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Islamic values and Asian values: Issues and challenges to human rights

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Abstract---The Paper gives an insight into the values of Asian and Islamic countries with respect to human rights. It helps in understanding the problems that are prevalent in these countries and what could be done in order to bring the concept of human rights as it exists in these countries on par with the liberal ideas of West. The paper deals with analysis of human rights in reference to Asian and Islamic values. The idea of Human Rights is regarded as the idea of West and the Asian and Islamic practices pose a challenge to this idea. The study is limited to comparison between Western values of human rights and Asian practices; the development of human rights in Islamic culture and the challenges that exist even in the modern world. The paper also puts across the views of some renowned philosophers and supporters of Human Rights as to the concept of 'cultural relativism', 'the relative universality of human rights' and the impact of difference in practices on the rights of women and other weaker sections of the society.

Keywords---human rights, Islamic practices, cultural relativism, western values, justice, women rights.

Introduction

Human Rights are currently ingrained in international relations in a way that it is almost impossible to think of interpreting laws and regulations that various countries have become parties to without including the concept of human rights. In international scenario, where different nations come together to form groups and decide a common code of conduct for themselves, it is perennially required that paramount importance is given to protection of rights of each and every individual. Nowadays, through various conventions, most important being the

United Nations Charter on Human Rights, nations have agreed to the fact that it is their collective responsibility to ensure that nobody's rights are compromised in the garb of giving effect to any treaty or obligation. The world community strives towards making possible that proper machinery is established so that disciplinary actions against those who do not adhere to the terms of agreements and create nuisance by depriving one of his rights. Different states have different standards when it comes to making laws, and the extent to which the state authorities could go in order to enforce the rights of its citizenry, define it in international regime.

The evolution of human rights is traced through European modern thought. Natural law principles are regarded as the very source of the idea of human rights. These rights formed the instinct of a human being and considered as integral part of a decent living standard. Later on, with development of international law, human rights became part of several significant conventions that are adhered to by majority of the nations. These conventions include Universal Declaration of Human Rights, United Nations Charter, International Covenant on Civil and Political Rights, so on and so forth. By reading the provisions of these conventions together with the domestic laws of a country, one can conclude that the idea of human rights, rule of law and democratic form of governance are interlinked with each other. It has been observed that, to a certain extent, movements for preserving human rights and political trend in Islamic countries have a common agenda. It entails criticism of the authoritarian form of government that gives little importance to the democratic principles and deprives citizens of their basic liberties. The continuous disregard of democratic values proves to be fatal for the development of a nation. The feelings of patriotism start fading when actions of government go against the fundamental ideas of laws and violation of human rights is evident everywhere.

Human rights ideals face many challenges in the modern world, especially in Asian countries where the democratic trends are being challenged by the authoritarian leaders as they regard the current practices an importation of Western culture. The Eastern Asian political thinkers are of the opinion that the circumstances like high level of crimes and other social evils in the West make it necessary for them to have a liberal democracy while Asian values do not coincide with these principles. According to Samuel P. Huntington, "the ideas endorsed by West are quite contrary to 'Asian Values'- a term that seems to include authoritarianism, cooperation, harmony and order as the predominant values of Asian culture." Speaking of Islamic values with respect to Human Rights, it is a well-known fact that Muslims consider legal rule as equivalent to Islamic laws. According to Max Weber, democracy is based on legal principles and this idea is subscribed to by both Muslims and Non-Muslims. Many Muslim fundamentalists believe that Islamic Sharia or Holy law is the sole basis for a legal rule acceptable to all Muslims.

