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Bagdogra

Eastern HIMALAYAS CULTURAL DIVERSITY

Bedika Rai
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Eastern Himalayas: Cultural Diversity

First Volume

Editors

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Human Rights of Indigenous Peoples In India

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Abstract

Every individual has dignity. It gives an individual a sense of value and worth. The existence of human rights demonstrate that human beings are aware of each other's worth. Human dignity is not an individual, exclusive and isolated sense. It is a part of our common humanity. Human rights enable us to respect each other and live with each other. In other words, they are not only rights to be requested or demanded but rights to be respected and be responsible for. The rights that apply to you also apply to others. India's recognition of Indigenous Peoples in international and domestic law, policy and practice is paradoxical. While India voted in favour of the UN Declaration on the Rights of Indigenous Peoples in 2007 and signed the ILO Convention 107, the Government continues to deny the term and concept of "Indigenous Peoples" claiming that all Indians are Indigenous. Despite Governmental posturing, Indigenous groups in India internalize and assert rights protected by International Laws. In 2012, ILO Committee experts noted that the National Tribal Policy was being considered but had not been finalized. The Rights of Indigenous Peoples are guaranteed within the Indian constitutional framework. Part iv of the Constitution lays down the Directive Principles of state policy that are "fundamental to the governance of the country" and include "Promotion of Educational and Economic interests of Scheduled Castes, schedule Tribes and other Weaker Section which must be enforced as laws by the state.

Keywords: Human dignity, UN Declaration, ILO Convention, Directive Principles, Scheduled Castes and Scheduled Tribes, International Law.

I. Introduction

In some regions indigenous people are known as First People and in some areas, they are known as Native People. Indigenous people are the earliest known inhabitants of the area who have originally occupied that area. Previously, many attempts were made to define the indigenous people under international law. For Example: International Labour Organization, United Nation and World Bank.

- **Definition by ILO:** In 1957 a general conference of which they adopted a convention (convention no 107) for protection and integration of Indigenous, tribal and semi-tribal people but in 1985 ILO felt the need to make certain changes in the previous convention because of changes in attitudes and approaches towards these people worldwide. In 1989 the ILO adopts a revised convention no. 169 by recommendation of several international bodies and an expert committee appointed by ILO which defined indigenous as "People in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country".
- **Definition by United Nation** Another definition was given by the "UN Study on Discrimination against Indigenous Populations". From this study a working definition was proposed but due to lack of certain important components and another definition was given which is as follows. Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sections of the societies now prevailing in those territories, or parts of them.
- **Definition by World Bank** It was mentioned in the Operational Directive 4.20 of the World Bank that the diversity of the indigenous people was varying quickly because of which it was hard to make a single definition for it. The Operational Directive lists the following criteria, which are usually fulfilled by indigenous groups: "The terms indigenous peoples, indigenous ethnic minorities, tribal groups and scheduled tribes describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process".

II. Rights of Indigenous People in India

A various debates took place in Geneva and India that whether Scheduled Tribes of India whether included under the term of indigenous people or not. A symposium was organized at New Delhi by the Indian Council of Indigenous and Tribal Peoples (ICITP), which was formed in 1987 and affiliated to the World Council of Indigenous Peoples on the topic: who are indigenous people. In the symposium ICITP agrees that Scheduled Tribes of India are part of the term indigenous people. In India, 461 ethnic groups are recognized as Scheduled tribes and which are those which belongs to Schedule Caste but Article 141 and A342 empowers the president to make a list of those caste and tribes after consultation with the governor of the respective state. India has several

constitutional laws which recognize indigenous people and their rights are as follows:

