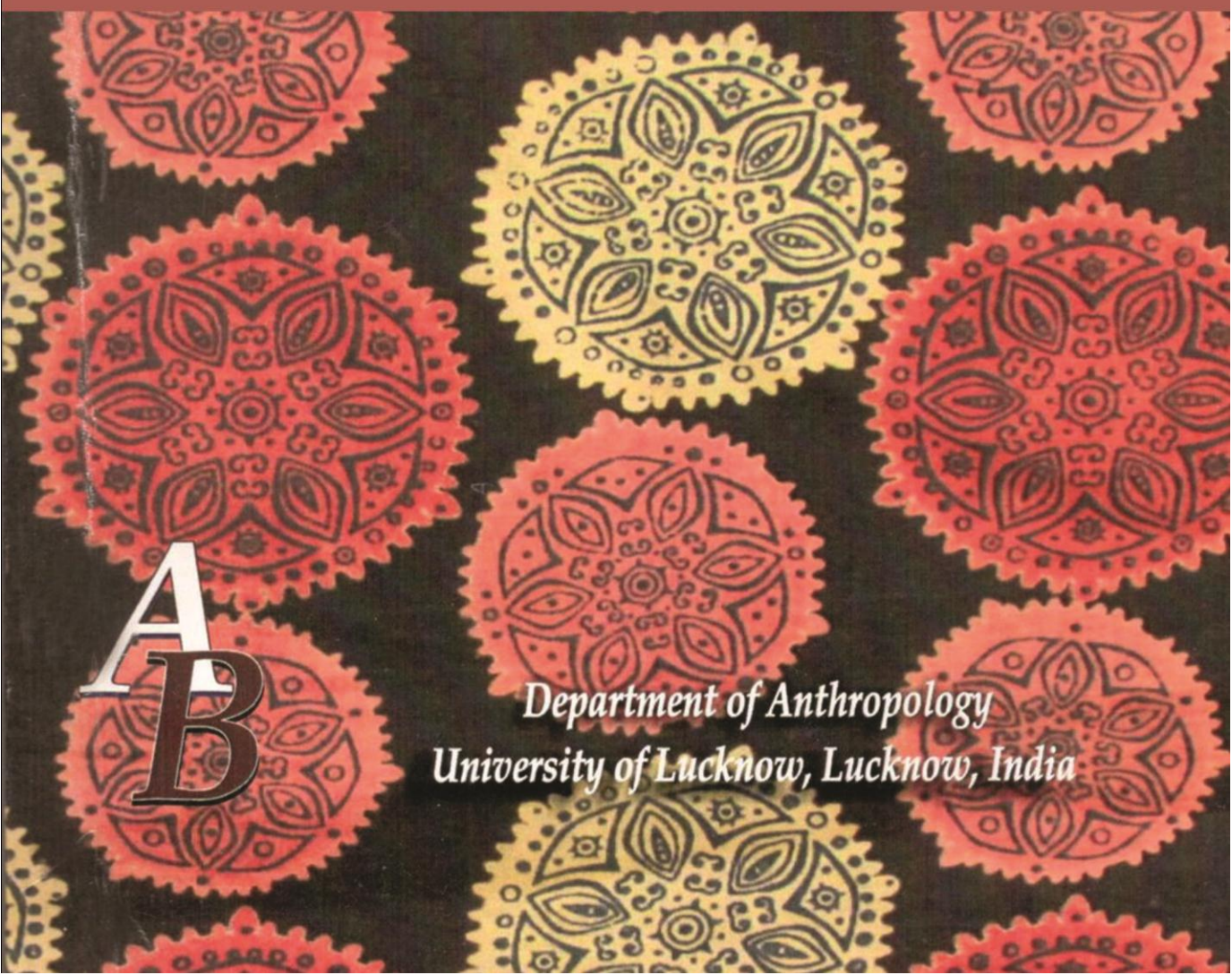


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Department of Anthropology
University of Lucknow, Lucknow, India

