

Status of Human Rights in the Globalized Era

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Abstract: Any search for justice is based upon identifying values, including relationships with others, which are viewed as so critical to the well-being of humanity and the character of being human that they are eventually institutionalized as rights. If globalization is conceived as turning the whole world into one global village in which people are increasingly interconnected and all the fences or barriers are removed, so that the world witnesses a new state of fast and free flow of people, capital, goods and ideas then the world would be witnessing unprecedented enjoyment of human rights everywhere because globalization is bringing prosperity to all the corners of the globe. On the negative side, globalization has also threatened the basic rights of human. This paper aims to address the impacts created by globalization and liberalization measures on human rights. It has therefore, been concluded that policies with a human rights approach in this age of globalization are the need of the hour as that would give values to justice and freedom.

Keywords: Globalization, Human Rights, Liberalization, Constitution

1. Introduction

International human rights law aims primarily to protect individuals and groups from abusive action by states and state agents. Recent developments throughout the world, including failed states, economic deregulation, privatization, and trade liberalization across borders—components of what has come to be known as globalization—have led to the emergence of powerful non-state actors who have resources sometimes greater than those of many states. Two opposing views of globalization and its relationship to human rights have emerged: some see the two topics as mutually reinforcing and positive in improving human well-being, while others view globalization as posing new threats not adequately governed by existing international human rights law.

2. Globalization Defined

In its 1999 Human Rights Development Report, the **United Nations Development Programme (UNDP) defines globalization as shrinking space, shrinking time, and disappearing of borders.** Defined as such, globalization appears to be a process that is age old (goes back to the ancient times), continuous, and irreversible. The word 'globalization' is now widely used to sum up today's world order. It means they increasingly integrate the world into one capitalist political economy operating under a neo-liberal free market ideology. [1] In this context, globalization means global economic liberalization, developing a global financial system and a transnational production system which is based on a homogenized worldwide law of value. A commonly accepted definition of globalization includes not only economic, but also political, cultural, social, and technological interactions across countries. In other words, globalization also represents the spread of ideas, information, values and people, going beyond the flow of goods, capital and services or market exchanges.

3. Human Rights – Globalization Connect

The legal relationship between globalization and human rights can be analyzed from the perspective of economic regulation as well as that of human rights law, examining

first whether international economic law sufficiently supports or takes into account human rights concerns, then considering the extent to which human rights law takes into account globalization and economic interests. In respect to both inquiries, the fundamental question is whether a human rights system premised on state responsibility to respect and ensure human rights can be effective in a globalized world.

4. How Globalization has impacted Human

Since the early 1990s when the Indian government launched what is now known as the New Economic Policy (NEP), there has been a debate not only about the constitutionality and propriety of the policy but also its effects. Although it is reasonable to suggest that liberalization was the need of the hour, the government did not consistently ensure that the realization of human rights, especially for the poor populace, remained an important variable at the time of law making or policy formulation. Some examples will help make this clearer.

- First, the government did not adequately control the direction of foreign investment and made bad policy decisions in terms of investment prioritization. This results, for example, in a situation where people in villages have access to Pepsi or Coca-Cola but not to safe drinking water, adequate food, health care, electricity, roads or schools.
- Second, the amendments proposed by the government in laws related to foreign investment, trade unions, contract labour, factories, industrial disputes, and monopolistic practices, have negative impacts on human rights, especially the human rights of labourers and women workers.
- Third, the government's decision to bypass parliamentary authority to undertake international obligations on important issues is another area of great concern, as it directly gets at the root of parliamentary democracy.
- Fourth, the government has shown undue leniency, and thus sent a wrong signal, to foreign corporations regarding their human rights responsibility by not vigorously pursuing the extradition of Warren Anderson, the ex-CEO of Union Carbide Corporation, against whom criminal proceedings are pending before a court in relation to the Bhopal gas tragedy.