- **Protection of Economic and Political Rights:** To protect the economic rights of the indigenous people we have Article 244 which deals with the administration of Scheduled Area and Tribal Area. Article 275 also empowers parliament to make special grants given to the state which undertakes the scheme of development for the purpose of promoting the welfare of Scheduled Tribes. To protect the political rights of the Tribal we have Article 244, A330, A334, A371 and A164(1). A164(1) which empowers the state to establish the special ministry for the scheduled tribes in the state like Chandigarh, Madhya Pradesh and Orissa. We also have Fifth and Sixth Schedule which ensures proper control and administration of Scheduled Tribes and their areas.
- **National Commission for Scheduled Tribe:** This commission was formed through Constitution (89th Amendment) Act, 2003. It comprises of Vice-Chairperson and three full-time Members (including one female Member). The term of all the Members of the Commission is three years from the date of assumption of charge. The duty of this Commission is to inquire into complaints with respect to deprivation of their rights and also to safeguard them. They also monitor all their matter under constitution or any other law. The commission also takes part in advising in the development of ST's and also to evaluate their development progress.
- **Various Acts for their protection:** Scheduled Caste's and scheduled Tribe (Prevention of Atrocities) Act, 1985 and 1995 is to protect them from any discrimination and from any kinds of torture. The Scheduled Tribe's Bonded Labour Abolition Act, 1976 is to protect them from bonded labour and other practices where less money is given to them for their work. We also have Forest Conservation Act, 1980 to protect and conserve the tress as these tribes are dependent on them.
- **Supreme Court and High Court case:** In the case of M C Valsala vs. State of Kerala a rule was strike down by the Supreme Court The rule states that if any children go for inter caste marriage and if any of the parent belong to SC or ST category can claim for any reservation benefits but for that they need to show that the person is handicapped and disadvantaged on being born as member of SC/ST family. In the case of State of Madras vs Champakam Dorirajan a government order was held null and void so as to help the backward classes. Along with this a clause 4 was also added in the Article 15 so that state can make special provision for the advancement of socially and educationally backward

classroom

III. Nature of Human Rights of Indigenous Peoples

- Human rights are called moral entitlements. As a part of the whole humanity every human being is entitled to certain rights and no authority under the sun can deprive him of these basic rights. Naturally, any attempt to deprive man of his share to rights is immoral. The entitlement concept of rights was first stressed by the great architects of American constitution and they were inspired by Locke.
- The human rights originated from the concept of natural rights. From the social contract theory, we come to know that in the state of nature people enjoyed some rights which were neither recognized nor protected by the state since there was no such institution in the state of nature. Nevertheless, there were rights which people enjoyed. But the Scope of enjoyment of rights was extremely limited because of the non-availability of an efficient and wide infrastructure. The natural rights, however, made no distinction of race, religion etc. Human rights are the latest offshoots of the old natural rights. Like natural rights human rights also donot make any discrimination in regard to race, sex, religion.
- Human rights have also a slight relationship with the idea of religion or God. Thomas Jefferson (1743-1826), US political philosopher and statesman, believed that rights were originated from God or religion. Subsequently when the belief in God became very feeble and sometimes became non- existent the concept of right assumed different dimensions. Ultimately rights were made universalized and attempts were made to keep rights outside the power of the state to recognize rights. But the state must have power to protect rights. The latest development of rights is really remarkable. It does not give any emphasis on the recognition aspect which is performed by the state. But the state must have to take action for protection.
- Some want to delineate the human rights as fundamental. Heywood writes: Human rights are also fundamental in that they are inalienable, they cannot be traded away or revoked". This is a very important feature of human rights. This has been stated in many places such an American Declaration of Independence (1776). The revolutionaries of France also declared that any individual had the right to enjoy those rights which were essential for the development of personality and good qualities.

Human rights of today are the off-springs of the liberal theory. Indeed, so close is the link that the two terms 'natural rights' and 'human rights' are used interchangeably. Certain human rights are natural rights, in the sense that they are natural to man: human beings possess them in their natural capacity as humans, and not because of any particular system of law under which they may happen to live. Human rights are mostly claimed against the state although they can be asserted against private individuals as well as against private associations. The principal context of human rights is evidently political; these rights are a constant reminder to the state that it cannot violate certain rights of the individuals as these rights antedate the state and are entirely autonomous of it. The latter must therefore respect them.

V. Rights of Indigenous People under International Law

Indigenous people were the first people of our nation that's why it was very important to protect their rights. There are 370 million Indigenous people in the world. These groups are very diverse but there are common issues that affect Indigenous people globally. Over many years the world started to recognize their importance and then many organizations define their rights For Example: International Labour Organization and United Nation.

