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**UNDERSTANDING AN IMPLEMENTATION OF
HUMAN RIGHTS IN INDIA IN THE CONTEXT OF
INDIAN CONSTITUTION: A CASE STUDY OF
MAHARASHTRA**

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Understanding an Implementation of Human Rights in India in the Context of Indian Constitution: A Case Study of Maharashtra

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Abstract – The Human rights implementation has remained a crucial task owing to its poor implementation together with the multiple other factors. The gross violation in the field of human rights India and the infliction of atrocities on the vulnerable section of society represent our inability and gross indifference towards the same. The infringement of human rights in India will be required to be seen through the cultural prism where the theoretical assumptions with regard to the caste, creed, sect, religion, gender, language and region are seen in a peculiar way that result into its ossification. Despite of having laws at its disposal, the intrinsic loopholes permits it's being loose and lost. What is required is to spread awareness and sensitize society for its being effective. The present paper takes a dig at understanding the human rights apropos of Indian constitution and also compares the human freedom of individuals Indian citizens to that of principle of human rights enshrines in the Universal Declaration of Human Rights (UDHR). The paper further throws light on challenges before India with reference to human rights implementation.

Keywords – Vulnerable Sections, Human Rights, Implementation, Enforcement, Atrocities, Media

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INTRODUCTION

The violation of Human Rights in India despite of it being loaded with legislative protection and safeguard has become most prevalent factor. The violation human rights can be attributed to the number of factors such as age old cultural discourse of India, customary norms, cognitively ingrained hegemony of dominions, lack of spirit in following the principle of equity and justice. To these are added some ancillary splitant factors such as economic, political, social etc accountable for human rights violation in India. The commission of atrocities and lethal crimes against the whole society most of the time go unnoticed owing to bureaucracies indifference towards such social evils owing to its disinterestedness, secondly at the policy making level the scholarly elite frame the policies from their own comprehension without interacting with the ground factors. So such policies rendered worthless as they don't reach to the populace which require it the most. Thirdly the non-representation of the whole community specific person on governmental bodies or commission tends to formulate the statutes and laws from their prism owing to render fruitless. The existence of National Human Rights Commission, The Women's National Commission, the SC National Commission, National Commission for Backward Classes, and National Commission for Scheduled Tribes etc. have failed to provide a credible and effective social justice. The votaries of these

commissions could not deliver the result for lacked both intellectual honesty and policy imagination. If these commissions have worked with passion and integrity, it would have definitely brought out the effective results. The Commission for Scheduled Castes at national level can help in socio-economic empowerment of Dalits in contemporary India the purpose with which it had been established. However it suffered from insufficient infrastructure, lack of powers to take affirmative action (Commission's recommendations are not binding) have been some issues faced by the NCSC. It has been lambasted for inefficient functioning, vague selection and appointment process, exorbitant budget etc. Similarly, the national Commission for Women failed miserably for it was expected that the Chairperson on NCW should not be from any political group, as much as it should be democratic and transparent. However the selection of chairperson is usually swayed by the political interference. Maximum Chairpersons of far appointed had no experience in women issues nor were they sensitive and passionate about the gender issues as a consequence it failed on many occasions.

The present research is planned to foreground the myriad inabilities and the loopholes in the legal framework besides the its implementation and enforcement strategy with reference to the human rights violations in India. The basic objective is to focus how historically these commissions suffered

from different set back in spite of having an ideal goal. The paper throws light on the inability of the various constitutional bodies to enforce the law owing to its political homilies.

Rationale: The broad idea for undertaking this research is to make audience acquaint with the pathetic conditions of the constitutional statutory bodies in undertaking the implementation and reinforcement of policies when it comes to ponder over the question of human rights which includes dalits rights, women's rights, child rights etc. The studies so far undertaken in the sense of India's civil rights suffers from certain basic infirmities conceptually as it failed to do with the problems of human rights with regards to Indian constitution, The present study aims to fill the lacunae by undertaking and addressing the issues that prevents the justifiable implementation of human rights issues for its basic roots should be seen in the structure of Indian society which by nature has been discriminatory and selective in nature, One should correct the historical errors for overhauling transformation in society which automatically would create effectiveness in the various constitutional bodies.

