

Changing Face of Human Rights in the Present Scenario

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Abstract

Human Rights are the basic constituent of existence of mankind. History is replete with endeavors of powerful one's to trample upon these inalienable rights, coupled with struggle of the masses to protest against this. Revolutions and struggles for liberation have won these rights for the mankind all over the world, which resulted in the Universal declaration of human rights followed by their incorporation in national legislations. India has also gradually progressed in protection of Human Rights visible in enactments, policies and programs of government. Despite all said and done the canvass of Human Rights is not fair. Corruption is a big challenge in the attainment of Human Rights protection in India. However the struggle for final victory is continuing.

KEYWORDS: Universal declaration of Human Rights, Liberty, Human Rights, MNREGA, Child Rights, Juveniles, Women Rights, Persons with Disability, Corruption

INTRODUCTION

The most pressing goal of the international community today is the protection of basic Human Rights. The codification of Human Rights had been started several centuries ago. In 1188 A.D. the Cortes , the feudal assembly of the Kingdom of Leon received confirmation of a series of rights, including rights of the accused to a regular trial and their right to inviolability of life , honor, home and property from the King. In 1215 A.D., Magna Carta was accepted which secured rights to the men. Subsequent to these important events , the basic rights have been guaranteed to the men all over the world. The finest hour of the humanity's modern history of Human Rights dawned when the foundation of United Nations was laid on June 26, 1945 in San Francisco. Thereafter, the General assembly of UNO adopted UN Declaration of Human Rights on 10 December 1948.

INDIAN SCENARIO

India , the largest democracy in the world weaves diversity in its fabric. India is the most representative and participative democracy where the Constitution of India has ensured through its fundamental rights and directive principles of state policy that it remains a multi-religious , multi-cultural , multi-linguistic, multi-ethnic and a secular democracy. We are not only the largest democracy but are also distinguished by a vibrant and evolving Constitutional system based on the recognition of Human Rights embodied in part III and has taken root in the ethos of the nation. Human Rights in India have undergone a revolutionary interpretative evolution at the hands of Supreme Court as well. It has liberally broadened the parochial approach towards equality and proceeded on the basis of a positive mandate to eradicate the backwardness and discrimination in all spheres of life.

The freedoms under Article 19 have been given the widest possible connotations such as the expansion of Freedom of speech and expression¹. The right to life and personal liberty under Article 21 has now come to encompass the right to clean environment², right to legal aid³, elimination of bonded labor, right to livelihood⁴, right to speedy and fair trial⁵, right to education⁶ besides several other rights.

A glimpse of sequence of events regarding Human Rights in India, we find that the practice of Sati was abolished formally in 1829, marriage of minors under 14 years of age was prohibited in 1929 by the Child Marriage Restraint Act. In 1950, the Constitution of India established a Sovereign Democratic Republic with universal adult franchise guaranteeing fundamental rights to its citizens. In 1973, the Supreme Court of India ruled in *Keshvananda Bharti Case*⁷ that the basic structure of the Constitution including fundamental rights cannot be altered by the constitutional amendment. The court further ruled in *Maneka Gandhi v. Union of India*⁸ that right to life under Article 21 cannot be suspended even in an emergency. The Supreme Court recognized Muslim women's rights to maintenance upon divorce in *Shah Bano* case in 1985. For prevention of atrocities on SC & STs, the law was enacted in 1989. To ensure full participation of people at the grass root level, a constitutional amendment established Panchayati Raj with 1/3rd of seats reservation for women⁹, besides reservation for SC/STs. A specific law was enacted by the Parliament for the protection of Human Rights in 1993. The Indian Judiciary has been a major catalyst for change and protection of Human Rights, the public interest litigation has proved a strong weapon for protection against grave violation of Human Rights. There are about 100 universal and regional agreements regarding the protection of Human Rights all over the world to which the majority of nation states including India bind themselves today. Yet the lasting effects of violence, disease, famine and the destruction of socio-economic infrastructure continue to violate Human Rights.

