

A Critical Discourse on the Issues of Interpretation of Human Rights in Education

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Ever since 'Right to Education' has been recognized as a fundamental right, the discussion on education as human right has assumed greater significance. The governments of different countries have demonstrated their intense will to make meaningful education a reality for all the sections of society. The universal declaration of Human Rights is widely discussed and interpreted from multiple perspectives in this context to make the global society a well-integrated and empowered one. But there are innumerable stumbling blocks which hamper the process of implementing this doctrine of universal education both in India and in the rest of the world. In this paper, an attempt has been made to discuss various provisions related to law which prescribes education as fundamental right and how these provisions are interpreted and the consequences of such interpretations in our social, cultural and political contexts.

Despite our tall claims about great achievements in the field of science and technology our nation still faces serious challenges related to many aspects of empowerment. Poverty, hunger, corruption, nepotism, fundamentalism, extremism, casteism, discrimination and abuse of power are some of the serious fall outs which are directly related to the limitations caused in our interpretative processes. Life of dignity and self-respect which are fundamental conditions required to celebrate human life are still facing a great challenge in this complex world of multiple interpretations.

In this paper a specific focus is laid on the aspects of limited interpretations caused in the matters connected to the provisions of human rights law shall be analyzed to expose the

missing link between the spirit of law and the letter of it. As we all agree that education is not just social or cultural right but it is fundamental in a sense that it is at the root of all other rights. If our nation is not empowered with meaningful education our social fabric will be deeply affected beyond our hope. The instances such damage to our social fabric is already visible in the way in which how political power has been abused in striking regularity. Hence, it is an absolute necessity to initiate a critical discourse on our education policies and interpretations of such policies which are expected to eliminate illiteracy but they have inadvertently perpetuated our agony. The question of human rights has become very much relevant today because of the absence of human values which are obvious in our understanding and interpretations of law.

United Nations Declaration of Human Rights (UDHR) is still believed to be a source of inspiration for many nations to carry forward their mission of empowerment through education. The declaration consisting of thirty articles on several matters has inspired many nations to infuse the spirit of Humanity in their respective constitutions. Al though the principles of human right laws are incorporated in the constitutions of more than 185 countries, these declarations are not a binding document. In other words, they are not a treaty in the formal sense of the term, but they are rights which are explained in vague and ambitious ways and they have paved their way into customary international law. Article 1 of the UDHR makes it absolutely clear : ‘ All human beings are born free and equal. They are endowed with reason and conscience and should act towards one another in a spirit of brother hood’. Implicit in this definition is the essence of human rights which include three facets that sum up multiple dimensions of the act. Human rights are the rights which are inalienable in a sense that it can’t be taken away, and they are fundamental in sense that it is basic and they are inherent in sense that it defines the ‘being’ of being human.

All these facets of human rights deal with how people can bring meaning and value to their life through their relationship with the others and system. The quality relationship is directly related to quality education and without which the very understanding of life is marred and incomplete . Dignity and self respect are the core principles of human rights and these concepts are viewed from three dimensions: Liberty, Equality and Fraternity. ‘Liberty’ includes rights related to civil and political matters and they are often called negative rights. The concept of ‘Equality’ includes economic, social and cultural rights within which right to education and all sorts of rights against discrimination are accommodated. ‘Fraternity’ implies collective rights and expansion of which is green rights or rights related to environment. All these rights do speak eloquently about the implied human rights education as well but unfortunately these rights are subject to the interpretations of sovereign nations and the result of which is a universal or absolute or ever-binding interpretation of these rights is not possible for political reasons.

There are three reasons which suggest such a phenomenal challenge is encountered in our interpretations of these provisions. These reasons can be classified under different categories. The first category includes problems in interpretation which are ordinarily caused due to a fact called ‘limitations of rational discourse’. Rational discourse is not a universal reality for the reasons related to the process of reasoning. Reasoning is limited by physical, social, cultural, geographical and political conditioning. Because of these undeniable realities an absolute reasoning in universal sense of the term is beyond our hope. Defining the rights to freedom in a cultural context wherein divinity is at the centre is fraught with challenges of understanding limitations caused by religion. Also, the kind of government that a country has influences the way in which people think and subscribe to value system. Despite these, there are also challenges from within and those are the things which define the reverberating spirit

of freedom which history might unfold. The second reason pertains to the clash of values which are largely due to cultural reasons. Universal values are the collective synthesis of the compromises rather than those of the best of the cultures. Hence, what is universal is often 'mediated' rather than what is 'achieved'. Value generalization is another issue related to interpretation of provisions relating to human rights. All values inherent in human right laws are subjected to contextual limitations. Each society takes a view on these values from a perspective which is convenient for them and so uniform or collective interpretation is an idealist condition which has not yet been achieved. Although, it is claimed that value integration is the solution, the process through which it can be achieved is very complex and complicated. Hence, in national level these vaguely worded rights are left to the interpretations of the highest courts which understandably enjoy the trust of the people, but in international level this kind of option is not feasible. Hence, all the provisions related to human rights laws are not universal as they are often thought of, but relative too for obvious reasons.