HYPOTHESIS:

1. The Human Rights in India are not grasped in the spirit of constitution as a result it fails to deliver the expected result.
2. The Human Rights Commission suffered from some basic intrinsic infirmities for it fails to effectively deliver the will power for making it effective.
3. The wrong appointments on the right places itself defeats the purpose of various human rights commissions.
4. The political interference makes its use for theirs; own political mileage.
5. The implementations and enforcement of human rights in India had led to widespread commission of atrocities and its wide violations

RESEARCH METHODOLOGY

The interpretative descriptive methodology has been employed for the present research

RESULTS

The present research would contribute in creating awareness about the 'what is and what should be'. It would bring a positive impact in society metamorphosis of ideas and its application for the better society.

My dignity is outraged

yet they are laughing

my delicate curtains are no more

allowing me to breath in braze

the surrounding lush green flora

once was darling to my eyes

no more soothes my view

I am in turmoil from within

but apparently stoic and calm

even now they are laughing

I have no identity now

for I am a commodity for thou

Taste, twist, tear, cripple, smash scribble, break

the way you like enjoy

for its your zone

my dignity is outraged

yet you are laughing

I am a child

I am a woman

I am a dalit

I am an Adivasi

I am a sweeper

how longer is the wait

my dignity is being outraged

still they are laughing

Laxmi salvi[1]

The above poetry might present the pessimistic picture of the helpless, underprivileged, exploited, depressed, oppressed, broken people whichever terminologies that are generally used for them in different context, but the one thing that reflects through this poetry is the indifference, negligence and the age old social crime they suffered, were visibly grave in nature, sanctified through religious institutions on account of regulating society, viewed as historical errors for the intellectual fabrics. However soothing is the picture, the reality is far away from this egalitarian thoughtful scholarship. It seems that we like to dwell in the wonderful fantasy land with an illusion of virtual reality.

The Socio-economic depravity of Dalits' through culture

Looking at the writings on the human rights in Indian context, one generally come across with such a literally writings, where India's commitment to human rights is normally reflected through the prism of its cultural historicity wherein the spotlight is showered on richness and elegancy of Indian tradition through the medium of canonized doctrines having institutional sanction that resulted in the systematic crystallization of customary evils. The human rights were blatantly violated when there isn't strong colonial interventions.

The battle to elevate and uplift the India's socio-economic and cultural fabric in the real sense commenced from the Mahatma Jotibaphule, Dr. Br. Ambedkar Raja Ram Mohan Roy, Ishwarchandrayasagar, M.G. Ranade, Dhondo Keshav Karve. It's from here the Indian venture in the Human Rights strides started in the truest sense. The other parallel social movements were working hand in hand for the actualization of social democracy was march towards the achieving human dignity and asserting human rights. The Human rights movement in India had its beginning in the early 20th century when the people belonging to the sections that are most insecure of society started assertively fighting for their rights.

It is broadly assumed that the human rights agitation in India began during emergency rule of Mrs. Indira Gandhi. It will, therefore, be significant to take a review of it historically in the first decade of the twentieth century when then the colonial India could witness the vigorous manifestation of the human rights movements of the dalits. The depressed classes fiercely fought for their natural in the light of principle of fair and natural justice. To name the few movements undertaken by the dalits were; Mahad Satyagraha agitation, The Parvati Satyagraha, the Kalaram Mandir agitation, The burning of Manusmriti etc. These movements were the landmark manifestations of early human rights movements. It wouldn't be wrong to say that these early movements provided base for the later movements in an independent India to reinforce the human rights then be it for mill workers rights, women's rights Farmers rights, dalits rights, the rights of environmentalist, dalit movement. The early movements created consciousness and awareness amidst the human rights activists. The forceful demand for the overall implementation of fundamental freedoms, of the individual got a laud hearing. The legal laws and punitive action for the infringement of human rights have been rightly laid down in the (UDHR) Universal Declaration of Human Rights and also in the Indian constitution. Most of the articles of UDHR match with the Indian constitution.

