



Original Article

Human Rights and Its Protection

Dr. Nishant Kumar

Assistant Professor (Guest), Department of Political Science M.V.College,Buxar, Bihar

Email-manushendranishant@gmail.com

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Abstract

The role of judiciary is indispensable in protecting the rights accorded to human beings for the sake of their personal development by using the god gifted qualities inherent in them. Since its inception, it is playing a pivotal role in preserving the rights of people thereby saving them from unreasonable encroachments in the domain of their rights. There has always been a sense of trust among the people for this organ of government. But the increasing challenges like political interference, judicial corruption, delayed justice being faced by judiciary is a concerning thing and that it might reduce its credibility in the time to come. In such a situation, disappointment will be there among the people and order of the society might disturb in the absence of on time delivery of justice. As this is one of the important components of a welfare society. Without providing justice to the people, welfare society has no sense at all. Human dignity is the essence of human rights.

Keywords: Dignity, Justice, Judicial Corruption, welfare Society

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Introduction

Since time immemorial, the issue of human rights and its protection has been an important issue of discussion all across the world. As soon as the human society developed, the demands of rights also increased. People began to believe that rights are instrumental for our well being and one cannot afford to ignore this precious thing. Every aspect of human being is related to this in one way or others. There is no relevance of human beings without providing them the basic rights which are essential for their personal development. This is the reason people have been struggling to secure rights so as to live a civilized life and establish an order in society and thereby destroying the slave culture which was in existence during the initial stage of human civilization. Concerning thing is that even today a large number of people in different parts of the world is deprived of even their basic rights and compelled to live a bonded life despite putting in place a great deal of mechanism by national and international agency to remove such an evil practice.

World has seen several big revolutions demanding rights of human being. And no doubt their struggle has fetch fruition. Some of the landmarks in the development of human rights are – the Magna Carta of 1215, The English Bill of Rights, 1689; American Declaration of Independence, 1776; The French Declaration of Rights of Men and of Citizen, 1789; Declaration of International Rights of Men, 1929; The UN Charter, 1945; The Universal Declaration of Human Rights, 1948; International Covenants of Human Rights etc. All the above are the results of the struggle that people had made in the direction of declaring themselves as free from any restrictions imposed by whether the state, society or any individual. It is evident that men had struggle hard in order to achieve the ultimate goal— ‘living with dignity’ which still has to be realized in various societies. India itself is an example where women, children, Dalits, bonded laborer etc. is trying hard to be a part of mainstream. The origin of human rights may be traced to the theory of natural rights derived from the concept of natural law, as propounded by ancient Greek stoic philosophers and further developed by Thomas Hobbes and John Locke.



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Address for correspondence:

Dr. Nishant Kumar, Assistant Professor (Guest), Department of Political Science M.V.College,Buxar, Bihar

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The twentieth century witnessed the crystallization of the philosophy of human rights when the United Nations adopted the UN Charter, 1945. The Universal Declaration of Human Rights, 1948 and International Covenants of human rights with further emphasis to protection of rights of women, Abolition of slavery, Radical Discrimination, Civil and political rights, Economic, Social and Cultural rights and most importantly the rights of children. No doubt, the erudite sections of the world has made every possible effort in putting on paper a great deal of rules and regulations to prevent the violations of rights. The tyranny of the state, public authority or some individuals has always been in existence in the past resulting in the growth of a new class who through their cognitive abilities started recognizing the wrong doings of the state and its authority against the common people. This thinking sections of society in their writings had criticized the dominance of the state and suggested several measures to neutralized the dominance of the state and how rights can be granted to the people.

