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Human Rights Movement

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Abstract

Rights are essential to enable even person to lead a good life. People have struggled for recognition of their rights since the dawn of history. The struggle has been arrived on against autocratic Kings, dictators and other despots who were vehemently opposed to the grant of political and other liberties to their subjects. The full enjoyment of human rights by all classes of people, without discrimination of any kind, is closely associated with democracy. This paper tries to present Human Rights moment.

Keywords: Human rights movement person to lead a good life struggled for recognition

Introduction

Democracy becomes meaningless without people's basic rights and freedom. And, there am be no rule of the people and for the people unless the\ arc ensured all basic rights. Thus, the success and failure of a democracy depends upon the degree of individual freedom it allows and the number of rights it guarantees to the citizens. There are certain rights which are witch regarded as 'fundamental', specifically one's right to life, liberty, and property, freedom of speech, press, worship and assembly are supposed to be beyond the reach of whims and caprices of the popularly elected legislatures-of the sovereign States. The objects of rights are to establish a limited Government which enables the people to enjoy their freedom without fear and importance.

Human Rights are a universal phenomenon because rights have been imbibed in our society over the years. It has been realized that without human rights we cannot live as human beings. These rights are necessary to ensure the dignity of every person as a human being irrespective of one's race, religion, nationality, language, sex or any other factor. The concept of Human Rights is based on the assumption that human beings are born equal in dignity and rights.

Meaning

There is no unanimity among philosophers with regard to the exact definition of Human Rights. It varies from place to place and time to time. As a human being individual enjoys certain rights, those are termed as human rights. It is concerned with the dignity of individual. They are defined as " basic' in the sense that their enjoyment is a prerequisite to the enjoyment of all other rights. Human Rights demand respect for human personality and its absolute worth, regardless of color, race, sex, religion and other considerations. These rights arc essential for the fullest development of the personality of the individual and human prosperity.

Nature. Human rights are linked with Socio-economic and political rights of man because without bare minimum of substance freedom can have no meaning. Human rights cannot exist without rule of law. Rule of ensures free enjoyment of political rights. Self-determination forms the basis of modern nation states. Democracy does not mean merely majority rule. It should be coupled with human rights. In recent years it adds to the legitimacy of State. Every civil society is based on the principle of human rights which are essential for the dignity of the individual.

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Objectives and Importance

Without basic rights, people cannot lead happy, contented life and develop Their personality. It is widely recognized that human rights are vitally important for development and progress of civilization. Man can live in dignity and freedom only when all the avenues he desires are open to him. Of course there have to be within the limits of law. The function of fundamental Rights, according to the Constitution of the Republic of Germany, is "to supply standards and prescribe limits for the legislature, the executive and the administration of justice."

Rights are protected through limitations on the powers of all the three branches of Government. The judiciary ensures that the rights of the individuals and minorities are duly protected against the onslaughts by power obsessed rulers. The limitations are so designed to ensure that public agents (rules) or people's representatives will not transcend their authority. When the basic human rights are enshrined in the Constitution, they are essentially cherished and regarded as sacred. Violation of these rights by anyone, however, high and mighty is regarded as a violation of the Constitution. Statutory rights are also meant to protect citizens against discrimination of any kind to remove crude forms of social inequality to facilitate the upliftment of socially backward classes and check their exploitation. These rights help to promote the ideals of a welfare State in which social and economic democracy should prevail. They also indicate that the regulatory role associated with the State in the decades gone by has given place to the "Scary ice State" developed from Natural Rights and Natural Law's.

Development of the Concept of Human Right

If Human rights are the end product of cherished human values and virtues tested in a time frame approach, they are essential for the existence and excellence of mankind. Times, the concept of human rights resembles the theory of natural rights of John Locke. He considered certain rights like right to life, liberty and property as natural to man. No authority can take away these rights under any circumstances. Rather, the Government in power should extend due support and make necessary provisions for its protection. He was of the view that the State was created for the protection of the natural rights and the happiness of the individual. It may be noted here that Locke sought rights and freedom for all men without distinction. Thus, his concept of natural rights are based on the principle of equality. So, the modern concept of human rights owes its origin to the theory of 'Natural Rights' and 'Natural Law'.

