



Indian Perspective of Human Rights:

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Abstract:

The earlier system especially the *varna-dharmas* (caste structures), has demolished personal human rights. It was restricted the natural right of the group of people basing on their race, caste creed and geographical area. However, our culture and tradition provided a way to self-disciplined respect to others at some extent and way to formulate guidelines of human rights as a fundamental right of the Indian as directed by the Indian constitution. In our country, one can't even talk about human rights in the contemporary scenario because the very fundamental rights provided by our constitution are still unavailable to the masses.

Key words: Human beings, equal in dignity, Fundamental Rights

Introduction

Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all individuals by virtue of their humanity alone, irrespective of caste, colour, creed, and place of birth, sex, cultural difference or any other consideration. These claims are articulated and formulated in what is today known as human rights. Human rights are sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights. The Universal Declaration of Human Rights (UDHR), 1948, defines human rights as "rights derived from the inherent dignity of the human person." Human rights when they are guaranteed by a written constitution are known as "Fundamental Rights" because a written constitution is the fundamental law of the state. In this context, an attempt is made in this paper to discuss the concept of right of life in the earlier and present system of human rights in India.

Earlier self-retrained right to life

In the Indian philosophical tradition primarily we come across a number of references to obligations than rights in the form of *Sadharana dharmas* and *varnasrama-dharmas*. In fact, the *Sadharana-dharmas* as obligations are not only performed towards human beings, but also towards all living creatures; although the latter do not have any obligations towards the former. However, as living creatures they enjoy certain rights, especially right to life. According to Manu, there are at least ten important duties to be performed by every human individual to attain the supreme goal of life. They are: contentment, forbearance, gentleness, and respect for other's property, cleanliness, self-control, knowledge, philosophic wisdom, veracity, and patience. **When Julian Huxley**, former Director - General of UNESCO, requested Mahatma Gandhi's view on human rights, Gandhi replied:

"I learnt from my illiterate hut wise mother that all rights to be deserved and preserved came from duty well done".



Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed.

Every right can be shown to be usurpation hardly worth fighting for."This clearly depicts the way in which the Indians are influenced by the tradition as regards the nature of rights. They always emphasized the need for fulfilling the obligation of the individuals as members of society. And it also shows that during the time when human rights emerged in the western countries, Indians were unaware of the notion of 'human rights'. In fact, the reply given by Gandhi to Huxley may come as a surprise to the modern western thinkers. But to the eastern mind, there is nothing startling about this position.

Some of the **dharmas** or obligations of man are **sadharana-dharmas** (i.e. obligations pertaining to man-as-such towards himself and others), and **visesa-dharmas** (relative obligations pertaining to the individual depending on the circumstances or his station in life). Manu, the great Indian law-giver, for example, includes **asley** (non-stealing of others property), **satya** (truthfulness) etc. as **sadharana-dharmas**, and the obligations pertaining to the four castes (**varna-dharma**) and the four 'orders of life' (**asrama-dharma**) as **visesa-dharmas**. The point to be noted here is that to be born as a person, according to the Indian thought, is to be born into a station in life, to be in essential relationship with others, and thereby to incur essential obligations to others.

Manu said that the king, who fails in discharging his duties, destroyed himself. On another occasion, Manu says, "A king who (duly) protects his subjects receives from each and the entire one preserve and protect the **dharma**, especially the **varna-dharmas** (caste structures) which are the moral bases of the society and provide opportunities for the individual to pursue his goals within the framework of the **varna-dharma**."

New era of right to life

The earlier system especially the **varna-dharmas** (caste structures), has demolished personal human rights. It was restricted the natural right of the group of people basing on their race, caste creed and geographical area. However, our culture and tradition provided a way to self-disciplined respect to others at some extent and way to formulate guidelines of human rights as a fundamental right of the Indian as directed by the Indian constitution.