As in the eyes of all intellectual sections, the perceptions regarding the rights are same. They all gave it a superior status in the life of men and women apart from other things. There is a clear mention of this fact in John Locke's book 'Two Treatise of Government', published in 1660, that human rights, not government came first in natural order of things ^[1]. Nelson Mandela has said, "To deny people their human rights is to challenge their very humanity". Jean Jacques Rousseau (1712-78) believed that people are born with natural rights to freedom and equality, and that these rights are inalienable. Thomas Hobbes in his celebrated book 'Leviathan' has advocated that no individual could ever be deprived of the right to life, which he enjoyed in the state of nature. He asserted that all human beings are equal, without any consideration. And a lot more people has put forward their opinion stressing importance of rights. Rights are dynamic in nature. With the greater pace of modernization, the demand of new sorts of rights has increased like right to information which came into force in 2005 and it gives citizens the right to access information held by public authorities. The right to education which came into force in 2009. The right to clean environment etc. is some of the rights that has its recent origin. And that these are fundamental to the existence of human beings. If it is taken away by any means chaotic environment will be there in society. The protection of these rights which have been enlisted by international, national and regional community are equally important. As Thomas Hobbes has rightly said that covenants without the sword are but words, and of no strength to secure a man at all ^[2]. That means only enacting laws as a safeguard to the rights of people is not enough but its effective implementation coupled with speedy trial to the convicted person is a must so as to make people believe that their rights are safe and that they can use it in any manner to develop their potentialities in the direction of developing themselves to the fullest extent possible. No society or state can develop without the development of its people. As people are the foremost resources of the state that its development is fully dependent on its people. So, it is the utmost duty of the ruling dispensation to ensure these rights to the people.

There is no denying the fact that several efforts have been made by the authorized institutions and governments across the world in the direction of securing rights of the people thereby establishing humanitarian environment. Some of the important measures are as follows--- [1] The Universal Declaration of Human Rights---The Universal Declaration of Human Rights (1948) was the first legal documents protecting universal human rights. It is generally agreed to be the foundation of the international human rights law. Together with the international covenants on civil and political rights and the covenants on economic social and cultural rights, the three instruments form the so-called international bill of rights.[2] Regional Frameworks---Organizations like the European Court of Human rights, African Charter of Human and People Rights, and Inter-American Commission on Human Rights play vital role in regional context.[3] National Laws---Constitutions, Anti-discrimination laws and criminal codes enshrine human rights at the domestic level

Human Rights in India

India is the biggest democracy in the world. Being a democratic country one of the main objectives are the protection of the basic rights of the people. Government of India has given due consideration to the recognition and protection of human rights. The constitution of India recognizes these rights of the people and share deep concern towards them. The philosophy and objective of the constitution of India is enshrined in the preamble which included the protection of the dignity of an individual. For the fulfillment of this objective Part-3 of the constitution guarantees fundamental rights to the people which are essential for the development of an individual personality. These rights include the right to equality, the right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and the right to constitutional remedies. It is the duty of the center and the state governments to provide adequate conditions to each individual to enjoy their human rights. Despite being put in place such a great deal of mechanism to prevent the violation of human rights its widespread violations are being made across the world. And nothing is proved instrumental to stop them. Thousands of lakhs of people are dying or becoming a victim of genocide, torture, rape, forced eviction, arbitrary detention, human trafficking, extra judicial execution or other killings, riots, discriminatory exclusion from access to adequate food, lack of access to medical services, facilities and treatment, famine, judicial killing and most importantly wars that is going on in Asia, Eurasia, Europe resulting in killing of a large number of innocent people especially children, women, elderly people, soldiers, without any fault of theirs, This is just a blind

attack on humanity. This is simply to say that humanity is on threat. Actors and non-state actors are sacrificing humanity for the sake of power.

There is a strong prima facie evidence of human rights violations across the world. In Sudan, both the warring parties the Sudan armed forces and the Rapid Support Forces, have demonstrated little concern for international humanitarian law as they carry out targeted attacks that have killed and injured civilians and launch explosives from densely populated neighborhoods. Between the eruption of fighting in April 2023 and the end of the year, more than 12000 people had been killed, over 5.8 million others had been internally displaced and about 1.4 million had fled the country as refugees^[3]. The devastating escalation of violence in the Israel-Palestine conflict had profound ramifications across the region, and worldwide. From October, Israeli forces killed more than 21,000 Gazans, mostly civilians, many unlawfully. Amid a deteriorating humanitarian crisis and economic upheavals, people in Afghanistan suffered extreme repression and human rights violations. The Taliban placed increasing restrictions on women and girls, apparently aimed at erasing them completely from public arenas. Since Russia's full-scale invasion in 2022, its war against Ukraine has had a disastrous impact of civilian life, killing thousands of civilians, injuring many thousands more, and destroying civilian property and infrastructure. Russian forces committed a litany of violations of international humanitarian law, including indiscriminate and disproportionate bombing and shelling of civilian areas that hit homes and healthcare and educational facilities. The story of human rights violation in some of the regions in India is so concerning. Manipur, a state in India's north-eastern region comes first in the list. The state is currently under the President rule where absolute breakdown of law and order has taken place, according to the Supreme Court^[4]. The apex court has expressed concern over the breakout of ethnic violence between the predominant Meitei community and the tribal Kuki community. Keeping in view the gravity of the matter the court had to take Suo moto cognizance of the matter and it has to involve the Central Bureau of Investigation to enquire into the matter and order the Central government to establish peace as soon as possible. No doubt, the gross violation of human rights has taken place and that all government machinery has failed to prevent the sorry state of affairs. The 'rare rest of the rare' crimes are being committed by the people of one community over the others. Ethnic violence between the Meitei community, which are mostly Hindu, and the tribal Kuki community, which are largely Christen, has wracked Manipur and its population of estimated 3.2 million for nearly two years.

