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Reinvigorating India-Africa Partnership: Some Critical Gaps

Arunoday Bajpai

Abstract

India and Africa, the two sister continents share historical and cultural ties. Their common colonial experience, common struggle against subjugation initiated by Gandhi and their common aspirations to realize their destinies provided an ideological framework to forge their multidimensional partnership during cold war period. In the post-cold war globalized world, this partnership is faced with new challenges and opportunities. India needs a proactive involvement to address these challenges to consolidate this partnership.

Keywords: Ideological Framework; Globalization; Development Partnership; India-Africa Forum Summit; Strategic Cooperation.

India and Africa are not new to each other. Both are ancient civilizations and share historical and cultural ties. They are also known as sister continents, as their land masses were together and same millions of years ago, a point highlighted on the logo of the third India-Africa Summit, held in October, 2015 in Delhi. The Summit also highlighted India's eagerness to 'reinvigorate' its partnership with Africa, as the slogan encircling the logo reads: 'Reinvigorated Partnership- Shared Vision'. The Summit also provides an opportunity to review the evolution, status and the future prospects and challenges this partnership faces. Broadly, India's engagement with Africa in modern times may be divided into three periods: First period, from 19th century till India's independence; Second period from 1947 till the end of cold war; and third period since the end of cold war till present times.

In more recent history, India's engagement with Africa started during the peak of colonialism in 19th century. Their common colonial subjugation linked their fate as they were subjected to same kind of exploitation and racial discrimination. British rulers brought, in later half of the 19th century, many

Indians as indentured labourers to work in plantation and mines in their African colonies, particularly in South Africa. It is to address the grievances of Indian migrants that Gandhi went to South Africa in 1893, but his sojourn in South Africa gradually led to the evolution of peaceful resistance (*Satyagraha*) to address all forms of exploitation and discrimination. Voluntary migration to Africa continued also continued during this period. Though Gandhi came back to India in 1915, Indian Diaspora remained there and became an integral part of African societies. At present, Indian Diaspora is estimated to be 2.6 million strong and is spread to 46 countries, largely in South Africa, Mauritius, Reunion Island, Kenya, Tanzania and Mozambique. Indian Diaspora in Africa constitutes 12 percent of total Indian Diaspora in world (Bhatia: 2015). Cultural bonds were strengthened by the reverse migration too. The Siddhis living in Andhra Pradesh and Gujarat States of India. It is these historical and cultural linkages, shared aspirations and values that form the backbone of contemporary multidimensional partnership between India and Africa. But more than that, this common colonial destiny laid the foundation of

ideological similarities between the people of two sides, which was more visible in the next phase of their engagement.

As India became independent in 1947, the external dimensions of her policy of Non-Alignment like emphasis on equality of nations, respect for their territorial integrity and sovereignty, non-interference in the internal affairs of nations, peace and disarmament, and opposition to colonialism, racialism and apartheid, evoked excitement and hope among the people of African countries. It was not mere a coincidence that a large number of African countries joined the Non Align Movement (NAM) and subscribed to its ideological framework. India was the first country to raise the issue of apartheid in the UN in 1946 itself. NAM led by India extended moral and material support to anti-colonial movements across Africa and raised the issue related to Africa's cause at different international fora. These efforts succeeded as 14 African countries got independence from colonial rule in 1960. Consistent efforts of India, NAM and international community led to the end of apartheid in South Africa in 1990. Among other things, the formation of AFRICA Fund in 1986 at the behest of India proved instrumental in this respect.

As newly independent countries of Africa moved on the path of development, India and NAM came forward to strengthen their development efforts by many initiatives like formation of UNCTAD and G-77 in 1964, demand for effective implementation of the NIEO (New International Economic Order, adopted by UNGA in 1974), devising mechanism of South-South Cooperation (SSC) and so on. At bilateral level, India set up mechanism of ITEC (Indian Technical and Economic Cooperation) in as early as 1964 to strengthen development partnership with other developing countries. The ITEC programme, which completed 50 years in 2014, focuses on customized human resource development in partner countries. The developing countries of Asia and Africa are the major beneficiaries of this Indian initiative. ITEC programme is essentially bilateral in nature, but in recent years it has conceived programmes in regional and sub-regional contexts in association with, among others, Economic Commission for Africa, G-77, G-15, Afro-Asian Rural Development Organization, African Union and Pan African Parliament (ITEC: 2015). These and similar other efforts made by India bilaterally as well as within the framework of NAM and other international mechanisms proved useful to develop and strengthen Indo-Africa partnership over the years. India too benefitted from this partnership and received valuable support from African countries

at different levels and times. India has been elected as the non-permanent member of the Security Council for seven times with the active support of African countries, which form the single largest group within the United Nations. The hallmark of this partnership was that it consolidated within the overarching framework of ideological symmetry and shared political vision between India and African societies. This framework continued uninterrupted till the end of cold war.

The third phase of Indo-Africa partnership begins with the end of cold war and the intensification of market based globalization process. India's domestic as well as external policies were subjected to many trials and tribulations in view of these global shifts. India initiated liberal economic reforms to integrate with the globalized economy and toned up her foreign policy to adjust with the new global realities. India had to pay attention to other areas to shore up her relations with the US, European countries and countries of South-East Asia. Thus, in 1990s India could not pay due attention to her engagement with Africa due to her own readjustments. And India had to bear the cost as she was defeated in General Assembly in her bid for non-permanent member of Security Council because African countries supported Japan in place of India. India got only 40 votes against Japan's 142 votes.

Africa too could not initially cope with the new forces of globalization but gradually it asserted to take the ownership of its development process. The launching of NEPAD in 2001 as a collective development mechanism for Africa's development is a case in point. It is an African Union strategic framework for pan-African socio-economic development in the twenty-first century. NEPAD is a radically new intervention, spearheaded by African leaders, to address critical challenges facing the continent: poverty, development and Africa's marginalization internationally. NEPAD is premised on taking full control of their development agenda by African countries and, to work more closely and effectively with international partners (NEPAD: 2015). The Organization of African Unity (AOU), a pan-African organization formed in 1963 to promote unity among African countries, was overhauled in 1999 vide the Sirte Declaration calling for the establishment of an African Union, with a view, inter alia, to accelerate the process of integration in the continent to enable it to play its rightful role in the global economy while addressing multifaceted social, economic and political problems compounded, by certain negative aspects of globalization. African Union has drawn up an ambitious long term development plan for Africa,

known as 'Agenda 2063' (AU: 2015). These initiatives demonstrate Africa's desire to command and guide its own destiny and other external partners may join in within this framework. Further, African countries have shown rising growth trends in recent years. In recent years African countries have experienced high economic growth. The average annual growth rate of real output has increased from 2.6 percent in 1990-2000 to 5.3 percent in the period 2000-2010. Further according to the World Bank, seven out of ten fastest growing economies in the world during the last decade are from Africa. Despite Africa's relatively strong economic performance in the recent years many countries in the continent are grappling with several developmental challenges such as high unemployment, lack of economic transformation, food insecurity, environmental degradation etc (Beri: 2015). These challenges provide scope for India to strengthen her partnership with Africa in coming decades.

New Initiatives

It should be noted that both Africa and India responded to the forces of globalization in different ways at different times, which weakened the ideological symmetry underlying their multidimensional partnership during cold war era. This ideological symmetry was the unique characteristics of Indo- African engagement. The post-cold war Indo-African engagement appears to be merely a commercial and economic enterprise without any ideological high ground. It was in this background that India talks of '*reinvigorating*' its partnership with Africa. It began with the establishment of IBSA Dialogue Forum (India, Brazil, South Africa) in 2003, among other things, as a forum of south-south cooperation, spearheaded by three regional economic powers from three continents. The IBSA Fund facility, a development mechanism of IBSA, launched a few poverty alleviation and development programmes in some developing countries such as Guinea Bissau, Cape Verde, Sierra Leone, Burundi, Cambodia, Haiti, Palestine, LAO PDR, Vietnam and South Sudan. The programmes range from promoting food security, health, education, capacity building, rural electrification and others. The initial enthusiasm has petered out and its actors are now focused on other groupings like BRICS. The challenges IBSA faces are: non-prioritization of IBSA trans-governmental relations by some members, persisting tariff barriers, and intra-bureaucratic limitations and overlapping activities with the BRICS (Soule-Kohndou: 2013). The visible lack of cooperation continues to haunt IBSA (IDSA: 2008).

India launched the Techno-Economic Approach for Africa-India Movement' or TEAM-9 initiative in 2004 in eight West African countries: Burkina Faso, Chad, Cote d'Ivoire, Equatorial Guinea, Ghana, Guinea-Bissau, Mali and Senegal. The scheme aims to improve food security, healthcare, telecommunications and transport through a technological focus. At the TEAM-9 launch in 2004, India offered \$500 million in lines of credit to member countries. India has initiated the Pan-African e-Network in Africa in 2004. This scheme aims to provide facilities for tele-education, tele-medicine and network video conferencing for heads of state in all 53 members of the AU. The network will also connect 53 learning centers, ten super-specialty hospitals (three of which are in India), 53 other hospitals and five universities (two in India). Similarly, India is also developing close relations with eight regional economic communities (RECs) of Africa like Common Market for Eastern and Southern Africa COMESA); East African Community (EAC); Southern African Development Community (SADC); The Economic Community of West African States (ECOWAS); Community of Sahel Saharan States (CENSAD) and others.

India-Africa Forum Summit

In order to give boost to Indo-African partnership with high level consultation, India initiated the mechanism of India-Africa Forum Summit in 2008. This is a multi lateral summit where Heads of government of invited African countries and Indian leaders review the progress of ongoing programmes of the partnership and decide new measures for strengthening India-Africa partnership. China has already launched such summit ahead of India. The first India Africa Forum Summit was held in April, 2008 in New Delhi. Fourteen African Heads of State and the leaders of all eight African regional groupings participated in this Summit. It adopted the Africa-India Framework for Cooperation, which contained measures to elevate the scope of Indian-African partnership for mutual benefit. The Second India-Africa Forum Summit was held in Addis Ababa, the capital of Ethiopia on 24-25 May, 2011. The Summit advanced the process of high level consultation initiated in 2008 for developing mutually beneficial partnership between India and Africa. The Second Summit adopted two documents: 'Addis Ababa Declaration' and the 'Africa-India Framework for Enhanced Cooperation.'

The Third India-Africa Forum Summit was held in Delhi on 26-29 Oct, 2015 where for the first time delegations from all the 54 countries participated

and 42 of them were represented by their heads of government/state. The focus of the summit was the ideological and cultural similarities, common aspirations and strengthening multifaceted development partnership. It was projected as a celebration of the close partnership between Africa and India, acknowledgement of their shared history, their struggle against colonialism and apartheid and jointly accepting the challenges of the globalizing world. It underlined that a vibrant India and a resurgent Africa have a vision of a close partnership, anchored in the principles of equality, mutual respect and mutual benefit (IAFS: 2015).

The main theme of this summit was “*Partners in Progress: Towards a Dynamic and Transformative Development Agenda*.” The four day Summit produced the two documents: The Delhi Declaration 2015 and Indian-Africa Framework for strategic Cooperation. The Delhi Declaration 2015, a 34 point document, highlights the common concerns and shared vision of Africa and India as well as some common areas of cooperation. The ten areas identified for cooperation are: *economic, industry and trade, agriculture, energy, Blue Economy (Ocean resources economy), infrastructure development, education and skill development, health, peace and security, and cooperation in multilateral for*. Underlying the fact that India and Africa together constitute one-third of humanity, the Delhi Declaration demanded collective actions to put in place more democratic global governance structures; a supportive international environment to address the special development needs of African countries under newly adopted Sustainable Development Agenda; inclusion of principle of ‘common but differentiated responsibility’ in global climate change agenda; a comprehensive reform of the United Nations system, including Security Council, to make it more regionally representative, democratic, accountable and effective. However, the Declaration fell short of India’s desire to get open and outright support of African countries for its claim as permanent member of Security Council (MEA: 2015). Indian-Africa Framework for Strategic Cooperation, a long 52 point document, is the modified version of the similar frameworks of the cooperation adopted at the earlier Summits, with the difference that the cooperation has been raised to the ‘Strategic’ level. It links India’s development partnership with African Union’s ‘Agenda 2063’, which will be based on the principles of equality, friendship, mutual benefit and solidarity within the framework of South-South Cooperation, taking due cognizance of the development priorities of African societies. It underlines the fact that both Indian and African societies are multi-ethnic and multi-religious and

share common societal values, which cement the centuries old bonds of friendship. It presents the detailed programme of cooperation between India and African countries in the 10 areas identified in the Delhi Declaration (MEA: 2015a).