In the year 1993, at the World Conference on Human Rights in Vienna, the differences between cultures and values of Asian and western countries was the topic of discussion. It was examined that the Asian values are more inclined towards the principles of order and discipline while the western values support the idea of freedom and liberty to a great extent. As a result of the above observation, it can be said that the claims of human rights do not find much

relevance in Asian scenario. In West, it is apparent that political and civil societies strive towards strengthening the claims of human rights and provide effective mechanism in order to enforce the same. The tussle has been there since time immemorial. In Asian countries, the rulers defend their ideologies by claiming that economic development is possible only when State ensures that authoritarian governance is practiced. The argument made by the champions of 'authoritarian governance' is that countries like China and South Korea have been flourishing in economic sector because of the system of governance followed by them. It is also claimed that promoting authoritarian governance and suppressing the political and civil liberties of individuals leads to increase in economic status of the country.

Aims and objectives

- To highlight the sources that led to the origin of human rights in different parts of the World.
- To understand the cultural relativism and significance of distinct approaches adopted by different nations.
- To carry out a comparative study between Asian and Western values with respect to Human Rights.
- To analyse the contribution of Islamic values in the evolution of the concept of Human Rights.
- To examine the status of women and other weaker sections of society in modern world, especially in Islamic Countries.

Research questions

- What has been the role of various civilizations in evolution of the concept of human rights?
- What are the issues regarding development of human rights in Islamic culture?
- What is the status of women and concept of justice in Islamic values?
- What role has been played by Asian Values and their conflict with Western culture in development of human rights?
- What are the East Asian challenges to human rights and role of international conventions in development of jurisprudence on human rights?

Statement of problem

At present, there are a number of national and international conventions that consist of the provisions related to providing protection to the basic rights without which human existence is not possible. The United Declaration of Human Rights, 1948, the International Convention on Civil and Political Rights, 1966, etc., make it the duty of every state which is a party to these conventions to take all necessary measures to enforce these basic human rights. The variance in cultural practices and existence of multiple religions pose a challenge to human rights' principle. In Asian countries,

Significance of research study

The project work gives an insight into the values of Asian and Islamic countries with respect to human rights. It helps in understanding the problems that are prevalent in these countries and what could be done in order to bring the concept of human rights as it exists in these countries at par with the liberal ideas of West. The project also puts across the views of some renowned philosophers and supporters of Human Rights as to the concept of 'cultural relativism', 'the relative universality of human rights' and the impact of difference in practices on the rights of women and other weaker sections of the society.

Research Methodology

This paper adopts a combination of analytical and descriptive methods.

Hypothesis

The efficiency of human rights enforcement mechanism is determined by the cultural practices and values. Preservation of human rights ensures maximum development of a nation.

Mode of citation

The citation in this research paper is uniform and Harvard Bluebook citation method (19th edition) has been adhered to.

Scope and limitation

The project deals with analysis of human rights in reference to Asian and Islamic values. The idea of Human Rights is regarded as the idea of West and the Asian and Islamic practices pose a challenge to this idea. The study is limited to comparison between Western values of human rights and Asian practices. The study also gives an insight into development of human rights in Islamic culture and the challenges that exist even in the modern world.

The origin of human rights

It is believed by many that the concept of human rights developed after World War II by the Western Countries. It took shape in the formative years of United Nations but it would be wrong to contend that it originated as a result of Western Culture. According to renowned philosophers like Jack Donnelly, "most non-western cultural and political traditions lack not only the practice of human rights but the very concept. As a matter of fact, the concept of human rights is an artefact of modern Western civilisations. The idea of human rights can be witnessed while observing the history of different regions of the World. The concept of 'dharma' in Hindu Culture itself reflects on various tenets of the modern day principles of human rights. Even the Vedas, Upanishads, and other sacred scriptures and divine revelations, also enshrine the ideas like respect, dignity and liberty that are very much required in order to exist as a human being. The social order developed through *shrutis*, *smritis* and the popular

mythological epics such as *Mahabharata* and *Ramayana*. These sources also gave an insight into the significance of preserving and promoting maintenance of peace and order by resorting to peaceful means so that the idea of promoting human dignity does not get defeated.

