

HUMAN RIGHT IN INDIA: ISSUES AND CHALLENGES

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Human is most wise and intelligent social creature of this world. He has a Individual Personality and his Character has a Dignity. So he require to some fundamental rights for development of his Personality and Contribution to Social welfare. These fundamental rights must be inviolable. Human right are minimum rights which are available to every human being without distention of language, religion, caste, nationality, gender, social and economic condition of society. Human being got human rights because he is human so he got it naturally by birth without any partial bias of generation caste color and gender so that it is fact the human right must be based on primary need of humanity. Human rights contained in the universal declaration of human rights in our constitution, human rights are known as fundamental rights in our constitution. Human rights are referred as a fundamental rights, basic rights, inherent rights, natural rights and birth rights. Human rights are rights of exceptional importance and belong to every individual by virtue of being a human, these rights are necessary to ensure the dignity of every person the concept of human rights is based on the notion of equality of human being. "Fundamental rights to which every man in habiting any part of the world should be deemed entitled by virtue of having been born of human being. According to the protection of human rights Act-1993 "Human rights means rights relating to life liberty equality and dignity of the individuals guaranteed by the constitution or embodied in the International Covenants and enforceable by court in India."¹ Fundamental rights are guaranteed to citizens under article 12 to 35 in part-3 of the Indian Constitution.

The united nation center of Human Right defines Human Rights as "those rights which are important in our nature and without which we cannot live as human being". The Universal Declaration of Human Right which adopted on 1948, define human rights as "rights derived from the inherent dignity of human person"²

Human Rights are, in the First instance, moral Rights and they derive their strength on ethical ground. Human Rights are inconceivable without the Primary Rights of freedom of thought and impassion which recognized dignity its justifiability from moral and ethical considerations.

It has been appreciated that without Human Rights, humanity cannot progress. That is why over the past sixty years the individual human being has gradually acquired an increasing number of internationally recognized human rights and obligations. During and at the time of the two world wars we witnessed the deprivation of the Human Values and rights. How were after the 2nd world war, many nations become independent and they could Protect the rights and threw liberty of the people. They legalized the human rights by incorporating the provisions in the constitution and through proper legislation. Fundamental Rights are granted to citizens under article 12 to 35 in Part-3 of the Indian constitution. There are six categories of Fundamental Rights. They are:

1. Right to Equality-Article 14 to 18
2. Right to freedom- Article 19 to 22
3. Right against exploitation- Article 23 & 24
4. Right to Religion-Article 25 to 28
5. Cultural and Educational Rights-Article 29 & 30

6. Right to Constitutional remedies- Article 32
 Article 32 of Indian Constitution Provides for the enforcement of Fundamental Rights by the Supreme Court. It confers on the people the right to more the supreme court in case of encroachment on the Fundamental rights would have been meaningless had there not been legal Sanction behind them and indicial remedies in case of their infringement such constitutional remedies have been described by Dr. Bhim Rao Ambedkar as the “heart and Soul of the constitution”³ the Supreme court of India exercise

the rights of judicial review for the Protection and enjoyment of fundamental Rights. It can issue writ in the nature of Habeas corpus, Mandamus, Prohibition Quo warranto and Certiorari, Although we have law and covenants to promote Human Rights and protection of Human Rights, because our nation is democratic welfare state but violation of Human Rights in various level are still going on because absence of Any effective implementation machinery.