Critical Analysis

The post- cold war phase of Indo-Africa partnership has many bright spots as both have tried to reinvigorate their mutually beneficial partnership in the present era of globalization. Many commentators and scholars have underlined the complementarities and the resulting positive dimensions of the emerging Indo-African partnership. During the third India-Africa Forum Summit 2015, both sides agreed to upgrade this partnership to the ‘strategic’ level. Noted Indian diplomat Shyam Saran remarked that this partnership reflects the philosophy of the modern concept of a ‘*development compact*’ working at five levels: trade and investment, technology, skills upgrade, lines of credit (LOC), and concessional grants (Saran: 2015). He argued that Africa is the continent of the future and India is a major emerging economy. With China entering a phase of lower growth rates and more domestic oriented economic strategies, India and Africa together may well become the engines of growth for the entire world. India can contribute its capital, skills and technological capabilities to sustain Africa’s growth. Africa in turn can support India’s growth through mutually beneficial resource partnerships and easier access to each other’s expanding markets (Saran: 2015a). A study by Arora and Chand (2015) has elaborated this ‘development compact’. It remarks that different facets of the development compact add colour and substance to the burgeoning partnership between India and Africa, the two growth poles of the world. The diversity of this multi-faceted engagement includes capacity building, technology sharing, investment, trade and development finance. It has identified power, clean energy, knowledge and innovation and livelihood programme as the key areas of future Indo-Africa development partnership.

These hopes are substantiated by facts also. India-Africa bilateral trade has increased from merely \$967 million in 1990-91 to more than \$ 72 billion in 2014-15 (GOI: 2015). Indian investment has increased to \$1.3 billion over last two decades, mainly in infrastructure and energy sector. India has already concessional credit to African countries to the tune of \$ 7.4 billion to finance their development programmes of their choice and has announced another \$10 billion concessional credit during the

third India-Africa Forum Summit 2015. So far India has awarded 25000 scholarships to African students over the years and many of the present day African leaders are India-educated (Guha: 2015). India offered 50000 additional scholarships during 2015 summit of India-Africa Forum to encourage Africans to study in India (Campbell: 2015). Besides, around 27 lakhs Indians have been living in different African countries cementing economic, cultural and political ties between the two peoples.

Yet, amidst valid hopes and impressive facts, the Indo-African partnership suffers from many critical gaps, which need to be addressed.

First, the cold war era may be described as the 'golden period' of Indo-Africa relations, not because of large amount of trade or investment, but because of the ideological symmetry and a shared vision between the two, which acted as architectonic framework to the entire gamut of their multidimensional engagement. India stood with African countries in their fight against colonialism and apartheid as a reliable source of strength. This element is missing in the post-cold war Indo-African engagement as India has shied away from Africa's political challenges like strengthening democratic process, political instability, terrorism, building human rights regime and so on. This has created an '*ideological dis-junct*'. The signs are already visible: African countries not supporting India in 1996 in the elections for the non-permanent seat of Security Council; hesitant to endorse in straightforward manner India's claim for permanent membership of SC in 2015; or their equally strong desire to develop close development partnership with China; or demanding five year framework of India-Africa Forum Summit in place of present three year framework and so on. The lesson is that India needs to carefully diversify her engagement from commerce and investment to other challenges of African countries to enhance her goodwill and social capital in Africa. The beginning has to be made in more urgent areas. There has been a growing convergence between India and Africa on peace and security issues. Africa like India has a long coast line and is concerned about the threats such as piracy, drug trafficking and security of sea lanes. In recent years India has deployed its Navy in the Gulf of Aden in the Indian Ocean region in a bid to deal with the piracy challenge (Beri: 2015). Other domestic political challenges may be taken at later stage. There is recognition of India's vast political capital, emerging from its experience in fighting colonialism and apartheid in Africa, which may be mobilized for promoting democracy, security and stability in Africa (Pham: Retrieved 2015).

Second, India's development partnership experience in Afghanistan and South Asia demonstrates that more than the amount of aid is important the domestic sensibilities of the recipient nations impacted by such partnership. Ironically, national feelings are on rise even in this era of globalization. It is very easy to invoke national feelings, when it comes to external engagement. Thus, going by our own agenda is a risky option. India needs to dovetail her development partnership with African development efforts and priorities most notably the '*Agenda 2063*', which is their collective and long term development vision (Guha: 2015). The content and activities of India's ITEC programme and other development partnership mechanisms should be flexible and diversified to reflect the African development priorities as well as contemporary realities. A resurgent Africa is on the way to assert the ownership of her development process also.

Third, it should be noted that India is not the sole development partner of Africa, nor it enjoys primacy in political concerns of African countries as was the case during the fight against colonialism and apartheid. Besides traditional development partners like UK, US, France, Russia, the new development partners like Japan and China have come to dominate African landscape in recent years. Though, all of them are ahead of India in terms of investment and trade, China is viewed as potential competitor to India's trade and investment in Africa. With \$ 200 b bilateral trade and three times more investment than India, the resource hungry China has considerably diversified and expanded her economic and development presence in Africa (Campbell: 2015). With her own constraints, India is not likely to beat these partners in financial terms, but it has strong points elsewhere. The key for India is to focus on human resource development and share Indian experiences in the fields, which suit African countries (Guha: 2015). India may not do more in comparison to China, but she can do *better* than China. India may share her experience, skills and products in the areas like health, education, computerization, cyber security, e-banking, solar energy, management of democratic institutions and processes, project management, small scale industries and so on. The potentials in energy, pharma, agriculture and mining need to be further explored for a much more dynamic relationship. In the field of energy and mining, the dynamics of engagement need to be versatile enough to take into consideration India's energy security and Africa's economic development (IDSA: 2015a). Africans are getting wary of China's hunger for natural resources of Africa, flooding of cheap Chinese goods in African markets and mega projects

with little relevance to the poor and marginalized people of Africa. Thus equally important is to dispel India's image as emerging economic power, which keeps an eye only on Africa's resources and markets.

Fourth, there is a tendency among policy makers in India to draw ambitious programmes of development partnership with Africa like the Indian-Africa Framework for Strategic Cooperation, which was finalized during the third summit of India-Africa Forum in 2015. However, there is little attempt to seriously review the success or failures of past programmes or to ensure the timely and effective implementation of the programmes at hand. Announcing more and doing less is not suited to the goodwill and sincerity India wants to generate in Africa at this juncture.

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Reorganisation of States in India: The Case of Gorkhaland

Anupma Kaushik

Abstract

India is a multi ethnic country with a federal polity. There are 29 States which are again multi ethnic in nature. The State of West Bengal is predominantly ethnic 'Bengali' however its famous Darjeeling hill station is populated by ethnic Nepalese. As a result the ethnic Bengalis effectively control the political, economic and social fabric of the State of West Bengal. This has caused lot resentment amongst the ethnic Nepalese, resulting in a very violent agitation in the early eighties, led by the G.N.L.F. The Nepalese demanded a separate State of Gorkhaland consisting of the Darjeeling hills. This would have resulted in bifurcation of the State of West Bengal which was vehemently opposed by the Government and the ethnic Bengali population of the State of West Bengal. After a lot of negotiations involving the Government of India, the Government of the State of West Bengal and the Gorkha National Liberation Front (G.N.L.F.), a tripartite agreement was signed in 1985 and the Gorkha Hill Development Council (G.H.D.C.) was created. The G.H.D.C, an elective body, satisfied the urge of autonomy and self determination amongst the ethnic Nepalese of Darjeeling hills. It also satisfied the stand of the Government of West Bengal of non-bifurcation of their State. Since its inception in 1985 the G.H.D.C. has ensured peace in the Darjeeling hills of the State of West Bengal. Elections for the D.G.H.C. have been held periodically and its powers have increased with time due to repeated negotiations between the G.H.D.C. and the Governments of West Bengal and the Government of India. However, the hopes of development of the area have not become a reality due to non-performance of hill council. And movement for a separate state of Gorkhaland was revived. The government now offered GTA with more autonomy to the Gorkhas but things have not improved on the ground for the common Gorkhas. In a way the DGHC and GTA has been a victim of the same disease that affects the whole of Indian polity and administration i.e. autocratic and corrupt politicians and officials who are more interested in self-aggrandizement than welfare of the masses that they profess to represent and serve.

Keywords: India; Reorganizations; States; Gorkhaland; Gorkha; DGHC; GNLF.

Introduction

Formation of States In India

Prior to 1947 the British Indian Empire, was organised into two types of territories: the provinces of British India, which were governed directly by British officials responsible to the Governor-General of India and princely states under the rule of local

hereditary rulers who recognized British suzerainty in return for local autonomy, in most cases as established by treaty. Most of the British provinces had elected legislatures as well as governors, although some of the smaller provinces were governed by a chief commissioner appointed by the Governor-General. In 1930s, British also recognized the principle of federalism.

On 15 August 1947, British India was granted independence as the separate dominions of India and Pakistan. The British dissolved their treaty relations with more than five hundred princely states, who were encouraged to accede to either India or Pakistan while under no compulsion to do so. Most of the states acceded to India, and a few to Pakistan. Bhutan and Hyderabad opted for independence, although the armed intervention of India conquered Hyderabad and brought it into the Indian Union.

Between 1947 and 1950, the territories of the princely states were politically integrated into the Indian Union. Most were merged into existing provinces; others were organized into new provinces, such as Rajputana, Himachal Pradesh, Madhya Bharat and Vindhya Pradesh, made up of multiple princely states; a few, including Mysore, Hyderabad, Bhopal, and Bilaspur, became separate provinces. The Government of India Act of 1935 remained the constitutional law of India pending adoption of a new Constitution [1].

The borders of these states, inherited from British India, were not suitable for easy administration. The internal provincial borders of British India were a result of historical events, as well as political, military and strategic planning by the British. The Government agreed that the reorganization of state borders was necessary, but the basis of reorganization was yet to be determined. One of the proposals was to reorganize the state on the basis of languages of India. This would make administration easier, and would help replace the caste and religion-based identities with less controversial linguistic identities. Earlier in 1920, the members of the Indian National Congress had agreed on the linguistic reorganization of the Indian states as one of the party's political goals. The Provincial Committees of the party were set on this basis since 1920. In 1927, the Congress declared that it was committed to the redistribution of provinces on a linguistic basis, and reaffirmed its stance several times, including the election manifesto of 1945-46. But, soon after independence, the Congress-led Government became concerned that the states formed solely on a linguistic basis might be unsuitable, and might even pose a risk to the national unity. On 17 June 1948, Rajendra Prasad, the President of the Constituent Assembly, set up the Linguistic Provinces Commission to recommend whether the states should be reorganized on the linguistic basis or not. The Commission recommended that the formation of provinces on exclusively or even mainly linguistic considerations is not in the larger interests of the Indian nation [2]. The reason that Nehru, Patel and top leaders of Congress feared that the country has

just been divided on the basis on language and reorganizing it on linguistic lines will encourage the breakup of the Union. The creation of linguistic provinces must be deferred to a time when India was strong and sure of herself. The JVP committee argued that language was not only a binding force but also a separating one [3]. By 1952, the demand for creation of a Telugu-majority state in the parts of the Madras State had become powerful. Potti Sreeramulu, one of the activists demanding the formation of a Telugu-majority state, died on 16 December 1952 after undertaking a fast-unto-death. Subsequently, the Telugu-majority Andhra State was formed in 1953. Other small changes were made to state boundaries during the 1950-1956 period. The small state of Bilaspur was merged with Himachal Pradesh on 1 July 1954, and Chandernagore, a former enclave of French India, was incorporated into West Bengal in 1955. This sparked of agitations all over the country, with linguistic groups demanding separate statehoods.