Human rights and rule of the society

Haider Mehdi¹

ABSTRACT

Human being is a Social Animal of the highest grade created on this planet earth. So it posses the highest grade of Anatomy, Physiology and Psychology. Being an animal i.e. a Biological Unit, theory of Darwin, that is straggle for existence and survival of the Fittest is operative at all the time and at every space. This straggle ultimately makes a man indulged in violent competition. As Herbert Spencer has written in his book "The Principle of Sociology" [1896] the society also behaves like an organism. There is struggle and violence to survive with a particular social structure and belief. Thus Violence and Competition Increases every time in the society. In order to survive there is adjustment at Biological as well as social level. This is the root cause of social change. Accordingly human population evolve Technologies to minimize Biological Competition for survival. Societies also evolve Taboos, Religion and social values so that Biological existence of mankind is easier and Human Race is not doomed.

In this way Right to Live and Right to Biological Survival give rise to the concept of Human Rights in the society. In other words one can say that the evolution of Human Society is not only the history of search of bread and butter but also the history of the recognition and evolution of Human Rights. From the religious Teaching and the Preaching of Mercy to the signing of Magna Carta (1215AD) and again from French Revolution [1789] to establish Mart of U.N.O. (1945), we find only Recognition of Human Rights in the shape of equality, Liberty and Sovereignty. These factors have been the guiding force of social evolution. Karlmarx (1850) first time synthesized the theory of Biological Struggle and the social struggle. Marxian theory also emphasized on the exploitation of human being that is the crushing of Human Rights. Accordingly the full fledged concept of Human Rights took its proper and complete shape because of the theory. Protests and organizations of the exploited compelled the society to frame full fledged Laws to protect human rights and to punish the violators. World War II paved the way globally to think over human rights and to form international Laws so that if the national government crushes the human rights of the people, a joint action by International society could be taken against the guilty nation. Unfortunately national government are not bothering for Human Rights for their political reasons and interest groups which are ruling the nations in their own way. They have their limited approach

¹ Shia P.G. College, Lucknow, India

and Interpretation towards Human Rights. Likewise, International organization [UNO] has also been converted into a group of few developed nations having their own approach and Interpretation towards an International problem. In this way more Human Rights are being crushed by the U.N.O than it is [Human Rights] protected and prorogated. NATO, a military organization was formed in 1949, soon after passing "Universal Declaration for Human Rights". NATO has done more losses than U.N.O's repairing on the body of Human Rights. Human Rights can only be protected when a strong U.N.O having an expanded security council come into existence and every nation get an equal rights and weightage for its vote.

Introduction:

Human being is the highest grade of creation by the Almighty God in the history of evolution of life on this earth. It is of the highest grade in all respect viz. anatomically, physiologically and psychologically. So the human history has broadly been trying to understand a human being on the basis of two aspects viz. Body (physical aspects) and mind (psychological aspects). Both the areas are infinite because neither complete study of the body including inner organs and their physiology, nor could be studied and fully understood the psychological or metaphysical aspects of societies and thoughts as yet Researches are continued and every time some new astonishing facts emerge in the physical or psychological aspects of the human being.

However, the most important theory on physical aspect which emerged in the past is the theory of struggle for existence and survival of the fittest i.e. theory of natural selection, given by Darwin. This theory applies on the biological aspects as well as the social and psychological aspects of human behavior. Accordingly we have commentaries in the form of social organic theory i.e. society also behaves like as organic unit of human being and there is continuous struggle for change and adjustment in social behavior, beliefs and values etc. also. In fact biological struggle for existence and survival, seriously affect the behavioral Action of human being. The successful behavioral Action leads to repetitions and set of behavioral pattern to be adopted and perpetuated. This behavior in a particular geography and environment forms social cultural behavior and finally an association or group of person. This is later changed into a society.