Human rights and the major civilisations of the world

Looking at the practices of the famous ancient civilisations, we can conclude that the very idea of leading a life full of dignity has been endorsed since time immemorial. Shelton, the great scholar, observed, after outlining a survey of practices related to human rights in States, that “different cultures and different legal practices vary in the priorities and emphasis given to particular rights, and vary according to traditions and perceived threats. Yet there exist today commonly shared legal norms accepted and recognised by all States.” It is also to be noted that majority of Asian civilisations acknowledges the right to life, the most important right for a human being. The ideas of ‘non-violence’ supported by Buddhists and Gandhian philosophers are also reflective of protecting the person of human rights. Human rights are universal as every religion and culture endeavours to protect them in a way so that they contribute for the betterment of society. Analysing the historical accounts of various jurists and philosophers, it can be said with conviction that international law and its principles are a result of participation by majority of the nations of the World. Each country has significantly contributed its bit in order to ensure that their cultural practices and values find mention in the universal document on human rights that is going to govern almost every individual on the planet.

The Islamic perspective of human rights

Taking into account various instances and practices that have been prevalent for a very long period of time, it becomes clear that Islam as a divine religion made a significant contribution to the concept of human rights and basic freedoms. Looking into the history, it can also be said that this concept does not trace its inception to Magna Carta or Universal declaration of human rights but to the holy scriptures of Islam, i.e., Quran and Sunnah. The ‘Bill of Rights’ proposed by Islamic values which ensures full-fledged human rights to individuals without any discrimination, is revered among people because of the fact that it is believed to have been given by Allah, i.e., the God. Unlike authoritarian governments or legal systems, these rights cannot be taken away and there is no question of abrogation. As per the Holy Quran, “human rights are an inseparable part of Islamic belief and forms the general ground on which relations between man and his lord and man with man are based.”

Sources of human rights in Islamic culture

- The Holy Quran is considered as the first primary source of human rights in Islam as it is a sacred Constitution and is not subject to any condition and cannot be altered. It forms the basis for many judgments when the matter relates to interpretation of Islamic values.
- Prophet Muhammad’s Sunnah is considered as the second source of Islamic teachings. It is basically the collection of various interpretations of Quran

given by the Prophet and the insights into the Islamic values as enshrined in the Quran.

- 'Ijma' is considered as the third source of human rights in Islamic values. "Ijm a means a consensus of opinion of the Companions of the Prophet only, while some maintain that it is an agreement of the Muslim jurists of a particular age on a point of law." Thus, anything to which there is an unanimous opinion of the Islamic teachers, forms part of the values.
- Reasoning, being the fourth source of human rights in Islamic values, is of paramount importance as it renders scope for application of intellect by scholars in order to ensure development of values with time.

It is pertinent to note that some basic rights that are integral to human life are guaranteed by the Quran as well. Right to life, right to equality, right to freedom of expression, right to religion or consciousness, right to justice, right to property, etc. are some of the rights regarded as basic for human existence. Right to privacy, that has been regarded as part and parcel of Article 21 of the Indian Constitution in the recent landmark case of Justice K.S. Puttaswamy v. Union of India, by a bench of nine judges, finds mention in the Quran as well. The views taken by the judges of Supreme Court while pronouncing the judgement included reliance upon various jurisprudential aspects and Quran was also one of the authorities referred to. Some other rights that are exclusive and reflect on the ideals of Islamic culture and provided by Quran are: right to education, right to protection of honour, right to protest against tyranny, right to protection from arbitrary imprisonment, rights of enemies of war, etc. It brings to light the fact that some rights that have been added later by way of amendments in the Indian Constitution were already there in Quran. Right to education, which became part of fundamental rights by the 86th Amendment in 2002, found mention in the Islamic values since time immemorial.