The new Constitution of India, which came into force on 26 January 1950, made India a sovereign democratic republic. The new republic was also declared to be a "Union of States". The constitution of 1950 distinguished between three main types of states. Part A states, which were the former governors' provinces of British India, were ruled by an elected governor and state legislature. The nine Part A states were Assam, Bihar, Bombay, Madhya Pradesh (formerly Central Provinces and Berar), Madras, Orissa (subsequently renamed *Odisha* in 2011), Punjab (formerly East Punjab), Uttar Pradesh (formerly the United Provinces), and West Bengal. The eight Part B states were former princely states or groups of princely states, governed by a *Rajpramukh*, who was usually the ruler of a constituent state, and an elected legislature. The *Rajpramukh* was appointed by the President of India. The Part B states were Hyderabad, Jammu and Kashmir, Madhya Bharat, Mysore, Patiala and East Punjab States Union (PEPSU), Rajasthan, Saurashtra, and Travancore-Cochin. The ten Part C states included both the former chief commissioners' provinces and some princely states, and each was governed by a chief commissioner appointed by the President of India. The Part C states were Ajmer, Bhopal, Bilaspur, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh. The sole Part D state was the Andaman and Nicobar Islands, which were administered by a lieutenant governor appointed by the central government.

In December 1953, Prime Minister Jawahar Lal Nehru appointed the States Reorganization Commission to prepare for the creation of states on

linguistic lines, known as the Fazal Ali Commission. The Commission recommended the reorganization of India's states. The States Reorganization Act was passed on 31 August 1956. Before it came into effect on 1 November, an important amendment to the Constitution was also made; this amendment (the Seventh) was timed to come into force on the same day. Under the Seventh Amendment, the existing distinction among Part A, Part B, Part C, and Part D states was abolished. The distinction between Part A and Part B states was removed, becoming known simply as "states". A new type of entity, the union territory, replaced the classification as a Part C or Part D state. The six union territories were Andaman and Nicobar Islands, Delhi, Himachal Pradesh, Laccadive, Minicoy and Amindivi Islands, Manipur, and Tripura [4].

The former French and Portuguese colonies in India were incorporated into the Republic as the union territories of Puducherry, Dadra and Nagar Haveli, Goa, Daman and Diu in 1962. Several new states and union territories have been created out of existing states since 1956. Bombay state was split into the linguistic states of Gujarat and Maharashtra on 1 May 1960 by the Bombay Reorganization Act. Nagaland was made a state on 1 December 1963. The Punjab Reorganization Act of 1966 divided the Punjab along linguistic lines, creating a new Hindi-speaking state of Haryana on 1 November, transferring the northern districts of Punjab to Himachal Pradesh, and designating Chandigarh, the shared capital of Punjab and Haryana, a union territory. Statehood was conferred upon Himachal Pradesh on 25 January 1971, Manipur, Meghalaya and Tripura on 21 January 1972 the Kingdom of Sikkim joined the Indian Union as a state on 26 April 1975. In 1987, Arunachal Pradesh and Mizoram became states on 20 February, followed by Goa on 30 May, while Goa's northern exclaves of Daman and Diu became a separate union territory. In 2000 three new states were created: Chhattisgarh (1 November 2000) out of eastern Madhya Pradesh, Uttaranchal (9 November 2000), renamed Uttarakhand in 2007, out of the Hilly regions of northwest Uttar Pradesh, and Jharkhand (15 November 2000) out of the southern districts of Bihar [5]. On 2 June 2014, Telangana was separated from Andhra Pradesh as a new 29th state of India, with Hyderabad as its capital. As historian Ramachandra Guta stated, the creation of linguistic states was a victory of popular will.

India today is a multi-ethnic and diverse country with a federal democratic polity. There are 29 states that are again diverse in nature. The State of West Bengal is predominantly ethnic Bengali however its

famous hill station of Darjeeling is populated by ethnic Gorkhas. Due to sheer numbers, the ethnic Bengalis effectively control the political, economic and social fabric of the state of West Bengal. This has caused a lot of resentment among ethnic Gorkhas, leading to various demands including the creation of a separate state of Gorkhaland outside West Bengal but under the Union of India.

Formation of Gorkha Ethnicity

The present day Darjeeling district was originally a part of Sikkim. From Sikkim it was annexed by Nepal in 1780 and during 1780-1816 it remained under Nepal. In 1816 it was added to British India, which gave it back to Sikkim in 1817. However in 1835 British India acquired this land from Sikkim [6] and encouraged Gorkhas to settle down in the hills. Their population increased rapidly and today they constitute nearly 90 percent of the total population of the hill area. Thus today Darjeeling has a predominantly Gorkha population.

Their ethnic consciousness increased with the growth in their numbers. They organized themselves into a number of organizations [7] and put forward many demands asserting their identity, thereby giving birth to Gorkha ethnicity. Their demands ranged from district local administration to a separate province. However, it was Gorkha National Liberation Front (GNLF) under the leadership of Subhash Ghising which took the lead and became their sole spokesman in the 1980s. It raised many demands from time to time such as: separate state of Gorkhaland [8]; inclusion of Nepali / Gorkhali language in the VIII schedule of the constitution [9]; granting of citizenship to pre 1950 settlers [10]; abrogation of clause VII of Indo-Nepalese Treaty of 1950 [11]; and creation of a separate Indian Gorkha Regiment [12].

In spite of their grievance and urge to maintain their ethnic identity, they always expressed their desire to remain in the Indian mainstream, though at times their ethnic interests predominated national interests. Moreover, in the beginning they used peaceful means to express their demands and grievances. But the dereliction of this issue by the government till mid eighties resulted in adoption of violent means by them.

The Compromise

To resolve the problem, after a lot of negotiations, two agreements were signed in mid 1988 between the central government, the state government and the GNLF [13]. Under these agreements the GNLF

agreed to drop certain demands such as recognition of their language; a separate state of Gorkhaland; a separate Indian Gorkha Regiment; and abrogation of clause VII of the Indo-Nepal treaty of Friendship 1950. In order to accommodate their other demands, the government agreed to make provision for Darjeeling Gorkha Hill Council or DGHC; conceded to their request of granting citizenship to pre - 1950 settlers; and also allowed them to join the regiment of their choice in Indian Army [14].

This was certainly not what agitationists had fought for. Granting these concessions did not fully satisfy their urge for establishing an ethnic identity within Indian union. It was not a zero-sum solution rather it was non-zero sum solution in which the state government agreed to grant autonomy to the Darjeeling area in form of DGHC with a mix of democracy as nearly half of the councilors were to be elected by the people of Darjeeling area. However, the government did not grant full statehood in form of Gorkhaland as demanded by the agitationists.

As per the agreements, the executive powers of the DGHC covered agriculture, public health, sanitation, hospitals, dispensaries, tourism, vocational training, public work, roads, transport, burial and cremation grounds, live stocks, water, fisheries, education, markets, fairs, small scale and cottage industry etc. The council had power of supervision over panchayat samities, gram panchayats and municipalities falling under the council jurisdiction. The general council consisted of a total of 42 members out of which 28 would be elected and rest nominated by the state government. The chairman and vice - chairman of the general council were to be ex-officio members of the executive council with the chairman of the general council as the chief executive councilor. The chief executive councilor had power to nominate five members to the executive council from out of the general council and the state government had the power to nominate two members to the executive council from out of the non-official nominated members of the general council. The general council was given the power to levy fees and would receive grants from the center and the state governments. It could also raise loans with the approval of the state government. The state government agreed to review all the cases against the GNLF activists and GNLF gave a call for surrender of unauthorized arms and withdrew all agitational activities. Ghising expressed happiness over the signing of the two accords. He said: "We are happy, very happy. We have got our 'identity' [15].

Functioning of the Council

So far elections for the D.G.H.C. have been held

thrice and GNLF has swept the poll each time. In the elections held on 13th December 1988 GNLF secured 26 out of 28 seats while CPI (M) got only two seats [16]. A very happy Ghising declared: "We will change the face of Darjeeling in the next few years [17]."

However, soon Ghising and the state government started accusing each other of attempting to sabotage the newborn council. Ghising accused the state government of withholding the funds meant for the council [18]. The state government in turn alleged that this had been done because of non-submission of accounts by the council [19]. Ghising also criticized the state government for not providing the needed infrastructure for smooth working of the council. The center and the state government in turn warned Ghising not to waste funds on non-developmental things such as building lavish hill council secretariat [20].

Meanwhile dissatisfaction against Ghising rose due to his dictatorial style of functioning, unfulfilled promises and rumors of corruption [21]. In order to divert people's attention Ghising raised issues of 'Greater Nepal' and 'no man's land'. He alleged that an international conspiracy to form a 'Greater Nepal' is being hatched by clubbing together Darjeeling, Sikkim, the Duars and parts of lower Bhutan with the ultimate aim of joining the Himalayan Kingdom. In January 1992 he argued that Darjeeling and its adjoining areas were leased out to British India by Nepal. After independence the lease expired and nothing was done to sign a fresh treaty. Since Nepal has not reclaimed the territory, the hills of West Bengal formed a 'no man's land'. He declared that no elections can be held in the hill until the center proved that the region had been incorporated into the Indian union after British rule. The Indian prime minister warned him that stern action would be taken if he tried to inflame passion in the area once again [22]. A crestfallen Ghising turned towards CPI (M) and a short honeymoon period followed. During this period the DGHC decided to send a report on council expenditure to the Government [23].

Meanwhile the Nepali language was included in the VIII schedule of the constitution in August 1992. This too angered Ghising who wanted Gorkhali instead of Nepali to be included in the VIII Schedule [24]. Soon Ghising threatened to revive the agitation for a separate state. He refused to talk to the state government and decided to dissolve the council [25]. However, in a sudden reversal of stand, he agreed to talks and after a number of meetings on the issues of how to make the council more powerful and efficient [26] it was finally agreed that the bureaucratic setup of the council would be restructured by appointing a principal secretary at the helm of affairs, along with

a finance secretary and individual secretaries for other departments under the council. Chief Minister Basu assured Ghising that there would not be any problem of funds. He promised that "suitable arrangements will be made for coordination between the hill council and the home department [27]." A satisfied Ghising claimed that "There is no difference between the council and Gorkhaland." He added that government has agreed to add more area under the council and that the council would be given rights and greater powers to raise revenue [28].

In the elections held in December 1993 for the DGHC, the GNLF got 24 out of 28 seats while CPI (M) got one and the Congress drew a blank [29]. A pleased Ghising later announced that he would like to work in cooperation with the state Government [30]. However soon Ghising and state government drifted apart on the issue of panchayat (local self government) polls which were scheduled to be held in April 1994. Ghising argued that there was no need for the panchayat bodies in the hills because the DGHC was empowered to look after most aspects of the administration [31]. The DGHC requested the state government for the postponement of the elections and also to examine the various issues and implications of holding the elections in the hill council. But the state government maintained that the panchayat elections are now a constitutional obligation in view of the 73rd amended of the constitution. The state Government proposed a two tier panchayat system with the third tier taken care of by the council. The state government offered to make some concessions such as to make DGHC councilors ex-officio members of panchayat samities and vice-versa. Further, certain activities like women and child development, poverty alleviation and employment guarantee, which are solely looked after by the panchayats would be incorporated in the DGHC by amending the section 24 of the DGHC Act [32]. But Ghising argued that no poll could be held in Darjeeling since the GNLF has filed a case in the supreme court seeking clarification on the status of Darjeeling [33]. The state Government tried to avoid a confrontation and Information Minister Buddhadev Bhattacharya took the stand that everyone has a right to go to the court. He also said that panchayat polls were not time bound and Ghising needed time to sort out the relationship between the DGHC and the panchayat [34].

Meanwhile Ghising demanded 'Other Background Community' (OBC) status for whole of the Gorkha Community in April 1994 as they were a minority in the state and their position was backward by any definition [35]. In 1995 Ghising again threatened to dissolve the council and revert to his

original demand for a separate state. He alleged that the functioning of the council was being hampered by the formation of the panchayats. Later he called off his threat of agitation after state Information Minister Buddhadev Bhattacharya assured Ghising that any anxiety about the council's power overlapping the panchayat's will be solved cordially as the state Government has no intention to encroach open council's powers [36].