The establishment of an independent National Human Rights Commission reflects our commitment for effective implementation of Human Rights. State Human Rights Commission have also been set up by most of the states. These commissions have played a remarkable role in several cases. To make India a participative democracy and ensure free and fair elections, the superintendence, direction and control of the entire process for conduct of elections have been vested in the independent Election Commission of India. Because of it our democracy holds high position in the world. In order to ensure equal access to justice for the deprived sections of the society, India has taken important strides in this direction. The National Legal Services Authority provides free legal services to the weaker sections of the society and organizes Lok Adalats for amicable settlement of disputes¹⁰. The Gram Nyayalayas Act which came into force in 2009 provides for establishment of Gram Nyayalayas for the purpose of providing access to justice to the citizens at their doorsteps. Many states have established many Gram Nyayalayas. India has ratified UN Convention against trans-national organized crimes and its two protocols, including the protocol to prevent, suppress and punish trafficking in persons, especially women and children. Article 23 of the

Constitution prohibits trafficking in human beings and forced labor. India has made significant efforts on the issue of human trafficking. The right to education is now guaranteed under Article 21A as part of right to life with dignity. The Right Of Children To Free And Compulsory Education Act, 2009 has become effective from 1.4.2010. It makes it mandatory for every child between the age of 6 to 14 to be provided free and compulsory education by the state. The Act has special provision for girl child education including out of school girl children. It mandated the private schools to ensure atleast 25% of seats are available to the marginalized households. The Sarv Shiksha Abhiyan has positively impacted the access and retention in schools and availability of teachers. SSA has ensured almost universal access to primary education and provides special focus on education of girls. The NREGA scheme is one of the largest in the world in terms of the finances and outreach. It is demand driven and people centered. It is implemented through a decentralized and participatory process under MNREGA¹¹ which was enacted in 2005 at least one adult member of each household in rural India has a right to at least 100 days of guaranteed employment every year. The statutory minimum wage is paid for casual manual labor and it shall be paid within 7 days of the week during which the work was done. It pays attention to marginalized groups and women. Our Public Distribution System is the world's largest food program and crucial part of government's policy for a management of food economy. It serves dual purpose- on one hand it provides farmers remunerative price for their produce through minimum support price and on the other hand , it provides food security to the most vulnerable sections. Passage of Food Security Bill is a move ahead in this direction. To provide a life of dignity, eradication of practice of manual scavenging is an area of priority and three-pronged strategy has been adopted through legislation, development and rehabilitation . The Unorganized Workers Social Security Act has been enacted for providing social security to unorganized workers and a National Social Security Board has been constituted for formulation of social security schemes. The state has been enjoined under Article 47 of the constitution to raise the level of nutrition and improve public health. Recognizing this, the government has launched National Rural Health Commission. This mission adopts a synergistic approach by relating health to various determinants of good health viz. segments of nutrition, sanitation, hygiene and safe drinking water. Massive investments in this sector have resulted in reduction in infant mortality rate and maternal mortality rate. In order to address the problem of housing, Indira Awaas Yojana is a flagship scheme of the government followed by another scheme known as Rajiv Awaas Yojana. The National Rural Drinking Water Program ensures that all households in the rural area have access to safe and sustainable drinking water facilities. The National Commission For Protection Of Child Rights was set up in 2007 under The Commission For Protection Of Child Rights Act, 2005. This commission ensures that all laws , policies, programs and administrative mechanism are in consonance with the child rights perspectives embodied in the constitution and convention on the Rights of Child . The Juvenile Justice Care And Protection Of Children Act takes care of the welfare of juveniles and their rights. The Integrated Child Protection Scheme (ICPS) aims at reducing their vulnerability to the

situations and actions that could lead to abuse, neglect, exploitation, abandonment and separation. The scheme ICPS includes three central schemes namely, the Program For Juvenile Justice, Integrated Program For Street Children and Scheme Of Assistance To Homes (*Shishu Greh*) For Children.