- Fifth, when it was alleged by a Non-Governmental Organization (NGO) that the soft drinks manufactured by Pepsi and Coca-Cola contained toxic pesticides, the government swiftly banned their sale within Parliament but left the health of ordinary consumers at the mercy of corporate misinformation. A Joint Parliamentary Committee investigated the matter and suggested framing appropriate guidelines, which have not been implemented to date. Consequently, not much has changed even as recent test reports confirmed the presence of high level of pesticides in soft drinks. Nevertheless, the central government has not yet taken any remedial action and corporate bodies have come out to defend involved corporations in contending that any blanket ban on the sale of soft drinks will adversely affect the investment climate. [2]

The right to development is of equal importance when the human rights implication on globalization is examined. The U.N. General Assembly has recognized the 'Right to Development' as an inalienable right. Here, development encompasses the overall development of all aspects-social, economic, political and cultural; of human life. But disparities in terms of income distribution, living standards etc have totally ignored the concept of human development. It overlooks the violent social and political forces that invariably are unleashed by extreme poverty and the denial of other human rights. Therefore, if the forces of globalization are allowed to operate freely surpassing the central premise of human centred development, the spectre of massive levels of human rights violations would result in a grave social and political upheaval. [3]

In sum, it could be said that all three branches of government have been conscious of their constitutional responsibility to uphold human rights; even so, their approaches leave much to be desired. On several occasions, they seem to have been swayed by the argument that economic prosperity will automatically lead to a better realization of human rights at all levels. For instance, the Indian judiciary, by and large, has been active and vigilant in safeguarding human rights, more so since the late 1970s. At a more general level, the judiciary is aware of the effects of globalization on the Constitution and constitutionalism. The judiciary perceives itself as an organ with a key role to play in the emerging scenario and it argues for an economic interpretation of the Constitution. Courts have been constantly approached to redress a specific human rights violation or to offer a principled policy guideline. The judiciary has addressed issues such as: the constitutionality of the government's privatization and disinvestment policies, defacing of rocks by painted advertisements, pollution of rivers, relocation of industries out of Delhi, lack of access to food, deaths due to starvation, use of environment friendly fuel in Delhi buses, prohibition of smoking in public places, employment of children in hazardous industries, rights of children and bonded labour, extent of the right to strike and bandh, right to health and education, sexual harassment in the workplace, and female foeticide and infanticide through modern technology. [4]

5. Positive Effects of Globalization on Human Rights

- On the positive side, the increasing economic gaps have alerted people to long-neglected social and economic rights. In general, trade theory predicts a significant increase in global welfare stemming from globalization, indirectly enhancing the attainment of economic conditions necessary for economic and social rights. It is believed that market mechanisms and liberalized trade will lead to an improvement in the living standards of all people. Free trade and economic freedom are necessary conditions of political freedom, or at least contribute to the rule of law that is an essential component of human rights.
- Certainly, globalization facilitates international exchanges that overcome the confines of a single nation or a civilization, allowing participation in a global community. There is also the possibility that economic power can be utilized to sanction human rights violators more effectively. [5]
- Increased availability and more efficient allocation of resources, more open and competitive production and improved governance could lead to faster growth and more rights.
- Another noteworthy development is the increasing attention to women's rights and incorporation of "women's human rights" into the human rights discourse. Trade and FDI (Foreign Direct Investment) positively affect women's employment opportunities in developing countries, due to their comparative advantages. In other words, developing countries have a comparative advantage in labour-intensive goods, thus demand for female labour would increase in order to keep price competitiveness in international trade as female wages are generally lower.
- Social globalization also promotes direct personal contact among people from different countries in the form of immigration and tourism. Personal interaction among different people can have a positive impact on tolerance towards different lifestyles and increase acceptance of different gender roles, sexuality, religions and ethnic backgrounds. This has the potential to enable changes in women's role in society. Furthermore, social globalization tends to decrease cultural gaps across countries because people are now more exposed to different cultures. As women's rights are deeply grounded in culture and value systems cultural exposure to, and proximity with other diverse cultures can have a positive impact in reducing discriminatory cultural practices against women.
- Globalization has also created some economic opportunities for women. Nevertheless, increasing participation of women in the economy, even if it is largely in the informal sector (and in the public sphere in general) holds the potential of empowering some women.
- In addition to reducing poverty and raising the standard of living, globalization spreads democracy.
- Globalization also introduces new technology into developing countries. [6]
- One of the most significant positive effects of globalization is the spread of modern medicine. "With the exception of decreased life expectancy rates in countries most ravaged by the AIDS virus...the life