Beside this, "The theory of Dialectical Materialism" has also explained the human progress through dialectical materialism, presented by Karl Marx (1850), this theory for the first time proved that how the economic factor plays a key role in the development of society in human history. The thought of class struggle is actually a synthesis of the theory of biological struggle for existence (Darwin) which explains social changes. To sum up, struggle for biological survival and struggle for social survival are the main occupation of human being and is a continuous process applicable to all the societies at all the time and at all space.

Struggle, as the phrase itself indicates, involves all sort of possible violence unleashing the form of competition to survive and live. This natural killer instinct and first urge of human body unleash different forms of violence and exploration of the human fellow. Accordingly, Human Rights can be broadly defined to mean all the biological rights to live and enjoy life, which a human being has acquired during the course of evolution to the present state of living, as well as all the socio cultural economic rights which a human being has acquired/achieved during the course of social development, in a particular geographic area and in its society. To put in a nut shell, right to live peacefully without any fear and want as a natural being and right to live as a social being, and free to associate and celebrate its way of life, is the essence of Human Rights.

Therefore, in order to avoid violence and clashes, in human society due to biological and social struggles, every society strikes its ways to safe guard Human Rights and try to create an atmosphere for peaceful co-existence by way of socially recognised rules of Dos and Dents, so that not only order or system is maintained but self confidence in the psyche of Human being is also strong to face to face exigencies of life. Primitive societies invented and developed the thoughts about supernatural forces, ritual of magic and sorcery etc. to deflects and redirect the violence and clashes among their population as well as to introduce a system of order to boost confidence leading to a set pattern of social behavior and life. Later on violence and killings of weakers, ills, children, women and old aged etc. appear to have been controlled by creating Taboo and prohibition of cannibalism. To my mind prohibition of cannibalism is the first set of unwritten rule to wards safe guard and establishment of Human Rights in the ancient primitive societies. It caused increase in the numbers of members in a group and society and caused to move out freely in jungle in groups without fear of wild animal and their attacks as increased numbers enthused sense of security and groups strength feeling i.e. feeling of collectiveness among the tribal.

After the stage of Nomadism when the human being started to lead a settled life as a pastoral society and agricultural society in different globes of this earth, it invented and formed a totally different type of social laws of taboos and symbols of worship. Full set of rules or codes of conduct and behaviour were formed so that violence among the groups and within the group is avoided. Rules of punishment/ fines and repentations were framed. A precursory form of division of labour among Men, Women, olds and children. as also introduced. A Proto type religion through worship of useful objects like sun, moon and rains etc developed. Since settled life multiplied the population and also created the experienced lots, professionalism specialisation as well as interdependence in the society. It also increased socio-economic struggle and competition leading to exploitation.

Accordingly more emphasis was laid on sober human behaviour and inter personal relationship. If we go into details of philosophies of teaching and preaching of religions we can draw philosophical messages lying beneath the religious teachings which are exclusively aimed at to promote human rights

For example, live and let other live, Ahinsa Parmo Dharma (Non Violence is the greatest worship), Parop-kar parmo dharma (help is his great religion) etc. finding place in Jainism and Hinduism, and message of mercy and charity of Christianity or universal Brotherhood and equality of human being contained in Islamic philosophy, appear to be devoted only to propogate and preserve Human Rights in the society. As the economic factor gained importance in the social life and society progressed through means of productions, and trades of surplus along with communication and transport also increased, this only complicated the struggle for existence.

The socio-economic struggle resulted in the exploitation and deceit among human being. Clashes within the group as well as among inter-group started. Since religions or cultural codes or conduct has no specific systems of monitoring and punishment and are mainly based on the philosophy of self -restraint and self control, Human population often transgress and violate the social rules and customs for personal progress and prominence of self or ego leading to a social disorder through individual social disorder or corruption. We have history of exploitation of a class of people by another class of people. Union of King and clergy with a handful of soldiers believing in and practicing violence, has ruled, for most of the period of human history, adopting gross violation of Human Rights.

