

**A GLOBAL FEMINISM AND HUMAN RIGHTS**

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Since the days of the Indus Valley Civilization, Indian culture has been the product of a synthesis of diverse cultures and religions that came into contact with the enormous Indian sub continent over a very long stretch of time. As Jawaharlal Nehru notes, there is "an unbroken continuity between the most modern and the most ancient phases of Hindu thought extending over three thousand years." The rights of man have been the concern of all civilizations from time immemorial. "The concept of the rights of man and other fundamental rights was not unknown to the people of earlier periods." Human rights are "rights and freedoms to which all humans are entitled." The progress of human rights has been articulated in conditions of 'generations'. The civil and political rights, as the primary age group rights; economic, social and cultural rights as the second generation rights; and the group or people's rights, which are recently defined as the third generation rights. Further, as this development expresses a chronology of rights, it is also held, of course controversially, as implying a hierarchy of rights. From women's perspective, however, this development exhibits a commonality: that in its current form, the rights movement is based on male experiences-experiences of men's struggle in men's world against the overarching state to assert men's dignity and humanity. Hence this HR movement is unresponsive to women's lives and risks they face. Human rights are thus conceived in a Universalist and Egalitarian fashion. Such entitlements can exist as shared norms of actual human moralities, as justified moral norms or natural rights supported by strong reasons, or as legal rights either at a national level or within international law. However, there is no consensus as to precise nature of what in particular should or should not be regarded as a human right in any of the preceding senses, and the abstract concept of human rights has been a subject of intense philosophical debate and criticism.

The Constitution of the Republic of India which came into force on 26th January 1950 with 395 Articles and 8 Schedules, is one of the most elaborate fundamental laws ever adopted. The Preamble to the Constitution declares India to be a Sovereign, Socialist, Secular and Democratic Republic. The term 'democratic' denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal "irrespective of the race, religion, language, sex and culture." The Preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to all its citizens.

A growing body of human rights literature argues that the male bias of human rights thinking and its priorities had to change for women's rights to be fully recognized as human rights. The problem is not so much that men's claims to rights A, B, and C have been recognized, whereas women's claims to these exact same rights have not which is not to say that this never

happens. The problem is that existing theories, compilations and prioritizations of human rights have been constructed after a male model. When women's life experiences are taken equally into account, these theories, compilations, and prioritizations change significantly. Examples of issues that come to the fore instead of being virtually ignored include rape (including mental rape and rape during war). Domestic violence, reproductive freedom, the valuations of childcare and other domestic labor as work and unequal opportunity for woman and girls education, employment housing, credit, and health care.

Human rights protection in the judicial field has been improved. Despite the weak foundation, we have constructed the basic framework of a law-based socialist country and provided legal protection of human rights in a rather systematic manner. Some generally recognized human rights abuses have specially gender related forms that were not typically recognized as human rights abuses. Frequently these abuses are prepared by more powerful family members against less powerful ones. For examples, slavery is generally recognized as a fundamental violation of human rights. But parents giving their daughter in marriage in exchange for money even or even selling to pimp has not typically been seen as an instance of slavery. It a husband pays a bride price for his wife or marries her without her adult consent. The confines her home, forbids her to work for pay, or appropriates her wages; if he beats her for disobedience or mishap; these manifestations of slavery would not be recognized as violations of human rights in many parts of human world. In some parts, indeed, most of these acts would be regarded as quite within the limits of normal, culturally appropriate behavior in parents or husbands. Also there was little acknowledgement until recently of woman's particular vulnerability to poverty and need for basic social services, such as health care, because of both their biological reproductive capacity and their assumption, in virtually all societies, of greater responsibility for children. Those seeking to establish women's rights as human rights also point out that much earlier human rights thinking focuses on government as violators of human rights.

