
RECOGNITION OF THE INHERENT DIGNITY AND OF THE EQUAL AND INALIENABLE RIGHTS

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“It has been recognized that an essential element in protecting human rights was a widespread knowledge among the population of what their rights are and how they can be defended”

--Franklin D. Roosevelt.

A Law in its majestic egalitarianism forbids the rich as well as the poor to sleep under bridges to beg in the streets and to steel bread.

--Arnatole France

Abstract: The Constitution envisages establishment of egalitarian social order rendering to every citizen, Social, Economic and Political Justice in Democratic & Republic India. But the enforcement of the human rights is a matter of major significance and challenge to the modern Constitutional Jurisprudence in respect of protection of women and children. Blunder violation of rights especially regard to women who forms half of the world, Heinous crimes like honour killings and increased crime rate against women and girl children by different forms of Domestic violence at natal and conjugal homes, including with working places, against half of the world who are the creators and restorers of peace in the society. Educated Person is naturally peaceful. He or She is non-violent and never wants war and therefore, for peace Moral Education is indispensable to each and everyone. Bright future of any Nation and effective enforcement of all human rights depends upon the child who has provided with value based education moral, ethical, psychological in addition to the scientific, technological sociological and geographical and the like. Education must be an eye opener in all matters, one must have life-building, man-making, character-making, assimilation of ideas, and trained up with ethical and spiritual life. A right foundation in education with human values builds bright future to the child and also to the nation. The capacities of individuals, internal steering qualities and personality development should be developed by the value based education system. All people should know about their not only of their basic rights and liberties but also of their primary and secondary duties for their individual development. **The essence of law is duty.** If everyone performs their primary and secondary duties then only effective implementation of all human and fundamental rights possible & the peace and progress prevail in the society.

Introduction: Human rights may be defined as the rights and freedoms that every person on the earth are entitled to enjoy viz right to social security, right to equality, right of life, liberty and security of persons, etc., without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or

status.¹ Human Rights are rights inherent to all human beings, whatever the religion race caste sex place of birth or any of them, or any other status. Basic Qualification for holding human rights is to belong to human race. Human rights are absolute rights and are inalienable i.e. they cannot be annulled or forfeited. Every human being has legitimate, valid, justified claims upon his or her society... to various goods and benefits they are defined as particular claims listed in international instruments.... deemed essential for individual well being the dignity and fulfillment and that reflected a commonsense of justice fairness and decency. These are universal and inalienable and we are all equally entitled to our human rights without having any discrimination. The concept of human rights can be traced back to the ancient doctrine of Natural Rights founded on Natural Law. According to this concept, there are certain rights, which are supposed to have existed even before the birth of political society. These Natural rights are superior to those created by human agencies and are of universal application to human beings for all the time.

All Fundamental Rights are Human Rights, but all Human Rights are not fundamental. **The Concept of Human Rights is Genus whereas the Concept of Fundamental Rights is Species of Human Right.** All fundamental rights enforceable before the courts of law through remedies, but only some of the human rights enforceable like right to life and liberty which exists from birth of human being. It is quite possible to have rights to something without the right being enforced. Upholding of human right is akin to provide food to the hungry, provide shelter to the shelter-less and emancipation of oppressed and suppressed. The rights of the citizens and persons are necessary for the creation of a better life for them. They provide external conditions necessary for the development of individual personality and for the progress of institutions and conditions necessary for progressive societies and countries. Equal pay for equal work to both men and women, health and strength of workers, the right to adequate means to livelihood and so on are also human rights but which may not be enforceable or may be basic upon the economic resources policies of the particular government. The state exists for the enrichment of human personality and necessary contrivance for human development. Rights are in the nature of claims but all claims are not rights because right are only those claims which are recognized by society and enforced by the state without such recognition rights are empty claims. But all basic and human rights have their correlative duties, duties to avoid depriving, duties to protect form deprivation so on. A Stream of Judicial thoughts in Smt. Maneka Gandhi (Vs.) Union of India AIR 1978 SC 597. Included Plenty Rights like right to know, to Converse with others, to Consult with them, to observe Social, Physical Political and other Phenomenon's abroad as well as at home so on.