The state has effectively been split into two ethnic zones separated by buffer areas with police outposts and security force patrols. The valley with the state capital, Imphal, administrative offices, health centers, and the primary airports, is dominated by the majority Meitei community, while Kuki and other tribal communities are largely confined to the hills. Several Kuki women have reported sexual violence including rape by Meitei men. Meitei mobs, including armed militants, have burned down, attacked, and vandalized homes, businesses, villages, and places of worships, mostly targeting the Kuki community. In September 2024, suspected Kuki militants attacked villages in west Imphal district and in Bishnupur district, killing three Meitei people. In November, suspected kuki militants abducted and killed three Meitei women and three children in Jiri ban district, while two men were burned to death. On May 4, 2023, a large group of Meitei's attacked a village in Kangpokpi district, trapping two Kuki men and three women. The mob killed the men and sexually assaulted the women, gang raping one of them. The Meitei mob also stripped and paraded two of the women. Rape is considered so heinous crime against women. It becomes a general news as we go through two-three rape cases in daily newspaper. Not only rape but the cases of rape and consequent murder has become a fashion of the rapists. The purpose for this is generally to protect themselves from harsh process of conviction. It is highly shameful to say that India has become the fourth country in the world having largest number of rape cases are registered at different police stations in the country^[5]. As we know the trial process runs very slow in our judicial system. The rape victims have to suffer very much to get the culprits prosecuted. A great deal of cases has to quit due to pressure put upon the victims. And some cases of rapes are suppressed by the family of the victims due to fear of losing honor, and lack of money and other things.

No Indians can forget the heinous Delhi gangrape case of December 2012. This rape case was so heart throbbing. The gang rape of a 23-year-old student on a public bus, on 16 December, 2012, sparked large scale Sprotests across the capital Delhi. The victim was with a male friend who was severely beaten with an iron rod during the incident. The same rod was used to penetrate her so severely that the victim's intestines had to be surgically removed before her death thirteen days after the attack^[6]. Keeping in view the widespread public outrage and protests, the Indian government had to brought stronger law to protect women from sexual violence. The government brought the Criminal Law (Amendment) Act, 2013, also known as the "Nirbhaya Act". This Act introduced significant changes to the Indian Penal Code, the code of criminal procedure, and the Indian evidence act, focusing on enhancing punishments for sexual offences and addressing issues of sexual harassment, trafficking, and child abuse. But concerning thing is that, despite bringing such stringent laws, cases of rape is not reducing. To justify this, I can cite several novel rape incident posts 2012 incident. For example, 2013 Mumbai Shakti Mills rape case, Ranaghat case, 2015; Delta Meghawal rape case, 2016; Kathua rape case, 2018; Unnao rape case, 2017; are some of the high-profile cases that shows even stringent laws are not preventing rapes of such magnitude. Rapes are considered one of the worst kinds of human rights violation of women. Since long they are subjected to several kinds of exploitation. There rights have always been on threat due to