There are certain things which are determined and fixed by Nature and there are certain things which evolve through our collective consciousness. The genetically defined factors such as the color of our eyes, the constitution of our body, the color of skin and hair are all determined by certain influences which can't be negotiated. But cultures the human beings celebrate over a long period of time are never fixed and they continually evolve and enrich themselves in a meaningful process of multiple interactions. Hence, our understanding of law and interpretations which are directly the result of our cultural, social and political backgrounds and these factors keep changing forever and those changes are reflected in our conflicting, contributory, liberal, social and political interpretations of legal provisions. These

interpretations affect and influence our understanding of human rights education besides influencing our understanding of provisions of law related to equality, non-discrimination, access to justice, security, migration, asylum, trafficking and other social and cultural rights.

Although there are multiple challenges in our interpretation of human rights law both in national and in global levels, historically and contemporarily single greatest threat to this is stemming from organized religions. But, it shall be noted that we can't blame all the people of faith as lots of acts of good deeds towards protecting these rights are actually inspired by faith. It is hard to separate these rights from democracy. The narrow interpretation of ancient religious texts without understanding the social and political realities contributes to this confusion and contradiction. Instances of massive oppression can be found even in the History of Western Civilizations too. Hence, a critical inquiry into the reasons why such limitations are caused in our understanding of human rights provisions is a need of the hour. Also, it is to be noted that governmental inaction in implementing the provisions is largely related to lack of political will to contain the violence and injustice perpetuated on the unfortunate and already vulnerable sections of society . In some contexts, the State abuses its power in the name of protecting its sovereignty and that leads to violations of human rights law. Also, it is also to be noted that the threat to human rights is from the continual exploitation of resources which is carried out in voluminous scale much to the glare of public and under the very nose of the 'watchful' powers that be. The apathy on the part of the political administration is a cancer incurable which is set to eat into the vitals of our national health. The denial of education, lack of coordination between affected communities and inordinate delay that has been caused in disposing the cases of human rights violations are a few of many issues which pose a great threat to our rights to life. Strict implementation of human rights laws in global and national contexts is the only hope for the society longing for

a sunnier tomorrow. There are various measures taken up in Indian contexts towards protecting human rights and these measures seem to yield some results although much remains to be done. Judicial activism which is reflected in the liberal interpretation of Article 21 of Indian constitution wherein the condition of locus standi principle stands liquidated when matters connected to human rights violations are reported .

There is no doubt that we have formal mechanisms that are operated by our constitutional apparatus for implementations of the provisions of human rights, but these mechanisms may fail when they are operated under certain limitations. These limitations are forced on the system through constant political interference and the result of which is that the space for democratic dissent is shrinking which seems to suggest that democracy is in critical care unit fighting for survival. The autonomous space is to be made available for the citizen to take upon themselves the responsibility of protecting and promoting human rights and fundamental freedoms and this space also accommodates resistance from citizenry which serves as a constant check on democratic breaches of the power structures.

Human rights education is not limited to academic learning for it transcends the frontiers of learning in academic sense to initiate steps to necessitate social and transformation and ensure that it promotes a world view based on mutual respect and tolerance. The whole process of educating of our generation next is equally a process of igniting the spirit of judicial activism in them so that they remain alert and watchful for the instances of abuse and excesses and in the event of such a display of political outreach, the civil society should interfere according to the principles and provisions of constitution so that the values of humanity as enshrined in our constitution shall be kept intact. This is how civil society can participate in the process of protecting the human rights, and in the same manner there is a relationship between human rights and justice which is not only powerful but also

defining. They complement with each other and support the development of good governance. If an education process is initiated to create awareness of our rights to life , a responsible civil society can be built and when such a condition is established , then a positive effect of which shall be felt in the ways in which our laws related to human rights are interpreted. Interpretation which is true to the spirit of law is the need of the hour to save our society from the impending dangers.

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