

HUMAN RIGHTS : A SELECTIVE RIGHT ?

Perhaps the most significant goal in the world today is to make everyone fully aware of their rights. To end the abuse of rights the first and necessary step is to create awareness. By mobilizing the media to spread human rights awareness a positive transformation can take place that would not only empower individual groups and marginalized communities to stand up but to speak out and protect themselves.

Though the concept of human rights is not new in both the Eastern and Western cultures, a formal global framework of human rights was laid down by the United Nations General Assembly on December 10, 1948 in the form of Universal Declaration of Human Rights (UNDHR). Both the United Nations and the Declaration reaffirm faith in the fundamental human rights, in the dignity and worth of the person and in the equal rights of men and women.

The Declaration (UNDHR) covers the entire canvas of human rights i.e., civil, political, economic, social and cultural--and this provides, "a common standard achievement for all peoples and all nations". The rights are termed as universal as they are interdependent, inalienable and inviolable.

To understand the basic canvas of human rights it becomes pertinent to reflect on the definitions of democracy and explore the relation between democracy and human rights. There is a strong linkage of democracy and human rights both by the human rights agencies and activists. In achieving an adequate understanding of this relationship depends not only on how we define democracy, but also on whether the conception of human rights can be extended beyond the civil and political domains. Such an extension is essential if we are to treat the human rights agenda as an inclusive rather than an exclusive one, but it considerably complicates any account of the relation between human rights and democracy. To provide an understanding and clarity to this complexity is an important task of this paper and comprises its distinctive contribution to the debate on the subject.

Democracy and human rights have historically been regarded as distinct phenomena, occupying different areas of political sphere: the one a matter of organisation of government;

the other a question of individual rights and their defence. When we speak of democracy, we have learnt to think of institutional arrangements such as competitive elections, multipartyism, the separation of powers and so forth. These are essentially matters of constitutional order and of the organisation of public power. Human rights, on the other hand, take the individual as their point of reference, and seek to guarantee to individuals the minimum necessary conditions for pursuing a distinctively human life (subject to international definition and regulation).

It is assumed that democracy is the system of government ‘most likely to defend human rights,’ while on the other hand democracy itself is said to need ‘supplementing’ by human rights as if these were something to be added on to democracy. Such characterization of the relationship can complicate the ambit of human rights. It therefore becomes important to specify the underlying principles which the government/institutions embody or help to realize.

The core idea of democracy (Beetham 1999) is that of popular rule or popular control over collective decision making. Its starting point is with the citizen rather than with the institutions of government. Its defining principles are that all citizens are entitled to a say in public affairs, both through the associations of civil society and through participation in government, and that this entitlement should be available on terms of equality to all. Control *by* citizens over their collective affairs and equality *between* citizens in the exercise of that control are the basic democratic principles.

A framework for these principles must accommodate two perspectives: the fundamental and the inclusive. From the fundamental perspective, agreement that everyone has the right to communicate appears to be a common place. From the inclusive perspective, however the freedom to exercise any specific communication and the easy access to do so may at times generate intense debate. Freedom requires access to resources.

When we look at this right in this multi-layered framework, the first layer differentiates the right to communicate from the other human rights included in the UDHR. The right to communicate is a fundamental and inclusive right; it is both a

- natural right of the human person

- prerequisite for the exercise of other human rights

This fundamental right enriches the cultural heritage of human kind.

When we refer to the 2nd layer of this framework we look at the core of this fundamental right as the basic and universal claim that everyone has the right to communicate.

A full recognition of the right to communicate requires that the communication resources be available to meet the basic communication needs of everyone. This approach promises to advance democratization of communication at all levels.