Indian constitution and Universal declaration of the human rights

The debates in the Indian constituent assembly vindicate the concerns of the constitution maker towards human rights as human being is placed at the central point while discussing the various articles at length. The preamble also showcases 'we the people of India'. The term 'Democratic' indicates, the government gets its authority from the people. It gives feeling that all are equal irrespective of caste, creed, race, religion, region, gender, language and custom. Indian constitution is having human face for the human being is placed at the nucleus. The Indian constitution is an enriched document that gives significant importance to human rights jurisprudence. The Indian constitution elaborates subtly on the character on Human rights. Part III of India's constitution is the Magna Carta of India. Its part iii discusses the people of India's basic rights and thereby guarantees the citizens of their inherent natural rights as enshrined in the U.D.H.R, The supreme court of India and the state courts have broad powers under the constitution to effectuate fundamental rights at the same time these rights have generously elucidated these powers. The judiciary has immensely contributed to the human rights jurisprudence in manifolds'

1. Considerable expansion of concept of human rights by putting article 21 under multifaceted paradigms to suit the main body the constitution's preamble.
2. Procedural and administrative innovation Concerning the Public Interest Litigation (PIL) for here the judiciary has played the role of activist.

Human rights are an all-encompassing issue put more thrust on human living with dignity. The living of human being is not mere like animal but it touches an every aspect of human life, then be it related to civil, political, economic cultural. India was the signatory to The Universal Declaration of Human Rights was promulgated in 1948. A The number of fundamental Human rights are secured in section iii of the Indian constitution are akin to the provisions of Universal Declaration of the Human Rights (UDHR).

Civil and political rights in Indian Constitution and UDHR a comparison:

Sr. no.	Civil and political rights in Indian constitution	Articles in UDHR	Articles in Indian constitution
1.	Equality before law	Article 7	Article 14
2.	Prohibition of Discrimination	Article 7	Article 15(1)
3.	Equality to opportunity	Article 21(2)	Article 16(1)
4.	Freedom of speech and expression	Article 19	Article 19(1)(a)
5.	Freedom of Peaceful assembly	Article 20(1)	Article 19(1)(c)
6.	Right to form Association and Unions	Article 23(4)	Article 19(1)(e)
7.	Freedom of movement within border	Article 13(1)	Article 19(d)
8.	Protection in respect of conviction for offenses	Article 11(2)	Article 20(f)
9.	Protection of life and personal liberty	Article 3	Article 23
10.	Protection from slavery and forced labor	Article 4	Article 23
11.	Freedom of conscience and religion	Article 18	Article 25(1)
12.	Remedy for enforcement of rights	Article 8	Article 32
13.	Right against arbitrary arrest and detention	Article 9	Article 22
14.	Right to social security	Article 22	Article 9(1)

Even Indian constitution talks about the socio-economic and cultural rights at length and breadth

In its part IV and similar rights could be seen in the UDHR

Sr. No	U.D.H.R.	Articles in Universal declaration	Articles in Indian constitution
1.	Right to work in the just and the favorable conditions	Article 23(2)	Article 41
2.	Right to equal pay for equal work	Article 23(2)	Article 39(d)
3.	Right to education	Article 26(1)	Article 21(a), 41, 45 & 51a
4.	Right to just and favorable remuneration	Article 23(3)	Article 43
5.	Right to rest and leisure	Article 24	Article 43
6.	Right to everyone to standard of living adequate for him and his family	Article 25(1)	Article 39(a) & article 47
7.	Right to proper social order	Article 28	Article 38