Thus it is interesting to note that in the first phase of human development, struggle for biological survival led to excessive violence, therefore to reduce violence, supernatural forces and institution of religion preaching about non violence and peaceful existence, was

invented. Later on, in the second phase institution of religion was transformed into a tool of exploitation by intelligent interest group within the society as well as waged.

The expansion of war for its religion and culture which causing more violence and exploitation. Then started 3rd phase of the technologies, economic means and method of pursuits social development. The same religious exploiter group equipped with power of technology and capital exploited the human lots. Thus the Feudal and Bourgeoisie class emerged rendering a sizeable population to the ebb of slavery and bounded labour. Industrial revolution further complicated the exploitation of man kind till the theory of class struggle explained by Karmarx (1850) dwell upon the detailed reasons about the exploitation of human being in the contemporary world. This theory not only organised peasants and worker society on logical ground, but also compelled the capitalist to think to change and reformed the themselves.

In human society, the process of oppression and opposition lead to adjustment and adaptation. This forms the basic wheel of social change. Oppression means to gain upper hand in the assertion of One's own Human Rights and opposition means not to accept and allow any upper hand in the field of anyone's Human Rights. This opposition is the basic concept of equality. It is present in the human psychology and was embedded at the time of biological struggle for existence. However this oppression and violence has been the cause of stagnation in the society leading to radicalism is negative factor but opposition is the symbol of transformation and change is a positive indicator.

In the rent human history the first written document of assertion of Human Rights and equality appear to be Magna Carta (1215) signed by King John of England due to heavy opposition of Feudal Baron's (Land lords) of England. It promised that King will not Act arbitrarily and bound by law of equality.

French revolution (1789) against King of France laid the foundation stone at scope of human rights in the form of declaration about right of Liberty, Equality and Sovereignty.

Lincoln in 1860, in American subcontinent further strengthened the Fundamental Rights which recognized during French Revolution. Finally in 1917, Acting and organizing themselves on the line of Marxian theory of "class struggle". Russian people revolted against regime of the despotic czar kings and set on example of Marxian movement and revolt against in human treatment of human being.

Inspite of these international events, capitalist and Kings through their venture continued to exploit the masses without any major change in the situations. Direct Legislation on Human Rights was altogether absent and there was no any proper agency to safe guard Human Rights till the World War II when the wary nation realized that rulers, can't be supposed to be the master of human life as no body except God can create life.

At last due to division of world nation into two interest group called Axis Nations and Allied nations. Violence and war resulted into colossal losses to the human lives and property. Wisdom dawned upon the mankind, like losses of human life in Kalinga War. The American President Franklin D. Roosevelt and the Prime Minister of U.K Mr. Winston Churchill and on 14 Aug.1941 declared Atlantic charter. The charter promised that all the men in their Lands may live out their lives in freedom from fear and want. Soon after this Allies Power also agreed to from an Association. "To preserve human right and justice in our (own) Land as well as in the other land".

But due to economic interest world war continued and after the atomic bombardment of Japan at Hiroshima and Nagasaki in Aug. 1945, an international organization i.e. U.N.O came into being after formal declaration on 24 Oct. 1945. The charter U.N.O. Aims at to save the humanity and coming generation from the scourge of war and to

establish peace in the world over. After many pledges and conventions as historical universal declaration of Human Right (UDHR) was passed in the General Assembly on 10 Dec. 1948. This is the Manusmriti of human rights. Every member nations was expected to follow the declaration and to work for the human rights as far as possible. After numerous conventions and assemblies held again finally in 1966 Convention of Human Rights at Tehran, Iran. It was agreed that Human Rights and fundamental freedom are indivisible, the full realization of the civil and political Rights without the enjoyment of the economic, social and cultural Rights is impossible.