VI. International Labour Organization on the rights of Indigenous People

ILO adopted first international instrument to recognize the rights of indigenous people in 1957. First of all, the ILO Convention No. 107 was adopted and its aim was to remain the integration of indigenous people and also given certain protective measures for indigenous people. But this convention was lack of any reference to the self- identification so after a two-year revision process ILO Convention No. 169 was adopted in Geneva. The purpose of which was to respect the wishes and the identity of the indigenous people.

- **Protection of cultural, social and integrity values:** According to the Article 5 of the convention social, cultural and spiritual values of the indigenous people should be protected. Their practices and values should be respected.
- **Duties of the Government:** According to the Article 6(1) of the convention government should make sure that the indigenous people can freely participate and can also be part of administrative decisions. These people should be helped in their development.

- **Right to retain customs:** According to the Article 8(1) national laws and the regulations should be in concerned with the customs of indigenous people. They also have right to retain their customs and values... According to Article 13(1) while applying the provisions of the constitution their cultural values customs should be respected.
- **Right to Decide:** Indecisions people have all right to decide their priorities of the life and how they want to live their life.

VII. United Nation Declaration on the Rights of Indigenous Peoples

The UDHR is an international instrument passed by the United Nation in 2007. It defines the rights of indigenous people including their rights to cultural, identity, language and many more. It helps to prevent any discrimination against them and also help them to pursue their own vision of economic and social development. Some of the major principles of the declaration are as follows:

- **Fundamental Rights with no Discrimination:** Article 1 of the declaration provides that indigenous people are entitled to enjoy every fundamental right and according to Article 2 they have right to free from discrimination against them.
- **Cultural Rights:** According to the Article 7 they have right to free any acts of violence or genocide and also have right to live peacefully. They also have right to maintain and strengthen their cultural rights with free from destruction of their culture.
- **Self- Determination Right.** This is one of the important principles because the indigenous people have continuously fought for this right. Article 3 provides the indigenous people the right to self- determination. By this right they can determine their political status and can also pursue for the development of their culture.
- **Rights to use land, territories and other natural resources:** They have right to control and maintain their land, territories and natural resources for self-determination and for sustaining their culture.
- **Rights to ownership and control:** Article 36 of the declaration provides that they have right to land, territories and natural resources which they originally acquired. They can own, control and use of their land and various natural resources. State has duty to protect their land and natural resources for the sustainability of their cultures and traditions.

- **Social and Economic Rights:** Article 21 of the declaration the indigenous people have right to continuously make improvement in their social and economic conditions for well-being.
- **Certain State Responsibilities:** State are required to give financial and technical assistance to the indigenous people by consulting them. Indigenous people are also entitled to adequate grievances and effective remedies whenever their rights are violated.

VIII. Conclusion

The Declaration made by the United Nation became a standard for the measurement of the protection of indigenous rights under the national and international framework. It calls for constructive arrangement to promote the rights of indigenous peoples, to end oppression and all forms of discrimination. It also grants rights to maintain their social, economic and cultural rights. The Scheduled Tribe have been given special protection under the Constitution of India which has much association with the historical reality. When it comes to the protection of the tribes and their land right, it has been given great emphasis in Indian Law, as it plays an important role for the survival and maintaining their distinct identity.

References

- [1] Basu, D. D. 1998, "Introduction to the Constitution of India", Prentice, Hall of India Pvtzd. New Delhi, 110001, 18th edition
- [2] Desi. A. R. 1954 The Social Background of Indian Nationalism, Popular Prakashan, Bombay,
- [3] Mann, K. 1987 "Tribal Women in a Changing Society", Mittal Publications, Delhi,
- [4] Nandi, R. N. 1975, "Origin of Virasaiva Movements", The Indian Historical Review, Vol.2, No. 1, P 32-46
- [5] Roy, Sanjay K. 2008 "Word Participation of Tribal Women and Marginalization", Levant Books, Kolkata,
- [6] Thurston E. 1909 "Caste and Tribes of Southern India", Government Press, Vol. 5, Madras,
- [7] Wilson, John, 1973 "Introduction to Social Movements", Basic Books Inc., New York,