Myriad Manifestations of Dalits' Human Rights Movement in India

India has witnessed the scores of human rights movements then be the movement of dalits, peasants, labours, women's etc. The human rights activists staged and took to streets in many states of India during 2005 to 2012. It has been observed that as the dalits, women and vulnerable sections of society started agitating, the more and more atrocities committed on them as it was assumed culturally that these historically deprived people should live their lives in particular way that is decreed in Dharmashatra. The atrocities and violence thereby perpetrated on the dalits is symbol of making them subjugate. However in spite of such retaliations the dalit movement had grown out of proportion to assert for their rights throughout the country. The dalit human rights movements can see its manifestations historically throughout India historically. This movement ran parallel from north to south displaying its different manifestations.

There has been an observation that there has been constant rise in the atrocities against the dalits and also violence against the women and the human rights activists. The gross violation of human rights has led human rights movement to become more vibrant and active. There are multiples factors that contributed to violence against the dalits but the major one is that their material wellbeing and prosperity could not be tolerated by the upper caste elites.[2] The major crimes against dalits took place in the state of Haryana as the number of incidences of crimes in 2012 was 252; in 2013 it was 493. The state has been notorious for exerting its customary demon through Khap Panchayat that has hit marriages outside the caste. The successive governments have been ineffectual to show resolve to confront such tendencies straightforward. The political leaders generally have shied away from posing question to the regressive aspect of tradition in the state. This is not only the picture in the state of Haryana but the other states Uttar Pradesh, Rajasthan, Bihar and Madhya Pradesh are equally on forefront in commission of crimes against dalits.

The Human rights violations against dalits are customary in India, clearly demonstrating the apathetic attitude of the government and the discriminatory

stand taken against dalits even in the international fora.[3] The rightful representation of dalits plights was not taken in the rights spirit rather it was taken as the part of custom and religion. According to the Human Rights Watch (1999), the most malicious form of commission of atrocity against dalit women lies in outraging her modesty by sexually molesting her and raping her. The abuse of her not only takes place by the upper caste strata but also the police personnel. The Panchayat systems elected dalit heads are harassed over their castes in many ways. Most of the times, illegal land encroachments are done on the lands of dalits. They even faced forced evictions (Human Rights Watch, 1999). These events are explicitly in breach of the Indian constitution, which abolished untouchability and supports the principle of freedom for all people. Such legislation, such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have also been passed to expressly target hate crimes. In 2006, admitting the severity of the problem, Indian Prime Minister Manmohan Singh conformed the practice of untouchability to that of apartheid.

Atrocities and crimes against Dalits (All India Level)

	2008	2009	2010	2011	2012
All India states	33165	33549	32712	33719	33655
Uttar Pradesh	8009	7522	6272	7702	6202
Rajasthan	4302	4985	4979	5182	5559
Andhra Pradesh	3998	4504	4321	4016	3057
Bihar	3617	3836	3516	3623	4821
Madhya Pradesh	2965	3040	3374	3245	2875
Karnataka	2361	2174	2505	2481	2605
Odisha	1836	1709	1710	1455	2265
Tamilnadu	1618	1312	1631	1391	1647
Maharashtra	1192	1096	1132	1143	1091
Gujarat	1231	1182	1008	1063	1028

Source: National Crime Record Bureau (NCRB), Ministry of Home Affairs

Challenge before Indian democracy with respect to Human rights Implementation

In spite of a myriad safeguards available for the weaker sections and the vulnerable sections in Indian constitution and UDHR to which India is signatory yet there has been gross violations of human right in India. The dalits and tribal's are suffering and are completely at the mercy of the powerful upper class strata of society and the atrocities on them are constantly rising day by day and the current scenario is abhorring for the protection and prevention of the crime against dalits are abhorrently increased over the years in state like Maharashtra.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, aimed to avert the commission of offences of atrocities against the members of Scheduled Castes and Tribes, to dispense for Special Courts for the trial of such crimes and for the relief and rehabilitation of the victims. Irrespective of this, many inhuman atrocities were committed against the deprived and vulnerable community and many a time by taking benefit of its legal loopholes and lacunas the accused got scot-free. The data depicting the commission of atrocities on the