HUMAN RIGHTS SITUATIONS OF VIOLATION LIKELY ALLEGATION ON PERSONNEL

Human Rights	Situations of Violation	Likely Allegation On Personnel
1. All human beings are born equal and free in dignity and rights. No one shall be subject to arbitrary arrest, detention. Forces cannot arrest unless ordered by the magistrate acting under Armed Forces Special power act.	During aid to civil authorities while combating insurgents, culprit may have to be apprehended: <ul style="list-style-type: none"> • During cordon and search operations for suspected terrorist. • While dealing with mob indulging in looting arson etc. • Persons threatening peace in an area or inciting the public against Armed Forces. 	(g) Illegal Arrest (b) Arrest of innocent persons.
2. No one shall be subject to prolonged and unlawful detention. The apprehended person should be handed over to the police and shall not be confined for the purpose of interrogation.	The police and Armed forces may be tempted to keep a person in confinement in following situations: <ol style="list-style-type: none"> a. For interrogation b. To prevent a dangerous insurgent from escaping. c. Detention of person for identification. 	a. Wrongful confinement b. Illegal treatment c. High handedness d. Rape, Molestation, etc.
	Armed Forces may inadvertently cause death/injury to other	a. Murder

	persons in following situations:	
3. Everyone has the right to life, liberty and security of persons.	a. During crossfire between Armed Forces and insurgents in a crowded area. b. In self defense c. Due to any accidental firing d. On being ordered to fire at mob for maintaining law and order. e. On check post f. During cordon and search operations.	b. Causing death/injury due to negligence. c. Death in custody d. Torture e. Inhuman and degrading behavior.
4. Everyone has right to well being to himself and his family. On humanitarian grounds medical help and care has to be provided to sick and wounded of even an enemy as laid down in the Geneva Convention.	Medical assistance is likely to be denied by the Armed forces under: a. Due to shortage of medicines and doctors. b. Priority of looking after one's own sick and wounded rather than others.	a. Inhuman behavior b. Cruelty to fellow human beings. c. Death due to carelessness and negligence of Armed forces.
5. Everyone has the right to freedom of movement and residence within the borders of each state.	Movement restrictions curfew may be imposed without proper authority due to: a. To check movement of terrorist/insurgents during aid to civil authorities.	a. Interference with right to work and earn living. b. Harassment.

Source: Terrorism and Human Rights legalserviceindia.com

There are some challenges of Human rights in India, which are given below:

Police Negligence, custodial violence and death in police custody:-

Police is the most particular part of any constitutionally system which is the Responsible for law and order of country. Police as foundation pillar for maintenance of Law and Order⁵, however the fact Reaming that there is a wide gap between their and practice. All that is preached is not always put into practice and Indian is no reception the Denial of

fundamental Freedom and Human Rights by the State creates the conditions of Social and Political unrest. It definitely sows the seeds of Violence and conflicts within and Between Societies and Nations. Custodial crimes proceed with arrest and detention in police custody. Custody in its strict sense means care safety and guardianship. A custodial crime means 'To take a person in custody is to limit his freedom. Taking advantage of such a situation, the custodian may attempt to commit crime on the person under custody. Individuals come under the police custody for various reasons like arrest. Police remand or the police custody per se is unauthorized. Most prevalent crimes in police custody are: assault of various types, rape and murder (crime in India

1997). According to Custodial (Prevention, Protection and Compensation), Bill, 2006 'Custodial Crime, means "an offence caused against any arrested person or a person in custody when that person was in the custody of a police officer or a public servant who has power under any law to arrest and detain a person in custody, by the police officer or the public servant concerned having the custody of that person during period."⁶ Police Atrocities are a common feature of Indian Scenario some of the common feature of violation of Human Rights are the Torture of Arrested persons Now days Even After 67 years of independence in a Democratic welfare country the police Remains virtually a terror to the people and Almost Absolutely Unaccountable for the violations of Human Rights of people in their custody, through custodial torture, Custodial Death and other Forms of Human Rights violation in police custody Abuses, Now days custodial violence has become A part of the Police culture and the incidence of custodial Death is Quite common. For Example we take airport of Asia Human Rights Center New Delhi "Which is cleared that in a police custody Almost 14231 people killed in a Decade."⁷ It means 4 people killed per day in a police custody, whenever these Figure are different from the Death in jail. "Govt. figure show that in last 4 years 555 fake encounter cases were registered a cross India with majority being reported in U.P. (138) followed by Manipur (62) Assam (52) West Bengal (35) Jharkhand (30) Chhattisgarh (29) Madhya Pradesh (20) Jammu Kashmir (26) Tamil Nadu (23) Odisha (27) only one 44 cases out of 555 here been solved so for"⁸

"The involvement of Deputy S.P. of Sitapur, Inspector and other four cops in a fake encounter in Shahjahanpur (1993) was the matter of discussion in police departments, in which court has given the decision of life imprisonment to theses policemen on dated 2nd December 2014.