In November 1996 Ghising met Prime Minister H.D. Deve Gowda to plead for up gradation of the status of the council to a full - fledged state. He charged the CPI(M) led West Bengal government with creating hurdles in the functioning of the hill council by refusing to delegate powers and providing adequate funds. He told the Prime Minister that latter's Independence Day announcement regarding formation of Uttrakhand has led to the rise of new hope for the creation of Gorkhaland [37].

In the DGHC elections held in 1999 the GNLF won 23 out of 28 seats in the council [38]. However, the centre's decision to create Jharkhand, Uttranchal and Chattisgarh gave a new fillip to the agitation for separate state of Gorkhaland [39]. Meanwhile, the GNLF boycotted the Lok Sabha elections of 1996, 1998 and 1999. Ahead of the 2004 Lok Sabha elections GNLF supported congress candidate Dawa Narbula resulting in his election victory with a large margin in the Darjeeling constituency. In the state assembly elections in West Bengal in 2001 GNLF had put five candidates out of who three got elected.

In March 2005 Ghising threatened to stall the election to the DGHC if the state and centre failed to declare an 'alternative' to the council [40]. To resolve the deadlock a tripartite meeting was held in April 2005 and it was decided that special status would be granted to the DGHC either under the 6th schedule (which is about autonomy to the tribals) or under Article 371 (which empowers the Governor to safeguard the identity of the ethnic people) [41]. The Communist Party of Revolutionary Marxist (CPRM) General Secretary R.B. Rai rejected the 6th schedule as an option. He retorted that if the Government wants permanent peace in hills it must accede to the demand for Gorkhaland [42]. The council's performance under Ghising and GNLF left many disillusioned.

It seems that the easy wins in DGHC elections led to lethargy towards work and development efforts took a back seat. As a result Ghising had to face some opposition from the likes of Madan Tamang, General Secretary of Akhil Bhartiya Gorkha League, who alleged that Ghising has no right to hold the chair in DGHC as he did not convene a single meeting of the

general council of DGHC for the last four years. Moreover, he had not prepared the hill council budget nor allowed an audit of the same in the last 14 years [43]. Earlier in February 2001 Ghising sustained injuries when he was attacked with AK-47 rifles and grenades near Kurseong.

Resurgence of Demand for Gorkhaland

The term of last DGHC had expired on March 23, 2005 but for three years Ghising continued as caretaker administrator of the Council thanks to the state government which passed the Darjeeling Gorkha Autonomous Council (Amendment) Bill. Elections could not be held because of opposition from Ghising who demanded tribal status for Darjeeling hills in June 2005 when his demand for a separate state of Gorkhaland was not accepted [44]. A tripartite agreement was signed on December 6, 2005 for inclusion of hill council in the in the 6th schedule of the constitution to give the council more legislative and administrative powers [45].

The Union cabinet on October 1, 2007 approved the proposal to amend the constitution to create the council bill council bill for amending article 244 and 332 and the sixth schedule of the constitution [46]. However soon the intelligence agencies warned the government against giving special status to the region in haste till there is consensus among different factions including non tribals and tribals represented by the Gorkha Janmukti Morcha (GJM) and GNLF respectively. The fear of intelligence agencies soon became real when thousands of GJM activists resorted to indefinite bandh in February 2008. GJM leader Bimal Gurung- demanded ouster of Ghising from the council; halt to the process of conferring 6th schedule status to Darjeeling hills and a separate state of Gorkhaland [47]. In February 2008 GJM supporters kept Ghising waiting at Pintail village for three weeks refusing to let Ghising enter Darjeeling [48]. Later Ghising was forced to resign as caretaker of the council [49] and GJM resorted to bandhs, hunger strikes and rallies in June 2008 to press for their demand for a separate state of Gorkhaland [50]. They refused to talk to state government alone asking for tripartite talks with the center and state government. The GJM emphasized that their demand for Gorkhaland is not separatist and that it is within the framework of the constitution [51].

The imminent cause of the resurgence of demand seemed to be the attempt to turn Darjeeling into a tribal region by putting the council in the 6th schedule of the constitution. This upset the non- tribal who formed about 70% of the hill population. They felt

that the move will divide the community. They were hurt as the center and state governments did not take any other leader in confidence apart from Ghising. Ghising became an outcaste in his own community when the center recognized two ethnic groups- Tamang (to which Ghising belongs) and Limbas- as scheduled tribes. Ghising's loss became GJM chief Bimal Gurung's gain [52]. However underneath it all was the neglect of real problems of Darjeeling such as poverty alleviation, unemployment, corruption and the dying economy [53]. The GJM during the agitation for Gorkhaland turned the Left Front government of West Bengal irrelevant in Darjeeling by introducing its own vehicle registration numbers (GL instead of WB), setting up a police unit called Gorkhaland Personnel (GLP), imposing dress code on civilians, enforcing tax boycott, banning parties opposed to it and writing 'Government of Gorkhaland' on official signboards. However the agitationists refrained from using weapons. This caused a lot of worry in Kolkata for the government was unable to resist GJM either politically or administratively [54]. The GJM was formed in October 2007 and its leader Bimal Gurung claimed to be a Gandhian and advised his followers to keep the 'khukri' but not to use it. However the Left Front Government of West Bengal rejected the demand for a separate state of Gorkhaland although offering talks for more autonomy within West Bengal [55]. The then External Affairs Minister at centre Pranab Mukherji, a Bengali, categorically rejected the demand for Gorkhaland [56]. The GJM refused to talk with the West Bengal government and insisted on talks with central government [57]. The central government in turn wanted talks without any precondition. Talks were finally held between GJM and Congress led government at centre. The GJM later changed its strategy and aligned with BJP which reiterated its support for smaller states and promised to create two more states of Telengana and Gorkhaland if they came to power in 2009 general elections [58]. In return GJM offered them support for Darjeeling Lok Sabha seat. The BJP candidate Jaswant Singh won from Darjeeling however BJP lost the general elections and Congress led government was formed at centre with the support of Trinmool Congress. Trinmool being a regional political party of West Bengal must take care of Bengali sentiments and will oppose Gorkhaland.

The G.J.M. reached an agreement with the state government to form a semi-autonomous body to administer the Darjeeling hills. The Memorandum of Agreement for Gorkhaland Territorial Administration (GTA) was signed on 18 July 2011 at Pintail Village near Siliguri in the presence of Union Home Minister P Chidambaram, West Bengal Chief

Minister Mamata Banerjee and Gorkha Janmukti Morcha leaders. A bill for the creation of GTA was passed in the West Bengal Legislative Assembly on 2 September 2011. It was decided that GTA presently will have three hill subdivisions Darjeeling, Kalimpong, and Kurseong and some areas of Siliguri subdivision under its authority. The GTA will have administrative, executive and financial powers but no legislative powers. A 10-member joint verification committee headed by a retired High Court judge would examine the demand to bring the Gorkha-inhabited pockets of the Dooars and the Terai under the GTA. It was also decided that there shall be a GTA Sabha for the GTA which will have a Chairman and a Deputy Chairman to conduct the business of Council. The GTA Sabha shall consist of forty five elected members and five members to be nominated by the Governor to give representation to members of SC, ST, women and minority communities. The MPs, MLAs, and Chairpersons of municipality(s) of the region shall be Ex-officio Members to this GTA Sabha. The term of the GTA shall be five years. The Executive Body shall consist of a Chief Executive who will nominate fourteen members out of the elected / nominated members as Executive Member. One of them shall be the Deputy Chief to be nominated by the Chief Executive. Every member of the GTA shall before taking seat make and subscribe before the Governor or one of the elected members appointed in that behalf by him an oath or affirmation. The Chief Executive shall be administered an oath or affirmation by the Governor [59]. The Government of India and the Government of West Bengal will provide all possible assistance to the G.T.A. for the overall development of the region. The Government of India will provide financial assistance of Rs. 200 crore (Rupees Two Hundred Crore) per annum for 3 years for projects to develop the socio-economic infrastructure in G.T.A. over and above the normal plan assistance to the State of West Bengal. The West Bengal government announced that the election for the GTA would be held on 29 July 2012. Parties that formed the Gorkhaland Task Force (CPRM, ABGL, Bharatiya Gorkha Parishad, GNLF(C), Gorkhaland Rajya Nirman Morcha and others) decided not to contest the GTA elections. Trinamool Congress fielded candidates in the election. The GNLF chairman filed a case in the Kolkata High Court challenging the GTA. The CPI(M) withdrew the nominations of all its 13 candidates from the GTA elections, alleging threats and intimidation by the GJM and the GJM received 28 seats of the GTA uncontested. In the elections of the remaining 17 seats of the GTA held on 29 July 2012, GJM candidates won from all the constituencies. Sanchibir Subba,

the rebel GJM candidate from Giddabaling-Nimbong, narrowly lost to the party's official contestant Kalyan Dewan by 677 votes. The newly elected members of the GTA were sworn in on 4 August 2012 at Darjeeling in the presence of home minister Sushil Kumar Shinde and West Bengal chief minister Mamata Banerjee [60].

Conclusion

The ethnic Gorkhas had always aspired to have a separate state of Gorkhaland for the Gorkhas of the Darjeeling area. Ethnically and linguistically Gorkhas are different from Bengalis and although they are in a majority in Darjeeling however in West Bengal as a whole they are in a minority. As a result Bengalis dominate the political, economic, judicial, bureaucratic, social, cultural life of West Bengal. If so many other states have been created on the basis of language then why not the state of Gorkhaland. The GJM, has not dropped its demand for a separate State of Gorkhaland, and has only agreed to the setting up of an 'autonomous body' (empowered with administrative, financial and executive powers) for the overall development and restoration of peace and normalcy in the region. It is worth noting that both the State and Central governments kept it on record that the GJM's aspiration for a separate State remains unabated. The problem is that governments in India look into the problem more as an issue of law and order and the consequence of uneven development, or the lack of development. Such crucial issues like culture, self-respect, or self-rule are all clubbed together and considered as significant only when they are pitted against the discourse of development [61]. A look at other federal countries of the world shows a different attitude. A tiny and much less diverse Switzerland has twenty six Cantons (states) [62] and USA with a population of 315,676,000 (as compared to India with 1,210,193,422) [63] has fifty states but India keeps resisting creation of new states till forced by popular movements. The reason for non acceptance in case of Gorkhaland also lies in the strategic and sensitive location of Darjeeling as it has three international boundaries with Nepal, Bhutan and Bangladesh. It also links India to Sikkim and whole of north east. Hence it is very important both for international security, national unity and commerce. Moreover ethnic Bengalis whether in Left Front, Trinamool Congress or Congress are against the division of West Bengal. So there is a situation in which incompatible demands exist with ethnic Gorkhas wanting a separate state of Gorkhaland by division of West Bengal while ethnic Bengalis

resisting any thought of division of West Bengal. Both sides aspire for a zero sum solution in their own favour. The compromise of GTA meant autonomy to Gorkhas without division of West Bengal. It is not as if autonomy experience has been completely unsuccessful. It has ensured absence of armed conflict as witnessed during mid-1980. It had satisfied the ethnic Bengalis as well as Gorkhas to some extent.

However, the hopes of development of the area have not become a reality due to non-performance of hill council. In a way the DGHC and GTA has been a victim of the same disease that affects the whole of Indian polity and administration i.e. autocratic and corrupt politicians and officials who are more interested in self-aggrandizement than welfare of the masses that they profess to represent and serve. The masses are cheated by politicians who raise emotional issues instead of concentrating on the development. The only possible solution for this problem lies in successful combination of autonomy, democracy and development. GTA must get real autonomy to function and perform on development front so as to meet the aspirations of people of Darjeeling for better living conditions as well as empowerment. For that transparency and responsiveness in functioning is needed along with a comprehensive regional development strategy capable of addressing socio-economic and environmental issues that concern this region in order to bring sustainable development and general improvement in the quality of life of the masses.

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A Green Value: Ecologism

Rajeev Saxena*, Gopal Krishna Sharma**

Abstract

Ecologies talks about whole existence. The Christian ethics the continuity and its maintenance can only become possible through the humanity as a whole even towards non-living elements. The ecologism cares about hard eco-centrism; the anthropocentrism on the other hand also talks about the ethical action standards but from human needs fulfilment point of view. The ecologism is a moral movement to care for biotic and a-biotic presence. The crisis of green political theory which tries to abridge the balance between both the angles ultimately finds its final rescue in holism. – Ecologism – the real abode of variegated life and beyond it.