A society that does not guarantee its citizens the possibility of being adequately informed by plural resources, and of making their viewpoints heard, can scarcely claim to be democratic. Indeed communication rights underpin all other human rights. The legal protection of the human need to communicate thus evolved with the development of societies that purport to be democracies, ever since the French revolution when the freedom of expression was recognized. The UDHR consecrated this civil liberty in the right to freedom of opinion and expression, which includes “the freedom to hold opinions without interference and to seek receive and impart information and ideas (Article 19). This right can be exercised with the help of a free and independent media as one of the resources. Communication rights must be placed in the forefront of a democratic society to help realize the abuse and create rights awareness. Technology has widened the gap between media- haves and media have-nots. Scholars have suggested that social inequalities become illuminated through technology. These become barriers in the process of being adequately informed in a society. This rapidly increasing pace of unequal distribution of access to sources of information gives an advantage to the influential group to participate in deliberations. Although, the philosopher, economist Amartya Sen (2005) has repeatedly stressed that democratic institutions give people the opportunity to press for justice and equity and an opportunity to participate in deliberations and dialectics, these differing layers in the access to communication resources, restricts the canvas of the right to equality.

The right to equality is one of the most important human rights. It is linked with the concept of liberty and justice and is manifested through the two fundamental and complimenting principles. The first is affirmed in Article 1 of the UN Charter which asserts observance of and respect for human rights and fundamental freedoms for all without distinction with

respect to race, sex, language or religion. The other principles that all human beings are born free and equal in dignity and in rights are reaffirmed in the Universal Declaration of Human Rights. It therefore becomes important to understand what is meant by equality.

It means that all are equal before law, that there is not one set of laws for some persons and another set of laws for others; and that everyone is entitled to participate in public affairs and seek a public office on the basis of one's merit, experience and training (Saksena 2003).

Habermas (1984) provides a theoretical basis for a view of planning that emphasizes widespread public participation, sharing of information with the public, reaching consensus through public dialogue, avoiding privileging of experts and bureaucrats, and replacing the mode of the technical expert with one of the reflective planner (Argyris and Schon 1974, Schon 1983, Innes 1995, Wilson 1997). According to Habermas (1998), mediated political communication in the public sphere can facilitate deliberative legitimation processes in complex societies only if self-regulating media system gains independence from its social environments and if anonymous audiences grant feedback from an informed elite discourse and a responsible civil society.

It is in this framework that this paper examines the 'selective approach' of the powers that be in curtailing the participation and eliminating the voices of dissent of the deprived and the marginalized communities in India.

India has vibrant human rights movements in the country that have significantly heightened in the last decade. Still the country grabbles with considerable inequality, justice and communal, gender-based and caste-based violence. Police violate human rights with relative impunity. Corruption is pervasive and makes it nearly impossible for the majority of the people, millions of whom live in debt, slavery to escape poverty. Torture is used in some cases as a way to carry out interrogations and extract confessions as a means of suppressing political and ideological dissent or for punishing political opponents who do not share the ideology of the ruling group.

Many groups emphasize support for dynamic human rights organisations seeking to promote the rights of India's most marginalized populations such as the dalits, tribals, women and religious and sexual minorities. These groups build grassroots movements and actively participate against human rights violations as torture and bonded labour, a form of slavery.

The human rights activists especially those belonging to the ‘ordinary league’ are generally looked upon with much disfavour by the governments and put to considerable harassment wherever the issues championed are not to the liking of the powers that be. They are seen as rebels. The stark reality of human rights violations in India especially those belonging to the ‘non-celebrity’ league is illustrated below.

They are rebels without a pause: (Mail Today 2009)

- Gummadi Vittal Rao, popularly known as Gaddar is a revolutionary balladeer and leading naxalite activist supporting the cause of a separate Telangana. He sings on revolutions and the people’s struggle. In 2004, Gaddar demanded the handing over of the body of a naxalite killed in what the police termed as an encounter. He was arrested on the charges of ‘obstructing’ the work of police officials.
- A Steering member of the national forum of Forest People and Forest Workers, Roma was arrested in August 2007 under the National Security Act for leading an unarmed lands rights struggle of adivasis and dalits in Uttar Pradesh. A leader of the Kaimur Kshetra Mahila Majdoor Kisan Sangharsh Samiti, she educated the landless poor on their constitutional rights. She used the slogan, ‘Jo zameen sarkari hai, Woh zameen hamari hai’. Ironically, the same slogan had been used by the UP Chief Minister Mayawati in 1996. Mayawati got away with the slogan, but Roma was accused of instigating a violent, land grabbing struggle using the slogan.
- A former journalist, Prashant Rahi was arrested on sedition charges in Uttarakhand in December 2007. Rahi was active in the Uttarakhand movement and worked to rehabilitate Tehri dam evacuees. The police have accused him of being a naxalite leader. His daughter Shikha, who was an assistant director in “Taare Zameen Par” has been waging a lonely battle against his arrest. She claims he was punished for raising his voice against police atrocities and has been subject to brutal torture in jails.
- Ajay TG, a Raipur-based leading civil liberties activist, film – maker and journalist, was arrested by the Chattisgarh police in May 2008. He was charged with “being part of urban network of Naxals” and detained under the Special Public Security Act for 90 days. A strong opponent of the state’s Salva Judum (healthcare system), he made a film on the life, work and arrest of Dr. Binayak Sen.

