

Issues & Trends In Human Rights

Silky Janglani*

Dr. Simranjeet Kaur Sandhar**

*Assistant Professor, Acropolis Faculty of Management & Research, Indore

**Associate Professor, Indore Institute of Science & Technology, Indore

Abstract

In India, the last quarter of the 20th century has been witness to a growing recognition of the place and relevance of human rights. It is axiomatic that this interest in human rights is rooted in the denial of life and liberty that was a pervasive aspect of the Emergency (1975-77). Human rights are international norms that help to protect all people everywhere from severe political, legal, and social abuses. Examples of human rights are the right to freedom of religion, the right to a fair trial when charged with a crime, the right not to be tortured, and the right to engage in political activity. These rights exist in morality and in law at the national and international levels. The paper deals with various human rights as human rights related to Child education, Human Rights for Women & corruption. It explains the past & present issues related to the above said areas of human rights. The study examines that there is still a need of education of human rights in India. The awareness among people is very low and the abolition of these rights is becoming common. Hence there is an emerging need of education of these rights in higher schools and colleges.

Keywords: *Child Education, Corruption, Human Rights for Women.*

Issues & Trends in Human Rights:

What Does It Mean To Be A Human Being?

For those of you who like biology, it means that we are animals who belong to the genus, homo, and the species, sapiens. In history, human beings are a species that evolved into 'civilized' creatures with language to communicate and to live in an organized society. In political science, we get an idea of how people live in an organized society and why we need rules to organize this society and make sure it functions well.

Often, it is said that man is a social being. What does this mean? Is a tiger a social being? A tiger lives alone and fends for itself, coming together only to mate. The female rears the children. This is not so in the case of human beings. Individuals live in a family, which is often considered the unit of society.

Families constitute the society or the community. However, though we may be part of a family, you are important as an individual. You have certain rights that even your family cannot take away from you. You are at the centre of human rights. (NHRC, 2007)

What Are Human Rights?: The key internationally agreed definition of human rights is contained in the Universal Declaration of Human Rights (UDHR), proclaimed in 1948 by the

United Nations General Assembly. Human rights are universal values. All member countries of the UN – developed and developing – have endorsed the UDHR, a document based on wide-ranging consultation across different cultures.

On December 10, 1948 the United Nations adopted and proclaimed the "Universal Declaration of Human Rights." It called upon member nations to adopt and implement these rights in their respective countries. This declaration was a momentous achievement because it was for the first time that human rights were codified and steps were taken for the preservation of human rights. There are different types of rights such as political, economic social and cultural rights, such as the right to work, to education, to respect for culture, and to a decent standard of living. (Iqbal, 2005).

The concept of human rights has a long history. Human rights principles are found, for example, in the English Bill of Rights (1689), the American Bill of Rights (1789) and the French Declaration of the Rights of Man (1789). They are found also as fundamental aspirations in civilizations from many continents. Popular awareness of human rights issues is now growing throughout the world, including in developing countries, as information is spread through the media and the internet. ((Human rights guidance, 2003)).

Harold Laski one of the prominent political thinkers of the 20th century said , " Rights are in fact, those conditions of social life without which no man can seek in general, to be himself at his best." Human rights can also be defined as "Those conditions of life and freedoms which should be available to all persons, irrespective of their religion, race, caste, sex, nationality or any of them." (Iqbal, 2005).

History: The development of the concept of human rights, which happened over a long period, is probably one of the most fascinating parts of history. Here is a bird's eye view of the main events in the history of human rights:

The **Magna Carta** was the first step. It put forward the idea that no one was above the law. However, by no means we all people considered equal.

The **American Declaration of Independence** was important as a group of people decided to take their destiny into their own hands. Yet, there was slavery and women held an inferior position.

The **World Wars** saw human rights violations on an unprecedented scale. Hard lessons were learnt, including the basic worth of human life and the dignity of every human being.