Keywords: Ecologism; Eco-Centrism; Anthropocentrism; Biotic; A-Biotic World; Survivalism.

Introduction

Green Political theory deciphers the code of balance between normative Concepts and empirical experience of man. Society and beyond man living or dead world. The common bridge to connect all these is ecologism.

“Man” and “society”, and the interacting dynamic social sources have been the vital concern of socio-political philosophy up to mid of twentieth century. In post mid period of twentieth century another factor of surrounding environment itself appeared on the canvass of thought. This factor defined the value of survival of the whole natural system with respect to “man” and “society”. The new arrival underlined the basic of environmental importance existence of human vis-a-vis the balance of nature and thus the ecology. The virtue of ecologism is that in stressing the central importance of ecology, it highlights an approach to political understanding that is quantitatively different from the conventional Ones. In calling for radical socio-political change and a fundamental rethinking and the relationship

between human beings and the natural world, ecology has developed into an ideology in its own right [1].

Ecologism : The Basics

The concerns of ecology, though, owe much to oriental philosophies of Hinduism, Buddhism and Taoism, where mother earth was the object of reverence sustenance [2]. The vedic thought echoes earth as mother and the human species as if the son of this mother. The process of growth and hyper industrialization and urbanization that was seen in the post mid twentieth century provoked the enquiries of cost of material progress and exploitation of natural resources, and the relationship of “man” with environment.

The affluence of material and scientific progress questioned by virtue of its own existence, the value structure of development. Continual debates, thoughts and issues of pollution, conservation, acid rain, green house, effect, global climate change ecological issues and non-human species existence evolved the green theory in general and concentrated

the green political theory in particular when the organised society was thought and., The deep attractions of green political theory is its claim to be focused on the very survival of the whole natural eco system of the planet. In consequence it also addresses the conditions for our biological continuance as a species [3]. Other political ideologies analyse the socio-politico-economic engineering but the ecologism concentrates on the core, most part of human existence the basic "unit" of planets and the governance of the same.

The philosophy of ecologism does not focus human needs only but also takes the nature-the cradle of humanity in its sphere of analysis. Thus there are two basic thoughts one is eco-centric and other anthropocentric. A balanced eco-logism talks about the both. Hard liners are there but ultimately they also resolve on same amicable issues [4]. Arne Nases, Bill Devall, Warwick Fox and Robin Eckersely. are eco-centric. The eco-centric value perspective has developed on two lines. The first is intrinsic value theory, which sees nature an end in itself. The second eco-centric perspective bypasses value theory. It argues that what is required is not so much ethics as it is a psychological change in ecological sensibility. The real issue is therefore psychology and ontology not ethics. Eco-centric drive their strength from nature and a peculiar respectful reverence to the same. The nature whose part is human also, but ultimately the nature itself is the central theme of this school. The value structure for this school emanates from the virginity and piousness of nature. Human desires and need, thus, certainly, are subject to the same virginity. The governance and so the political theme of society should be guided from this angle only. Another anthropocentric thought opens that the human beings are the sole criteria of values. The endeavours of human and needs and then fulfilment is the central theme of anthropocentric thoughts. "Deep anthropocentrism is indifferent to nature and is largely outside the domain of green theory. Plain anthropocentrism stresses co-dependency' with nature although still filtered through human interests [6]".

Ecologism : The Green Value

Hard liners and soft liners both are there, because for some nature is supreme and for other human need and its fulfilment. Deep ecologists, deep greens and shallow ecologists and light greens, these all are there and among them environmental ethics, thus points out the drift from the personal preferences, rather it operates for whole planet by respecting the vegetable vitals, mineral vitals, natural flora and

fauna vitals, natural global elements and the human as an integral part of this vast treasure.

The central themes of political ecology are thus as under [7]:

1. Ecology
2. Holism
3. Sustainability
4. Environmental Ethics
5. Self Actualisation

The eco-logism is hard eco-centrism. The man is not the master of nature but an integral part to it. Deep ecologists advocate bio-centric equality, animal rights, nature as a virtue, value of nature, a-growth and ecological consciousness whereas shallow ecologism is light anthropocentrism. Shallow ecologists advocate conservation of non-human nature, animal welfare, substantial growth-sustainable growth and personal development. It is unlike: deep ecologists who speak of wilderness Sather naturalness only. It is usually nature untouched by human action. Humans are envisaged a mere temporary knots in the bio spherical net" [8]. but on the other hand there is crisis of assumption, if the nature is a sum total, a complete whole then the human species and its action by being of an integral part of the nature are also natural, even exploitation and environmental degradation due to human intervention are justified. But this assumption cannot be justified. An order which happens to be in untouched nature cannot be broken. The bio-natural balance is essential. From which point the intervention of "humanity" impedes the goals of eco centrism is also not clear; only the ethical way can describes it. The ethical position of "human" in whole nature is that in biocentrism the freedom is there for human to play but decodes how to reach given environmental Goals and at the same time the human is not privileged [9]. In this light the rights of plants, vegetables, animals and every other constituent of nature find its strength. It then becomes natural manifesto of nature rights to every creation. It can also be seen that the question of eco-centrism can be weighed against liberalism and socialism. "Liberalism presupposes the human individual as its basic unit; socialism presupposes' human collectivism; but ecologism presupposes that human are part of nature" [10]. Human is liberal and social but it is eco-liberal and eco-social creature in eyes of ecologists.

The term holism describes the idea that natural world can only be understood in its wholeness not through its individual parts. Capra [11] rightly, in

this sense, draws the picture that alike oriental religious doctrines of Hinduism, Buddhism, and Zen Buddhism' There exists oneness of all the things. The theory of quantum physics teaches the all related in one and thus theory of everything (TOE). It points out towards a refined concept of ecologism having "human" as one of its constituent, but ultimately this trend is in favour of deep ecologism. Sustainability is another aspect which is bricked with politico-economic progress vis-a-vis eco-humanistic activities.

The non-human nature of planet is like a stuff of space ship earth. It has limited and exhaustible resources. Reckless exploitation and violent behaviour has degraded and spoiled their sanctity. Living in a spaceship requires an understanding of the ecological processes that sustain life. Most, importantly, human being must recognize that spaceship earth is a closed system" [12]. The closed system has the entropy character of energy' So in closed system the transformation of energy takes place but the form of energy resources get exhausted if a merciless treatment is done. The bio-spherical egalitarianism is advocated for a complete concept of ecologism. The claims and their supply must be regulated by a reasoned sovereign power if the true egalitarian society is to be preserved.

Environmental ethics and self actualisation are important aspects of ecologisms. For a good life a balanced civic society is essential. Here lies the civic consciousness, the ethical values and undoubtedly a political ecology. The "human element" and "non human element" both must be at certain ecological matrix mutually." Political ecology is a historical outgrowth of the central question asked by the social sciences about the relationship between human and society viewed in its bio-cultural political complexity and a significantly humanized nature [13].

The crisis of faith in the values of ecologism, thus falls in the following argument. "Environmentalism argues for a managerial approach to environmental problems, secure in the belief that they can be solved without fundamental change in present values or patterns of production and consumption, and ecologism holds that a sustainable and fulfilling existence presupposes radical change in our relationship with the non-human natural world and in our mode of social and political life" [14].

Ecologism underlines the match of traditional concepts of political philosophy with the ecology. Justice, rights, equality, liberty, liberalism, socialism, democratic values and activism, post-modern values, hyper industrialization etc. all are taken care under umbrella of ecologism. The relationship and the distribution and association of their values between

biotic and abiotic world has been defined in ecologism. As mentioned above the environmentalism is a managerial approach which keeps anthropocentrism duly balanced with ecocentrism, but the ecologism keeps human race as an integral part of "the whole" and then "the whole" is to be taken care of. It is apparently clear that the value structure, then gets change in their array.

Contemporary age is of democratic values, effective participation, gaining enlightened understanding, exercising final control over the agend [15] attract care for survivalism. The common good of Rousseau appears to be the concern of these democratic agenda with ecological balance. The questions of values imbibed in conservative, liberal, socialistic, capitalistic or blend of different political economies, ultimately point towards a better life and survival. The ecologism and the holistic values attached with this stream of thought go beyond the realm of traditional political theory. It gives respect to each creature, and creation, biotic and abiotic world simultaneously.

The schism in values between ecocentrism and anthropocentrism can thus be balanced on the axis of just relationship between biotic and abiotic world; ultimately the survivalism of all. It is also worth mentioning that the time, space, circumstances, and culture portray the patterns of ecology and the political commitment from governments. The peculiar ecologism may be different in different locations, but the eccentricity of epistemology will always towards the whole ethical non-violent action and coexistence.

It is contended here that political mobilisation, participation and Goals jointly bring towards political ends [16]. The State goals, ie, the common Goods or the welfare of all, happen to take place when the nature is in harmony with humans, otherwise devastating condition can't be said the desired political end.

Social ecologist Murray Bookchin asserts, that a subtle blending between nature as distinct and nature as integral to us in essential "nature rendered self conscious and intelligent" is cooperated with the implicit characteristics of teleology of naturer [16]. The ecological movements are in fact political movements for a nonviolent order in which nature is conserved for conserving the option of survival. They demand only the right to survival, yet with that minimal demand is associated the right to live in a peaceful and just world." Unless the world is restructured ecologically at the level of world views and life styles, peace and justice will continue to be violated, and ultimately the very survival of humanity will be threatened [17].

Conclusion

It is clear that the ecologism as a school of thought conserves, ultimately, the value of life and the sacred rhyme- "live and let live" with all the essentials of minimal socio-political, economical and sustainable development that will not lead to bubble political economy.

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India and Nepal: 'Neighbour First Policy' Under Strain

M.R. Biju, M.R.B. Anantha Padmanabha

Abstract

The current crisis in Nepal has political, cultural social and emotional dimensions too. But India should have responded with pre-cautions. It should be prepared to show more sympathy, concern and kindness towards a nation like Nepal. Nobody denies India's contribution to the overall economic, social and trade developments of Nepal. Along with India's assistants on several areas, it should also be prepared to understand the mindsets of Nepali people. If Government of India fails to ensure the warmth and intimacy of the Nepali common man, whatever economic contribution extended to the land lock country may not be acknowledged by them with an open mind. The Indian foreign policy operators should take urgent and timebound efforts to normalize Indo-Nepal relations for the sake of both the parties.

Keywords: Indo-Nepal Relations; Foreign Policy; Sovereignty; Secularism; Fundamental Rights; Federalism

After assuming the office of the Indian Prime Minister on 26th May, 2014 Narendra Modi and his external affairs team are keen in framing a unique foreign policy for India based on pragmatism. One of the key ideals of Modi's foreign policy objectives is to strengthen India's ties with neighbouring nations by following "neighbour first policy". But an objective analysis undoubtedly shows that the foreign policy initiatives are not yielding the desired results atleast in India's relations with Nepal. India also seems to have hit a wall in its relationship with Nepal. This seems especially true if one considers India's response to the adoption of the Himalayan republic's brand-new constitution. Not only did Kathmandu's ruling elites ignore New Delhi's advice while promulgating the new constitution; they also snubbed India by adopting the document despite objections from its "big brother" to the south. India's subsequent reaction with the new constitution has not gone down well with Nepali people and media. Instead of welcoming the new document passed by the majority of the elected members of the Nepali Constituent Assembly, Kathmandu's southern

neighbor's "concern" has been interpreted as direct interference in the nascent democracy. Keeping this background in view, an attempt has been made in this paper to evaluate India's ties with the Himalayan country in the context of the recent developments. The paper has been classified under four major heads. Part-One presents the significance of the current phase followed by Part-Two on India's ties with the landlocked country since its origin. Part-Three unfolds the constitutional developments in Nepal with special focus on the promulgation of the new constitution on 20th September, 2015 and concluding part focuses on India's over reaction and its subsequent effects and impacts on India-Nepal relations.

