Journal of Philosophy and Linguistics
Research Article Peer-review, Open Access

Human Rights: A Discussion in Indian Context

Dr. Anuj Kanchan Datta Roy [1]

Abstract: The concept of human rights is not a post-World War-II phenomenon. In essence its existence can be traced back in the eleventh century itself. Recognition of human dignity and their life are the primary concern of that period. However, it got momentum in the post-World War-II period with adoption of UDHR in 1948. With some reservation India ratified both ICCPR and ICESCR. The adoption of the Protection of Human Rights Act 1993 is also a milestone in the protection of human rights in India. The present paper aims to understand the human rights situation in India in contemporary days.

Keywords: Human Rights, Poverty, Gender inequality, Conflict.

[1] *Assistant ProfessorDepartment of Political Science Maharaja Bir Bikram University Agartala, Tripura*

Introduction:

The concept of 'human rights' is much used now-a-days in the academic discussions, socio-economic-political platforms, media and others. Though as a concept it is post World-War-II phenomenon, but in essence its root can be traced even in the 11th century; actually, the idea to respect humanity, human dignity exists since historical period. Thus, the right of human being remained as the concern from the time immemorial. The concept gained momentum in contemporary time because of its violation and the strong urge for its protection only.

The Concept:

Human rights imply all those conditions that are the pre-requirements for living a human life. 'Human rights' is an all-inclusive factor. It covers each and every kind of rights that protect people's life, liberty, freedom, dignity and personality. "Human rights are rights inherent to all human beings. They define relationships between individuals and power structures, especially the State." (Human Rights, United Nations Human Rights). According to the Protection of Human Rights Act, 1993, "human right means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India". Thus, human rights can be referred as certain demands, which are required for the development of human dignity and personality, recognised by the state. And human beings are entitled to these rights irrespective of any kind of discrimination.

Philosophical Foundations of the Concept:

The concept of human rights is the most important issue of concern for the academicians, social activists, policy makers, government officials and others. The essence of the concept can be found in the philosophical writings, socio-political-economic-cultural and religious traditions.

If we look at the Greek and Roman Philosophies, we shall find that these philosophies have greatly emphasised the importance of rights of people like voting rights, right to equality, right to be elected, freedom of speech etc. In England king John's Magna Carta of 1215 A.D. or the "the Great Charter of Liberty", With time the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizens (1789) have provided human rights a constitutional status. More particularly, human right has been given an interstate status only after the Second World War and the establishment of the United Nations (UN) in 1945. The theoretical contributions of Thomas Paine, John Stuart Mill, Hugo Grotius, Thomas Hobbes, Mary Wollstonecraft, Thomas Aquinas, John Locke and others in providing the foundation of human rights is also significant. (Jaswal and Jaswal, 1996)

American political theorist Thomas Paine in his 'Rights of Man' argued for basic 'natural rights' such as right to education, work; certain rights during old age etc. English philosopher John Stuart Mill supported individual liberty or freedom in his work 'On Liberty'. Hugo Grotius, the great Dutch jurist, for the first time viewed about the international standard of state behaviour. In 17th century he developed the doctrine of "humanitarian intervention". According to this doctrine, a state or group of state can intervene in the matters of other state, if the people of that state are suffering from gross human rights violation including genocide. Thomas Hobbes believed in individual freedom and equality of man. Mary Wollstonecraft, a British writer and philosopher, focused on the role of women in the emerging human rights movement. In her 'A Vindication of the Rights of Women (1972)' Wollstonecraft was concerned with the cause of women. She emphasized on women's education and citizenship rights of women. Thomas Aquinas developed the idea of the dignity of mankind as a gift of God. Thus, he emphasized the importance of natural law and believed that any order or authority could be disobeyed if it contravened the natural law because "unjust law have no moral validity". John Locke, a English liberal thinker, believed that people have natural right to life, liberty and property and that they derieve from natural law. Thus he advocates for a minimal state with limited government and individual rights (Jaswal and Jaswal, 1996).

Human Rights and United Nations

Though the idea of human rights is very much old but it gained universal currency, as concept, only after 1945. The world witnessed the devastation of the world war II. Because of the devastation the world leaders came forward to protect the humanity from such inhuman cruelty in the future. That is the reason that the UN adopted Universal Declaration of Human Rights on 10th December, 1948 and thereafter, 10th December is observed as 'International Human Rights Day'. It is the UDHR which laid the foundation for promotion and protection of human rights world wide later. The UDHR states "…… recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (Preamble, UDHR, 1948). From the above discussion it is clear that human rights are most important for the development of human dignity. Human being are entitled to the basic rights only because of the fact that they are born as human. They are entitled to these rights without any discrimination on any ground. After the adoption of UDHR, the UN has also adopted International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). The UDHR, ICESCR and ICCPR together formed the International Bill of Rights (Jaswal and Jaswal, 1996). Besides these there are a number of important international human rights instruments, relating to the rights of workers, persons with disabilities, women, children, refugees, migrants and on issues like slavery, forced labour etc., to protect and promote the all round basic rights of human beings all over the world. Some of these include Equal Remuneration Convention (1951), Declaration on the Rights of Disabled Persons (1975), Convention on the Elimination of All Forms of Discrimination Against Women (1979), Convention on the Rights of Child (1989) and many more. The UN has not just developed instruments or agreements relating to the

protection and promotion of human rights but has tried to observe and check whether the states are in compliant with the agreements or treaties that they have signed. For this six committees have also been formed within the UN. These Committees are:

1. The Committee on the Elimination of Racial Discrimination.
2. The Human Rights Committee.
3. The Committee on Economic, Social and Cultural Rights.
4. The Committee against Torture.
5. The Committee on the Elimination of Discrimination against Women.
6. The Committee on the Rights of the Child.

