HUMAN RIGHTS IN MODERN INDIAN SCENARIO

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Abstract

Man has a dynamic nature since the days of ancient period in the continuing march of mankind down the ages. From passage to ancient period to modern period, mankind has widened its necessities from basic needs of Roti (food), Kapra (clothing) and Makan (shelter) to the status of a 'life living with rights to liberty and integrity'. The concept of 'rights' is that of respect for human being and its absolute worth, regardless of colour, race, sex, religion or any such consideration. The Universal Declaration of Human Rights (UDHR) on 10th December, 1948, containing 30 Articles on political, economic, social and cultural rights of human beings, may be considered as a milestone epitomizing age old aspiration of the human race to assert their dignity and freedom. The fundamental rights envisaged in the Constitution of India are- Rights of Equality, Right to Freedom, Rights against Exploitation, Rights to Freedom of religion, Cultural and Educational Rights. Rights to Constitutional Remedies. The enactment of 'Protection of Human Rights Act, 1993 and Human Right Commission Act, were further legislative steps taken for the protection of 'human rights' in India'. Despite a lot of legislative measure taken by the government, the human rights movements have become a matter of serious concern. These violations include the breach of civil and political rights, discrimination against minority, women and weaker section of society like Scheduled Castes and Schedules Tribes, arbitrary arrests, torture and death of suspected, child labour ethnic violence and kidnapping for ransom etc. The Protection of Human Rights Act, 1993 defines 'human rights' as 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 the Courts of India. The various pronouncements of Hon'ble Supreme Court of India and High Courts have added new dimensions in the field of protection of human rights. The ambit and scope of 'human right' is now much wider and expansive.

Index Terms: Constitution, Human Rights, Society.

I. Introduction

Man is a social animal who tends to live in Society. Unlike other animals, it activities were never confined around food and shelter only. Man has a dynamic nature since the days of ancient period and he has always been trying to adept himself to new situations and new environs of thought and habits. From passage to ancient period to modern period, mankind has widened its necessities from basic needs of Roti (food), Kapra (clothing) and Makan (shelter) to the status a 'life living with rights to liberty and integrity'. One of the most important things in the human life therefore, is his rights in the civilized society.

In the General Assembly of the United Nations, held in Tehran (1963) the very sensitive remarks were made:

"Our world of terror and horror, of hunger and handicaps, of hopes of human order where people everywhere will be sovereign and as groups and as individuals will be free from society and the State will guarantee full personhood in its holistic richness to every member of the world community, presents many problems of social dynamics."
The proclamation further added:

*Since human rights and fundamental freedoms w-e indivisible, the full realization of civil and political rights without enjoyments of economic, social and cultural rights is impossible.* The concept of 'rights' is that of respect for human being and its absolute worth, regardless of colour, race, sex, religion or any such consideration. These rights are essential for the adequate development of human personality and for human happiness. H. J. Laski observes: "Rights are those conditions of social life without which no man can seek, in general to be himself at his best."[1] Justice M.C. Chagla said; "the main function of the State is to help the individuals to develop his personality to the full strength. The propriety or power of the State is the propriety or power of all its citizens combined". [2] Thus, "human rights" are "those rights which a person deserves to have for being a human being."

II. Salient Feature of Human Rights.

- The norms of Human Rights have been drafted by the politicians and ambassadors representing the various Governments, which adds to the acceptability of those rights. The international treaties of human rights assume that states and government would take suitable steps to enforce rights of their citizens.
- Human rights are considered as basic rights inherent in human dignity, they are universal moral rights and are inalienable.
- Each and every individual, irrespective of race, colour, sex, religion, political belief, national or social origin or other status, is entitled for these rights (Article 2 of UDHR)
- Those rights transcend the national boundaries or ideologies are thus universal in nature.
- These rights do not depend on any theory of 'divine', 'moral', 'natural' or any other kind of rights.
- All the rights are interdependent and indivisible. The classification of rights has been done for convenience only.
- These rights are not absolute or unlimited and some of them may be suspended during war or public emergency.

The Universal Declaration of Human Rights (UDHR) on 10th December, 1948, containing 30 Articles on political, economic, social and culture rights of human being, may be considered as a milestone epitomizing age old aspiration of human race to assert their dignity and freedom.

III. Constitution of India on Human Rights.

The fundamental rights envisaged in Constitution of India are - Rights of Equality, Right to Freedom, Rights against Exploitation, and Rights to Freedom of Religion, Cultural and Education Rights, Rights to Constitutional Remedies these rights are the indicative of the acceptance of the basic principles of 'Universal Declaration of Human Rights' (UDHR). The enactment of 'Protection of Human Rights Act, 1993 and Human Rights Commission Act'1993, were further legislative steps taken for protection of 'human rights' in India.

IV. Violation of Human Rights in India.

Despite a lot of legislative measures taken by government, the human rights movements have become a matter of serious concern. In India, in spite of various constitutionals Safeguards, violations of human rights takes place every day in a variety of forms. These violations include the breach of civil and political rights, discrimination against minority, women and weaker section of society like Scheduled Castes and Schedules Tribes, arbitrary arrests, torture and death of suspected, child labour, ethnic violence and kidnapping for ransom etc. Socio political movements such as Naxalbari movement in West Bengal, naxal no lances in Andhra Pradesh and Bihar, Terrorism in Punjab in 1980, anti-nation and anti-establishment movements in Kashmir, disturbance in Assam Nagaland and Manipur etc. are some of examples of the gross violation of basis human rights of individuals and denial of right to live with dignity. The problem has taken serious proportion due extra territorial supports in the form of arms, ammunition, trained personnel and financial assistance etc. from foreign agencies.
Terrorism has caused huge financial loss to the nation in spite of breach of peace and human rights. Mumbai blast in 1993, has resulted into approximate loss of Rs. 10 Crores to Indian Railways, Rs. 5 Crores to film industry and Rs. 500 Crores to other business establishments. Naxal movement has now emerged as the most serious problems of our country affecting large population residing at nearly 35% of land area of India.