The **United Nations** (UN) was formed in the aftermath of the World Wars when world governance and ordering were seen as desirable. One of the first tasks of the UN was to prepare the groundwork for human rights.

The **Universal Declaration on Human Rights** (UDHR) was drafted soon after the UN came into being. It is a broad declaration of the ideals to which the world aspires. The Declaration was not binding in nature, as it was not a treaty, just a statement. However, it carries great moral and political force even today.

Besides the UDHR, the **International Convention on Civil and Political Rights**, 1966, and the **International Covenant on Economic, Social and Cultural Rights** (ICESCR), 1966, are also significant in the history of international human rights. The rights enumerated in the UDHR were written in the form of two documents, which were in the nature of treaties.

In India, two important developments were Indian Independence and the drafting of the Constitution of India. Since the Constitution was drafted at the time that all this excitement was taking place in the international arena, the drafting process was heavily influenced by human rights. This is evidenced in our Constitution, especially in the chapters dealing with Fundamental Rights and the Directive Principles of State Policy.

A free India did not mean that the struggle was over. There were many groups that did not receive the benefits of freedom. Many of these groups have struggled in loneliness and in solidarity till they realized new rights and the fulfillment of human dignity. (NHRC, 2007).

Also as a founder member of the United Nations Organizations, India is a party to the Universal Declaration of Human Rights, 1948. Coming close on the heels of the Universal Declaration of Human Rights, the Bill of Rights was enunciated in the Constitution of India, 1950 by the founding fathers, with the contemporary development, humanitarian temper and constitutional practices. Among the constitutional provisions, the chapter on Fundamental Rights has a vital significance, especially in view of the problems of minorities in India.

Fundamental Rights of Indian Citizens: The Fundamental Rights in Indian constitution acts as a guarantee that all Indian citizens can and will live their life's in peace as long as they live in Indian democracy. They include individual rights common to most liberal democracies, such as equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion, and the right to constitutional remedies for the protection of civil right.

Originally, the right to property was also included in the Fundamental Rights, however, the Forty-Fourth Amendment, passed in 1978, revised the status of property rights by stating that "No person shall be deprived of his property save by authority of law."

Following are the Fundamental Rights in India

Right to Equality	<ul style="list-style-type: none">• Article 14 :- Equality before law and equal protection of law• Article 15:- Prohibition of discrimination on grounds only of religion, race, caste, sex or place of birth.
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	<ul style="list-style-type: none"> • Article 16 :- Equality of opportunity in matters of public employment • Article 17 :- End of untouchability • Article 18 :- Abolition of titles, Military and academic distinctions are, however, exempted
Right to Freedom	<ul style="list-style-type: none"> • Article 19 :- It guarantees the citizens of India the following six fundamentals freedoms:- <ol style="list-style-type: none"> 1. Freedom of Speech and Expression 2. Freedom of Assembly 3. Freedom of form Associations 4. Freedom of Movement 5. Freedom of Residence and Settlement 6. Freedom of Profession, Occupation, Trade and Business • Article 20 :- Protection in respect of conviction for offences • Article 21 :- Protection of life and personal liberty • Article 22 :- Protection against arrest and detention in certain cases
Right Against Exploitation	<ul style="list-style-type: none"> • Article 23 :- Traffic in human beings prohibited • Article 24 :- No child below the age of 14 can be employed
Right to freedom of Religion	<ul style="list-style-type: none"> • Article 25 :- Freedom of conscience and free profession, practice and propagation of religion • Article 26 :- Freedom to manage religious affairs • Article 27 :- Prohibits taxes on religious grounds • Article 28 :- Freedom as to attendance at religious ceremonies in certain educational institutions
Cultural and Educational Rights	<ul style="list-style-type: none"> • Article 29 :- Protection of interests of minorities • Article 30 :- Right of minorities to establish and administer educational institutions • Article 31 :- Omitted by the 44th Amendment Act
Right to Constitutional Remedies	<ul style="list-style-type: none"> • Article 32 :- The right to move the Supreme Court in case of their violation (called Soul and heart of the Constitution by BR Ambedkar) • Forms of Writ check • Habeas Corpus :- Equality before law and equal protection of law