- After the police killed 23 people by opening fire at a peaceful rally at Arwal in Bihar in 1986, Shah Chand, a member of the Bihar Pradesh Kisan Samiti, began to organise people against the police massacre. In the 2000 assembly elections, he fought on the CPI(ML) ticket and lost to a JD(U) candidate with a narrow margin. Soon after, he was jailed under TADA. He is 65 years old, and human rights activists say he is shunted from one jail to another.
- Lalit Mehta and Kameshwar Yadav both activists of NREGA blew the whistle on widespread corruption and were found murdered.

Hundreds of such incidents are taking place which reveal the direct involvement of law enforcing or the powers that be in silencing these voices. These cases are not reflected by the commercial media or the national newspapers.

In exercising their right to communicate, these human rights activists are subjected to torture and harassment by the police authorities. In spite of the constitutional and statutory provisions aimed at safeguarding the personal liberty and life of a citizen, the growing incidents of torture and deaths in police custody have been a disturbing factor.

The most recent case is that of Dr. Binayak Sen, a doctor and a human rights activist who had worked for many years among the tribals of Chhattisgarh. His work among the tribals made him a hero; to the government he was a villain. It is quite likely that as a human rights activist and selfless doctor who worked among the tribals, he was seen as a bulwark against the state's rampant human rights violations in the area.

It is Binayak's work among the poor, his dogged agitation to ensure that the tribals are not fodder for police atrocities, that makes him a perfect catch. His arrest eliminates a powerful voice against the state's failure to provide for the poor while it also establishes Chief Minister Raman Singh's credentials as a ruler who would squash any powerful voice that questions his anti-terror policy. An appeal for Binayak's release signed by 22 Nobel Prize winners was shown to BJP President Rajnath Singh responded thus: "The Nobel laureates do not know the ground realities. I have spoken to the Chief Minister and he says there is enough evidence against him." The ruling party dismisses every appeal, every gesture of solidarity such as the British House of Commons publication of an Early Day Motion

entitled “ Arrest of Dr. Binayak Sen “ supported by several MP’s calling for his “immediate release “ on June 7,2007.

The Supreme Court of India on 5 May 2009, provided relief to Dr. Binayak Sen for treating a heart ailment after languishing in prison for nearly two years on flimsy charges that are becoming difficult to prove. With no evidence against him, the government has no legal ground to stand on. But who’s listening?

Experience shows that worst violations of human rights take place during the course of investigation when the police with a view of secure evidence or confession resorts to third degree methods including torture and adopts techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as prolonged interrogations (Singhvi 2003).

To elaborate on the above point with a case of Irom Sharmila is necessary. A peace activist from Manipal was arrested when she was scheduled to address a meeting organised by the Mother`s Union to save Manipal. A large number of women and human rights activists requested the police to allow her to be free as a symbolic gesture of respect on International Women`s Day . But then pleas went unheard. Sharmila, who had been released only the previous day was rearrested on the charges of suicide. Although she repeatedly clarified that it was not her intention to die, her hunger strike in its eighth row had one single role; withdrawal of the Armed Forces Special Powers Act 1958, which empowers armed forces personnel to shoot and kill on the ground of mere suspicion. Gross human rights violations are committed with impunity under cover of this law generating more insurgency. People in the state are caught in the crossfire between the armed forces on one side and the insurgents on the other. As state violence against ordinary citizens has grown over the decades, so too has retaliatory violence on the part of the insurgents.

