

Human rights in India

Jagnoop kaur

KEYWORDS: Human Rights, Congress, Freedom, Constitution

INTRODUCTION: The situation of human rights in India is a complex one, as a result of the country's large size and tremendous diversity, its status as a developing country and a sovereign, secular, democratic republic, and its history as a former colonial territory. The Constitution of India provides for Fundamental rights, which include freedom of religion. Clauses also provide for Freedom of Speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad.

According to the United States Library of Congress, although human rights problems do exist in India, the country is generally not regarded as a human rights concern, unlike other countries in South Asia. Based on these considerations, the 2010 report of Freedom in the World by Freedom House gave India a political rights rating of 2, and a civil liberties rating of 3, earning it the highest possible rating of free.

In its report on human rights in India during 2010, Human Rights Watch stated India had "significant human rights problems". They identified lack of accountability for security forces and impunity for abusive policing including "police brutality, extrajudicial killings, and torture" as major problems. An independent United Nations expert in 2011 expressed concern that she found human rights workers and their families who "have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged and under surveillance because of their legitimate work in upholding human rights and fundamental freedoms.

Chronology of events regarding human rights in India

- 1829 – The practice of sati was formally abolished by Governor General William Bentick after years of campaigning by Hindu reform movements such as the Brahmo Samaj of Ram Mohan Roy against this orthodox Hindu funeral custom of self-immolation of widows after the death of their husbands.
- 1929 – Child Marriage Restraint Act, prohibiting marriage of minors under 14 years of age is passed.
- 1947 – India achieves political independence from the British Raj.
- 1950 – The Constitution of India establishes a sovereign democratic republic with universal adult franchise. Part 3 of the Constitution contains a Bill of Fundamental Rights enforceable by the Supreme Court and the High Courts. It also provides for reservations for previously disadvantaged sections in education, employment and political representation.
- 1952 – Criminal Tribes Acts repealed by government, former "criminal tribes" categorized as "denotified" and Habitual Offenders Act (1952) enacted.
- 1955 – Reform of family law concerning Hindus gives more rights to Hindu women.



सत्यमेव जयते

- 1958 -Armed Forces (Special Powers) Act, 1958.
- 1973 – Supreme Court of India rules in Kesavananda Bharati case that the basic structure of the Constitution (including many fundamental rights) is unalterable by a constitutional amendment.
- 1975–77 – State of Emergency in India – extensive rights violations take place.
- 1978 – SC rules in Menaka Gandhi v. Union of India that the right to life under Article 21 of the Constitution cannot be suspended even in an emergency.
- 1978-Jammu and Kashmir Public Safety Act, 1978.
- 1984 – Operation Blue Star and the subsequent 1984 Anti-Sikh riots
- 1985-6 – The Shah Bano case, where the Supreme Court recognised the Muslim woman's right to maintenance upon divorce, sparks protests from Muslim clergy. To nullify the decision of the Supreme Court, the Rajiv Gandhi government enacted The Muslim Women (Protection of Rights on Divorce) Act 1986
- 1987 - Hashimpura massacre during communal riots in Meerut.
- 1989 – Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is passed.
- 1989–present – Kashmiri insurgency sees ethnic cleansing of Kashmiri Pandits, desecrating Hindu temples, killing of Hindus and Sikhs, and abductions of foreign tourists and government functionaries.
- 1992 – A constitutional amendment establishes Local Self-Government (Panchayati Raj) as a third tier of governance at the village level, with one-third of the seats reserved for women. Reservations were provided for scheduled castes and tribes as well.
- 1992 – Babri Masjid demolished by Hindu mobs, resulting in riots across the country.

- 1993 – National Human Rights Commission is established under the Protection of Human Rights Act.
- 2001 – Supreme Court passes extensive orders to implement the right to food.
- 2002 – Violence in Gujarat, chiefly targeting its Muslim minority, claims many lives.
- 2005 – A powerful Right to Information Act is passed to give citizen's access to information held by public authorities.
- 2005 – National Rural Employment Guarantee Act (NREGA) guarantees universal right to employment.
- 2006 – Supreme Court orders police reforms in response to the poor human rights record of Indian police.
- 2009 – Delhi High Court declares that Section 377 of the Indian Penal Code, which outlaws a range of unspecified "unnatural" sex acts, is unconstitutional when applied to homosexual acts between private consenting individuals, effectively decriminalising homosexual relationships in India. See also: Homosexuality in India

Use of torture by police

The Asian Centre for Human Rights estimated that between 2002 and 2008, over four people per day died while in police custody, with "hundreds" of those deaths being due to police use of torture. According to a report written by the Institute of Correctional Administration in Punjab, up to 50% of police officers in the state have used physical or mental abuse on prisoners. Instances of torture, such as through a lack of sanitation, space, or water have been documented in West Bengal as well.