In other words U.N.O. recognized socio- cultural and economic Rights as an integral part of Human Rights as late as 1966 i.e. after two decades of U.N.O's establishment. However India had realized and recognized these rights as early as in 1949 with the Adoption of New constitution of India soon after Independence on 15 Aug. 1947. This became possible only due to the fact that our freedom fighters had experienced and realised the bitter taste of discrimination at the hand of Britishers during the East India company-rule as well as rule of the crown. Not only this at the time of Uniting Indian society to girdle up for freedom, struggle leaders also realized that divisive elements like difference in language religion culture & region etc. already exist in our society. Worst to this, Indian Society has also been infested with casteism which has resulted in human customs and belief of untouchability. Gandhi Ji being social reformer, Jawhar Lal Nehru being a visionary of modern India and Dr. Ambedkar being a sufferer of untouchability laid down the foundation stone of human rights in the Indian constitution. Therefore, the constitution of India not only burrowed the best from American British, Canadian and Swiss constitution but also contained the special chapter of directions to states to fulfill the goals to preserve and sustain the fundamental rights and human rights viz. Social/cultural, economic, and political rights. It also contained the provision of reservation of election constituencies to the scheduled caste and schedule tribes as well. Provision for reservation in Govt. job to the weaker section of society to deliver, social economic and political justice. Govt. of India is in the latest venture and process of providing reservation to the Sc/St in promotions so that being at top of the management they could also affect process of making policy and affect the emphasis of implementation of policies for the betterment of their classes. Not only this, after the recommendation of sachhar committee similar proposal and provision of reservation in Govt. job and policy- making in respect of minority are also under serious discussion and likely to be implemented very soon. These are nothing but a process of measure to strengthen Human Rights. Indian record of legislation history about Acts and rule pertaining to various aspect of human rights has been excellent. India has a serious engagement in the implementation of following Acts which are either ways concerned with preservation of human rights of men, women, children-worker and peasant. Some important legislation can be listed as under-

- 1- The factories Act 1948
- 2- The minimum wage Act 1948
- 3- The immoral traffic (Prevention) Act 1956.
- 4- The Bonded labour system (Abolition) Act 1976
- 5- The contract labour (Regulation and Abolition) Act 1976
- 6- The child labour (Prohibition) Act 1986
- 7- The Dowry Prevention Act 1961
- 8- The indecent representation of women (Prohibition) Act 1986
- 9- The commission of sati prevention Act 1987
- 10- National commission for woman Act 1990

And finally the national Human Rights Act 1993 and Right to information Act 2005 etc. are having either direct bearing on Human Rights related to the preservation and protection of

Human Rights in India. In the recent past after the declaration of millennium goals by the U.N.O, the right to food Act, the right to water Act. right to education Act. etc. have also been passed so that every human being may lead a life with dignity and without any feeling of discrimination.

Although the legislative history of Human Rights and the passing of resolution declaration, treaty etc. are appreciative at U.N.O. level as well as national level in India, the implementation spirit and efforts still suffer great handicapey at both the level. At U.N.O. level we find that it was formed to save humanity from the scourge of war and to honour Human Rights of all types viz life expression, socio cultural, economic and political etc. but U.N.O. failed to evolve a culture of work and implementation since the beginning. To utter surprise soon after formation of U.N.O. for peace in Oct 1945 and the universal declaration of Human Rights in Dec., 1948, Allies power (United Nations) formed a strong new military organization called NATO (North Atlantic Treaty Organization) on 4th April 1949 to meet challenges of communism and challenges of Russia. This organization called NATO started a new phase of war in the Europe in the post world war II period and again divided the world society into two parts viz. Pro-American Nation (so-called allies of world war II period) and Pro-Russian. This division of world unleashed various proxy wars and the Act of wars were fought between the under developed nations spreading over globe. This cold war-tension lasted for 40 years from 1950 to 1990 till the dismantling of Russia into smaller independent nations like Tajikistan, Turkmenistan and Uzbekistan etc. in 1990. This tension of cold war also led to a new competition to establish war industry and to form nuclear weapons through proliferation of nuclear technology behind and behind the doors. Politics nations of American USSR, China, India, Pakistan, Israel, North Korea and finally Iran appear to have been benefited to acquire a mass nuclear capability and bombs only due to this cold war politic.