Again, it should be borne in mind that the idea of rights is as old as the concept of State, but the concept of "rights", started taking concrete shape with the rise of liberal democratic traditions in the West.

The scores of events like the Magna Carta of Britain (1215), the American Declaration of Independence (1776), the French Declaration of the Rights of man and the citizen (1789) and the Bolshevik Revolution (1917) give testimony of the people's desire for rights and to be treated as equal. The 'Magna Carta' or the charter of demands' which the king was compelled to accept granted basic political and legal rights which became fundamental to the development of constitutional Government in England. The message was carried forward by the American and French Declaration of Civil and Political Rights and Freedom such as liberty, equality (before the law) and fraternity, freedom of thought,

pursuit of happiness, human dignity and democratic government. The October, Revolution of 1917 opened a new chapter by giving due emphasis on economic security and social justice which became the cornerstone of ^[1] socialist movement. This new dimension got acceptance in Europe and Non socialist States;

The struggle for human rights gathered global dimension only in the 20th century. The growing interdependence among nations, the rise of Western imperialism and the two great World Wars contributed towards the strengthening of this process. The fear of "NAZI ^[1]", spread of Communism were, among others, the main factors which motivated the Western Liberal Democratic States to initiate the process of promulgating an internationally recognized "Bill of Rights".

Human Rights and U.N.

United Nations Organization was founded on 24th October, 1945 after the end of Second World War. Hence, complaints of violation of human rights started pouring into the United Nations. The U. N. Economic and Social Council, the Human Rights Commission, a Sub-Commission on Prevention of Discrimination and Protection of minorities dealt with these complaints. Further, the U.N. General Assembly adopted on December 10, 1948, the Universal Declaration of Human Rights. The Declaration recognized the inherent dignity and equal, inalienable rights of all members of the human family. The work of drafting the Human Rights Charter was mostly done by 'RENE CASSIN'. The Declaration was a common standard of achievement for all people and all nations. It was meant to ensure that human beings everywhere could live in dignity and freedom as equal partners in human society. The Commission and its Sub-Commission were authorized to examine information relevant to gross violations of human rights and fundamental freedom. Especially, a resolution was passed on June, 6, 1967, authorizing the Council and Commission to take necessary steps to put a stop to violations of human rights wherever they might occur.

In 1978, for the first time, the Commission's Chairman revealed the names of the countries in respect of which decisions had been taken in private meetings, but not the nature of decisions. Further, on March, 5, 1985, the commission announced that it had taken action (not disclosed) in regard to Albania, Haiti, Indonesia (East Timor) Pakistan, Paraguay, The Philippines, Turkey and Zaire. The Commission ^[1] a step ahead by emphasizing the importance of entertaining complaints from individuals. Hence, the practice of individuals and non-Government organizations complaining to the Human Rights Commission is now well established.

The U. N. has also made several attempts to get a total ban imposed on torture of prisoners which is reported from several countries, in 1984, the U. N. adopted the International Communal against torture. Torture is commonly adopted in case of political prisoners and suspects.

Again, religious intolerance is another form of denial of the right to pursue any religious creed. On, March 12, 1986, the 43-nation U. N.

Human Rights Commission expressed concern over the frequent "Violation of the right to freedom of religion. The Commission called for a probe into worldwide religious intolerance ^[1]

In November, 1989, U.N. adopted yet another convention i.e., on the Rights of the Child. Thus, it can be said that with the birth of United Nations, the matter of human rights has been internationalized. Now, the manner in which the State treats its citizens can be a matter of international concern.