Irom Sharmila represents the voice of the ordinary people in Manipur.

However, it is important to point out that there is an alarming fall in the standards of the performance and integrity of the criminal justice system—police, prosecution, judiciary and prison administration. The police is the main law enforcing agency responsible for maintaining law and order which alone can ensure that people enjoy their basic rights and fundamental rights guaranteed by the constitution. The police in India is organised and run

on an archaic model of the colonial period is ill-equipped to cope with the process of socio-economic transformation of society and strains of democratic governance. It also suffers the handicap of poor image and low credibility and is generally perceived to be inefficient, arrogant and corrupt. While its professional competence has fallen alarmingly over the years, the graph of its excesses and abuse of power has been rising steadily. Instead of respecting and protecting the human rights of the people, the police has come to be known as the single largest violator of human rights.

The Centre for Human Rights and Global Justice (CHRGJ) and Human Rights Watch (HRW) documents India's systematic failure to respect, protect and ensure the fundamental rights of the marginalized communities. India has failed in its obligation to pursue, by all appropriate means, a policy of eliminating caste discrimination and ensuring that all public authorities and institutions do not engage in caste based discrimination.

CHRGJ—HRW's 'shadow report' is a response to India's recent submission of a report to the United Nation's Committee on the Elimination of Racial Discrimination (CERD) which monitors implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) to which India is a party.

As a party to the convention, India has an obligation to prohibit and bring to an end caste based discrimination. Article 1 of the convention guarantees rights of non—discrimination on the basis of 'race, colour, descent or national or ethnic origin.' This discriminatory attitude is evident at various levels in India.

There seems to be a discriminatory attitude on the part of not only the legal system but also the media. Celebrities like Arundhati Roy, Shabana Azmi or Medha Patkar are hailed for their concerns for human rights violations. They also occupy the centre page of dailies in print and prime time in the visual media. The editorial priorities of journalism are being fundamentally realigned with the dictates of the market place. Entertainment has superseded the provision of information; human interest has supplanted the public interest; measured judgement has succumbed to sensationalism; the trivial has triumphed over the weighty; the intimate relationships of celebrities from soap operas, the world of sport or the royal family are judged more 'newsworthy' than reporting of significant issues and events of international consequence. Traditional news values have been undermined by new values; 'infotainment'

is rampant (Franklin 1997). Today's 'culture of celebrity' has consolidated its rudimentary features in journalistic terms shortly after the arrival of 24 hours television.

The dynamics of mass communication are driven by the power of the media to select, and shape the presentation of, messages and by the strategic use of political and social power to influence the agendas as well as triggering and framing of public issues. The mass media constitute a source of power (Jarren & Donges 2006). Media power is based on the technology of mass communication. Those who work in the politically relevant sectors of the media system (i.e., reporters, columnists, editors, directors, producers and publishers) cannot but exert power, because they select and process politically relevant content and thus intervene in both the formation of public opinion and the distribution of influential interests. The use of media power manifests itself in the choice of information and format in the shape and style of programs and in the effects of its diffusion—in agenda setting or the priming and framing of issues (Callaghan and Schnell 2005).

It is in this context that it becomes pertinent to question as to what role can journalism play in efforts to establish a citizen's democracy. It follows, then, that to help bring about an enlarged role for the citizenry in its own governance, journalists must be better attuned to the needs of their audience in how they report news. One has to begin the work of figuring out how best to create an understanding of human rights violations and effect change especially in a democratic society like India.

The Indian constitution has been considered to be a socio-economic instrument with a revolutionary thrust. The fundamental rights guaranteed under the constitution including the right to freedom of speech and expression and other rights cannot be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity.

Evidently, the legal system cannot help in this regard. How can you create an awakening in the society? How can an ordinary citizen make effective use and implement his right to freedom of speech and expression in a democracy? How can he exercise his right to communicate? If human rights are violated, who is accountable? What is the role of the media? What is the relationship between media and society? How can the media help in maintaining good health of the society? Is the news media a public service or for private interests? Is it possible to address these issues in isolation? These are some questions that are raised to address the issue of human rights and communication. The answers to some these

issues are beyond the scope of this paper and it is suggested that research be undertaken in these specific areas to advocate the cause of human rights violations. However, this paper provides certain suggestions for a better understanding and advocacy of human rights through the use of suitable communication techniques for India.

