

The role of non-Governmental organisations in sensitizing and protecting human rights in India

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Abstract

Human rights are the basic rights which every human being inherits the moment one is conceived in the mother's womb. The question of violation of such inherent right itself is a great challenge for humanity. Every individual possesses and enjoys those rights without any criteria of his/her caste, creed, colour, religion, race, age, sex, place of birth, nationality etc. They are universal in nature. But its violation has not only become history but also rampant even today. This paper focuses mainly on role of Non-Governmental Organizations in sensitizing and protecting human rights. The National Human Rights Commission is like an ombudsman to oversee the effective protection of Human rights. Many organizations around the world dedicate their efforts to protecting human rights and ending human rights abuses. There are NGO's which can intervene at any point of time with any of the remedial measures in a positive way by counselling, educating the victims, emancipating and empowering them. India witnessed many cases initiated and handled by NGO's towards protection of human rights from grass-root level. They are very effective agents on human rights education and work as valuable channel for feedback. In this context activated, sensitized, dynamic and dedicated approach of some prominent NGO's is worthy of appreciation. The Peoples Union for Civil Liberties, The Peoples Union for Democratic Rights, Legal Aid Services etc. have invoked the judicial process in this regard.

Keywords: non-governmental organizations, violation, human rights, declaration

Introduction

The Human Rights are those rights which are essential for the protection and maintenance of dignity of individuals and create conditions in which every human being can develop his personality to the fullest extent. Every individual possesses and enjoys those rights without any criteria of his/her caste, creed, colour, religion, race, age, sex, place of birth, nationality etc. They are universal in nature. Since human rights are not created by any legislation, they resemble very much the natural rights^[1]. By virtue of their being human, they possess certain basic and inalienable rights which are commonly called as human rights. Human rights are the basic rights which every human being inherits the moment one is conceived in the mother's womb. With the birth of an individual, human rights become operative. Certain individuals base on their intrinsic justification and not on their enactment or recognition them. The question of violation of such inherent right itself is a great challenge for humanity. There is a great campaign to protect and reinstate human rights from its violation. Many Governmental and nongovernmental, including national and international organizations and agencies work on this direction. There are NGO's which can intervene at any point of time with any of the remedial measures in a positive way by counseling, educating the victims, emancipating and empowering them.

Origin and Development of Human Rights

The history of human rights covers thousands of years and draws upon religious, cultural, philosophical and legal developments throughout the recorded history. It seems that

the concept of human rights is as old as the civilization. This is evident from the fact that almost at all stages of mankind there have been human rights documents in one form or the other in existence. Several ancient documents and later religious and philosophies included a variety of concepts that may be considered to be human rights. The roots for the protection of the rights of man may be traced as far back as in the Babylonian laws. King Hammurabi issued a set of laws to his people that are called Hammurabi's Code which established fair wages, offered protection of property and required charges to be proven at trial^[2]. The world's first Bill of human rights was discovered on a clay tablet dated back from the reign of Cyrus the Great-555-529 BC^[3]. Assyrian laws, Hittite laws and the Dharma of Vedic period in India also devised the different standards of obligations one should provide to another. The Edicts of Asoka issued by Asoka the Great of India between 272-231 BC also depicts the picture of human compassion.

Human Rights are also rooted in ancient thoughts and concepts of natural law and natural rights. A few Greek and Roman philosophers like Plato, Aristotle, Cicero, Sophocles, St. Thomas Aquinas etc propounded the concept of natural law and justice with a gentle touch of human rights.

Charters of Liberty are steps towards the realization and implementation of Human rights. The Magna Carta granted by King John of England to the English baron on June 15th of 1215, Petition of Right of 1628^[4]. The documents which formed historical foundation of modern human rights jurisprudence are the English Bill of Rights 1688, The American Declaration of Indian 1776, The French Declaration

of Rights of Man 1789, and The United States Bill of Rights 1791. The human rights effectively commenced with the Universal Declaration of Human Rights 1948. The concept of Liberalism of Milton, Locke, Mill, Voltaire, Kant etc and principles of Communism of Hegel and Marx also fought for human rights and equality. In response to the atrocities of the Second World War, human rights came to limelight once again. At the San Francisco Conference, where the UN Charter was adopted, some 40 non-governmental organizations successfully lobbied delegates on human rights. The World Conference on Human Rights held in 1993 in Vienna stated in the Declaration that all human rights derive from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights and fundamental freedoms^[5].