Appraisal of Human Rights in India

Human rights are essential for the overall development of individuals. The Constitution of India makes provisions for basic rights also known as Fundamental Rights for its citizens as well as for aliens. A distinction is made between Specific Fundamental Rights and Unspecified Fundamental Rights. The rights enshrined in the Constitution also at times are at par with the International Covenant on Civil and Political Right (ICCPR) which is an international treaty. The ICCPR is applicable to States rather than to individual. Therefore, rights enshrined therein become the obligation of a state only when they have been incorporated in the State's internal law.



Table 1: Appraisal of Human Rights in India

1829	The practice of sati was formally abolished by Governor General William Bentick after years of campaigning by Hindu reform movements such as the Brahmo Samaj of Ram Mohan Roy against this orthodox Hindu funeral custom of self-immolation of widows after the death of their husbands.
1929	<i>Child Marriage Restraint Act</i> , prohibiting marriage of minors under 14 years of age is passed.
1947	India achieves political independence from the British Raj.
1950	The Constitution of India establishes a sovereign democratic republic with universal adult franchise. Part 3 of the Constitution contains a Bill of Fundamental Rights enforceable by the Supreme Court and the High Courts. It also provides for reservations for previously disadvantaged sections in education, employment and political representation.
1952	Criminal Tribes Acts repealed by government, former "criminal tribes" categorized as "denotified" and Habitual Offenders Act(1952) enacted.
1955	Reform of family law concerning Hindus gives more rights to Hindu women.
1958	Armed Forces (Special Powers) Act, 1958
1973	Supreme Court of India rules in <i>Kesavananda Bharati case</i> that the basic structure of the Constitution (including many fundamental rights) is unalterable by a constitutional amendment.
1975-77	State of Emergency in India extensive rights violations take place.
1978	SC rules in <i>Menaka Gandhi v. Union of India</i> that the right to life under Article 21 of the Constitution cannot be suspended even in an emergency.
1978	Jammu and Kashmir Public Safety Act, 1978
1984	Operation Blue Star and the subsequent 1984 Anti-Sikh riots
1984	2006 Extrajudicial disappearances in Punjab by the police
1985-86	The Shah Bano case, where the Supreme Court recognised the Muslim woman's right to maintenance upon divorce, sparks protests from Muslim clergy. To nullify the decision of the Supreme Court, the Rajiv Gandhi government enacted The Muslim Women (Protection of Rights on Divorce) Act 1986
1987	Hashimpura massacre during communal riots in Meerut.



1989	<i>Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989</i> is passed.
1989–present	Kashmiri insurgency sees ethnic cleansing of Kashmiri Pandits, desecrating Hindu temples, killing of Hindus and Sikhs, and abductions of foreign tourists and government functionaries.
1992	A constitutional amendment establishes Local Self-Government (Panchayati Raj) as a third tier of governance at the village level, with one-third of the seats reserved for women. Reservations were provided for scheduled castes and tribes as well.
1992	Babri Masjid demolished by Hindu mobs, resulting in riots across the country.
1993	National Human Rights Commission is established under the <i>Protection of Human Rights Act</i> .
2001	Supreme Court passes extensive orders to implement the right to food.
2002	2002 Gujarat riots which claimed several thousand lives of Indian Muslims.
2005	A powerful <i>Right to Information Act</i> is passed to give citizen's access to information held by public authorities.
2005	<i>National Rural Employment Guarantee Act (NREGA)</i> guarantees universal right to employment.
2005	Disappearance of Jaswant Singh Khalra by the Punjab Police (Khalra brought to light the extrajudicial disappearances in Punjab)
2006	Supreme Court orders police reforms in response to the poor human rights record of Indian police.
2009	Delhi High Court declares that Section 377 of the Indian Penal Code, which outlaws a range of unspecified "unnatural" sex acts, is unconstitutional when applied to homosexual acts between private consenting individuals, effectively discriminating homosexual relationships in India.
2014	"India took positive steps in strengthening laws protecting women and children, and, in several important cases, prosecuting state security forces for extrajudicial killings

In its report on human rights in India during 2013, released in 2014, Human Rights Watch stated, "India took positive steps in strengthening laws protecting women and children, and, in several important cases, prosecuting state security forces for extrajudicial killings."