Human Right Education: Notably, the UN declared 1995 – 2004 the decade of human rights education. Other UN forums such as the World Conference against racism, racial discrimination, Xenophobia and related intolerance also emphasized human rights education e.g. in schools, in vocational training and in-service education of various professions, like teachers, lawyers or police officers. Human rights education programs target a wide range of participants, from

school children to community leaders to top government officials. Although human rights education has been defined and promoted recently in official forums like the UN, its origin stretch far back to popular education & community activities methods developed around the world (Magendzo, 2005). Heeding to some criticisms by some international agencies, the Government of India enacted the Protection of Human Rights Act, 1993 to provide for the setting up of National Human Rights Commission, Human Rights Commission in states and the Human Rights Courts for the better promotion and protection of human rights. Under the Act, so far the National Human Rights Commission (NHRC) at New Delhi and State Human Rights Commissions (SHRCs) in 17 states has been set up. Like judiciary, these commissions, independent of the government, inquire into the matters of abetment of human rights violations and negligence and submit their findings and recommendations to the government. The NHRC along with the SHRCs has, time to time, come out with wide measures and various suggestions for the protection of Human Rights and has immensely contributed in the field of Human Rights awareness and education in India. (Teleki, 2007).

In view of all these, an attempt has made in this research paper to know the human rights position in India specially the efforts made of project and promote human rights by the government of India, the judiciary the National Human Rights commission and non-governmental human rights organizations. It must be borne in mind that to research human rights issues in India is considerably difficult, as the India government has consistently prohibited independent human rights organizations from investigating allegation. The area of human right is very vast and expanding. Apart from the enforcement of fundamental rights in the Indian context, it also contains such economic rights as right to health, freedom from hunger, women's rights etc. Keeping in view the Importance and popularity of the subject in today's world, I have endeavored to focus my attention on the origin and development of human rights. An earnest effort has been made to discuss the constitutional provisions dealing with human rights of people in India. Further special efforts made of project and promote human by government of India, the judiciary the National Human rights commission and NGOS.

Literature on Human Rights: There is vast literature available on human rights in connection to women's rights, child education, corruption, democracy etc. Speaking about (the value of) democracy, Greven points out that "cognitive, emotional, & action oriented concise elements" are necessary to uphold a stable democratic society. A parallel argument can be made regarding human rights. As long as human rights merely represent an abstract value system or a judicial concept norm but their true meaning is not known, relevant to a large part of the world population, they remain vulnerable to challenges. (Muller, 2009).

In recent years, the subject of corruption has received considerable attention. Work on governance has brought it into the light and it is no longer taboo. Financial institutions, government agencies, bilateral donors, international organizations, non-governmental

organizations (NGOs) and development professionals are addressing corruption. Yet corruption clearly remains a challenge. Despite countless policy diagnoses, public campaigns to raise awareness, and institutional and legal reforms to improve public administration, research shows that it continues to flourish. Indeed, opinion polls suggest that the public is more pessimistic than before about the likelihood of eliminating it. (Human rights guidance, 2003).

The everyday corruption of the petty potentate will have to be understood in this larger context of institutionalized corruption and crime. The extent to which such corruption leads to every day violations of rights is popular knowledge; documenting instances, and the effect of such corruption, would help understand the human rights dimension of corruption as it affects the everyday person. (Ramanathan, 2001).