Part-I: Recent Unfortunate Developments

It is generally observed that, New Delhi appears to be playing a partisan game in its northern neighbor, thereby exposing itself to charges of inciting division in the predominantly Hindu state. This could potentially damage New Delhi's

reputation, both in Nepal and further abroad. Not long ago, India played a constructive role in bringing the Maoist insurgent movement to mainstream politics in Kathmandu and ushering in a new era of democracy in Nepal. When Modi visited Nepal last year he was given a rousing reception, cutting across ethnic and religious fault lines. Today, however, the Indian prime minister has become a polarizing figure. On social media, the hashtag #Back Off India has been trending for the last few days, with more than 20,000 tweets posted so far. Thousands of tweets are addressed directly to Modi's accounts, asking him very bluntly not to interfere in Nepal's internal affairs and respect its sovereignty. India runs the risk of being perceived as an ally of reactionary forces in Nepal if it does not tread cautiously. By its meddling in the constitution process, it has given the political elites in Kathmandu an opportunity to divert people's attention from the actual shortcomings of the constitutional document. There is little doubt that the Nepal episode has brought to question Modi's much touted "neighborhood first" policy.

It is unfortunate that India-Nepal relations have been dented because of domestic problems in the landlocked nation. There is no doubt that the people of Nepal have suffered because of the blockade on the border. Though it is alleged that India has blocked movement of goods, the fact is Indo-Nepal trade has become a victim of unrest in the Himalayan nation. It is the vested interests which are blaming India for the shortage of essential goods, particularly fuel. Nepal imports a large quantity of essential goods from or through India. True, in the 1980s, the Rajiv government had wrongly imposed a blockade with a view to teaching Kathmandu a lesson. This time, the situation is quite different.

India has not taken any decision that amounts to harassment of the people in Nepal. In fact, there was no decision to block movement of goods. However, it is the agitation of the Nepalese, living in the border areas, that has created the problem. Indian government cannot force the agitators to allow Indian or Nepali trucks to pass through the border because that would invite trouble. As it is, the people in the valley are agitated over the new Constitution. There is no denying that India is upset over the new Constitution which has not done justice to all sections of the people. It expected the Constituent Assembly to draft a document acceptable to all the people of Nepal.

One good sign is that goods have started moving across the border. It will take some time before normalcy in trade is restored. Unfortunately, some forces inimical to India have been unleashing a

propaganda war portraying India as the villain of the piece. It is nothing but malicious. On the contrary, it has been caught in the crossfire between two sections of the Nepalese. It wants a settlement that will do justice to all sections. The argument that only a small section of the Constituent Assembly opposed the new Constitution does not wash because it overlooks the aspirations of a significant section of the population. It is in Nepal's own interest that the logjam on the Constitution is ended and India-Nepal relations are normalised.

Prime Minister Narendra Modi, who is believed to understand the concept of a shared South Asian "commons", is seen as having missed a unique opportunity to unify the people of the region. The introduction of a new Constitution in Nepal presented a chance to alter the entrenched belief that the outcomes of India's special relationship with Nepal will always be unfair. Instead, weeks of suffering from the 'blockade' have led the Nepalese to drown in suspicion: may be India didn't like the new Constitution; it knew northern trade points were still damaged by the quake; it callously imposed a weeks-long blockade on their crippled country. Unfortunately for India, most Nepalis blame Prime Minister Modi, the public face of the Indian government in Nepal.

The relationship between India and Nepal is complex and the existing problem should be resolved at the earliest for the benefit and interest of both the parties. In this context, it has to be noted that, India increasingly needs Nepal to safeguard its vital interests. But Nepal depends on India far more. Nearly all of its fuel imports come from the Indian Oil Corporation. The Nepalese Rupee continues to be pegged to the Indian Rupee. India is Nepal's main trading partner, and the border is open. Nepalis have served in the Indian Army, and receive pensions in retirement. By some estimates, one seventh of the entire population of Nepal resides and works in India.

Despite this uneven interdependence, Indian diplomats have sought to cultivate the delicate impression that they are not viceroys. Even before the recent events, they strained to convey that India cared about the well-being of the people of Nepal, regardless of political uncertainties. They reiterate that they attach the greatest importance to the relationship between India and Nepal.

The people of Nepal are confused by the mixed messages. After eight years and two elections, they finally wrote a Constitution that they feel India coldly acknowledged. India then reacted indifferently, in their view, to the impending humanitarian crisis. Furthermore, they saw Prime Minister Modi's

invitation to the new Prime Minister of Nepal to visit New Delhi as a 'summons'. So they ask, does India care about the people of Nepal or is it concerned only about its interests? Is it ready to subject an entire population of more than 27 million to eat bitterness, right when it hurts most, to get what it wants? How retributive is India going to be when the ups and downs of neighbouring democratic processes lead to outcomes it may not like? (Nirupama Rao, Athul Pokharel : 2015).

Part-II : Milestones in the India-Nepal Relations

India and Nepal share a unique relationship of friendship and cooperation characterized by open borders and deep-rooted people-to-people contacts of kinship and culture. There has been along tradition of free movement of people across the borders. Nepal has an area of 147,181 Sq. Kms. and a population of 29 million. It shares a border of over 1850 Kms to the south with five Indian States - Sikkim, West Bengal, Bihar, Uttar Pradesh and Uttarakhand and in the north with the Tibet autonomous region of the People's Republic of China. In keeping with the tradition of regular high-level exchange of visits between India and Nepal, President, Dr. Ram Baran Yadav, First President of Nepal, paid an official visit to India from 27 January -5 February 2011. Other visits from Nepal to India in the recent years have been by Prime Minister Dr. Baburam Bhattarai (20-23 October 2011), Prime Minister Madhav Kumar Nepal (18-22 August 2009) and Prime Minister Pushpa Kamal Dahal 'Prachanda' (14-18 September, 2008). External Affairs Minister, Shri.S.M. Krishna visited Nepal from 15-17 January 2010 and again from 20-22 April 2011. Finance Minister Shri Pranab Mukherjee visited Nepal on 27 November 2011.

India-Nepal Treaty of Peace and Friendship

India-Nepal Treaty of Peace and Friendship of 1950 is the bedrock of the special relations that exist between India and Nepal. Under the provisions of the treaty, Nepalese citizen have enjoyed unparalleled advantages in India, availing the facilities and opportunities at par with Indian citizens. The Treaty has enabled Nepal to overcome the disadvantages of being a land-locked country. Overtime, many regimes in Nepal have raised the issue of revision of the treaty. India has maintained that it is willing to examine all bilateral arrangements with a view to further strengthening our relations. Specific suggestions from the Nepalese side have not been forthcoming.

The 12-Point Understanding

Beginning with the 12-Point Understanding reached between the Seven Party Alliance (SPA) and the Maoists in Delhi in November 2005. Government of India welcomed the roadmap laid down by the historic Comprehensive Peace Agreement of November 2006 towards political stabilization in Nepal through peaceful reconciliation and inclusive democratic processes, India has consistently responded with a sense of urgency to the needs of the people and Government of Nepal in ensuring the success of the peace process and institutionalization of multi-party democracy through the framing of a new Constitution by a duly elected Constituent Assembly.

Development Initiatives Undertaken by Government of India

India contributes to the development efforts of Government of Nepal (GoN) by undertaking various development projects in the areas of infrastructure, health, rural and community development, education, etc. The grant assistance extended to Nepal during 2009-10 under 'Aid to Nepal' budget was 161 crores. In addition, GOI has extended considerable economic assistance to the ongoing peace process in Nepal. The overall quantum of India's assistance to Nepal is approx. 3600 crores which includes the Small Development Projects scheme offered by the Embassy of India delivers development assistance at grass-roots level in sectors identified with the local population. It now covers over 370 projects with an outlay of approx. 402 crores. As part of India's effort to assist with capacity building and development of human Resources in Nepal, over 1500 scholarships are offered annually for Nepalese students to pursue various courses in India and Nepal.

India as the Largest Trade Partner

India continues to be Nepal's largest trade partner, source of foreign investment and tourist arrivals. Bilateral trade between India and Nepal has increased substantially since the signing of the Trade Treaty in 1996 and received further impetus after the signing of the revised Trade treaty in 2009 which has provisions that allow Nepal greater access to the Indian market. According to figures for the Nepalese fiscal year 2066 (July 2010), bilateral trade with India accounted stood at '16129.7 crores which accounted for for 58.7% of Nepalese total external trade. India and Nepal have a treaty of transit, which confers transit rights through each other's territory through

mutually agreed routes and modalities. The treaty was last renewed for seven years in March 2006. The two countries have concluded a Rail Services Agreement (RSA) and a revised Air Services Agreement (ASA) to enhance bilateral connectivity. A Motor Vehicles Agreement (MVA) for passenger vehicles is awaiting formal signature. India also remains Nepal's largest source of foreign investment and Indian investments in Nepal amount to ' 1586 crores with 462 FDI projects. India accounts for 44% of the total foreign investments in Nepal.

India's Leading Role in the Formation of Nepal Army

India had played a leading role in helping the Nepal Army (NA) in its modernization through provision of equipment and training. More than 180 training slots are provided every year for training of NA personnel in various Indian Army training institutions. The Chief of Army Staff of the Indian Army is given the honorary rank of a General in the Nepal Army and a reciprocal honour is conferred on the Chief of the Nepal Army. India has always been proud to have Nepalese as soldiers in her Forces and has made every effort to ensure that they are looked after and cared for in their twilight years. As of now, we have over 1.23 Lakh ex-servicemen residing in Nepal in 2010-11 the payments of pensions to the Indian ex-service men in Nepal amounted to '1100 crores. The Government of India has made every effort to ensure that these ex-servicemen, their families and dependents are looked after in the best possible manner. To ensure this, the Government of India has established "The Indian Ex-Servicemen Welfare Organisation in Nepal (IEWON)".

India's Contribution in the Field of Water Resources

There is vast potential for cooperation between India and Nepal in the field of water resources. Nepal has 43,000 MWs hydropower potential that is known to be technically feasible and economically viable. However, major projects have not taken-off due to considerations outside the realm of economics. Ironically, India is a net exporter of power to Nepal. Both countries have recognized the importance of co-operation in this field and decided to inject a new dynamism by establishing a three-tier bilateral mechanism at the Ministerial (Joint Ministerial Level Commission on Water Resources-JMCWR), Secretary (Joint Committee on Water Resources-JCWR) and technical (Joint Standing Technical Committee-JSTC) levels to oversee the entire gamut of cooperation in water related issues.

Areas of Co-operation on Security Concerns

Co-operation on issues of mutual security concerns relating to the open border has been a hallmark of our relations with Nepal. Nepalese side has assured at various levels that it would not allow its territory to be used for any activity against India. There are streamlined bilateral mechanisms to address all issues concerning security, including cross-border crime, and establishing effective communication links between and along the bordering districts to further facilitate the exchange of information. India has repeatedly stressed the need for strengthening the legal framework, in order to counter their common cross border security challenges. India has also provided liberal assistance to the security apparatus in Nepal in development of infrastructure, capacity building, equipment and training of human resources.

Joint Technical Committee (JTC)

A Joint Technical Committee (JTC) led by Surveyors General of India and Nepal has jointly prepared and initialed strip maps of 98% of the India-Nepal boundary (December 2007). These strip maps are awaiting authentication at Plenipotentiary level. Recently there were some politically motivated attempts in Nepal to portray the status of the boundary in an unfavorable light alleging instances of Indian encroachment, although the matter has not been formally taken up by the Government of Nepal. India has emphasized the necessity of early signature of the strip maps at plenipotentiary level so that work on installation of boundary pillars where they are missing and repairs where they are damaged could begin. Nepal has conveyed that they are building political consensus for the signing of the strip maps.

Part-III : Constitutional Developments in Nepal

Nepal's new Constitution was promulgated on 20 September 2015. The Constitution with 308 Articles, 35 parts and nine schedules is the seventh constitution in the history of Nepal since 1948. The new Constitution, adopted eight years after the enactment of the Interim Constitution, has failed to satisfy the Madhesi, Tharus and Janjatis who together comprise approximately 49 percent of Nepal's population. In this context, this report is an attempt to provide salient features of the Constitution, timeline of constitutional development, remarks by the Nepali leaders, reactions from international communities and India's response.