'Status of women and concept of justice in Islam'

Justice is regarded as the basic principle on which human lives are based and more importantly, society operates. The 'word' itself carries high ideals and has been given various interpretations by different philosophers and scholars. The philosophers like Aristotle and Plato, in their literary works, have dealt with moral virtue of justice and have asserted that what is fair, equitable and lawful, consists of justice. When it comes to the status of women, it is to be noted that it has been a topic of discussion for many decades. Almost every culture in the world has had a debate on this issue which forms the backbone of the society. Gender discrimination has been there for a very long time period of time, the only thing that differs is the manner in which discrimination takes place in different cultures. The concept of 'equal treatment' was not given effect to when we trace back to the history in relation to treatment of women. They have always been seen as a weaker section and in need of protection. In almost every aspect of life, the position of women has been kept lower to that of men. The main reason behind depriving them of their basic liberties and rights was that they were considered incapable, be it physically, intellectually, or philosophically. The existence of orthodox and cruel practices against women in the primitive societies is an example of torturous life that they have led in the early years of civilisation and for a very long period even after that. Even John Rawls, has reiterated that

inequalities can be justified on certain grounds if they are arranged in such a way so as to benefit a large section of society. Keeping in view, Rawls' opinion, it is evident that the grounds of inequality and discrimination against women in primitive societies were unjust. The term 'human rights' itself suggests that rights are to be secured to every human being and there is no distinction between man and woman. David Miller maintains that there is an intimate connection between rights and justice. To him, "if justice is concerned with what is due to each person considered individually, it is hardly surprising that one of the facts about a person which determines what is due to him is the set of positive rights which he possesses."

Religion plays a very crucial role as the values and social virtues inculcated by a religion shape the society. It helps in the formation of a better society and promotes the idea of harmony and brotherhood. Talking about Islam, it is very well known that the status of women under Islam has always been controversial. The influence of conservative approach can still be noticed in their culture. The ideas like 'feminism' are looked down upon by the followers of Islam as they regard it a Western concept.

The East Asian challenge to human rights

As per the existing circumstances, a new discourse on human rights has been emerging in the East Asian countries. It is to be taken into account that in the contemporary world, there occurs gross violation of human rights. The issues related to violation of principles are contested on cultural grounds as to how rights are prioritized varies from nation to nation. With the growth of economic and military conditions in the Asian countries, it is the need of the hour that practices related to enforcement of human rights are acknowledged by the West and alternate methods to promote peace should be resorted to. At present, there is increasing recognition of claims of human security and the World Community is endeavouring to establish itself as a collective protector of the safety and dignity of individuals. Some supporters of the Human Rights Theory also propose that the idea of liberty and securing personal freedoms should also be introduced in Foreign Policy. There exists a misconception that unlike West, rights are considered inappropriate by the Asian countries. Among Europeans, these notions are very famous that Asian Countries, in order to ensure their growth in terms of economy, does not give preference to personal liberties of people.

But, taking into consideration the current international regime and Constitutional provisions of various nations, it becomes clear that there is considerable support for rights in Asia, it can be seen in the viewpoints put forth by the leaders, ministers, parliamentarians, and other officials entrusted with the governance of a country. The role of judges, academicians, welfare groups and non-governmental organizations is of paramount importance as they are the bodies that ensure full enforcement of rights by disseminating information and making people aware of their rights and interests. The guarantee of rights is also provided by some Constitutional provisions of the Asian Countries and in the contemporary world, international law has also evolved a lot. The establishment of Human Rights Commission in Asian States, is indicative of the active participation of the governments of these countries. Some of the interesting

legislations enacted as an outcome of landmark judgments given by various High Courts and Supreme Courts in Asian States, also reflect on the fact that serious efforts are being made in order to strengthen the position of human rights enforcement mechanisms in these countries. Industrial Disputes act, 197, the Factories Act, 1948, Maternity Relief Act, Payment of wages Act, etc. are some of the examples of such endeavours. When it comes to comparing the values of Asia and Europe, there are some similarities as well. The concept of Trade Unions is a concept shared by both regions. Right to strike, collective bargaining, right to wages, right to protest exploitation, conditions of workers in industries and other work places, standards of industrial safety, etc. are some basic rights that must be secured to every person who is providing his services under a contract entered into with government or the manager of the industry. Thus, it becomes clear that the idea of human rights has always been there in Asian Cultures and it has its own characteristics which distinguish it from the principles of Western culture.