Human Rights and Non-Governmental Organizations

Many organizations around the world dedicated their efforts to protecting human rights and ending human rights abuses. The development of international norms, institutions and procedures for the promotion and protection of human rights has gone hand in hand with the proliferation of Non-Governmental International Organizations working in the field of human rights. The Economic and Social Council of The United Nations by adopting a resolution on 27th February 1950 defined the nongovernmental organization as “any international organization which is not established by inter-governmental agreements”^[6].

The World Conference on Human Rights recognizes the important role of Nongovernmental organization in the promotion of all human rights and in humanitarian activities at the national, regional and international levels. The NGO’s have been established in almost every country. It has been estimated in 1999 that their number worldwide was two million^[7]. At present the first- ever exercise by the CBI to map registered NGOs has disclosed that India has at least 31 lakh NGOs^[8]. There are human rights NGOs which are private associations and they denote significant resources to the promotion and protection of human rights. They are independent of both Government and all political groups which seek direct political power. Some of the NGOs confined their activities to a particular country but some other human rights groups have been organized internationally like Amnesty International (London), Anti-slavery society (London), International League for Human Rights (New York) etc.^[9].

The human rights movement in India has progressed with the establishment of other Human Rights Non-Governmental Organizations fighting and promoting human rights at the grass-roots. For example, NGOs like Vigil India Movement (Bangalore), Citizen for Democracy (Aligarh), Prayas (Delhi), Human Rights Wing (Bihar), Foundation for Legal Aid Environment and Social Action (Guntur), Peoples Union for Civil Liberties (Srinagar), Human Rights Education Movement of India (Chennai), Legal Aid Services (W.B), Andhra Pradesh Civil liberties committee, (Secunderabad), Association for the Protection of Democratic Rights -Calcutta, Committee for the protection of Democratic Rights (Bombay), Citizens Committee for Civil Liberties and Democratic Rights, Goa, LOK Adhikar Sangh, Ahmedabad, People’s

Union for Democratic Rights (New Delhi), Citizens for Democracy (New Delhi), PUCL, Delhi, Karnataka Civil Liberties Committee (Bangalore), Organizations for the Protection of Democratic Rights (AP), Indian People’s Human Rights Commission(Mumbai), The Indian Society for Human Rights for all, Equal Justice to Criminal and Victims, are some of the trustworthy and prominent NGOs. Their activities include publishing newsletter, research work, organizing Seminars, Conferences etc. Bandhua Mukti Morcha or Bonded Labour Liberation Front is a non-governmental organisation in India working to end bonded labour. Based in New Delhi, it was founded in 1981 by Swami Agnivesh who continues as its chairman. Bonded labour was legally abolished in India in 1976 but it remains prevalent, with weak enforcement of the law by state governments. Besides the pro-active commitments of some NGOs in protecting and promoting the human rights of the persons, there are some individuals like Hingorani (Advocate), Sheela Barse (Social Worker), Arun Shourie (Journalist), Upendra Baxi (Jurist), Ashok Kumar Johri, D.K. Basu, V.M. Tarkunde (justice), Dr. A.M. Singhvi, Rajinder Sachar, (Justice), etc., whose work contributes in enforcing the human rights of poor masses in the society, which is highly appreciable and is of paramount importance^[10].

