately from these organizations the Non Governmental organizations also have a significant role in protection of human rights. In India, the ancient concern towards sanctity of human beings is echoed in the Constituent Assembly debates. The human rights are provided constitutional foundation. The preamble promise of securing justice, liberty and equality along with dignity to every individual elaborated in the parts connecting to fundamental rights and directive principles of state policy make the assurance of the Constitution to human rights manifest. This commitment is further armored by the fact that India is a party to all foremost international human rights instruments and has enacted domestic laws for the apprehension of human rights.

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- Academic Paper Database
- Digital Journals Database
- Current Index to Scholarly Journals
- Elite Scientific Journal Archive
- Directory Of Academic Resources
- Scholar Journal Index
- Recent Science Index
- Scientific Resources Database
- Directory Of Research Journal Indexing

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