The last resort to project human rights is to approach Judiciary. The contribution made by the Supreme Court of India in safeguarding the human rights of the people is very significant. Initially, the attitudes of judiciary in India towards the directive principle of state policy were not favorable and it had nullified several important legislation embodying socio- economic reforms. However, with the passage of time there has been a shift in the attitudes of the India judiciary towards social- economic rights claimed in part IV of the India Constitution. Justice Bhagwati observed; “The directive principles of state policy enjoyed a very high place in the constitutional scheme and it is only in the framework of socio-economic structure in directive principles that fundamental rights are intended to operate, for it is only then that they can become meaningful and significant for the millions of our poor the people who do not even have seen necessities of life and are living below the poverty line or level.” (Iqbal, 2005).

The Rights of a Child: Children’s issues were looked on as welfare issues. Now, of course, things have changed. It is universally accepted that children are one of the most vulnerable groups of humanity and, therefore, need extra protection. This extra protection has emerged in the form of a well-developed system of rights. Even if the children are not in a position to claim any rights for themselves, their parents or guardians or concerned adults or the State can exercise these rights on their behalf. (NHRC, 2007)

Though a law prohibiting child marriage has been in the statute books since 1929, it is still performed in many parts of India. For instance, the practice of performing child marriages on *Akas Teej*, it is reported, has not stopped in Rajasthan. Child workers employed in homes and in commercial workplaces were subjected to ill-treatment. The chaining of bonded child labor in the carpet industry near Varanasi so that they could not escape was reported.

Women’s & Human Rights: The women’s movement has been among the most articulate, and heard, in the public arena. The woman as a victim of dowry, domestic violence, liquor, rape and custodial violence has constituted one discourse. Located partly in the women’s rights

movement, and partly in the campaign against AIDS, women in prostitution have acquired visibility. The question of the practice of prostitution being considered as 'sex work' has been variously raised, while there has been a gathering unanimity on protecting the women in prostitution from harassment by the law. The Uniform Civil Code debate, contesting the inequality imposed on women by 'personal' laws has been resurrected, diverted and re-started. Representation, through reservation, of women in parliament and state legislatures has followed the mandated presence of women in panchayats. Population policies have been contested terrain, with the experience of the emergency acting as a constant backdrop. 'Women's rights are human rights' has demanded a re-construction of the understanding of human rights as being directed against action and inaction of the state and agents of the state. Patriarchy has entered the domain of human rights as nurturing the offender. (Ramanathan, 2001)

Methodology: The research paper attempts to explain the concept of human rights and seeks to examine the role of non-governmental organizations and judiciary in India in protecting and promoting human rights. It highlights the provisions in the constitution of India and out how far they are in conformity with the Articles of UN universal Declaration of Human Rights.

In order to these aspects, I have adopted the standard methodology generally followed by the social scientist particular political scientist. The present study is an explanatory descriptive, analytical in nature, and based upon primary and secondary sources. For the collection of data, I have mainly relied upon the report of government as well as non-governmental organization, books, journal, magazines etc.

Discussions:

Linkage of Human Rights with Corruption: The links between corruption and human rights on the assumption that, if corruption occurs where there is inclination and opportunity, a human rights approach may help to minimize opportunities for corrupt behavior and make it more likely that those who are corrupt are caught and appropriately sanctioned. A human rights approach also focuses attention on people who are particularly at risk, provides a gender perspective, and offers elements of guidance for the design and implementation of anti-corruption policies.

If corruption is shown to violate human rights, this will influence public attitudes. When people become more aware of the damage corruption does to public and individual interests, and the harm that even minor corruption can cause, they are more likely to support campaigns and programmes to prevent it. This is important because, despite strong rhetoric, the political impact of most anticorruption programmes has been low. Identifying the specific links between corruption and human rights may persuade key actors – public officials, parliamentarians, judges, prosecutors, lawyers, business people, bankers, accountants, the media and the public in

general – to take a stronger stand against corruption. This may be so even in countries where reference to human rights is sensitive.