One reaction to this might be to say; so what difference does it make to recognize abuses of woman rights violations? My answer is that, especially now that the "no cultural exemptions" clause was adopted, after considerable struggle, in Beijing, it enables the international community to put these issues unambiguously on the table. Most governments do not like to be international pariahs, to have the eyes of the world focus on them only for their worst practice or their failure to prevent practices harmful to women and children. It has been clear from some of the recent news reports that ethnic and religious groups, too, can develop the same distaste for being seen as condoning serious harms done to women. Not surprised, Muslims in many countries and even the governments of countries with strict Islamic laws have distanced themselves from the Particularly brutal fundamentalist types of behavior that the Taliban regime in Afghanistan has tried to justify as being in accordance with "Muslims principle" (New York Time 1996)

The antuniversalizing climate of much Western academic feminism was hardly conducive to the framing of women's rights as universal human rights. However, during the same decade and a half in which feminists in academia who attempted to find, or claimed to have found, anything but differences between women were being taken to task for "essentialism;" Third world feminists and grassroots activists, as well as some Western feminist who were prepared to buck the tide, were working together to achieve the recognition by international human rights community of women's rights as human rights. These women were having a very

differently experience and coming to very different conclusions than were postmodernist and other antiessentialist academic feminists.

At this point in history, when much has been “declared” but so much remains to be implemented, what can western feminists do to help further women’s rights internationally? Some would say many abuses of women in our own society that we should just get on with trying to do something about these, and mind our own business with respect to the rest of the world. Women who are struggling against culturally or religiously sanctioned violation of women’s rights most commonly say that they need ‘above all, three things. One that is essential is to be carefully listened to the recognition of unmet needs and unrecognized rights and to the development of strangers for change. Another is financial support; for many women’s organization formed for resistance from within have few and meager source of funding. The third is the kind of intellectual and political support from western feminist, and from the international community, that does not assault other cultures, but takes care to acknowledge their many valuable or neutral aspects while it criticizes those aspects that are harmful to women and girls. Women’s rights are also human rights this notion is also at once fundamental and revolutionary. In theory, women have never been overtly excluded from the concept of human rights. In 1945, the UN Charter afforded to women and men equally economic, social, cultural and civil rights. Nevertheless, because women traditionally have been relegated to the private spheres and to subordinate status in society, they have generally been excluded from recognized definitions and interpretations of human rights. As such, women and girls’ experience with human rights have been ignored.

Violence against women rooted in a global culture that discriminates against women and denies them equal rights with men. Each of the human rights treaties and the whole human rights frame work are essential for the realization of women full spectrum of rights. States have a responsibility whether abuses against women are committed by state or non-state actors in the public or private spheres. Their obligations under international human rights law can be summarized under three categories respect, protect and fulfill. International law has developed the standards of due diligence as a way to measure whether state has acted with sufficient effort to live up to its responsibilities to uphold human rights, *i.e.* to respect protect and fulfill. As a standard that has been incorporated in to UN documents, due diligence is a term used to describe the minimum effort which state must demonstrate to fulfill its responsibility to protect individuals from human rights abuses.

The Indian Constitution is a document rich in human rights jurisprudence. This is an elaborate charter on human rights ever framed by any State in the world. Part III of the Indian Constitution may be characterised as the 'Magna Carta' of India. The Judiciary in India plays a significant role in protecting human rights. The Indian Courts have now become the courts of the poor and the struggling masses and left open their portals to the poor, the ignorant, the illiterates, the downtrodden, the have-nots, the handicapped and the half-hungry, half-naked countrymen.

**Work Cited**

- Jawaharlal Nehru. The Discovery of India, 2<sup>nd</sup> ed. (New Delhl. Jawaharlal Nehru Memorial Fund, 1992)
- Attar Chand, Politics of Human Rights and Civil Liberties - A Global Survey (Delhi: UDH Publishers, 1985)
- Nagendra Singh, Enforcement of Human Rights (Calcutta: Eastern Law House Pvt. Ltd, 1986)
- V.R. Krishna Iyer, The Dialectics and Dynamics of Human Rights in India: Yesterday Today and Tomorrow, Tagore Law Lectures (New Delhi: Eastern Law House, 1999)
- Justice P.B. Sawant, "The Shadow and the Guardian Angle," The Hindustan Times (December 1, 1996):