

Protection of Human Rights under Indian Constitutional Recent status in Rajasthan

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Abstract

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

It is well understood that these are essential for the overall development of the human being not only at national but also at international level. But these human rights should not remain on paper. But they should be protected for the betterment of the society. In India, we have human rights in our Constitution. It is therefore our duty to see that human rights become meaningful to a large number of people in this country. The role of judiciary in the protection of human rights is certainly commendable. However, in the quest for socio-economic justice the judiciary is sometimes overstepping the limits of its judicial function and trespass into the areas reserved for the legislature and the executive. However, it is also true that judicial activism is not only necessary but also it has become inevitable in nature as the judiciary in the guardian of our Constitution of India. Supreme Court has shown that it can go upto any extent to protect and enforce by way of incorporating various unspecified fundamental rights (human rights) into one of the most important article that is Article 21 of the Constitution.

The State of Rajasthan is mainly characterized by poor social and economic infrastructure, high dependence on rain fed agriculture, high population growth and low literacy levels. Most of the districts have low HDI values. The gender development index shows the persistence of gender inequality in the State. In this background, the human rights scenario is also not very encouraging. Civil liberties have been a severe casualty and economic, social and cultural rights to have seen frequent violations. We generally notice that the rights profiled in are manifest that the State does not project a very inspiring picture as far as promotion and protection of human rights is concerned. Though it suffices to say that human rights are indivisible, inter-dependent and non-preferential, the major areas of concern that emerge from the study are widespread discrimination against women, SC/ST and dalits resulting into gross violation of a number of human rights. High rate of custodial violence, especially custodial deaths, bring the administration and prison administration under serious review.

Parallel to this, the rights of women in Rajasthan are being violated in countless ways. Many crime related with Human trafficking, dowry deaths, female feticide, domestic violence and lack of participation in the power structure, political as well as domestic, have resulted in the low status of women. In 2004, more than 400 women suffered rights violations of different nature everyday in Rajasthan. The patriarchal society, feudal customs and values, high illiteracy and extreme poverty

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owing to lack of ownership rights have kept them at from empowerment and perpetuated their misery. There has been a systematic denial of the right to life of the female, fitness being aborted with amazing impunity. Only five clinics have been booked under PNDT, telling the entire story. Women from lower castes re treated with medieval barbarity without evoking much response from the State or society.

A area remains where government should take urgent notice is the atrocities against the dalits. Government by itself cannot do away with this evil practice. Caste system is still a way of life in Rajasthan, and caste more than anything else is a major determinant to the many opportunities that come people's way. In fact Rajasthan tops the list of states in terms of atrocities against dalits. Name calling, prohibiting dalits from using footwear, proscription and social ostracism, segregation of school children, denial of basic services and utilities, and many other primitive modes of discrimination, which have been expressly prohibited by the Civil Rights Protection Act and the prohibition of atrocities against the SC/ST act continue unabated. Rajasthan alone accounts for more than 155 cases of atrocities against the SC/ST. It is needless to say that majority of cases of gravest discrimination go unreported and unpunished. The case of tribals is yet another story of discrimination and disdain. Despite having more than 12.5% tribe population, the State seems to be completely oblivious of their problems the State seems to be completely oblivious of their problems. The market led growth and globalization have taken a toll on their lives and rights. Most of these tribal's are now landless, without any opportunities of employment and source of sustenance and security already been declared encroachers and who have not been evicted are awaiting action any moment. Starvation deaths of *sahariyas* having evoked national and international concern; have failed to stir up any response from the State apart from branding the deaths as caused by diseases rather than starvation. As per a report published in 2005, 99% adivasi households are facing chronic hunger. An enquiry commissioned by the honorable Supreme Court also concluded that a large proportion of the sahariya population was under high risk of mortality. Thousands tones of food grains have gone down the drain but the *sahariyas* conditions have hardly improved.

Rajasthan State has a huge number of child labour and child marriages which directly hit the human rights of children. High proportions of both recognized and unrecognized child labour is depriving an entire generation from its childhood. Starting from agricultural to agri- based industries, carpet, gem and silk industries, not to forget the huge unorganized sector all employ children which are against the spirit of the Constitutional provisions and the CLPR Act. Most of these working children belong to SC/ST families and toil 8-14 hours to earn a meagerly Rs. average 20-30 per day. Child marriage is hugely popular in Rajasthan. Though more common among Gurjars, Jats, Meenas and some other backward classes, child marriage has a social approval cutting across castes and creed in Rajasthan.

According to a recent study more than 30% girls marry by 13 and 50% become mothers by age of 15 years. Overall child marriage is about 89.4% of regular marriage in Rajasthan State. Amongst civil and political rights, besides scores of crimes under the IPC and SLL which violate a number of rights including those of social, economic and cultural in nature, custodial violence and especially custodial deaths have attracted severe criticism and attention. It is a some violation with protectors becoming predators. It has also attracted scathing criticism from the NHRC. 228 custodial deaths have taken place in the last five years (2001-2005). While there has been hardly decrease in the number over the years, the NHRC and the SHRC have been making repeated recommendations to the successive State governments without much success. The amendments in the Police Act and the Prison Acts have also been suggested, but have failed to merit positive response.

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According to the State officials of National Human rights commission this takes place due to shortage of staff. The prison conditions have really been deteriorating further for the prison population. Most of the prisons have inmates far beyond their capacity. Shortage of staff, medical and other facilities are reported from most of the prisons. Prisons have been operating at half their staff capacity for almost a decade.

The picture of the human rights situation has been far from satisfactory in Rajasthan in the past 4 to 5 years. There were sustained attacks on groups of collectives. The worst affected were the (hills, tribal's & women. In several instances the government even justified most of those atrocities in the name of caste, religion or culture. What should alarm us the most is the increasing incidence of violence against women: rape, trafficking of women and girl children, dowry deaths not to mention female feticide and infanticide? Levels of violent crimes against women in Rajasthan are extremely high.

As per National Crime Records Bureau (NCRB) figures for 2017 issued by the Ministry of Home Affairs, Rajasthan ranked fourth in the ratings of recorded crimes against women however this picture is slightly changed after two decades and shows These include rape, kidnapping, dowry death, mental and physical "torture", molestation, sexual harassment and trafficking. According to Rajasthan government statistics, crimes against women in the year 2016 reported an increase of 6.7% over before of 2010. In particular "torture" (which they categorise as crimes under section 498A of the Indian Penal Code (10) (IPC)) registered an increase of 9.66% and "molestation" (crimes of sexual violence not amounting to rape) an increase of 6.91% although rape registered a decrease of 5.37%.

Rajasthan is on the apex of the list of States topping the chart of atrocities on dalits. And the tribals have been further socially and economically alienated by the Rajasthan government's policies. It is quite important for the government and the SHRC of Rajasthan to understand that basically the Dalit's and tribals' struggle is a struggle for human rights and human dignity and those societal wrongs are deep-seated. They must also realize that human rights of dalits conversion bill is a testimony of that.

Values and respect for fellow human beings cannot be legislated, but the State government and the Commission has the mandate to put the issue in a proper perspective. This government and Rajasthan State Human Rights Commission can achieve the above if they take a stand on the root cause- "the hierarchical system". Regrettably it has not taken a stand on the issue, nor is there any indication that it will do so. Nobody suggests that this dreadful remnant of the past can be buried overnight, but what is important is that the human rights and civil liberties groups and institutions like Rajasthan State Human Rights Commission must make their stand known to the public.

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