The Universal Declaration of Human Rights (UDHR) which is the Source to the all Human Rights of the individuals, a historic document that was adopted by the United Nations General Assembly at its third Session on 10 December 1948 as Resolution as a common standard of achievements for all peoples and all nations. With the objective of achieving the globe free from the wars, and to establish a global society with social justice, to promote social progress and better standards of life in larger freedom, & to employ international machinery for the promotion of economic and social development of all people etc. It sets out, for the first time, fundamental human rights (Articles 1 to 30) to be universally protected and it has been translated into over 500 languages. This Declaration contains a comprehensive list of civil, political, economic, social and cultural rights. With the goal of establishing world peace in the entire world, The Preamble to UDHR inter alia declares "**where as recognition of the**

¹ Women and Law - Dr. S.R. Myneni.

inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world... all the human rights be protected by the law and so on.. The applicability of the principals there of may have to be read, if need be adopted into the domestic jurisprudence.

The same concepts introduced in the Indian detailed lengthiest written Constitution by ensuring the basic concepts like Liberty, Equality, Fraternity and justice. All the democratic principles Sovereign, Socialist, Secular, Justice, Liberty, Equality and Fraternity which are the each concept is a diamond piece imbedded in gold jewellery giving every human being a comprehensive list of civil, political, economic, social and cultural rights. The Indian Constitution is a living document of collection of principles according to which the powers of the government and the rights of the governed and the relation between the two are adjusted. Our Constitution has sought to steer clear of the ideologies. It has incorporated the civil, political, religious and cultural rights as fundamental human rights making them justifiable and included economic rights in the chapter on Directive Principles of the State Policy which are not enforceable. However, what is forgotten most of the time is that Art. 37 which stating that the directive principles shall not be enforceable by any court, also states that the principles therein laid down are nevertheless fundamental in the governance of the country and its shall be the duty of the state to apply these principles in making laws.² The most remarkable institutional development in human rights has been the evolution of an international multilateral treaty regime, with appropriate monitoring bodies. At the time of the only previous world conference on human rights - that held in Teheran in 1968 - not a single human rights treaty body existed. By the time of the world conference in Vienna, Several treaty bodies have come into existence under seven treaties namely

- The international covenant on civil and political rights,
- The international covenant on economic social and cultural rights,
- The convention on the elimination of all forms of racial discrimination
- The convention on the suppression and punishment of crime of apartheid,
- The convention on elimination of discrimination against torture &
- The convention of the rights of the child, & the UDHR. At the time of the Vienna conference 68o states were parties to the parties to these treaties, all plugged into their monitoring procedure.³ We proud of our constitution that it promises governance through basic principles such as RULE OF LAW AND SEPERATION OF POWERS, Which establishes the Supremacy of law against arbitrary executive actions.

The new orientation being given to Art.14 by the courts has been explained by BHAGWATI, J., in Buchan Singh V. State of Punjab. Rule of law which permeates the entire fabric of the Indian Constitution excludes arbitrariness. Rule of law runs through the entire fabric of the constitution. **“Wherever we find arbitrariness or unreasonableness there is denial of rule of law”**. Art. 14 enacts primarily a guarantee against arbitrariness and inhibits state action, whether legislative or executive which suffers from the view of arbitrariness. Every State action must be non- arbitrary and reasonable otherwise the court strikes it down as invalid.⁴But Equality before law became a legal fiction, and liberty, dignity Decency of Women Children especially of the vulnerable sections of the society is degrading while crime rate is increasing either by violation of principles of natural justice, or by ignorance or improper

² HUMAN RIGHTS AND INDIAN CONSTITUTION - Dr. S.S DHAKTODE.

³ The Constitution of India. - P. M. Bakshi. Page 16.