With this background human rights in contemporary society could be identified with a number of issues viz. discrimination, poverty, environment, unemployment, health, racism, displacement, impunity, conflict, gender inequality and many more. The study of the correlation between these various issues and human rights enables us to understand the fact that how inequality, deprivation and violence have affected the practice of human rights in Indian society. In particular, the interest of this paper is to understand the human rights condition of people in India in terms of gender inequality, conflict, and poverty.

Human Rights and Gender Inequality:

India is a multicultural society; in such society, inequality is a common phenomenon. Though, 'equality' in all respect is ensured legally, but in practice prevalence of inequality is the real truth at times. Among different kinds of inequality, gender inequality is the most common for Indian society. In Indian society different types of roles both inside or outside the family are specifically designated for men and women. Household works are expected to be perform by the females and they are treated inferior than that of their male counterparts. In every sphere of life whether social or economic or political women are treated inferior and believed that they are incapable to take decisions. Though steps have been taken to uplift the status of women but in practice they always remain unequal. Patriarchal society hardly expect or encourage the leadership role of women.

It is an undeniable fact that the government has adopted numbers of step for upliftment and protection of women. But the societal outlook and economic dependence are the reasons for gender inequality in Indian society, this in turn, violates the human rights of women. This inequality starts in the family itself. The male are given superior position or priority in all respect than that of females. All round development of males are major concern of the family members. Not only in the family, this discrimination exists in the community level too. Such inequality and inferior position of women ultimately results in different kinds of violence like rape, domestic violence, sexual harassment, teasing etc. against women. All such violence and inferiority position affects the dignity of women and leads to the violation of their rights. Women are primary victims of any kind of violence.

The contribution of women in all spheres of life can't be measured only in economic values. Since birth women contribute for the development of society; though patriarchal mindset is responsible for inferior position of women. Women are participating in all activities equally with men, even sometimes more, but at the end of the day it is expected that women are to perform only the household works. The inferior treatment towards women affects their capability and dignity, which in turn violates rights of women.

Human Rights and Poverty:

The issue of Poverty is also related with the idea of human rights. Human rights refer to a life with dignity. Here, life does not mean only survival, but life with respect and dignity. A dignified life requires food, shelter, safe and pure drinking water, basic health facility, education, sanitation facility, information etc. Whenever, individuals are deprived off all these basic needs of survival, it leads to gross human

rights violation. The basic idea of human rights recognizes equality, but poverty leads to economic inequality. According to Government of India Report in 2019-21, 14.96% people are under poverty, which itself indicates that 14.96% are deprived of their rights (PIB, NITI Aayog). Poverty is the barrier for all round development of individual. It affects participation of people in political-social developmental process.

Human Rights and Conflict:

People of India many a time faces conflict situation. Conflict is there because of ethnic problems, religious issues, insurgency problems etc. In any kind of conflict situation human rights are violated. Conflict occurs because of clash of interest between two or more groups and leads to the de-stability of the society. In India conflict is there because of disputes in the India-Pakistan, India-Bangladesh, India-China border. Cross border activities by the miscreants leads to conflict situation in the border areas. Northeastern part of India also faces ethnic conflicts. The ongoing problem in the Manipur is the live example of conflict. Primary sufferer of such conflicts are common people. Rights of marginalized people in the conflict situation are violated. Different states of India are also affected by the Maoist insurgency groups. In all insurgency and counter insurgency activities rights of common people are violated only.

Human Rights and Development:

Society functions for the development and development are the basic need of any society. Particularly in a welfare state like India government undertakes numbers of policies, schemes for the development of the society. Apparently, there is no contradiction between development and human rights. Moreover, development provides basis for upliftment of human rights. But, development many times affects the environment. Use of plastic products or garbage of heavy industries or excessive use of vehicles affects environment. Delhi is the greatest example of environmental pollution. Such pollution creates health hazardous. Developmental projects also create displacement. Displacement is one major issue of violation of human rights in developing countries like India.

Conclusion:

Thus, it is evident that human rights are violated in different ways. Though government has adopted number of schemes, policies to ensure equality, constitutional safeguards for protection of fundamental rights, establishment of human rights commission at national and state level, still violation exists. Social awareness and ensuring equality are the basic steps to be taken by the people for the protection of human rights. Only legal framework or governmental protection cannot ensure this; social advancement is required.

References:

1. Darren J. O'Byrne. (2004). *Human Rights – An Introduction*. Pearson Education. p.27.
2. Human Rights. United Nations Human Rights Office of the high Commissioner.(2016). https://www.ohchr.org/sites/default/files/Documents/Publications/HandbookParliamentarians.pdf
   Jaswal, Dr. Paramjit S. and Dr. Nishtha Jaswal. (1996). *Human Rights and The Law*. APH Publishing Corporation. pp. 5-6.
3. PIB. NITI Aayog. (2023). https://www.pib.gov.in/PressReleasePage.aspx?PRID=1940125&reg=3&lang=2
4. Sreenivassulu, Dr. N.S. (2008).*Human Rights many sides to a coin*.Regal Publications. p.17.
5. The Protection of Human Rights Act, 1993. National Human Rights Commission. (2021). https://nhrc.nic.in/assets/uploads/act_and_rules/1715229217_1fda2aa2f6f157bad896.pdf
6. UDHR. United Nations. https://www.un.org/en/about-us/universal-declaration-of-human-rights