Basic Rights in America and Europe

American system: The Constitution of U. S. A. was the first Constitution to carry a comprehensive list of 'Bill of Rights' It embodies the value judgment of its framers on the structure of the Government and the rights of the people. Thus, it provides the best example of a truly liberal democratic setup. Since, the original draft of the Constitution did not contain any specific provision for citizen's basic rights, Subsequent 10 amendments were effected hi 1791 to include a list of Bill of Rights'.

The outstanding feature of the Bill of Rights is the doctrine of due process of law". The fifth Amendment lays down that "no person shall be deprived of his life, liberty and property without due process of law." This implies that any law or action of the Federal or State Government can be challenged if it amounts to depriving a person of his life, liberty or property.

The most notable feature of American Constitution is that the executive and legislature cannot suspend or abridge any rights so granted on the ground of "Safety or Security of State." The judiciary decides whether there is a clear and present danger to the existence of UV social order or to justify a curtailment of the rights of the individual.

Again, U. S. A. of also provides a notable example of democracy governed by 'Rule of Law'

The European System: This is the oldest, and by for the most effective system of protecting human rights. The European Convention has established two important institutions to supervise the enforcement of its provisions. These are the European commission of Human Rights and the European Court of Human Rights. Both the Commission and the Court are seated in Strasbourg. France, which is also the headquarters of the Council of Europe. -

Besides other organizations which focus public attention on flagrant violation of human rights in various parts of the world, these are the Helsinki Watch Committee which report periodically the human rights violations as per Helsinki International Pact of 1975.

The European System, relies more on interstate complaints and individual petition to remedy the violations of human rights. Any State Party to the convention may bring to the notice of the Commission any violation of human rights by other parties. It should be noted here that the proceedings which were instituted against Greece and Turkey by some Scandinavian Countries were compelled by humanitarian consideration.

Third World Countries

The third World comprises a variety of regimes - democratic, Semi democratic. autocratic, military, parliamentary institutions. The Third World comprises of countries spreading over several confinements - East Europe. Asia. Africa. Latin America. Nicaragua. El Salvador and other Latin American countries, flick Latin American countries are famous for notorious and clandestine activities, hi those countries human rights are

continually denied to the masses. Continued U. S. interference has put a check to the human rights violations.

In African continent human rights violations are much more common. The African charter on Human and Peoples' Rights. which was adopted by the Organization of African Unity (O.A.U) in 1981. entered into force in 1986. It establishes a system for the promotion and protection of human rights that is designed to function within the institutional framework of OAU. The charter differs in many ways from its European and American counterparts. The European system provides the most effective mechanism of human rights protection compared to African System which permits the State parties to impose extensive restriction and limitations on the exercise of the rights it proclaims.

Unfortunately, no regional system prevails in Asia. We don't have a regional organizations like OAS or OAU. More over. Asia is too large a Continent with diverse socioeconomic political and cultural systems: religious and historical back ground. The initial lead taken by Arab ^League for the establishment of the Permanent Arab Commission on Human Rights in 1968 fall short as so far nothing concrete has been done in this regard.

The Latin America, as early as 1948. the Organization of American States (OAS) adopted the Declaration of Rights and Duties of Man. The American convention closely resembles both the European convention of Human Rights but with some differences. While under the European System the right of petitions of individuals are optional, in inter-American system it is automatic. The American convention allows the organization to possess the power to examine and conduct on the spot investigations of individual cases and the general situation of human rights in various American States and to publish reports on them. Despite the elaborate system gross violations have occurred in Argentina., Bolivia, Chile, Haiti.

Non-Governmental Organizations and Amnesty International

Since, the inter-Governmental organizations were not very successful in their mission, many N.G.Os came forward to achieve the goal of upholding the dignity of the individuals and seeking to ensure their rights, Prominent among them are Amnesty International the International League for Human Rights. And the International Commission for jurists. The N.G.Os have achieved great success over the years.