Human rights standards, as established in major international treaties and domestic legislation, impose obligations on states. Focusing on specific human rights will help to identify who is entitled to make claims when acts of corruption occur and who has a duty to take action against corruption and protect those harmed by it. A clear understanding of the practical connections between acts of corruption and human rights may empower those who have legitimate claims to demand their rights in relation to corruption, and may assist states and other public authorities to respect, protect and fulfill their human rights responsibilities at every level.

Connecting acts of corruption to violations of human rights also creates new possibilities for action, especially if, as we will argue, acts of corruption can be challenged using the different national, regional and international mechanisms that exist to monitor compliance with human rights. In the last sixty years, following the adoption of the Universal Declaration of Human Rights (UDHR), many mechanisms have been created to hold states and individuals accountable for human rights violations. In addition to judicial accountability, parliamentary reporting plays an important role in many countries, while monitoring by civil society has become more extensive. Intergovernmental institutions have also developed, and the main UN mechanisms are now supported by regional mechanisms such as the European Court of Human Rights (ECtHR), the African Court on Human and Peoples' Rights (ACtHPR) and the Inter-American Court of Human Rights (I/A Court H.R.). The evolution of national human rights institutions is equally significant.

When acts of corruption are linked to violations of human rights, all these institutions could act to force accountability and so create disincentives for corruption. While they do not replace traditional anti-corruption mechanisms – primarily the criminal law – they can give cases prominence, may force a state to take preventive action, or may deter corrupt officials from misusing their powers. They can therefore both raise awareness and have a deterrent effect.

Taking a human rights approach is critically about empowering groups that are exposed to particular risks. The human rights framework emphasizes explicitly that vulnerable and disadvantaged groups must be protected from abuse.

It does so by applying cross-cutting principles – in particular principles that focus on non-discrimination, participation and accountability – that have the effect of empowering people who are disadvantaged. Human rights law requires states to take these principles seriously. Populations should not be consulted in a superficial manner, for example; they should be allowed and encouraged to participate actively in efforts to fight corruption. A human rights perspective requires policy-makers to ask how the design or implementation of anticorruption programmes will affect people who are marginalized or impoverished, subject to social discrimination, or

disadvantaged in other ways. Adhering to human rights principles implies identifying and overcoming obstacles (such as language differences, cultural beliefs, and racism and gender discrimination) that make such people vulnerable to corruption. While there seems to be agreement that corruption has specific impacts on vulnerable and disadvantaged groups, the incorporation of vulnerability and gender in the design of anti-corruption programmes is still limited and exceptional. Making fuller use of human rights would help to strengthen these dimensions of policy. The principle of nondiscrimination could be particularly useful as a guide to attain this objective.

Under international treaties against corruption, anti-corruption measures must be compatible with human rights principles and should not adversely affect the rights of those involved. However, the treaties give little guidance on how officials are to reconcile their commitment to fight corruption with their obligation to promote and protect human rights. Analyzing anti-corruption programmes from a human rights perspective may assist states to comply with human rights standards when they draft and implement laws and procedures to detect, investigate and adjudicate corruption cases. (Massier, 2009).

Human Rights and Children:

Adoption: Children possess a right to special protection during adoption, particularly in cases of inter country adoptions. States must ensure that an adoption is authorized by a competent authority following legal procedure, taking into account the child's best interest. In addition, states are required specifically to take measures to ensure that an adoption does not result in improper financial gain for those involved in it (CRC, Article 21(d)). Despite this, corruption occurs in many cases of inter country adoption.

Judges and orphanages sometimes receive large bribes to speed up the adoption process; or judges may accept false documents, against payment, purporting to contain the consent of the birthparents. Such practices violate the right of the child to be protected, because parties involved in the procedure gain financially, legal procedures are breached and the child's best interest is not prioritized. All this violates Article 21 of the CRC. Corruption in inter country adoptions can also violate other rights of the child, such as the right to identity.