Indian administered Kashmir



Several international agencies and the UN have reported human rights violations in Indian-administered Kashmir. In a recent press release the OHCHR spokesmen stated "The Office of the High Commissioner for Human Rights is concerned about the recent violent protests in Indian-administered Kashmir that have reportedly led to civilian casualties as well as restrictions to the right to freedom of assembly and expression." A 1996 Human Rights Watch report accuses the Indian military and Indian-government backed paramilitaries of "committing serious and widespread human rights violations in Kashmir." One such alleged massacre occurred on January 6, 1993 in the town of Sopore. TIME Magazine described the incident as such: "In retaliation for the killing of one soldier, paramilitary forces rampaged through Sopore's market setting buildings ablaze and shooting bystanders. The Indian government pronounced the event 'unfortunate' and claimed that an ammunition dump had been hit by gunfire, setting off fires that killed most of the victims." In addition to this, there have been claims of disappearances

by the police or the army in Kashmir by several human rights organizations.

Many human rights organizations such as Amnesty International and the Human Rights Watch (HRW) have condemned human rights abuses in Kashmir by Indians such as "extra-judicial executions", "disappearances", and torture; the "Armed Forces Special Powers Act", which "provides impunity for human rights abuses and fuels cycles of violence. The Armed Forces Special Powers Act (AFSPA) grants the military wide powers of arrest, the right to shoot to kill, and to occupy or destroy property in counterinsurgency operations. Indian officials claim that troops need such powers because the army is only deployed when national security is at serious risk from armed combatants. Such circumstances, they say, call for extraordinary measures." Human rights organizations have also asked Indian government to repeal the Public Safety Act, since "a detainee may be held in administrative detention for a maximum of two years without a court order." One 2008 report determined that Indian Administered Kashmir, was 'partly Free'.

Freedom of expression

According to the estimates of Reporters Without Borders, India ranks 122nd worldwide in 2010 on the press freedom index (down from 105th in 2009). The press freedom index for India is 38.75 in 2010 (29.33 for 2009) on a scale that runs from 0 (most free) to 105 (least free).

The Indian Constitution, while not mentioning the word "press", provides for "the right to freedom of speech and expression" (Article 19(1) a). However this right is subject to restrictions under subclause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence". Laws such as the Official Secrets Act and Prevention of Terrorism Act (POTA) have been used to limit press freedom. Under POTA, person could be detained for up to six months before the police were required to bring charges on allegations for terrorism-related offenses. POTA was repealed in 2004, but was replaced by amendments to UAPA. The Official Secrets Act 1923 is abolished after right to information act 2005

For the first half-century of independence, media control by the state was the major constraint on press freedom. Indira Gandhi famously stated in 1975 that All India Radio is "a Government organ, it is going to remain a Government organ..." With the liberalization starting in the 1990s, private control of media has burgeoned, leading to increasing independence and greater scrutiny of government. Organizations like Tehelka and NDTV have been particularly influential, e.g. in bringing about the resignation of powerful Haryana minister Venod Sharma. In addition, laws like Prasar Bharati act passed in recent years contribute significantly to reducing the control of the press by the government.

LGBT Rights

Until the Delhi High Court decriminalised consensual private sexual acts between consenting adults on July 2, 2009, homosexuality was considered criminal as per interpretations of the ambiguous Section 377 of the 150 year old Indian Penal Code (IPC), a law passed by the colonial British authorities. However, this law was very rarely enforced. In its ruling decriminalising homosexuality, the Delhi High Court noted that existed law conflicted with the fundamental rights

guaranteed by the Constitution of India, and such criminalising is violative of Articles 21, 14 and 15 of the Constitution.