The Chronology of the Constitutional Development in Nepal

1. 1768: The history of constitutional development in Nepal goes back to 1768 when the Nepal state was formed.
2. 1854: Muluki Ain –the codification of traditional approach of Hindu laws in common practice – was promulgated by King Surendra Bir Bikram Shah in 1854.
3. 1948: The Government of Nepal Act, 1948, 'proclaimed by Padma Shamsher', was the first legal instrument to incorporate the democratic values.
4. 1951: The Interim Government of Nepal Act 1951, drafted with the help of legal experts from India, asserted the King's executive, legislative and judicial authorities.
5. 1959: The Constitution of the Kingdom of Nepal, proclaimed on 12 February 1959, did not last for more than two years. Despite the 'democratic dispensation', the Constitution granted unrestricted discretionary and emergency powers to the King. Within a week of promulgation of the Constitution on February 18, 1959, the first legislature was elected through adult franchise. B.P.Koirala became the First Democratically elected PM of Nepal.
6. 1962: The Proclamation of Constitution of 1962 by King Mahendra. The Constitution established a central unicameral legislative body –the National Rashtriya Panchayat.
7. 1980. A National Referendum was held in May 1980 to decide whether the people wanted to go back to multiparty democracy or retain the Panchayat system with reforms.
8. 1990: Strong popular uprising –Jan Aandolan – in demand for multi-party system. King Birendra lifted ban on political parties, allowed a peaceful democratic transition and abrogated various Panchayat bodies. An Interim government led by Nepali Congress leader, K.P. Bhattarai, was formed. A nine-member Constitution Reform Commission was announced with representatives from the Nepali Congress, Communist Party and Royal representatives. The Constitution of the Kingdom of Nepal 1990 was promulgated by King Birendra in November.
9. 2007: The Interim Constitution of Nepal was proclaimed in 2007. The Interim Constitution, known as the compromise document between the major political parties, replaced monarchy with a republic.
10. 2008: The first Constituent Assembly served from May 28, 2008 to May 28, 2012. The first CA's original tenure was two years with May 2010 deadline for drafting the Constitution of Nepal.
11. 2013: The second Nepalese Constituent Assembly was formed as a result of the 2013 Constituent Assembly elections after the failure of the first Constituent Assembly to passed new Constitution.
12. 2015: Nepal, on 20 September 2015, promulgated a new Constitution.

Salient Features of the New Constitution

Sovereignty

The sovereignty of Nepal is vested in the people of Nepal. The preamble of the Constitution says, "We, the people of Nepal, in exercise of the sovereign powers inherent in us." The Constitution "embrace(s) the sovereign Right of the people by maintaining country's independence, sovereignty, geographical integrity, national unity, freedom and dignity" (Para 2, Preamble of the Constitution). There is emphasis on the word 'sovereignty' and 'independence'. The words 'sovereignty' has been mentioned many times in the Constitution. Although repeated mention of words – 'sovereignty', 'sovereign', 'integrity' and 'independence' – is common in many Constitutions of the world, but, in the case of Nepal, it can be seen in the backdrop of insecurity perceived in the context of its geographical location and recent democratic movements.

Secularism

The word 'secularism' is retained in the Constitution. "Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented federal democratic republican state" (Article 4, Part I). Here, the Constitution also clarifies the meaning of the word, secular. Secular means "protection of religion and culture being practiced since ancient times and religious and cultural freedom" (Article 4, Part I). Article 26 (1) states, "Each person shall be free to profess, practice and preserve his/her religion according to his/her faith." The demand for a Hindu nation was rejected by majority of the members of the Constituent Assembly (CA). In 1962, the Panchayat Constitution formally declared Nepal a Hindu Kingdom and, at the same time, discarded the logic of caste hierarchy to ensure equality of all citizens. Nepal was declared 'secular' after years of insurgency, under the Interim Constitution, which was promulgated in 2007.

Language

Article 6 of the Constitution states that the Language of the Nation will include all the mother tongues spoken in Nepal. Article 7 states that the Nepali language written in Devanagari script will be the business language in Nepal. In addition to the Nepali language, the Provinces will also have the Right to select one or more language/s spoken by majority of people of that province as the language for official business [Article 7(2)]. [Article 7(3)] states that the Government of Nepal will decide on the matter of language on the recommendation of the Language Commission. Nepali people speak over 100 different languages and dialects.

Citizenship

Citizenship – a. Article 10 (1) states, “No Nepali Citizen will be denied to acquire citizenship.” Article 10 (2) talked about the provision of single federal citizenship with provincial identity.

b. A person, who has acquired the Nepali citizenship by descent before the commencement of the Constitution 2015 (Article 11, 2- a) or any person, whose father or mother was a citizen of Nepal at the birth of such a person (Article 11, 2-b) and has his/her permanent domicile in Nepal, will be deemed to be a citizen of Nepal.

c. Interestingly, every child found in Nepal, the whereabouts of whose paternity or maternity is not known, would be a citizen of Nepal by descent until the mother or father is traced [Article 11(4)].

d. Article 11(5) states that a person born to a Nepali citizen mother, whose father has not been traced, having domicile in Nepal shall be deemed Nepali citizen by descent.

e. Key constitutional posts are reserved for citizens by descent.

f. A foreign woman, after marriage to a Nepali citizen, will only be able to acquire naturalized citizenship of Nepal [Article 11(6)]. Further, in the case of a person born to a Nepali woman citizen married to a foreign citizen will not be able to get citizenship by descent. This clause is discriminatory in relation to Madhesis [Article 11(7)].

g. Article 14, which describes the provision of granting Non-Resident Nepali Citizenship to Nepalis, does not favour the Madhesis. The Article states, “The person, who has acquired the citizenship of a foreign country and is residing in a country other than the SAARC country and who or whose father or mother, grandfather or grandmother was a citizen of Nepal by descent or birth and, later on, acquired

the citizenship of a foreign country, may be conferred with the non-residential citizenship of Nepal, entitling him/her to the economic, social and cultural Rights as provided for in a Federal law.” The Madhesis could have benefited if SAARC countries were included in the list.

h. The people of Terai region, particularly the Madhesis and Indian citizens living in the border areas of Bihar and Uttar Pradesh, where cross-border marriages are common and which are known for *Roti-Beti ka rishta*, will be the worst affected. Many believe that the fear of Indian “demographic aggression” in Nepal compelled Nepal’s law makers to modify the earlier clause of citizenship by descent. Here, Nepal and India differ; India considers social and cultural bonding as one of the key factors behind the unique and special relationships between the two countries, while Nepal considers it as a threat to its identity. In the long term, the changed rule might help Nepal to reduce Indian influence in Nepal.

i. An amendment proposal received by the CA for the provision of ‘citizenship based on descent and citizenship with sexual identity’ in Article 12 was rejected by a majority.

Fundamental Rights

Some new Fundamental Rights are included in this Constitution. Among these are the Right to live with dignity, Right to food (Interim Constitution 2007 had a clause for the Right to food sovereignty under the section on Right relating to employment and social security), Right of senior citizens, Right of victims of crime and consumer Rights. The Right to publication and broadcasting has been placed under the Right to communication. Article 19 (3) states “no means of communication, including the press, electronic broadcasting and telephone shall be obstructed except in accordance with law.” Under the Right to housing, each citizen has the Right to appropriate housing [Article 37(1)]. The consumers have the Right to quality foodstuffs and services [Article 44(1)]. Article 41 states that senior citizens have the Right to special protection and social security from the states.

The Federal Parliament

The country will have Federal Parliament consisting of two Houses –the House of Representatives and the National Assembly (Article 83). The House of Representative will have 275 members; out of it, 165 will be elected directly, while 110 members shall be elected from proportional representation electoral system. Every Nepali citizen,

who has attained the age of eighteen years or above, is entitled to vote. Any Nepali citizen, who is entitled to vote in the election; has attained twenty-five years of age for the House of Representatives and thirty-five years of age for the National Assembly; has not been punished for criminal offence involving moral turpitude; is not ineligible under any law; and is not holding any office of profit, will be eligible to become a member of the Federal Parliament (Article 87). As per Article 84 (1a) and Article 286 (5) and (6) of the new Constitution, the electoral constituency will be based on geography and population. This is an alteration of Interim Constitution (Article 63) that does not favour the Madhes. Article 63 (3) of the Interim Constitution provided "the basis of the equality of population, geographical congeniality and specificity, and on the basis of the percentage of the population in Madhes, in accordance with the mixed electoral system, as provided in the law."

Provincial Assembly

There is provision for unicameral legislature in a province. Article 176 states, "Sixty percent of the members of the Provincial Assembly will be elected through first-past-the-post election system, while 40 percent will be elected through proportional representation system." Every Nepali citizen, who has attained the age of 18 years and has domicile in a province, is eligible to cast his or her vote in the elections.

The Federal and Provincial Executive

The executive power of the country will rest with the Council of Ministers (Article 75), while the President will be the head of the state. Article 76 (9) states, "The President shall, on the recommendation of the Prime Minister, form a Council of Ministers consisting of members not exceeding twenty-five in number from among the members of the Federal Parliament on the basis of the principle of inclusion." The Prime Minister and Ministers will be collectively responsible to the Federal Parliament, while a Minister will be responsible to the Prime Minister and the Federal Parliament [Article 76(10)]. The executive power of the Province will be vested in the Council of Ministers of the Province. Every Province will have a Provincial Head. As the representative of the Federal government, the Provincial Head will be appointed by the President.

The Judiciary

There will be three courts –Supreme Court, High

Court and District Court –in Nepal. Article 128 (2) states that the Supreme Court will have the final power to interpret the Constitution and law. In addition to the Chief Justice, the Supreme Court of Nepal will have a maximum of 20 other Justices [Article 29 (1)]. A maximum of 10 Justices can be appointed for a certain period [Article 29 (1)]. Each province will have a High Court and each district will have a District Court.

Inter-Relationship between the Federation, Provinces and Local Levels

The relations among the Federation, Provinces and the Local level will be based on the principles of cooperation, coexistence and coordination [Article 232 (1)]. The Government of Nepal may issue necessary directives to the Provinces regarding the matters of national importance and the respective Province will abide by such directives [Article 232 (1)]. If any Province is indulging in any act that has serious effect on national security, the President has the right to suspend or dissolve the Council of Ministers of the Province and the Provincial Assembly [Article 232 (3)]. But the Act must be approved by majority of members of the Federal Parliament [Article 232 (4)]. There is provision for Inter-Provincial Council to settle political disputes between the Federation and Provinces and among the Provinces. The Prime Minister will be the Chairperson of the Council. The Federal government has the right to formulate necessary laws to maintain coordination between the Federation, Provinces and local bodies. Article 236 states, "No obstruction of any kind or levying of taxes or discrimination shall be made in the export and import of goods or services from one Province or local level to another Province or local level and in the transportation of any goods or services through the ICWA Issue Brief 7 territory of any province or local level to another province or local level of Nepal." Imposing no taxes on inter-province trade is good for augmenting India-Nepal trade.

Emergency Power

The President may declare emergency in case a grave emergency arises linked to sovereignty or territorial integrity of Nepal or the security problem in any part of the country. Article 273 (1) states, "In case a grave emergency arises in relation to the sovereignty or territorial integrity of Nepal or the security of any part thereof, whether by war, external attack, armed revolt, extreme economic breakdown, natural calamity or epidemic outbreak, the President may, by Proclamation or Order, declare a state of

emergency to be enforced in Nepal or any specified part thereof."

Amendment of the Constitution

This Constitution is flexible; it can be amended by two-thirds majority of Parliament members. But, there are some exceptions. Article 273 (1) states, " This Constitution shall not be amended in a way that contravenes with self-rule of Nepal, sovereignty, territorial integrity and sovereignty vested in people." The Bill related to altering the boundaries of a province need to form consensus in the respective Provincial Assembly within thirty days from the time the bill is presented in the Federal Legislature [Article 274 (4)]. Further, Article 275 asserts, "(The) Assembly shall have to get the consensus Bill endorsed or rejected through majority of the Provincial Assembly and forward the information regarding the same to the Federal Legislature, within three months.

Federalism: A Key Contentious Issue

In the Country's new federal structure, Nepal will have seven provinces. Madhesis, Tharus and Janjatis felt that their demand on federalism did not get proper attention in the second Constituent Assembly (CA). They want two separate states having domination of Madhesis and Tharus. The states should consist of plain region. The state with a mix of plains and hills is not acceptable to them. Madhesis and Tharus have been protesting against the seven province model ever since this model was embraced by major parties. (Amit Kumar, ICWA:2015).