CONCLUSIONS & SUGGESTIONS :

Some observations have been made by the National Human Rights Commission. Addressing the problems of custodial violence by the police and security forces, the Commission strongly feels that the growing lawlessness of the police causing large violation of human rights of the citizens can be checked not merely by punishing the delinquent officers but with systematic police reforms to change the character and functioning of the police in accordance with the imperatives of policing a democratic society.

Freedom of press and media is cherished as a fundamental right in most democratic nations. It is important to note that although the prevailing conditions in our country have posed a question mark on the commitment of the media with regard to protection and perseverance of human rights, its role as a centre stage cannot be denied.

In order to perform its duties, media has to play a conscientious role. Today, the media in India are either working for profit, directly or indirectly supporting other profit oriented business of their publishing groups. The editorial institution is in the grip of unethical practices and pressures from various quarters. These realities are affecting the coverage of human rights issues as the media prefers to cover events rather than issues. Even when issues are covered, they are usually those that are raised by the celebrities. The 'ordinary' voices a corporate voice than of community. New definitions and new priorities dictate news media. As a result news media are becoming no longer journalist driven.(Rao and Vasanti 2009). Participatory democracy is important in such situations. It follows that a participatory approach to communication can deal with this problem efficiently.

To fulfil its mission, democracy requires a free and independent press that can make structural contributions that are as great or greater than many of the constitutional and administrative devices (Kem 2004). The central constitutional role of the media results from

the inability of the two powerful forces (a) government regulation and (b) law enforcement which can be controlled by the” power of public opinion”. As human rights issues and its violations have become a major concern, the first and foremost task of the media is to mobilize and crystallize public opinion on the protection and promotion of human rights and fundamental freedom. When participatory politics strengthens democratic practice, issues of social justice can be addressed which in turn have a positive impact on vulnerable groups like underprivileged, marginalized groups, minorities, women etc.

As the paper aims to debate on the ‘selective approach’ of the media and the powers that be in curtailing the voices of the ‘ordinary’ activists it is important to address this problem with participatory and face-face to face communication especially with the deprived and under-privileged groups. The traditional media has successfully penetrated into the rural heartland to deal with development issues. The street plays, street theatre, drama and puppetry have been a very effective tool of communication in dealing with issues related to development in India. An approach that is region specific, area specific, language specific, issue specific, community specific, culture specific can help in creating conscientization and awareness of human rights violations. The role of an opinion leader cannot be denied here. A community-oriented media as a means of access to expression of opinion can also supplement the interpersonal approach. A community-oriented media must be clearly distinguished from media that give priority to interests of the government, business or other powerful groups. Community media should be dedicated to the sole criterion of the well-being and the development of democratic participation in the community as a whole. The community-oriented broadcasting has no fear of challenging and exposing threats to the well-being and quality of the community. These media serve as a forum for the discussion of community problems including the discussion of violation of human rights. This does not mean that access to the media is always open, but rather the broadcasters are sensitive to the first signs of a problem and can facilitate the public discussion of these issues in a fair and just manner (Melkote 2001).

The role of the journalist in this regard gains prime importance. In this age of the ‘newsbite’, it is often difficult to get accurate or complete information on community issues. To define what the issues are and construct an interpretation of the problem requires not only a high

degree of journalistic skill but also a deep sense of humanity and of what is a threat to the well-being of a community. Good community-oriented media become the most credible voice in a community. When these media take a position, the community knows that it is the truth that is authoritative. This implies that these media are not scandal mongering and sensationalistic but they are making judicious decisions about what is truly important for the people.

Usually once a media institution gains a reputation for skilful public service journalism and for fearless defense of human and community rights, the people with a sensitive conscience come forward with information on problems and with sources of information that give these community-oriented media a great advantage over other media. These are the media that may serve as the forum for presenting issues of concern. These are the media where history may be made (White 1995). A new TRP free model can be carved out.

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