

GOOD GOVERNANCE, ENVIRONMENTAL JUSTICE AND HUMAN RIGHTS IN INDIA

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ABSTRACT

This paper is an attempt to find out the linkage between good governance and human rights at a theoretical level. It would also throw some light on the capability of the Indian state to ensure environmental justice by providing human rights to its people.

INTRODUCTION

A state is known by the rights it maintains, so said Harold Laski, the Grammarian in Political Science. A state turns into an 'Ideal State' when the governance of the state is not at conflict with the basic needs of its inhabitants and citizen's rights. Theories in politics suggest that, a democratic state would emphasize on ensuring political rights to the people, a socialist state would guard the economic rights, whereas a democratic-socialist state would encourage both the sides. Though the non-students of Political science use the words interchangeably, they are not the same. Individuals over the ages have convinced themselves of the relevance of the existence of an institution like state. What they really desire is to get rid of a bad government which has dishonoured the trust between people and the state; thus has failed to fulfill the basic needs of the people.

The performance of a modern welfare state, ever since its emergence in the Post- Second World War era has been a mixed one. In a way, political scientists have arrived at the conclusions that the modern democratic state, despite all its contradictions is able to provide the basic human needs for its people. However, the world-wide starvation especially in Third World Countries, the violation of child-rights, the exploitation and subjugation of women, the inhuman atrocities on men caused by the world powers and the terrorists all these have put a great

question-mark on the efficiency of state administration to provide good governance to its people. Therefore, the concept of human rights constitutes the very core of public debate on the preferred structure and organization of society.

Human rights are the rights that everybody should have by virtue of his or her very humanity. Any political theory that disregards them, therefore, will make the mistake of overlooking a political axiom. These are the basic rights that specify the line beneath which no one should be allowed to fail. They are defined as 'basic' in the sense that their enjoyment is a pre-requisite to the enjoyment of all other rights.

The foundation norm governing the concept of Human Rights is that of respect for human personality and its absolute worth, regardless of colour, race, sex, religion and other considerations. These rights are essential for the full development of 'Human Personality' and 'Human Happiness'.

The highest law of the land, the constitution of a nation should first and foremost be underpinned by human rights. These basic freedoms are the heart of a 'civil society'. On the other hand, they secure a private, inviolable legal domain for the individual. On the other, they also put people in a position to create either, individually or together a 'public space' and realize common values.

Subsistence, security and liberty constitute the 'basic rights' of the people. The right to development that includes the subsistence rights within its ambit is one of the most important basic human rights. It correctly links the socio-economic and political rights because with hunger and ill-health freedom can have no meaning.

The 'basic needs strategy' is a part of 'Subsistence Rights'. Henry Kissinger, the former Secretary of State of United States of America once said, All Governments should accept the removal of the scourge of hunger and malnutrition, which at present afflicts many millions of human beings. Henry Shue has distinguished three kinds of duty that, correlate with the right of 'Subsistence' the duty to avoid depriving others of subsistence, the duty to protect them if they nevertheless are deprived and the duty to aid those incapables for providing their subsistence. John Locke, the English political philosopher of the seventeenth century, apprehending unlimited possession by individuals has set limits on individual appropriation on the grounds that, 'Men', being once born, have 'a right' to their preservation and consequently to Meat and Drunk, and such other things, as Nature, affords for their subsistence(Second Treatise of Government, cited in Macpherson,1962).

Secondly, human rights cannot exist without rule of law. Rule of Law visualizes a democratically elected government. Article 1 of the International Covenant on Civil and Political Rights state that all people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic and cultural development. Self-determination as a part of human rights is the product of the rise of modern nation states and a chequered history of nationalism, colonialism and post-colonialism.

Democracy does not mean merely majority rule; it means majority rule coupled with human rights. Human Rights can be regarded as the civic counterpart of political power which is vested in those who govern the state. It is to be seen as something which has added to the legitimacy of a state.

Civil society is based on the concept of human rights which are essential not merely to fulfill biological needs of the mankind but as well as for the dignity of the individual. The concept of human rights is consolidated, guided, exploited, channelized and even eroded by the political parties, groups or the elite with the object to gain or retain political power, whether he is Lenin, a Mao, A Nehru or Saddam Hossain. Therefore, the UN Declaration of Human Rights has created certain International Regimes to protect the fundamental rights of the workers, women and children as basic security measures.

Moreover, it cannot be denied that the governed and governing have mutual obligations towards each other. It is worth mentioning here that the Indian Constitution makes attempts to make a balancing approach between the Human Rights and social control by enunciating Fundamental Rights and by setting limits within which they can be imposed on people's rights in the interest of society. But these restrictions must be objective.

However, the notion of human rights is not new for India which can claim to be one of the oldest civilizations of the world. The freedom struggle in India when viewed in its historical perspective is also found to be a struggle for human rights. Promulgation of the Constitution of India in January 1950 was the culmination of India's long struggle for fundamental freedom and human rights. The Fundamental Rights and Directive Principles of State Policy together provide the basic human rights for the people of India. The aim was to bring real freedom, as Nehru said, by providing food for starving people, clothing for them and all manners of opportunities of progress. Now, the question arises whether the concept of human rights enshrined in the constitution is really being honoured or not. This needs thorough examination of working of political process, institutional structure, development process and the condition of the man.

In spite the claim of rapid economic development of half of the population of India live in miserable conditions having no education. What is more shameful that even today the lower castes face social ostracism? Civil liberties and fundamental freedoms are often violated by the state machinery and by those who hold money and power in the society. Moreover, the conditions of minorities, Dalits, women and children are even worse in India. According recent data given by Women and Child Development, there is one rape case in every 54minutes, one molestation in every 26minutes, one kidnapping or abduction in 7minutes. These statistics do not take into account domestic violence which is believed to be the most common in India.

Thus, there is urgent need to ensure the right to life and liberty especially to women, children, Dalits and minorities. State should take special care for their education, employment and overall development in cooperation with NGOs and other welfare agencies.

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