The report also condemned the persistent impunity for abuse linked to insurgency in Maoist areas, Jammu and Kashmir, Manipur and Assam. The report also went on to state, "The fact that the government responded to public outrage confirms India's claims of a



vibrant civil society. An independent judiciary and free media also acted as checks on abusive practices. However, reluctance to hold public officials to account for abuses or dereliction of duty continued to foster a culture of corruption and impunity

Present scenario of Human Rights in Indian Context¹

Being human we are entitled to some rights which are essential for living our life with dignity and self-respect. Way back in 1948 United Nations organization made the famous the universal declaration of human rights. But even today these rights are not available to a large chunk of population all over the world and especially in India.

In our country, one can't even talk about human rights in the contemporary scenario because the very fundamental rights provided by our constitution are still unavailable to the masses. In my point of view our biggest internal security threat i.e. naxalism (as our PM mentioned it in an address) originated because of failure of our govt. in safeguarding the constitutional rights of its people.

If one carefully examines the area dominated by naxalites or Maoists then one can easily notice that it is till least developed area of the independent India. But Indian govt. is still not trying the solve the conflict through a logical and proper strategy i.e. development of these areas and mutual negotiation with the naxel leaders. But it is waging a war against its own people and innocent tribal people are caught in between.

Under the name of 'Salwa Judum' (which means 'purification hunt' in local gondi dialect) govt. is hiring naïve tribal youngsters to enlist as special police officers in security forces which are meant for the radiation of the naxal terror.

All types of atrocities are being committed in the name of maintenance of law and order. At the one side government is exploiting a innocent tribal people by enlisting them as SPOs on the meager amount of Rs. 1500 per month (i.e. Rs. 50 a day) and on the other hand it is making the situation even more violent by initiating the operations like 'Salwa Judum' and 'Green Hunt'.

Nobody pays attention to the plight of innocent tribal people who are being exploited by the both govt. as well as naxalites. Infact, they are its major victim as Asian Centre for Human Rights (ACHR) maintains in its report called, "The Adivasi of Chhattisgarh-Victims of the naxaltes and the Salwa Judum Campaign":-

"It (Salwa Judum) has created a civil war where one is either with the naxalites or with the Salwa Judum... The security forces and the Salwa Judum activists have been responsible for gross violation of International Human Rights and Humanitarian Laws including torture, killings and rape especially during joint operations to bring scattered villages under the Salwa Judum..."

One cannot even speak in our independent nation. The Chhattisgarh special public security act 2005 (CSPSA) allows imprisonment for upto three years if anyone is caught making



contributions to unlawful organizations, even if the contributor is not a member of such organization. On December 24, 2010, Dr. Binayak Sen, Vice President of the People's Union for Civil Liberty (PUCL) was sentenced to life imprisonment by the Raipur session Court for his violation of this draconian

act. Similarly, in 2007 Kartam Joga participated in petitioning in India Supreme Court regarding human rights violations in Chhattisgarh, Joga has been in Dantewara district Jail since 14th September 2010. Like Dr. Sen, joga's conviction is under the CSPA and UAPA

References:

¹ <https://milestone02.wordpress.com/2011/02/16/human-rights-in-indian-context/>

2. C. B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes and Lock*, (Oxford: 1962), p.9

3. Attar Chand, *Politics of Human Rights and Civil Liberties - A Global Survey* (Delhi: UDH Publishers, 1985) 45.

4 Nagendra Singh, *Enforcement of Human Rights* (Calcutta: Eastern Law House Pvt. Ltd, 1986) 7.

5. S. Radhakrishnan (trans.) *The Bhagavadgita* (London: George Allen and Unwin, 1958) 276.

6 Yogesh K. Tyagi, "The World Response to Human Rights," *Indian Journal of International Law*, Vol. 21, No.1 (January -March 1981): 120-121