Since the existing laws were not sufficient enough to protect the children exploitation, our Parliament has enacted a law on Protection of children from Sexual Offences in the recent past¹². In view of peculiar socio-economic conditions in the country, a multi-pronged strategy has been adopted for elimination of child labor, which emphasizes on legislative measures, general development programs for the benefit of the families of child labor and project based action in areas of concentration of child labor. The Mid-Day Meals Scheme (MMS) for children in the schools which satisfies hunger and education both covers now all schools including *madarasas* and *maqtabs*. In order to improve the position of women, the reverse discrimination in favor of women has been permitted by the Constitution. In furtherance thereof, numerous laws have been framed by our legislatures. As a result thereof, a significant improvement in the status of women can be perceived. These laws are Prohibition Of Child Marriage Act 2006, Hindu Succession Act 1956, Indecent Representation Of Women(Prohibition) Act 1986, Dowry Prohibition Act 1961, Maternity Benefit Act 1961, The Equal Remuneration Act 1976, The Immoral Traffic (Prevention) Act 1956, Pre-Conception And Pre-Natal Diagnostic Techniques (Prohibition Of Sex Selection) Act 1994, Protection Of Women From Domestic Violence Act, 2005, Criminal Law Amendment Act 2013 and the latest one's The Sexual harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013¹³. The amendment of The Hindu Succession Act in 2005 is an important legal reform which has contributed towards economic empowerment of women, giving daughters equal rights in the ancestral property. Domestic violence against women is linked with women's economic dependence and absence of support system. Realizing this, the protection of women from Domestic Violence Act 2005 has been envisaged as a civil law which entitles women to get a protection order besides various reliefs such as maintenance, compensation, residence and custody. The alarming declining child sex ratio moved the government to enact the law which prohibits sex selection and regulates pre-natal diagnostic techniques to prevent their misuse leading to sex selective abortion¹⁴. Some of the important steps comprise amendment of rules providing for confiscation of unregistered machines, punishment for unregistered ultra-sound clinics, reconstitution of national inspection and monitoring committee. Millions of persons suffering with disabilities live the lives of deprivation and needed attention of the government. The government has enacted three legislations for persons with disabilities namely:

1. Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which provides for education, employment, creation of barrier-free environment, social security etc.
2. National Trust For Welfare of Persons With Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999.
3. Rehabilitation Council of India Act, 1992.

These laws provide for the rights of persons with disabilities. Further, India has become a party to UN Convention on rights of persons with disability in 2008 also. Withering away of joint family system has marked an adverse impact on the position of large number of parents and senior citizens subjecting them to neglect. The Maintenance And Welfare Of Parents And Senior Citizens Act Of 2007 ensures their need-based maintenance and welfare. In 2010, to ensure citizens their right to live with dignity in a healthy environment, The National Green Tribunal Act 2010 was enacted to provide for effective legal protection for environment, forest and other natural resources. To bring transparency in the functioning of government and accountability in public life and expanding the ambit of freedom of speech and expression, the parliament has enacted the historic Right To Information Act 2005. This Act has a wide reach, covering the central and state governments, Panchayati Raj institutions, local bodies as well as recipients of the government grants. This has given citizens access to information¹⁵.

CONCLUSION

In view of the above and many more developments, which have taken place in the evolution of Human Rights Jurisprudence, we find that, the position of Human Rights in the present scenario is very gloomy. Despite all good efforts undertaken by the government, all is not well, rather much more needs to be done. There is a dire need of introspection into the causes for not reaching the cherished goals, CORRUPTION is the biggest challenge for our Democratic Republic. Happily India has become a signatory to UN convention against corruption of 2005. India is moving ahead to combat the monster of corruption. Emergence of political party on the agenda of fight against corruption, protection of Whistle Blower Bill, Citizens Right to Public Services, enactment of Lokpal Act 2013 by the parliament are the remarkable measures which shall further be the cause of Human Rights Protection.

References

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- ⁸ Maneka Gandhi Vs U.O.I AIR 1978 SC 597
- ⁹ Part IX on The Panchayats inserted by The Constitution 73rd Amendment Act 1987
- ¹⁰ The Legal Services Authority Act 1987
- ¹¹ The Mahatma Gandhi National Rural Employment Guarantee Act 2005
- ¹² The Protection of Children from Sexual offences Act 2012
- ¹³ W.e.f 9 Dec 2013
- ¹⁴ Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994
- ¹⁵ Universal Periodic Review Report of India (2008-2012)