Major Role of Ngo’s in Sensitization and Protection of Human Rights

The World Conference on Human Rights appreciated the contribution of NGO’s in increasing public awareness of human rights issues, to the conduct of education, training and research in this field and to promotion and protection of all human rights and fundamental freedoms. While recognizing that the primary responsibility for standard setting lies with states, the World conference also appreciates the contribution of nongovernmental organization to this process. It also urged NGO’s to intensify their efforts in co-operating and co-ordinating their activities against the human rights violations in general and against the evils like racism and racial discrimination in particular. Recognising the human rights of women and of the girl child as an inalienable, integral and indivisible part of Universal Declaration of Human Rights, the World Conference has urged the NGO’s to intensify their efforts for the promotion and protection of human rights of women and the girl child^[11]. Amnesty International concentrates only on political imprisonment, torture and execution. Its basic concern has been the individual in the cell. Amnesty International seeks to achieve its goal through persuasion and dialogue with National Governments. It seeks to have transparency in its working and finances. It has gained respectability around the world due to its voluntary character, moral stance and marshalling of facts and figures^[12]. It has grass roots capability through case adoption groups and takes initiative at national and international levels^[13].

Human Rights NGO’s vary in their approach. Some NGO’s perform extensive research in order to document human rights abuses. These organizations serve as watchdogs, monitoring potentially abusive actions of Governments. Many Human Rights NGOs work to bring public attention to human rights abuses through information campaigns, NGO member updates, and coordination with the press^[14].

The Main Functions of Human Rights NGOs

It is remarkable to note in the context of India that the positive role that the non-governmental organization can play in furthering the cause of human rights has been recognized both by the Protection of Human Rights Act, 1993 and the National Human Rights Commission (NHRC). The Act, 1993, in Section 12(i) has enjoined upon the NHRC to encourage the efforts of the NGOs and institutions working in the field of human rights. In the first report itself, NHRC, clearly spelt out the three areas in which NGOs could be its direct assistance to it, in its mission.

Firstly, because of their grass roots contacts, NGOs can most effectively identify human rights violations, articulate them and seek redress from the Commission. The Commission expects the NGOs to play an active and positive role in bringing violations and complaints to its notice.

Secondly, because, of the rapport the NGOs have with the public, they can be great assistance to the Commission by helping the Commission's investigating staff as well as undertake investigations of violations on behalf of the Commission.

Thirdly, the NGO can undertake research and serious studies as specific problems and issues in view of their specialized knowledge [15].

NGOs perform different functions depending upon the purposes for which they are established. Their performance of function also depends upon their resources, the geographical regions where they operate and the nature and number of the membership. Some of the functions, relating to human rights are as follow:-

1. Collection of Information: NGO's collect information and analyse data with regard to conditions of jail, treatment for prisoners who are under trial, their duration etc by conducting a detailed survey and prepare a report on it. They also circulate those reports, as widely as possible to make aware the public and the government.
2. Mobilization of public opinion: NGOs arrange seminars, workshops, conferences and meetings on different aspects of human rights to mobilize public opinion. Officers from different disciplines like, administration, jailors, judicial officers, police department, advocates, journalists etc are invited and opinion must be gathered. The propaganda and message of human rights may also be carried to the common men who are the victims of human rights violation.
3. By providing direct service: NGO's may work directly with victims and assist in solving their problems. They often collaborate with advocacy groups to provide legal assistance before the government authorities and the court to ensure full protection to victim's rights.
4. Legal assistance: NGOs may take up the task of bringing cases before the Court of law where a right has been violated, and no action has been taken by the victim to secure the redress either because of the lack of resources or ignorance.
5. Dialogue with Governments and International bodies: NGO's can take up the task of pressurizing the government to keep check on the growing problem of torture and inhuman treatment of police and jail authorities, to submit their report in time to international

committees set up under different international conventions and implement human rights standards through their foreign policy. International bodies like UN General Assembly had been pressurized by Amnesty International to adopt Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. Filing of Writ Petitions: NGO's also file writ petitions before the Court by way of Public Interest Litigation for the purpose of providing access to justice to large masses who are denied their basic human rights and to whom freedom and liberty have no meaning.
7. Processing of information: NGO's can perform the task of processing information by imparting education to the people about the extent of their rights and edge of violation. They also publish reports about rights violations, gathering and evaluating information, and sensitizing by creating awareness among people about their basic rights.
8. Communication to the Commission on Human Rights: NGO's can communicate any report or matter with regard gross violation of human rights. They may make communications when acting in good faith in accordance with recognized principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of United Nations, and having direct and reliable knowledge of such violation.
9. Human rights education: Along with formal education, there is need to provide informal education to the people about their rights and threat of violation of their human rights. So NGO's can play a vital role in proving education to the general public by sensitizing them about their rights [16].