expectancy in developing countries rose to 65 years in 1997, from 55 in 1970. That substantial increase is attributable, at least in part, to improved medical care made possible by globalization," **Daniel Griswold** says in the Issues & Controversies on File article, "Globalization."

- Proponents of globalization say it's a positive force that is making the world a better place because economic and social indicators like poverty rates, infant mortality and education reflect that many people are better off than they were before globalization, even though they are still very poor.

6. Negative effects of Globalization on Human Rights

- Globalization has substantially contributed to the intensification of debt, poverty and economic crisis in the developing world. The Structural Adjustment Programs (SAP) designed and imposed by the global creditor institutions is a typical instrument to create a favourable atmosphere for globalization, which ultimately affects developing countries. More money is being spent on export orientation, which results in local economies becoming dependent on the integration with the world economy. The international lenders demand poor economies to divert substantial resources away from sectors serving domestic needs: withdraw all subsidies for poor people, privatize the state sector, deregulate the market, and decrease wages. In effect, this process opens up countries to globalization. Thus structural adjustment programs and import-export-led strategies of industrialization were part of a political and economic restructuring process, a prelude to globalization. [7], [8]
- The advocates of globalization give philosophical justifications to accept export-led growth, lower wages and living standards for workers, shrinking government budgets, and extremely high interest rates. They say **"There Is No Alternative" - TINA**, the phrase **coined by British Prime Minister Margaret Thatcher** in 1980s. Powerful institutions like the International Monetary Fund, the World Bank and the World Trade Organization raise the TINA, argument to persuade the developing nations to qualify themselves to borrow money. The developing countries are left into no option but to accept the liberalization and market-oriented reforms. Under this liberalization policy production tends to be export-oriented. Meeting the basic needs of the people become less important. State-run factories or enterprises are often privatized to suit the needs of foreign investors. Free trade and liberalization lead to competition and local producers, like farmers, have to suffer the consequences. Thus, economic development with equity remains a mirage for the poor population despite a slew of liberalization measures adopted by the government. [9]
- Globalization has created a situation where the role and importance of nation-state is becoming irrelevant. **Kenichi Ohmae**, widely recognized as one of today's top business gurus, asks, in a world where economic borders are disappearing and money flows around the globe beyond the reach of governments, 'who, indeed needs the nation-state?' He argues that **4Is-Investment**,

Industry, Information technology and Individual consumers - make the traditional middleman function of nation-states, and of their governments, largely unnecessary. Because, the global markets for all the 'Is' work just fine on their own, nation-states no longer have to play a market-making role. In this situation multinational corporations are becoming the actors even in international politics. It is true that a few rich or middle class people have emerged in societies where transition to market system has been introduced. China and Vietnam are typical examples. In these countries a newly rich class has emerged as a result of globalization and market reforms.