National Human Rights Commission – Role in Human Rights Protection

Human rights attach to all persons equally, by virtue of their humanity, irrespective of race, nationality, or membership of any particular social group. They specify the minimum conditions for human dignity and a tolerable life. Human rights are those which are inherent to all human beings whatever be the nationality, place of residence, sex, national or ethnic origin, color, religion, language, or status in the society. Human rights encompass a wide variety of rights. Human rights are universal and moral. All individuals entitled to these rights without any discrimination on any ground. All these rights are interdependent, inter-related and indivisible.

Human rights are important to the stability and development of all the countries around the world. Great emphasis has been placed on international conventions and their implementation in order to ensure obedience to a universal standard of acceptability. With the advent of globalization and the introduction of new technology, these principles gain importance in protecting human beings from the ill-effects of change. However the efficacy of the mechanisms in place today has been questioned in the light of blatant human rights violations and disregard for basic human dignity in nearly all countries in one or more forms. In many cases, those who are to blame cannot be brought to book because of political considerations, power equations etc. When such violations are allowed to go unchecked, they often increase in frequency and intensity usually because perpetrators feel that they enjoy immunity from punishment.

ROLE OF NHRC

India has been a nation where many of its people have been denied their rights and the exploitation of human life has desensitized many of us. In this context, NHRC should continue with its focus on educating our nation on the importance of human rights for human rights.

Globalization has also led to interesting yet formidable challenges in the area of Human Rights Jurisprudence. And in the era of globalization the NHRC has a key role to play in ensuring that the all sections of society can productively engage with the expansion of opportunities. We must ensure that globalization does not further perpetuate the gross economic and social inequalities that exist in our country. By ensuring equal opportunities and protecting citizens against discrimination and inaction, the NHRC can provide a level playing field to all our citizens and help in shaping our country into a truly global leader. The NHRC and other institutions concerned with the development of good governance must also examine how the harnessing of technology can help in the promotion of good governance. Technology if harnessed well and universalized in access can be a great social leveler. . For instance, the impact of the internet and related technologies in the promotion of good governance through better delivery of various government services cannot be underscored. Thus, promotion of universal access of technology, in particular, of the internet and tele-communications would go a long way in strengthening the social fabric of our society and deepening democracy itself. And as long as India as a country is unable to bridge the wide socioeconomic gap amongst its people, the challenge towards development of appropriate Human Rights Jurisprudence and

its practice, protection and enforcement must remain a constant and rigorous effort.

Human trafficking

Human trafficking is a \$8 million illegal business in India. Around 10,000 Nepali women are brought to India annually for commercial sexual exploitation. Each year 20,000–25,000 women and children are trafficked from Bangladesh. Babubhai Khimabhai Katara was a Member of Parliament when arrested for smuggling a child to Canada.

Religious violence

Communal conflicts between religious groups (mostly between Hindus and Muslims) have been prevalent in India since around the time of its independence from British Rule. Among the oldest incidences of communal violence in India was the Moplah rebellion, when Militant Islamists massacred Hindus in Kerala. Communal riots took place during the partition of India between Hindus/Sikhs and Muslims where large numbers of people were killed in large-scale violence.

The 1984 Anti-Sikh Riots was a four-day period during which Sikhs were massacred by members of the secular-centrist Congress Party of India; some estimates state that more than 2,000 were killed. Other incidents include the 198, Hashimpura massacre during communal riots in Meerut, 1992 Bombay Riots and the 2002 Gujarat violence—in the latter, more than 1,000 Muslims (no citation) were killed following a militant Islamist attack on a train full of Hindu pilgrims in the Godhra Train Burning, where 58 Hindus were killed. Lesser incidents plague many towns and villages; representative was the killing of five people in Mau, Uttar Pradesh during Hindu-Muslim rioting, which was triggered by the proposed celebration of a Hindu festival. Other such communal incidents include the 2002 Marad massacre, which was carried out by the militant Islamist group National Development Front, as well as communal riots in Tamil Nadu executed by the Islamist Tamil Nadu Muslim Munnatra Kazagham against Hindus.

Caste related issues

According to a report by Human Rights Watch, "Dalits and indigenous peoples (known as Scheduled Tribes or adivasis) continue to face discrimination, exclusion, and acts of communal violence. Laws and policies adopted by the Indian government provide a strong basis for protection, but are not being faithfully implemented by local authorities."

The UN stated in 2011 that the caste system of India will be declared a human rights abuse. The UN's Human Rights Council, meeting in Geneva, is expected to ratify draft principles which recognises the scale of persecution suffered by 65 million 'untouchables' or 'Dalits' who carry out the most menial and degrading work.