The Amnesty International was founded in 1961. by a lawyer based at London and subscribed to work for human rights. Though it started with a small group and a meager source of revenue, has become a worldwide phenomenon. Now. it is an worldwide movement with subscribers hi Africa, Asia, Europe and West Asia. It had laid emphasis to the plights of the prisoners of war and political independence. It sends it missions to the countries from where gross violation of human rights are reported. It believes that by sustained campaign the number of cases of gross violation of human rights can be scaled down. Since its in inception, the movement has taken up more than 28,000 cases of known or possible prisoners of conscience. To counteract varying patterns of political repression, Amnesty International uses a range of different techniques. Amnesty International relies overwhelmingly on public support for its finance. It also relies greatly on broad based

community support to generate international pressure for human rights. It expects donations for its mission. Thus, it is a fully independent organization, financially and otherwise. The Amnesty International in its mission to put an end to violation of human rights has laid emphasis on stopping torture, and unfair trials. It has also called on the countries to make human rights an element of their foreign relations. Finally, it has called on them to make a commitment to human rights education, and train their military and police in human rights protection.

The successive U. S. Presidents have criticized the soviet regime for denying basic Human rights to the people. The U. S. has also accused the Russians of having flouted the Helsinki Accord which envisaged the grant of full political and other rights to people in all countries. *f*

Human Rights in India

The Indian Constitution contains a more elaborate declaration of human rights than the Bill of Rights contained in any other Constitution Chapter III contains the list of Fundamental Rights that covers all facets of Human life. Some fundamental rights are the outcome of peculiar social, economic and political conditions prevailing in the country. Some rights are positive while others are negative in effect. The positive rights of citizens include the various freedom of speech and religion. Article 19 to 22 cover the classical liberties of the individual. Article 19 is by far the most important since it guarantees six basic civil rights which in effect are common law rights - freedom of speech and expression (includes freedom of press); freedom of assembly and association; freedom of movement; freedom of residence and settlement; and finally, freedom of profession, occupation, trade or business. These freedoms are regarded as vital ingredients of human happiness and progress, without them no person can rise to the full stature of his or her personality. The Preamble to the Indian Constitution declares that one of its aims is to secure "liberty of thought, expression, belief, faith and worship". Part IV of the Indian Constitution (Directive Principles of State Policy) makes mention of observance of human rights. Article 38 of the Constitution clearly lays down the objective. "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice social, economic and political—shall inform all the institutions of the national life." The States are required to direct its policy towards non-concentration of wealth in fewer hands and shall be so distributed to promote common good. The State is also expected to ensure adequate means of livelihood for all.

In pursuance of the implementation of the pledges given in the election manifesto of 1991 and also keeping in view the urgency of the matter in the light of the wild criticism of Pakistan and other Western powers by their allusions to alleged violation of human rights in Punjab and Kashmir, the Congress government of P.V. Narsimha Rao thought it expedient in the national interest to set up a Commission through a Presidential Ordinance promulgated on 29 September, 1993, which became an Act in 1994. The National Human Rights Commission, as officially declared, would have its seat in Delhi and would have the power to establish its offices in other places of the country with the permission of the Central government. It would consist of a Chairman and 4 other members appointed by the President of India for a term of five years or till they attain the age of

70 years, whichever earlier. The members of this body would be eligible for reappointment for another term, but not be eligible for its membership after completing the age of 70 years. The office of the chairman would be given to a former Chief Justice of India, but its other members would be a serving or retired judge of the Supreme Court, a serving or retired Chief Justice of a High Court, 2 prominent persons having knowledge of or practical experience in the sphere of human rights, and three *ex-officio* members—the chairpersons of National Commissions for Minorities, Scheduled Castes and Scheduled Tribes, and Women. The appointments of the chairperson and other members of this body would be made on the recommendations of a 6-member committee consisting of the Prime Minister (as its head), the Speaker of Lok Sabha, Deputy Chairman of Rajya Sabha, Leaders of the Opposition in the Lok Sabha and the Rajya Sabha and the Union Home Minister. It would have a Secretary-General to discharge secretarial functions.

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