To support these above points, we have live example in south Karnataka, in a district called Udupi, where Dr. Ravindranath Shanbhaugh works a lot on various activities in which human rights are violated. He fights for grave violation of human rights in different parts of Karnataka.

Other than these, Development and Operation of Infrastructure functions are also managed by NGO's. Their organizations and cooperatives can acquire, subdivide and develop land, construct housing, provide infrastructure and operate and maintain infrastructure such as wells or public toilets and solid waste collection services which are also basic rights and facilities for human beings.

Sulabh Movement is a major social movement in the country for the betterment and welfare of Dalits, in a generic sense, and in particular for the liberation and social mainstreaming of scavengers. Child Relief and You (CRY) is a voluntary organisation committed to the upliftment of millions of children who have been deprived of their childhood due to various reasons. Campaign against Child Labour is a joint initiative of Youth for Voluntary Action Pune and Tere des Hommes (Germany) India Programme. The Campaign is currently supported by ILO and is actively working for progressive eradication of child labour through provision of education, organization of awareness programmes, promotion of legislative changes and rescuing children in bondage or victims of abuse.

Organisations like Saheli and Chetna are actively involved in the protection of Women's Rights. They provide free legal aid to women to fight for their rights against gender bias and

discrimination. Butterflies are an NGO with a programme for street and working children. It was started in 1988 and its activities include non-formal education, saving schemes for children, vocational training, holding Bal Sabhas, and creating awareness for children's rights, Bal Mazdoor Union, networking with other NGOs and research and documentation [17].

Cases Initiated by NGO's in India on Human Rights

In the Indian context, the present Non-Governmental Organizations movement towards human rights activism owes its origin to emergency era and inherently to some of the leading events such as increasing weakness in professional efficiency of the State apparatus and many of the democratic institutions. The emergency was a period characterized by the curtailment of civil liberties through amendments to the Constitution to clamp down on the right to enjoy the fundamental rights enshrined within it, the promulgation of ordinances that legitimized the government actions, such as arresting people on the pretext of preventive detention as well as the establishment of new intelligence outfits, such as the CBI and RAW, which assisted the government with its agenda. As a result of the severe repression of civil liberties by the government, several individuals and organizations came to the forefront, as champions of human rights. The most prominent among these was socialist Jayaprakash Narayan's Peoples Union for Civil Rights. A similar organization that was established was the People's Union for Democratic Rights. The importance of these organizations was that they were autonomous of the government and critical of its actions [18].

NGOs work towards the release of prisoners by writing letters to prison officials, judges, and various government officers of the State. The Supreme Court and NHRC has taken action on several human rights violations complaints relating to accused person mainly reported by NGOs from different parts of the country. An accused person is also a human being and his fundamental human freedoms in all circumstances must be protected. The accused person has certain substantive rights in criminal investigatory process against legally unwarranted investigations as well as legally unwarranted arrest and pre-arrest illegal detentions and confinements.

The Executive Chairman of a nongovernmental Organisation called Legal Aid Services, West Bengal, Sri. D K Basu brought to the cognizance of the Supreme Court regarding deaths in police lock-ups and custody, by addressing a letter to the Chief Justice of India drawing his attention to certain news items published in the Telegraph dated 20- 22 July, 1986 and in the Statesman and Indian Express dated 17th August, 1986 regarding deaths in police lock-ups and custody. The chairman submitted that it was imperative to examine the issue in depth and to develop Custody jurisprudence and formulate modalities for awarding compensation to the victim and family members of the victim for atrocities and death caused in police custody. It was requested that the letter along with the news items be treated as a writ petitions under public interest litigation category. It has been accepted as Writ petition. Justice Kuldeep Singh and Dr.A.S. Anand, JJ. observed that any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article

21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. "Custodial torture" is a naked violation of human dignity and degradation which destroys to a very large extent, the individual personality. Custodial death is perhaps one of the worst crimes in a civilized society governed by the rule of law.