To the sum of UNO utterly failed to stop nuclear weapons and technology proliferation in spite of having a will and treaty for non-proliferation. Accordingly now world is on the verge of third world war to doom with UNO due to these excessively acquired nuclear technology and capabilities.

Further after Russian revolution in 1917 on Marxism line, China also organized them for revolution and were liberated from the capitalist regime in 1946. From 1946 to 1971 China was not recognized by UNO because of being communist polity. A smaller Chinese country, modern Taiwan (old Formosa Island) represented the China in UNO on the adamancy of America till 1970. This to quote like an old Indian proverb that tusk of elephant are only show piece but Actual teeth are quite different. Out of about 80 times veto used in UNO. 38 time veto power have been used by America and that too in favour of Israel, not to punish it against the crime of violation of Human Rights perpetuated against Palestinians Arab world. Detailed study of recent case of Afagnistan, Iraq, Egypt, Libia, Syria and military presence in Arabian Sea land Saudi Yemen, Bahrein and Kuwait etc. only raises suspicion on the Aims and objective of peace-keeping role of America and UNO in Arabian pockets which are, of course rich and store of essential commodity "petroleum" for the modern economy & technology. In short UNO has a low credibility since beginning and in the recent past its credibility has been highly eroded. Hot spot of impending nuclear war appear to at lands of Arab, Chinese-Sea including lands of Korea, Japan and Vietnam, even if we ignore the Indo-Pak, Indo-Chinese tension and the Iranian nuclear issues for the time being.

Thus, in order to protect Human Rights and restore credibility of UNO there is immediate need to overhaul the veto system of UNO expanding security council so that member from each group of nation and each geographical area and cultural region get adequate representation. Chances of direct war and skirmish can only be stopped through the power of veto. It is a positive step and positive power but only if strength of security

council is properly increased with number of permanent members. All the decision for military intervention, peace keeping roles should be taken by two third majority votes in the General Assembly by convening and emergency meeting.

Likewise emergency discussion in Security Council (with at least 50 member) should also be taken by two third majority vote. Further every nation should compulsorily maintain a permanent peace keeping force for UNO use in which all creed class and region of the nation should represent the force. This should equally be used within the nation as well as outside the nation as per need. Number of soldiers should depend upon the size of population and area of the country so that adequate number of peace keeping force may be maintained for UNO at the cost of native nation. At least 10% military budget of the nation should be used for UNO Peace keeping force.

This will certainly boost peace and Human Rights at native as well as at foreign land. It will also prove as an ideal force for peace & cultural preservation. The national Para military forces may also be inspired to achieve high class of impartial and human approach towards citizen.

Like UNO legislation and non-implementation thereof, one can also realize easily that although there are numerous legislations in India to protect and preserve human rights since the time of rule in British-India, there appears to be Laxity and absence of will- power to properly implement the provisions of law relating to Human rights. Social Barriers like casteism and religion discrimination are still prevalent in society. Bureaucracy police and Indian polity has no will power to implement law relating to people rights due to being divided in the groups with vested interest and belief on the basis of social barriers.

The entire society including Bureaucracy and Para military forces is divided, shaded and colored with socio-political division of society. There are clear ant lobbies and union/association in the paramilitary forces and civil Bureaucracy. They think, work and report, investigate a case on the basis of political party to which they subscribe in their private life. Thus human rights and justice suffer in Indian system. Atrocity on SC/ST and minorities, be it male or female often go unreported and investigated due to cultural barriers and feeling of cartelism etc. Case is properly entertained only at the coverage instance. Corruption, Bribery and favoritism impede the strengthening of Human Right in India. Globalization of economy and world society opened the new ways of economic exploitation for work force and labour in India. Recent case of in MDLR Airlines, sexual exploitation of Geetika Sharma by CEO Mr. Gopal Kanda in Haryana ministry is a burning example to prove that woman workers are being sexually exploited on the name of employment and promotion. "In Mumbai" in the simple building, 350 woman sex workers arrested at one time. The building is 50 meter far at the distance of police station. This is glaring example of immoral trafficking.