Right to Identity: Every child has the right to preserve his or her identity, including nationality, name and family relations (CRC, Article 8). In cases of corrupt inter country adoptions; in order to remove the traces of an illegal procedure, those involved may efface evidence of a child's family lineage, ethnic roots and medical history. Corruption in inter country adoptions facilitates the commercialization of children with all the risks and abuses that this implies.

Trafficking: Those who traffic or sexually exploit children commonly engage in corruption. Corruption in such cases clearly impairs the rights of children, in particular girls. Children must

be protected from all forms of sexual exploitation and sexual abuse (CRC, Article 34), and from abduction, sale and trafficking (CRC, Article 35, and Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography).

Child Labor: Children have the right to be protected from economic exploitation and from performing any work that is harmful to their health and development (CRC, Article 32). Children under an age determined by law should not be allowed to work. In many countries, the enforcement of laws against child labor remains minimal because the labor inspectorate is underfunded or because employers bribe labor inspectors to overlook abuse. In such cases, the state fails to meet its obligation to protect the child, whose rights to be free from economic exploitation and labor are violated.

Women Rights: This issue acquired visibility with the decision of the Supreme Court in *Vishaka*.¹⁸ Earlier efforts at having the problem addressed, as, for instance, in the Delhi University, has drawn strength from the guidelines set out in the judgment. It was widely reported, however, that it was still proving difficult to get institutions to adopt the guidelines and act upon it. The Madras High Court, for instance, was reportedly averring that the guidelines did not apply to the court; and allegations of sexual harassment by a senior member of the Registry were given short shrift. The process of setting up a credible grievance redressal mechanism was reportedly being watered down in the recommendation of a committee to the Delhi University. In Kerala, a Commission of Inquiry was set up after Nalini Netto, a senior official of the Indian Administrative Service, pursued her complaint of sexual harassment against a serving minister of the state cabinet - which is seen as a diversion from a representative investigative and redressal forum. P E Usha, in Kerala, faced hostility in her university when she followed up on her complaint of sexual harassment. There have been allegations of sexual harassment of women employees by senior persons within institutions working on human rights, and in progressive publications, which too have shown up the inadequacy of the redressal mechanisms.

- Translating the guidelines into norms in different institutions and workplaces;
- finding support systems for women who are sexually harassed
- Breaking through thick walls of disbelief are reckoned to be the priorities. This has also been introduced into programmes on gender sensitization for judicial officers.

Sexual harassment accompanied by violence has become a common feature with cases of acid throwing where there is unrequited love, and harassment which has culminated in the murder of a hounded girl.

Conclusion: Liberalization, and the concerted moves towards opening up the Indian market and the valorization of the market economy; and the various initiatives to attract foreign direct investment has resulted in a re-prioritization of a range of rights, including in the area of project displacement, workers' rights and the actualization of work, exclusion of local populations from forests and from livelihood access including, for example, in fisheries. The restructured role of

the state as a contracting party with multinational corporations and with international financial institutions has altered the nature of the dialogue between the state and the affected peoples. The study constantly met with concern about disjunction between emerging state policy and the insecurities among people who are either victims of this 'growth' model, or who apprehend that they may be wiped out in the process.

The Human enrichment/ Integrated/ Personality development and character building could be effective non-formal of seeking a positive change in the value-temper of students and teachers. They could be organized during vacations or after the working hours. They could include presentations and discussions on different themes like spiritual, moral, aesthetic, societal, cultural, environmental values, values of democracy, scientific temper, communication skills, problems of youth, career choices etc. Awareness and sensitization programme could be in the form of lectures, workshops for a day or two aimed at specific groups, like teachers, research scholars and students of a particular discipline, academic administrator, non-teaching staff etc. Human rights organizations will collide with, and will need to address the issue of corruption in the course of their work, because problems of corruption have human rights consequences; and that mainstreaming of human rights by the UN and many other institutions will mean that anti-corruption institutions will need (and want) to know how to apply human rights.

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