The Court also pointed out in *Neelabati Bahera* case [19] that convicts, prisoners, detainees or under trials are not denuded of their fundamental rights under Article 21 and it is only such restrictions as are permitted by law, which can be imposed on the enjoyment of fundamental rights of arrestees and detainees.

The president of a famous NGO, a „Citizen for Democracy“ Mr. Kuldip Nayar, an eminent journalist, brought in to the notice of the Supreme Court through a letter that the seven TADA detainees lodged in the hospital in the State of Assam were handcuffed and tied with a long rope to check their movement. Security guards were also posted outside the hospital. The Court treated the letter as a petition under Article 32 of the Constitution and held that handcuffing and in addition tying with ropes of the patient-prisoners who are lodged in the hospital is inhuman and in violation of human rights guaranteed to an individual under international law and the law of the land [20].

The Supreme Court expressed serious concern over the violation of the law laid down by that Court in *Prem Shankar Shukla's case* [21] against handcuffing of under trial or convicted prisoners by the police authorities. Handcuffing should be resorted to only when there is clear and present danger of escape breaking out the police control and for this there must be clear material, not merely an assumption.

With the intervention of Citizens for Democracy, a human rights group; Sunil Batra, a convict under sentence of death challenged his solitary confinement and put forwarded the realities for the first time in the history which made the Chief Justice and other Judges to visit Tihar Jail on 23rd January, 1978 to ascertain the existing conditions [22]. The Free Legal Aid Committee, Hazaribagh brought to the notice of the Court through a letter about the illegal detention of certain prisoners in the Hazaribagh jail for two or three decades without any justification. In *Rudul Shah Case* [23], when he was kept in jail for 14 years, even after his acquittal by a criminal Court, where his right of personal liberty guaranteed by Article 21 was breached by jail administration. A habeas corpus petition was moved on his behalf in the Supreme Court for providing justice to him.

In *Hussainara Khatoon v. Home Secretary State of Bihar* [24], a petition of writ of habeas corpus was filed by number of under trial, prisoners who were in jails in the State of Bihar for years awaiting their trial. The Supreme Court held that right to a speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution. Speedy trial is the essence of criminal justice.

The Petitioner, Peoples Union for Civil Liberties, filed a writ petition under Article 32 of the Constitution for issuing appropriate directions for instituting a judicial inquiry into the fake encounter by Imphal police in which two persons were killed, to direct appropriate action to be taken against the erring officials and to award compensation to the members of the family of deceased. The police authorities denied the

allegation of “fake encounter”. The Supreme Court held that killing of two persons in fake encounter by the police was clear violations of the right to life guaranteed in Article 21 of the Constitution and the defence of Sovereign immunity does not apply in such case ^[25].

In case of *Vishaka & Ors v. State of Rajasthan & Others*²⁶ where, on behalf of a woman employee who was subjected to sexual abuse by her superior officer, a NGO (Vishaka) filed a petition to draw the attention of the Court, as to the atrocities committed on the women folk in workplaces. This case was a landmark decision towards the self-empowerment of women. For the first time, Courts have decided based on an international instrument, when there was no law specifically in force in India, for matters relating to sexual harassment. The move was based on India's ratification of the international instrument, Convention on the Elimination of all forms of Discrimination against Women.

Conclusion

NGOs play a significant, dynamic and tremendous role in imparting justice to thousands of poor, weak, suppressed, downtrodden and exploited people, especially the under trials, prisoners or accused persons, through its activated, sensitised, dynamic and dedicated approach towards the protection of human rights of these persons and have emerged as a powerful protective shield of assistance in the field of legal battle to these needy persons. These voluntary organizations are providing justice to the under trial prisoners or accused persons through legal aid, by its strategic arms like public internet litigation, Lok Adalat, etc. NGO's have functioned as the conscience of the national public in the field of human right by taking prompt action to investigate the instances of human right violation by undertaking studies and publishing the observations.

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