⁴ INDIAN CONSTITUTIONAL LAW - M,P. JAIN. Page 894.

implementation of existing laws properly. Society is organic in character and an individual obviously cannot have any right apart from what the society concedes. Interdependence of men, political, social, economic and cultural needs of men leading to number of conflicts which further leading to violation of rights and duties sometimes may lead to blunder violation of all human rights by taking off Right to life and liberty by causing death.

With the Prospect of Welfare & Liberal State and for progress of the Nation the Forefathers expected the civilized societies and progressive country. But still crime rate is increasing social evils like poverty, unemployment, corruption, Violation of principles of Natural Justice Offences against women and children and finally disorder existing in the society. We have sufficient National and International laws and instruments ensuring complete natural, civil and political rights to all individuals but still the disorders existing due to so many challenges existing in the society some of them are as follows. As the Progress of the Country depends upon different Economic Sociological, geographical and Legal Aspects the following are some of the Suggestions.

- Indian justice delivery system in spite of innumerable drawbacks and failings, still commands high esteem and the citizens have placed the judiciary on a high pedestal. "JUDICIARY NOT UNTOUCHED BY THE CORRUPTION" this statement given by Rtd. Chief Justice of India, Justice Sadasivam. The Ultimate effect of All System faults falls Maximum on women and girl child, who are again subjected to Secondary victimization in the stringent accused oriented system. Total Revamping of Crisis⁵ of Indian Judiciary in Indian Democracy to ensure every kind of Justice which is the Ultimate Aim of All Supreme and Subordinate laws is an urgent need of the hour. Source Material - The Judiciary is in Crisis).
- In the ICT era Frequent training programs to all enforcing authorities in all departments whether public or private sector checking the cyber crimes & by strict adherence to the principles of natural justice, through capacity building classes by eminent personalities is the urgent need. Imparting Human values ethics, moral and psychological, imparting new emerging technological skills, they must be decent, clean, clear and neat while discharging their duties. "DECENT DEMANDS" their thinking must be decent it must be changed according to the situation according to the candidate. The civilized society wants decent administration. Only the value based primary and secondary teaching learning process equips the individual with decency and they come out to know the problems of the public all existing laws implemented properly then only. Decency courtesy and One should build up their personality through their soul or conscience. so this kind of training is necessary to the administrators or all employees of all sectors.
- Law is never static but it is progressive. The societies should go on developing law according to the changing circumstances, and technology by new methods are called progressive societies. The law have to be changed or create new Acts regarding to the **minimum educational qualification for the sovereign political authority to make effective laws and to take effective decisions and effective implementations.** It is must for preserving unity and integrity of any society and for sustainable development of the country. Even after the Seventy Years of the India's Independence the heinous crimes against women is evident crime rate increasing day by day mean **the flaws existing in every agency of the government.** "Judiciary is not untouched by the corruption" said by

⁵ Enadu. Saturday, 13-1-2018. P-9

Hon'ble former CJI Sadasivam inherently implied the victim is victimized secondarily before the law enforcing machinery. Education is manifestation of perfection already in men. So everybody and all men are perfect in their knowledge. But right use of knowledge is the wisdom which gives good and wise laws, and it is must for all wider governmental authority within the territory of India and under the control of India, it is also must for the politicians. Then political interests will never prevail over the public or individual interests. **Law makers should not be the law breakers.** The will of the people should prevail over all. Essential concepts of democracy that is **Liberty Equality and Fraternity Justice should be ensured to all.** Without any deviations regard to religion, race, caste, sex, or any of them. If not they may indulge in biased activities as a matter of right. Corruption or biased administration means nothing but setting back the efficiency and secondary victimization and the violation of ends of law and justice, whatever it may be the ultimate effect falls only on innocent women and children. Rule of Law excludes arbitrariness and unreasonableness. It is antithesis of arbitrariness and is accepted norm of all civilized societies.