Amnesty International says "it is the responsibility of the Indian government to fully enact and apply its legal provisions against discrimination on the basis of caste and descent.

Denotified tribes of India, along with many nomadic tribes collectively 60 million in population, continue to face social stigma and economic hardships, despite the fact Criminal Tribes Act 1871, was repealed by the government in 1952 and replaced by Habitual Offenders Act (HOA) (1952), as effectively it only created a new list out of the old list of so-called "criminal tribes. These tribes even today face the consequences of the 'Prevention of Anti-Social Activity Act' (PASA), which only adds to their everyday struggle for

existence as most of them live below poverty line. National Human Rights Commission and UN's anti-discrimination body Committee on the Elimination of Racial Discrimination (CERD) have asked the government to repeal this law as well, as these former "criminalized" tribes continue to suffer oppression and social ostracization at large and many have been denied SC, ST or OBC status, denying them access to reservations which would elevated their economic and social status.

Human rights violations

Human rights violations occur when actions by state (or non-state) actors abuse, ignore, or deny basic human rights (including civil, political, cultural, social, and economic rights). Furthermore, violations of human rights can occur when any state or non-state actor breaches any part of the UDHR treaty or other international human rights or humanitarian law. In regard to human rights violations of United Nations laws, Article 39 of the United Nations Charter designates the UN Security Council (or an appointed authority) as the only tribunal that may determine UN human rights violations.

Human rights abuses are monitored by United Nations committees, national institutions and governments and by many independent non-governmental organizations, such as Amnesty International, International Federation of Human Rights, Human Rights Watch, World Organisation Against Torture, Freedom House, International Freedom of Expression Exchange and Anti-Slavery International. These organisations collect evidence and documentation of alleged human rights abuses and apply pressure to enforce human rights laws.

Wars of aggression, war crimes and crimes against humanity, including genocide, are breaches of International humanitarian law and represent the most serious of human rights violations.

In efforts to eliminate violations of human rights, building awareness and protesting inhumane treatment has often led to calls for action and sometimes improved conditions. The UN Security Council has interceded with peace keeping forces, and other states and treaties (NATO) have intervened in situations to protect human rights.

NHRC seeks report from Tamil Nadu

Taking cognizance of the "encounter" deaths in Chennai in the early hours of Thursday of five persons, suspected to be behind two bank robberies, the National Human Rights Commission on Friday sought a report from the Tamil Nadu Director General of Police on the matter.

The NHRC also directed the District Magistrate and the Senior Superintendent of Police to investigate the incident.

The three officers have been ordered to submit their response within eight weeks of the notice.

The Commission sought reports of the magisterial enquiry and post-mortem, besides and independent investigation report as per its guidelines.

The Commission's directive came on the basis of complaints it received following media reports on the episode.

CONCLUSION

Human rights are a sort of special moral entitlement. They belong to an individual as a consequence of being human. Human rights are defined at different places differently. In India, human right now days is a burning issue. The act passed to protect human rights i.e. Protection of National Human Rights Act, 1993 was passed very recently with a view to prevent human rights violations. The setting up of the NHRC through the Protection of Human Rights Act, 1993, is an important development in the quest for human rights in India. The appointment of such Commission can make a platform for institutionalizing the concept of human rights in addition to the provision of fundamental rights as enshrined in the Constitution of India.

It is very necessary to protect the interests of people like SC, STs, etc. because these people form the vulnerable section of the society. Also, the procedure followed in NHRC and SHRCs needs to simplify a bit so that everyone including the vulnerable sections can access it. The concept of separate human rights courts which is coming up nowadays can perhaps help in more efficient protection of human rights of the vulnerable sections of the society.

REFERENCES

- [1]"Freedom in the World 2006: Selected Data from Freedom House's Annual Global Survey of Political Rights and Civil Liberties"PDF (122 KiB), Freedom House, 2010
- [2]World Report 2011: India. Human Rights Watch. 2011.
- [3]"India's human rights defenders need better protection, says UN expert". United Nations. Retrieved 13 February 2011.
- [4]<http://www.hrw.org/en/news/2007/11/19/india-repeal-armed-forces-special-powers-act>
- [5]<http://www.amnesty.org/en/library/info/ASA20/019/2000>
- [6]<http://www.unhcr.org/refworld/publisher,NATLEGBOD,,IND,3ae6b52014,0.html>.