Infect because of such type of fake encounters police is defamed in all over country. Some well known fake encounters are given below:

- In 2005 police encountered an intermediate student Tej Bahadur in Ballia. In the enquiry of Human

Right Commission this encounter found to be fake.

- In September 2005 police encountered three people in Gomti Nagar as they were the member of Kachchha Baniyan Group. According to police these three people were going for robbery, and when police tried to catch them they started firing. Administration announced award for the policemen for their bravery. But difficulties faced by police when they failed to tell the names of killed people. Then police alleged in the murder case in Gomti Nagar Police Station.

- In a court decision of 5th April 2013 an encounter found to be faked in which police encountered 12 people in Gonda in 1982 and punishment have been given to policemen."⁹

These figures of death in police custody are put-up major question Mark of the Police Activity.

Terrorism:-

The word terror comes from a Latin word meaning to frighten oxford English dictionary define terrorism as "a policy intended to strike with terror those against whom it is adopted According to UN Security Council Report terrorism is an act intended to cause death or serious badly harms to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing a certain act.

The relationship between terrorism and Human Rights are highly complex. Through it leads to severe human Rights violation. Mast of the terrorist claim Human Rights as their base. This makes the relation more complex. Terrorist activities cause human rights violation in two ways on it directly violates the rights to life and security etc. Secondly it compels the state to abridge from its commitment to the protection of human rights.

Terrorism leads to deterioration of law and order right of capital subversion of democratic and constitutional process threat to secular fabric etc. Infect all these in turn led to grave human rights violation in the form of anarchy underdevelopment, Undemocratic and communal tendencies.

The world is witness of mushroom growth of terrorist groups. Some such organizations or Groups are:-

- ALJIHAD
- ALQAIDA
- LASHKA-E Toiba
- HIJBUL MUJAHIDEEN
- LTTE

No country in world can be said to be free from the deadly scourge of terrorism.

Domestic violence:-

Men and women both are wonderful creations of the Almighty in the world at the present time the woman near about in whole population of world the woman developed in any field. Although discrimination on the women violation of human right of women in the women in the following types:-

1. Exploitation of women by Dowry.
2. Exploitation of women by Abortion
3. Exploitation of women by Rape.
4. Exploitation of women by Domestic violation.

Violence against woman has got identified in the recent past that even abusive language used to address woman amount to violence. Violence against to women violates fundamental human rights and is an affront to women inherent human dignity. There are Physical, Psychological and several cases of violence against women and girls in public and private. Plagues all societies and classes and poses tremendous obstacles to the achievement of equality development and peace.

Child Labour

Children are future citizens of the nations. So Government is responsible for protection of child Human right. According to Nelson Mandela "There can be no keener revelation of a society soul than the way in which it treats its children" 10" Indian population has more than 17.5 million working child in different industries and incidentally maximum are in agriculture sector, leather industry etc"11so child labour is major problem of India although the constitution of India guarantees free and compulsory education to children between the age of 6to 14 and prohibits employment of children.

CONCLUSION:-

Therefore it can be concluded that lack of awareness and poverty and illiteracy are the main factor for this serious problem. When all citizen of our country will be aware about their rights as well as about their duties, human rights can be protected at a very large extent. Active governmental machinery and increased level of education can help in human rights violation. Local governmental machinery should quick and strict action against any incident of human rights violation. Role of police becomes suspected sometimes. So police also should make his clean image. Beside these the role of NGOs is of very important to remove the violation of human rights. So it can be said that in the present developmental era everyone should understand the impotence of human rights and behave human as a human.

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