V. Judicial Pronouncements on Protection of Human Rights

The Provision of 'protection of Human Rights Act, 1993 defines 'human rights' as 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 the Courts of India."

The various pronouncements of Hon'ble Supreme Court of India and High Courts have added new dimensions in the field of protection of human rights. Human Rights have been defined to include all civil and political, economic, social and cultural rights as enshrined in various international documents. The Hon'ble Apex Court has ruled in 'Election Commission of India —V- St. Mary School' [(2008) 2 SCC 390] that since rights to education is indispensable in the interpretation of right to the development as a human rights, the rights to development is also considered to be a basic human right.

In 'Ashok —V- Union of India' [AIR 1997 SC 2298], the Supreme Court has ruled that 'right to life' enshrined in Article 21 of Constitution is wide and expansive, and includes right of speedy trial, right to legal aid, right to livelihood, right to work, right to shelter, right to education, right to health and claims all aspect of life, which make the life meaningful, complete and worth and worth living.

In 'Shantistar Builders —V- Narayan Khimlal Tatame' [AIR 1990 SC 630], the Supreme Court ruled that right to life is guaranteed in every civilized society and that would take within its sweep the 'rights to food' as well.

The Hon'ble Apex Court has ruled in 'Bandhua Mukti Morch —V—Union of India' [AIR 1984 SC 82] has ruled that every person has right not to be subject to 'bonded labour'. The Hon'ble Supreme Court has laid down a law in 'Olga —V- Bombay Corporation' [AIR 1986 SC 180] that public employment cannot be taken away by any procedure which is not reasonable, fair and just.

The Hon'ble Full Bench of Patna High in 'Ram Sewak Yadav —V- The State of Bihar' [2013 (1) PLJR 964] has laid a law regarding 'equality of opportunity' in the matter of public employment and held that employment under the State Constitution a national wealth and every person eligible candidate has a right to apply and be considered under Article 14 of Constitution. It is therefore, necessary that there must be selection by open advertisement, equal opportunity for participation to the eligible persons and selection by competitive merit.

The 'right to health' is also a part of human rights and, therefore, the price of pharmaceutical products should not be allowed to go up beyond certain limits. The Apex Court, has ruled in Novartis AG —V- UDF [AIR 2013 SC 1311] that Article 21 also contemplates 'right to life' which includes the right of all person to have essential drugs at affordable prices. The right of the public to a proper management of hospital to ensure humanitarian condition has also been affirmed.

The law provides adequate protection to the poor and deprived people. The 'right of tribal's to live in the forest areas with incidental rights e.g. fodder fuel wood etc., is an integral part of their right to life as ruled in [see: Banvasti Seva Ashram —V- State of U.P. : AIR 1987 SC 374] in peoples Union for Civil Liberties —V- U01 [(2010) 5 SC 424] Apex Court ruled that, 'right of food' and 'shelter' with basic amenities are part of Article 21 and directed that right shelters have to be provided for homeless and destitute persons of urban areas.

The right to reputation' is also a part of bright to life' and therefore no judicial order can be passed by any court or authority without providing a reasonable opportunity of being heard to the person who may likely to be affected by such order and particularly when such order results in drastic consequences of affecting one's own reputation because it violates the guarantee under Article 21 The Apex Court ruled in [Divine Retreat Centre —V- State of Kerala; (2008) 3 SCC 342] the reputation of an individual is an important part of one's life and one has right to have and preserve his reputation and also to protect
An individual is thus entitled to be heard before any order is passed affecting its reputations. [see: State of Maharashtra —V-Public Concern for Governance Trust'; AIR 2007 SC 777]

Under Article 21, all person are entitled to hygienic, clean and safe environment and if any persons health is affected, compensation or remedial action for loss suffered by citizen due to pollution can be ordered against the authority or establishment which causes the pollution. Women have also right to life and liberty and they have also the right to be treated equally. Rape thus, is a crime not only against the person but also against the entire society and it is violation of basic human right and the right to life. The rights enumerated as above are in fact merely illustrative and not exhaustive.

VI. Conclusion

The ambit of 'human right' is now much wider and expansive. With the advancement human lives and living standards, its ambit is becoming more and wider in the modern days. However, the society still needs a sound mechanism to enforce proper protection of human rights. Human rights are, of course the basic rights of human being living in the civilized society.

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1. Kulshesstra, S.K.; Fundamental Rights & Supreme Court; (Rawat Publication, Jaipur, 1995)
2. Chagla, M.C.; The Individual and The State; (Asia Publishing House, Bombay, 1985)
5. Basu, Durga Das; Commentary on Constitution of India, (Lexis Nexis, Gurgaon, 2015)

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2. Kulshesstra, Sok: Fundamental Rights (Rawat Publication, Jaipur, 1995)
3. Dr. Sudha Malhotra: Human Right: Emerging Issues; (Kilaso Books, New Delhi, 2000)
5. P.M. Bakshi: Constitution of India; (Universal Law Publication Co. Ltd. Delhi, 1996)