International conventions and their relevance in human rights jurisprudence

Today, 'human rights' is considered as a global agenda. The most important of all the human rights without which it is extremely difficult to conduct oneself in the daily activities of the society is right to express one's opinion. This right has been acknowledged since historical times. Even the rulers and kings while conducting dispute resolution process would give a fair chance to everyone who was a party to the dispute. Article 18 of the Universal Declaration of Human Rights, 1948 reads, in its entirety, "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with other or in public or private, to manifest his religion or belief in teaching, practice, worship and observance." The idea of human dignity is enshrined in various cultures. The reason behind the fact that human rights are put on a high pedestal is the concept of equality which gives life to almost every right. When individuals have the same liberty to claim their rights, we say, it is an integral element of human existence. This principle also finds mention in Universal Declaration of Human Rights, 1948. Article 1 of UDHR, 1948, reads as, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." This provision suggests that there is an element of universality when it comes to making a claim to these rights. Even in the preamble, the global importance of these rights has been regarded as "a common standard of achievement for all peoples and all nations".

Human rights consist of political and legal standards and there is always a requirement of their implementation through effective mechanisms. Practically, those mechanisms include national, regional and international institutions that work for the upliftment and betterment of society. Unlike some religious practices, human rights do not control each and every activity of individuals rather they provide a basic idea as to how one should conduct himself. The idea of human rights persists even if religion and culture fail as their scope extends beyond law and politics. With enforcement of these rights comes the commitment to the recognition of the inalienable dignity of an individual. Taking into account the manner in which enforcement mechanism works, different cultures have different approaches. In Muslim culture, the importance for religion always prevails and

equality principle can be compromised if it is required for the purpose of enforcing the essential religious practices.

Nowadays, the biggest challenge for human rights' concept is how to strike a balance between the constitutionally guaranteed civil and political rights and the social and economic rights that are to be preserved and protected by the State. In the wake of economic globalisation, the need of the hour is to advance the economic status by ensuring legislations and policies that will come handy in our way to economic advancement as well as to protect our rights.

Conclusion

Human rights' debate has found mention in several religious and constitutional documents of different countries having different cultures. Universal human rights and cultural relativism is evident since time immemorial. The values ingrained in different religious practices and regions give shape to the rights claimed by individuals. The issues and challenges faced by nations while establishing their foundation for a solid 'human rights' regime prove to be beneficial in the long run as they provide stability to the principles of enforcement. With respect to Asian and Islamic culture, there have been innumerable challenges because of the ancient practices that have become a part of their culture. The idea of human rights is perceived to be of western origin. The individual liberty and strict enforcement of these rights in Western countries is concurrent with the objective of human rights' concept under various international conventions as well. In the Asian States, more importance is given to economic growth because of their current status in terms of development as opposed to the flourishing developed countries. This is the reason why individual liberty is not absolute in Asian culture and it is a question on the objectives sought to be achieved by the international law and international institutions like United Nations. It is necessary to give universal respect for rights of every person in every culture for there exists difference of opinions among people and the only way we can provide them opportunities to contend their cause is protecting their rights equally. In Asian perspective, the importance attached to collective rights of a group is because of the objective of economic growth. The efforts made by United Nations Commission of Human Rights are also incredible in the light of emerging problems. Thus, the idea of human rights should not lose its value and constant endeavours should be made by individuals for protecting their interest by taking appropriate actions that are harmonious. The researcher, hereby, establishes that the main focus of countries should be on uplifting the weaker section of people and promoting individuals rather than confining themselves to their own values.

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