- Introducing and Imparting value based education is an urgent need. Recently Silver jubilee Autonomous college of Kurnool has introduced the new subject called **human values and professional ethics** in its curriculum. Compulsory education to all children and it should Imparting moral values to the students. Bright future of any Nation and effective enforcement of all human rights depends upon the child who has provided with value based education moral, ethical, psychological in addition to the scientific, technological sociological and geographical and the like. Education must be an eye opener in all matters, one must have life-building, man-making, character-making, assimilation of ideas, and trained up with ethical and spiritual life. A right foundation in education with human values builds bright future to the child and also to the nation. The capacities of individuals, internal steering qualities and personality development should be developed by the value based education system. All people should know about their not only of their basic rights and liberties but also of their primary and secondary duties for their individual development. The essence of law is duty. If everyone performs their primary and secondary duties then the problem is nothing. Ultimately the peace and progress prevail in the society. The narrow mindedness of men should be changed and heavy burden at homes on the professional and working women should be shared by their counterparts. So only through qualitative education from HRD services, through transparency and accountability form all administrative authorities women has hope for at least equal treatment. Then only the enforcement of Human rights which is a major significance and challenge to modern constitutional jurisprudence is possible.
- Inequalities between men and women and discrimination against women have also been age-old issues all over the world. The quest for women equality has given birth to the formation of many women's associations and launching of movements. Gender discrimination is so deeply rooted in human history that often it is not perceived as discrimination. The need to define, understand and implement women's rights gained Global Recognition during the international decade for women 1976-1985.⁶ Thus, women's quest for equality with man is a universal phenomenon. There should be equality with men in matters of education, employment, inheritance, marriage, politics and women want to have for themselves the same strategies of change which men folk have had over the centuries such as equal pay for equal work and so on. Eradication of inequalities and ensuring liberty to women and girl child possible only through the acceptance of the long

⁶ HUMAN RIGHTS & INDIAN CONSTITUTION - Dr. B.R. AMBEDKARS ENDURING LEGACIES. P. 86.

pending women reservation bill before the parliament. Immediate acceptance of women reservation bill is necessary. Emancipation of women from all traditional disabilities is an urgent need. Education and Empowerment of women, importantly political liberty is meaningless without economic and social liberty, so through Equal opportunities, Equal property rights, and Equal treatment in all perspectives not only from law enforcing authorities but mainly from men as peace prevails only through women and progress of a community measured by the degree of progress which women achieved. The attitudes of men should be changed wisely. **INEQUALITIES AGAINST WOMEN IS DEROGATORY TO THE SUPREME LAW, i.e. The constitution of India, against to the Basic Structure of the Indian Constitution.** Actually an educated women is the Harbinger of Peace, She is the Creator and Restorer of Peace⁷. HRD deals with improvement of human resources in general and developing of human skill STANDARDS, designed to behavioral changes for present and future roles... brings about the qualitative improvement, will utilize its services even to improve the status of women and creating awareness among men about women's basic rights. What are needed are not new laws but effective implementation of the existing laws with honest and civilized society to our future generations. Some NGOs are playing a great role in the emancipation of women in India. Emancipation of women means giving or obtaining all or some of the rights, opportunities etc. Those men have. An emancipated women means one who has freed herself from the conventions or restrictions of the community to which she belongs. These NGOs help the women in need of help, Protection and assistance. An NGO would deal with a woman seeking assistance based on its organization policy, expertise, resources, infrastructure and the background of the woman and the stage of violence against her.⁸ Still these organizations are improved to further more extent.

- The special enactments created for the weaker sections of the society especially for women and children should be implemented properly with humanitarian grounds before the lower courts and before the police personals they should not let to be only as paper fleets. The law should always bend towards the weaker sections of the society to protect their interests. **LET US HOPE FOR A WELFARE, PEACEFUL, PROGRESSIVE, CIVILIZED AND UNBIASED SOCIETY BY ENSURING ALL NATURAL LEGAL AND MORAL RIGHTS TO THE ENTIRE HUMAN FAMILY BY EGALITARIAN SOCIAL ORDER.**

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