Episode of kingfisher indicates that industrialist want to make money at the cost of corruption and violation of human rights. Kingfisher has not paid salaries to their staff for months. They have also not properly paid bills of oil companies, parking fees to Airport, income tax and service tax etc. total balance running is more than Rs. 10,000/- corer. Even then industrialist expects loan from Bank or package from Govt. to bailout him, on the other hand he also own a wine and bear factory, of which he is earning profit in thousands crore. Globalization in economy has reduced the average pay due to contract labour. It has also reduced the job guarantee and permanency. It compel to work without pay. Permanency of a job, long working and his unhealthy working atmosphere prevailed as private sector do not invest in non-profitng and warfare area, working hours has mainly increased due to quota of work allotted for daily performance etc. Engagement of Indian software engineers at low salary in America and out sourcing various job all low price in India is an economic

exploitation. Though India has sacred chapter of fundamental rights since 1950, yet no machinery to implement and protect human rights were formed. Every thing had been depending on police which is a Actually a British legacy. To control Indian public it has the history of legislation of MISA, TADA and POTA etc. The misuse of these Acts and gross violation of human rights were reported by the NGO, Human Rights Act was passed as late as 1994. This Act s ambiguous and half baked with no proper political will in India to protect and preserve the human rights. For example section 2(d) of the Human Rights Act. 1993 is ambiguous and ineffective because it define that human rights means the right relating to life liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the international covenant and enforceable by court of India. Learned Dr. H.O. Agarwal in his book international law, published by central law publication has written that this definition of Human Rights restricts function of national human rights commission, as only a few fundamental rights are enforceable by court, thus infect even after the passing of human rights Act. 1993 and the formation of a human rights commission in India, one can't take shelter to court for protection of human rights as only a few listed fundamental right can be entertained by court of India. Accordingly human right Act 1993 enacted about 45 year of freedom is of only a decorative importance and waste of time for NGOS. It does not protect all social, central and economic rights given in the fundamental rights. Further more, even after passing human rights Act 1993 public had not been equipped with tools and power to have information. Police, paramilitary force, court and other Govt. department etc. withheld information and document etc. It is only after waste of 12 years time that right to information Act 2005 was passed. NGOS are now in a position to obtain copies of document to read the police and paramilitary story of charges and investigation to challenge and question them.

The summed up legislation is not enough unless there is social will in the society to implement and to improve the lot of public. Improper adjective legislation without corroborating with constitution and aligning with other similar Act passed on the issue, is useless and toothless. Further in order to safeguard Human rights, law maintaining agencies and other allied Govt. department officials also need orientation programme and training. There is a need to awake public as well as enforcing machinery to the real aims and objective of the Act and rules concerning to human rights. Agencies and departmental officer violating human rights should be strictly punished. At the time of entry in Govt. services, every public servant must file affidavit to honor Indian constitution and human rights. Court and department should specially have power to punish for violation of affidavit. Power and duties of law enforcing officer must clearly be defined and the line of transgression (Laxman Rekha) should clearly be drawn through instructions and public notice available to public. There is also a need for comprehensive human rights Act where rights and duties of industrialist, traders manufacturer, contractor, public servant and press etc. Should clearly be spelt out at one place in single Act Chapter of human rights must be added to the curriculum of study material at the standard of high school/XII, and paper should be made compulsory so that future generation is may already be aware and trained. Every body should be made aware of the right and duties respectively and punishment enunciated in the Human Rights Act. Let us hope with the emphasis of Human Rights at international level by the recognized UNO and by the Govt. and society at national level through comprehensive human rights Act. A responsible, self-disciplined and helping international citizen will emerge. In this global age, common human rights Act will lay a foundation to establish an international human society believing in scientific temperament, equality liberty and fraternity in which having no place to exploitation and violence.

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