- **Roberto Verzola**, a social activist of the Philippines, comments that in the same way that colonization was the trend one hundred years ago, globalization is, today. Today global corporations have replaced the colonial powers. In developing countries, global corporations are allowed to feast on natural resources, human resources, and national wealth. They displace farmers from their land, workers from their jobs, and communities from their roots. They are responsible for the breaking up of communities and the destruction of the environment to serve the human and raw material requirements of global production for the global market. The consequence is the collapse of food security and the emergence of global environmental crises, which in the end may turn out to be even worse than colonization. Even the peoples of developed countries suffer from the profit-hungry rules of global corporations today, which virtually rule the world.
- Massive investments by reason of industrialization have displaced communities in the form of demolitions of "squatters", uprooting indigenous peoples from their ancestral domains and depriving subsistence farmers of genuine agrarian reform in favour of industrial or development sites. [10]
- The immediate manifestation of the seeming incongruence of the value of economic efficiency vis-a-vis human rights is what is known as development aggression, i.e. where "economic decisions take little or no account of human and environmental costs, that are planned and implemented from the top and without participation of those concerned, and that are imposed on people either by force or by depriving them of the necessary information and means to make a real choice."
- No doubt that the widespread violation of human rights is related to the widening gap between the rich and the poor, both on the global and on the local levels. International Statistics prove that half the world –nearly three billion people – live on less than two dollars a day; the wealthiest nation on earth has the widest gap between rich and poor of any industrialized nation; the top fifth of the world's people in the richest countries enjoy 82% of the expanding export trade and 68% of foreign direct investment –while the bottom fifth, barely more than 1%. This leads to an increasing feeling of deprivation and injustice among the populations of the different countries of the world. The deprived are exposed daily, if not every minute to images and evidences of the huge gap in standards of living between the rich and the poor. [11]
- Some consequences of these deprivations of human rights are social and political unrest and even violence and counter violence. It also leads to an increasing resort

to suppression and to chaos. What matters more are the loss of human lives and the loss of constructive contributions which all the deprived could have offered to the economic, social, scientific and cultural advancement of humanity if they were granted their basic human rights. Ultimately, racism, prejudices, and discrimination are negatively associated with justice and implementation of human rights.'

- The non-state actors namely the media, corporations, international organizations like the World Bank and the WTO have emerged as pseudo-centres of regulatory and control mechanisms in social and economic activities. This pseudo-centrism has been in turn created by globalization thereby loosening the actual control mechanisms of the government [12].

7. Future Prospects of the Study

The world is becoming highly internationalist in terms of social and economic issues and in the verge of an agile phase of globalization, it is highly important for the actors of the government to frame inclusive and sustainable policies. Policy-making is a highly complex and analytical process which involves a set of coercive actions for effective implementation of the framed policies. The likely consequences of policies are to be analysed in the perspective of human value systems which requires a futuristic approach catering to the needs of the entire mass of populace. Amidst serious governance issues faced by the nation-states, it is rather imperative to give weight age to equality of rights, social, economic and political justice which when disturbed is prone to cause extremism ideologies and emergence of terrorism and insurgent activities. Needless to say, studies on this area will arouse seriousness among the policy-makers to give top priority to human rights when policies are framed. Therefore, policy analysis from a human rights perspective will definitely address the shortcomings of policies which would otherwise create human rights violation [13], [14].

8. Concluding Remarks

Every country is an actor in the process of globalization and a developing economy like India is no exception to it. Needless to say, it has become imperative for all the countries to accept the flaws created by globalization. By and large, human rights have been threatened in the globalized era as is evident from its various negative effects. As mentioned above, the drawbacks of globalization have outnumbered the merits in several cases. The growing inequalities with respect to basic needs of a human have been caused as a result of globalization. As has been discussed earlier, globalization has failed to produce an inclusive economic development. Liberalization of markets is intended to correct imbalances in poverty alleviation measures, provision of free and compulsory primary education, improved nutrition and regional equilibrium in provision of services which are the basic rights of a human being. On the contrary, liberalization has, in fact, highly benefitted the narrow top levels of the markets leaving behind the broad bottom levels of markets which are hardly able to face the stiff competitions to which they have been exposed, with foreign players. This has forced the

indigenous people engaged in business activities to make new innovations every now and then to captivate the consumers who have been caught under the clutches of exploitative consumerism. Undoubtedly, globalization has followed only the top-down approach as against the bottom-down approach which is the need of the hour. The LPG (Liberalization, Privatization and Globalization) concept has made it indispensable for India to literally adapt to the shortcomings in the present society and in the future as well. Therefore, there is an immediate urgency for all the governments to frame laws and policies prioritizing rights of people over globalization in the coming years as there is every probability of the human rights to be threatened in some form or the other in the post-globalized era.

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