dalits' showed the significant rise in the complaints under PoA and PCR (Protection of Civil Rights act) from 1,700 to 1,800 registered in 2010 to 2,100 to 2,300 complaints registered in last few years according to the data by NCRB. In spite of the constitutional protection granted to Human rights in India, there have been gross violations in terms of discriminations for the complete lack of concern for human rights in India. The atrocities committed against the Dalits, tribals, and the hill-people, along with women, elderly people, and children are the most disadvantaged group. This group is largely visible within the arena of electoral politics than at the centre stage of political democracy when it comes to the centres' concerns around its citizen's.[4] The electoral exploitation of these weaker sections largely is the results of governments' unwillingness to make these sections politically conscious enough for it may lead to conflict interests and the historically perpetuated identities may get disturbed if they are brought to the forefront, such apprehension elitist deterred the dalits, tribes to participate in democracy.

On so many occasions the cases of atrocities, filed didn't get convicted within the stipulated period of time which results in horrific violence as it let to understanding that the delayed in the persecution is assumed to be non- conviction that emboldens the committer of crime.

In case of Maharashtra the cases of outraging the dignity of women have the steady growth and within women if the women are dalits, there discriminations is doubly added owing to their belonging to particular caste, class and gender. They are discriminated intersectionally at every stage. The cases of rape are on high rise when it comes to dalit woman. The objectification and commoditization is customary looking at the status and the position they live in. According to the official data of 2007 is the only unusual where the commission of atrocity has been lower as the number of rapes are 75 as per the CRB.. Or else, the cases have regularly increased from 2005 to 2009 from 83 to 103 respectively. In 2010, first three months had total number of rape cases of SC/ST were 39 recorded by Police. From 2005 to 2010, the cases against SC/ST have grown to 6803 i.e. roughly 1000 crimes per year. The number of crime against the dalits have been rising over the years The crime figures have been increasing from year to year.[5]

What is most horrific is that Maharashtra's sentence for the crime commission cases of atrocities is lowest in whole of India. The 2007 data obtained from the office of state secretary indicates that the conviction percentage in an offence against the dalits was simply 2.9 in which the state of Maharashtra was performing worse than the states known to have crime record states i.e. BIMARU (Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh) states.[6]

There are number of factors responsible for the atrocities cases against dalits have gone up. There is

large number of cases to be put on trial in the pending conditions owing to the lack of infrastructure.[7] The 2010 data shows enormous number of pending cases of SC/ST under the Atrocities Act and the Protection of Civil Rights (PCR) The number of cases were 5,411. The numbers of charge sheets files in 2014 were only 249 but the convictions were only 7.[8] The police number of vacancies in the police department to be filled up but the most importantly the right understanding and awareness among the people is lacking given to Indian customary norms. The need of an hour is to strike at the social structure which has been designed on the fallacious cognitive understanding.

It is wrongly assumed that the less rate of atrocity cases means that the harmonious atmosphere exists between the dalits and the upper caste population. But here irony is that the dalit population in villages entirely seen dependent on the upper caste for his bare minimum sustenance as a result his commission of rebel or non-disobedience against upper caste would have toll his livelihood. Therefore this assumption is the fallacy that the dalits in the villages live in harmony. It is kind of village bound society where relations are based on compulsions. So such assumptions are misleading for there exists intrinsic seething across the milieu.

The role of fourth state media

In India 1500 different newspapers are being circulated. If we take a glance at the role of media at upholding human right one finds that the media has gone into different stages of transformations in terms of its commitment towards the social issues. During 1970's media played central role in sensitizing people with information about governance, development, science and technology, foreign relations and so on. However of late it has also come in criticism for there has been declined in journalistic credibility, as noted by chairman of the Press Council of India himself in a seminar. Journalist felt that the media shies away from important people's issues likes dalits and tribals and that's why it's losing social content and becoming a consumer product with a manager overshadowing the editor. Media has failed to educate people to assert their affirmation to their rights. The chairman of the press council of India condemned the increasing commercialization and fraudulent practices emphasizing need to control them.