their weak physical status. No doubt, every possible effort is being made to empower the women and giving them equal status to man. The right to equality, including equality before the law, are violated by such crimes and the impunity that the perpetrators enjoy in the overwhelming majority of cases. Mechanism should be made so as to bring the perpetrators in the fold of legal process. In India, internal displacement of the people has always caused human rights violations. Displacement often leads to violations of various human rights, including the right to adequate housing, healthcare, education and freedom of movement. The internally displaced persons are often among the most vulnerable populations, facing increased risks of poverty, exploitation and social marginalization. What caused them to replace? Of course, natural disasters like flood, epidemics, riots, government developmental projects like dam construction, power plant, railway line or bridges, nuclear plant and other public related works. A great deal of people has to left their home due to the above activities and that they have to face a lot of problems and their survival becomes so complicated. In such a situation, their basic rights like right to live, healthcare, education, privacy are violated. Although, India has been prone to violence it has generated few refugees. However, war, conflicts, human rights abuses and forced relocation have created a high level of internal displacement. Estimating the number of IDPs in India is problematic. Regular monitoring is not possible in such a huge country which lacks a central authority responsible for coordinating data from central and state governments. The nature, frequency and extent of the causes of internal displacement in India are so varying that it would be a herculean task to monitor and record them. Political sensitivities at state level prevent release of data on the exact nature and extent of displacement.

The majority of cases in which people have been forced to flee their homes are the consequence of government pursuit of political goals and development objectives. Development induced displacement has overwhelmingly dominated the IDPs scenario in India. Alongside development induced displacement new causal factors in the cold war days where population displacements were most frequently caused by armed conflicts fueled by big power rivalry, in South Asia the so-called post cold war destructed conflicts or low intensity wars have generated displacement for a long time.

In India, there are four broad categories of displacements. They are as follows

[1] Since independence, north east India has witnessed two major armed conflicts

The Naga movement primarily led by the National Socialist Council of Nagaland, and the Assam Movement led by the All Assam Students Union and now largely taken over by the extremist United Liberation Front of Assam. The violence and retaliatory responses from the government and other forces opposed to the secessionists continue to generate a steady flow of displaced people.

In Kashmir's war between state forces and militants, the killing of Kashmiri Pandits by fundamentalist secessionist groups, the widespread anarchy created by political instability and the continuous violation of fundamental human rights by both the state and militant groups, have led to large scale displacement, mainly of Kashmiri Pandits.

[2] Identity Based autonomy movement

Identity based autonomy movement such as in Bodoland, Punjab, Gorkhaland and Ladakh, have also led to violence and displacement. This has happened in Punjab and more recently in the Bodo Autonomous Council area of western Assam. Cleansing of non-Bodo communities by the Bodos, through plunder, arson, massacre, and persecution has forced a large number of non-Bodo to flee.

[3] Localized violence

Internal displacement has also arisen from caste disputes (as in Bihar and Uttar Pradesh), religious fundamentalism (as in urban riots in Bombay, Coimbatore, Bhagalpur and Aligarh) and aggressive denial of residency and employment rights to non-indigenous groups by supporters of the son-of-the-soil policy.

[4] Environmental and development induced displacement

In order to achieve rapid economic growth, India has invested in industrial projects like dams, roads, mines, power plants and new cities which have been made possible only through massive acquisition of land and subsequent displacement of people. According to figures provided by the Indian social institute, the 21.1 million development induced IDPs, including those displaced by dams (16.4million), mines (2.55 million) and wild life sanctuaries and national parks(0.6million). The concerning thing is that India, on this front, has not taken any strong measures yet to alleviate the plight of displaced people. It has no national policy and legal institutional framework to deal with either refugees or IDPs. India has not ratified the 1951 convention and 1967 protocol and does not permit UNHRC access to most refugee groups. Due to a similar absence of a national policy on resettlement and rehabilitation of IDPs there has been only piecemeal and ad hoc initiatives at project and state level. Even the latest draft National Policy for Rehabilitation of persons. Displaced as a consequence of acquisition of land proposed by the ministry of rural development does not deal with any other types of displacement except that arising from land acquisition. This draft also totally disregards the plight and interests of IDPs of other categories, including those fleeing human rights violations, physical violence and communal and other sources of tension.



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Conclusion

There is no denying the fact that human rights are being violated all across India by the state and the other actors, natural calamities, man-made disasters, wars and developmental projects. Women are the most vulnerable not in India but across the world. They are being raped, exploited at work place, becoming the victim of domestic violence. In such a scenario, how we can expect all round development and order in society. Protection of rights are the foremost duty of any government. Rights are so fundamental that in the absence of it no society can develop. Strong preventive measures need to be taken by both the state and the central government so as to provide relief to the deprived sections whose basic rights have been violated. Apart from government machinery, other stakeholders need to come forward to protect rights. If it is protected properly, it will guarantee a dignified human life as rights are connected with dignity.

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