Judicial activism and role of civil society

The Indian judiciary is constantly at work for expanding and interpreting the Human rights by striking down those elements which are unconstitutional and against the human being. In recent years, it is witnessed that the court has emerged as a dynamic institution which play active role in the task of expanding the scope and content of individual and collective rights of the citizens... Nevertheless, the differences that existed and still

exists in the Indian society pose greater problems in terms of fully exploiting the human capabilities in their free exercise of legally guaranteed rights. The government all the time cannot fulfill the legal assurances given for the full proof implementation of the human rights without the active participation of civil society. The civil society's network consists of many organisations set up by Human rights activists and a set of connected networks formulated to help and give assistance to the victims of human rights through a guaranteed legal mechanism in order to resist the subordination of the state authority and therefore to demand the political structure.. There is the requirement of institutional mechanism to fulfill the above goals, Education is considered as the fifth state pillar of democracy, Its students can serve as civil society actors to help and support victims of human rights violations, not only by seeking judicial advice, but also by assisting the state in the promotion of human rights.

The Measures to Prevent the Human Rights Violation in India

In such a horrific, horrendous and alarming situation some kinds of stringent measures are required. Our society is required to be sensitized when it comes to understanding dalits' historical plight. The social milieu should be built up in one consensus to bring the feeling of brotherhood amid its diverse populace. The government should make the law related to atrocities more stringent and at the same time the legal and judicial protection of dalits should be strengthened under Act to Protect Scheduled Castes and Tribes from Atrocities. The partial rights of judicial execution should be rested with SC/St commission to smoothen the process of filing the charge sheet in order to avoid the further delay in conviction and execution of suit. The Atrocity Act Commission should facilitate Crimes may be recorded and monitored electronically. It can make people aware of the process of filing the cases by framing and making available simplified Standard Operating Procedures in local languages at all the police stations. Capacity building and sensitization of the institutions: The Commission can help in capacity building of lawyers, judges and policemen. This can ensure their empathetic engagement with members from Scheduled castes ensuring effective implementation of existing government policies. The Commission can discuss with legislators and priorities outcome-oriented fund expenditure across the Ministries. The Commission can help sensitize at least the government institutions and organizations by regularly monitoring their grievance Redressal mechanisms like internal complaints committee. Each ministry is required to set aside at least 15% to 20% of its budget for a Scheduled Caste Sub Plan. The Commission can restructure these funds for employment generation amongst dalits, self-employment, governmental implementation of reservation facilities, capacity building, including soft skills of Dalits. Effectiveness and impacts of existing schemes can be monitored by the Commission regularly. The special courts established for the trial of

the cases under the Atrocity Act. In Maharashtra there is not a single special courts should be exclusively for the trial of cases under the Atrocity Act. There is a need to educate people by organizing workshops on the provisions in law and when a law pertaining to a caste related crime is violated. A holistic approach has to be taken.

CONCLUSION:

The factors responsible for the gross violations of human rights are the vigorous caste system, the low rate of its conviction and the slow prosecution of the atrocity cases against the deprived and vulnerable. The poor implementation of law and the administrative indifference are the major roadblocks in the implementation of the human rights in India. The various organizations working for creating awareness about the atrocities act among the dalits and tribes, many a time are diluted by the police for non-persuasion of the cases. The atrocities on dalits are generally taken as a law and order problem, by completely dilating them from the larger social plan or strategy for the social justice. Atrocities do represent a significant hindrance to socio- economic mobility of the community. Policy-makers should take into account that ending violence on dalits is a basic requirement for success of the redistributive policies, rather than assuming that those policies would result in termination of violence/dis- crimination.[9]

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