Part-IV : India's Over Reaction

The adoption of Nepal's constitution has triggered alarm bells in India. According to media reports, a day after the constitution was promulgated; India expressed its displeasure about the content. New Delhi has reportedly asked Nepal to make as many as seven amendments to address the concerns of the Madhesis and Janjatis (minority groups in Nepal). These amendments, the report suggest, have been "conveyed to Nepal's leadership through official channels." In the last few months, these communities have strongly protested against provisions of the constitution which they fear will impinge on their cultural identities. Prominent among the concerns are provisions related to the reorganization of provinces. The Madhesis largely inhabit the plain regions that border India. The protest has reportedly claimed 40 lives so far and New Delhi fears that

violence may spill over to the Indian side if corrective measures are not taken.

The constitution was passed by a clear majority with 507 of the 598 constituent assembly members voting in favor. However, around 60 members from the Madhesis and Janjatis community boycotted the vote. India views the constitution as unrepresentative of a significant fraction of the population. New Delhi's response to the constitution has come as a surprise to many. As a democratic country itself, India has arguably overstepped the limits of suggestion and rather tried to impose its views on its much smaller neighbor. In various international forums, India has repeatedly advocated for a country's right to self-determination. Unfortunately, this seems not to apply to Nepal. The concerns that India has raised may well be real. The Madhesis and Janjatis may indeed be fearful of their future at the hands of the three big political parties in Nepal. As a friendly neighbor, it is certainly not unreasonable for India to suggest concerns. However, asking the country to made seven amendments to its constitution the day after it was promulgated goes well beyond suggestion. India must respect the will of the Nepali people and the democratic process through which the constitution was drafted and adopted. Responding to the media report, the Ministry of External Affairs has issued a statement stating, "The article is incorrect. Government of India has not handed over any list of specific Constitutional amendments or changes to the Government of Nepal... we continue to urge that issues on which there are differences should be resolved through dialogue in an atmosphere free from violence, and institutionalized in a manner that would enable broad-based ownership and acceptance." The media reports further maintained that it "has confirmed from its sources that these amendments/changes were communicated by New Delhi to Katmandu. It stands by the report." Indian Foreign Secretary S Jaishankar was sent on a diplomatic mission to ensure that India's concerns are amicably addressed. His visit was a failure. Immediately after Nepal adopted its constitution; India recalled its ambassador in Katmandu for a briefing. New Delhi has expressed its displeasure (and also here) without much impact. It is likely to perceive this as its weakening grip over the Himalayan state, notwithstanding its humanitarian aid in the wake of the recent earthquake and Prime Minister Narendra Modi's visiting the country twice. (Mukesh Rawat : 2015).

Concluding Observations

Efforts are on to normalize Indo-Nepal Relations. Certainly it will take sometime to attain normalcy on

political and trade aspects. In this context, it has to be underlined that India may praise itself as the "world's largest democracy" but there are important lessons it can take from the new constitution of Nepal. With the promulgation of this Constitution, Nepal has become the first Asian country to explicitly recognize the rights of the Lesbian, Gay, Bisexual and Transgender (LGBT) community. The provisions under Right to Equality clearly state that "no discrimination shall be made against any citizen in the application of general laws on grounds of religion, colour, caste, tribe, sex, sexual orientation, bodily condition, disability, status of health, marital status, pregnancy, financial status, origin, language or region, ideological conviction or any of these."

The Constitution further states that nothing shall prevent the state from the "making of special provisions by law for the protection, empowerment or advancement of [among others] gender-based and sexually oriented minorities." In contrast, same-sex relationship is a crime in India under Section 377 of the Penal Code, which awards punishment of "imprisonment for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine." The Supreme Court in 2013 upheld Section 377 but left it to the wisdom of the parliament to decide whether to retain or repeal the draconian law. The central government recently informed parliament that it has no plans to repeal Section 377. The party in the past has welcomed the apex court verdict and also termed homosexuality as "anti-India."

Recognizing the rights of women, the constitution of Nepal explicitly states that "women shall have equal ancestral right without any gender-based discrimination." India has yet to introduce a similar right for women from all faiths. Moreover, ancestral property rights for women are not a fundamental right in India. Apart from this, the principles of positive discrimination and proportional inclusion have been employed in Nepal's constitution to give women the right to participate in all agencies of State mechanism and in health, education, employment and social security. While India has implemented positive discrimination in various fields, it has a long way to go to ensure proportional inclusion of women in state mechanism. Nepal also has become the second country after Bhutan in South Asia to abolish the death penalty. The Supreme Court of India in the past has accepted the fact that on various occasions innocent people have been executed. Since 1996, around 15 people have been erroneously given the death penalty. Two of them were hanged.

Under the new constitution, victims of

environmental pollution or degradation in Nepal now have the fundamental right to receive compensation from the polluter. In India the "right to a clean environment" is not explicitly mentioned in the constitution, but the Supreme Court has interpreted it be included under the right to life. However, unlike Nepal, the victims of environmental pollution or degradation in India are not entitled to any compensation as a fundamental right. The state may impose a penalty on polluters but this does not necessarily mean that the affected will be compensated. The state gets richer; the victims poorer. Similarly, while advocating for a fundamental right to education, the constitution makes special provisions for the empowerment of the differently-able citizens. It states, "Citizens with disability and economically poor conditions shall have the right to free higher education." On the other hand, in India no such provisions are available under fundamental rights for the differently able to access free higher education. Provisions for free education are limited only to the primary level. (Mukesh Rawat : 2015).

The current crisis in Nepal has political, cultural social and emotional dimensions too. But India should have responded with pre-cautions. It should be prepared to show more sympathy, concern and kindness towards a nation like Nepal. Nobody denies India's contribution to the overall economic, social and trade developments of Nepal. Along with India's assistants on several areas, it should also be prepared to understand the mindsets of Nepali people. If Government of India fails to ensure the warmthness and intimacy of the Nepali common man, whatever economic contribution extended to the land lock country may not be acknowledged by them with an open mind. The Indian foreign policy operators should take urgent and timebound efforts to normalize Indo-Nepal relations for the sake of both the parties.

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Implementation of Rights Based Public Policy: A Study of Issues and Concerns of Right to Education in India

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Abstract

There has been a growing Policy engagement with the rights regime witnessed by the formulation of rights –based laws as policy instruments. The Right to Information Act 2005, the Forests Rights Act 2009, the Right to Education Act 2009, the Food Security Act and The Mahatma Gandhi National Rural Employment Guarantee Act are the examples of the shift from a policy based on the perception of development as a welfare activity of the government to a policy that recognizes basic development needs as the rights of the citizens. In this paper an attempt has been made to discuss the nature of rights based public policies in the overall context of Right of children for free and compulsory education and the policy issues and concerns in implementation of the landmark policy in the country. The study concludes that despite limitations in its implementation, the Right to Education Act which came about as the result of a long struggle by people’s movements remain a remarkable achievement. As a new law enshrining the rights of all children to free and compulsory education will further lift enrolment, bringing closer the government’s goal of universal elementary education, which comprises eight years of schooling. While concerns regarding privatization and quality of education, high dropout rates and low attendance in schools remain, the Right to Education Act offers a first step towards an educational system in India that offers **access, equity, equality and inclusion** of all children.

Keywords: Right to Education; Access; Quality; Out of School Children; Social Inclusion and Exclusion.

Introduction

There has been a growing Policy engagement with the rights regime witnessed by the formulation of rights-based laws as policy instruments. The Right to Information Act 2005, the Forests Rights Act 2009, the Right to Education Act 2009, the Food Security Act and The Mahatma Gandhi National Rural Employment Guarantee Act are the examples of the shift from a policy based on the perception of development as a welfare activity of the government to a policy that recognizes basic development needs as the rights of the citizens. This compels a commitment of resources by the government, even

challenging some of its existing systems. In this paper an attempt has been made to discuss the nature of rights based public policies in the overall context of Right of children for free and compulsory education and the policy issues and concerns in implementation of the landmark policy in the country.

The Rights-based approach to education embodies three interlinked and interdependent dimensions. It contends that human rights related to education cannot be realized unless and until all three are addressed. (A Human Rights Based Approach to Education For All (New York, UNICEF) P.4)

- i. The right of access to education – the right of every child to education on the basis of equality

of opportunity and without discrimination on any grounds. To achieve this goal, education must be available for, accessible to and inclusive of all children.

- ii) The right to quality education – the right of every child to a quality education that enables him or her to fulfil his or her potential, realize opportunities for employment and develop life skills. To achieve this goal, education needs to be child-centred, relevant and embrace a broad curriculum, and be appropriately resourced and monitored.
- iii) The right to respect within the learning environment – the right of every child to respect for her or his inherent dignity and to have her or his universal human rights respected within the education system. To achieve this goal, education must be provided in a way that is consistent with human rights, including equal respect for every child, opportunities for meaningful participation, freedom from all forms of violence, and respect for language, culture and religion

The RTE provides legally enforceable rights. The act mandates that every child in the age group of 6-14 have a right to free and compulsory education in a neighbourhood school and if a school does not exist in an area, the government has to establish a school within three years.

As far as India is concerned, the right to education was discussed extensively in the Constituent Assembly. The Sub Committee on Fundamental Rights of the Constituent Assembly included the right to primary education as a fundamental Right. The Constituent Assembly rejected the Proposal and placed it in the Directive Principles of State policy. However, the Constituent Assembly has provided a policy frame work for elementary education in India. Since Independence, the Indian Constitution included this right in the form of a Directive Principles that aimed guiding governance. This meant that the country aspired to achieve universal elementary education for all children up to the age of 14 years from the time of independence and successive governments also adopted policies they could facilitate this aspiration.

The Supreme Court of India first recognized the right to education as a fundamental right in 1992. In its judgment in Mohini Jain vs. Union of India, it has observed that “Right to life is the compendious expression for all those rights which the courts must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct which the individual is free to pursue. The

right to life under article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. Therefore, every citizen had a right to education under the constitution and thus, the state an obligation to provide educational institutions at all levels for the benefit of all the citizens.” (Mohini Jain vs Union of India)

Again in 1993, the Supreme Court of India in Unnikrishnan vs. state of Andhra Pradesh observed that: the right education which is implicit in the right to life and personal liberty guaranteed by article 21 must be construed in the light of the directive principles in part IV of the constitution. So far as the right to education is concerned, there are several articles in part IV which expressly speaks of it. Article 41 says that the “state shall, which limits of its economic capacity and development, make effective provision for securing the right to work to education and to public assistance in cases of unemployment, old age, sickness, want”. Article 45 says that “the state shall endeavour to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of fourteen years”. Article 46 commands that “the state shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation. The three articles 45, 46 and 41 are designed to achieve the said goal among others. It is in the light of these articles that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41 meant (a) every child/citizen of this country has right to free education until he completes the age of fourteen years, and (b) after a child/citizen completes 14 years, his right to education is circumscribed by the limits of the economic capacity of the state and its development. (Unnikrishnan, J.P and others vs state of Andhra Pradesh., 1993)

Following the 1993 Judgment, several attempts were made by governments to incorporate the right to free and compulsory education as fundamental right under Article 21. Nearly after 10 years of the Supreme Court Judgment, in December 2002, Parliament passed the 86th Constitutional Amendment inserting a new Article 21A.

“ The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law determine “

Though the right to education was inserted in

constitution, it took another six years to bring the right of children to free and compulsory education Bill, 2008, which was passed in both Houses of the Parliament in 2009 and law received president's assent in August 2009. The Right to Education is a landmark law. With the enactment of Right to Education Act, India has joined the league of over 135 countries that have provided legal guarantee for free and compulsory education to children and make education as fundamental right. The act is also the culmination of efforts made by educationists, policy makers, members of civil society organizations and the Judiciary for the last many years. As a matter of fact, Gopal Krishna Gokhale introduced the elementary education bill in 1911 to enable local authorities to introduce compulsory education. However, the bill was rejected.

The Act saw a two fold increase in the country's elementary education budget and a renewed emphasis on universalizing enrolment and improving schooling infrastructure. (Accountability Initiative, 2012, DO Schools Get Their Money? PAISA 2012 (, 2012)

Salient Features of the Right of Children for Free and Compulsory Education Act

- ☞ The act provides for free and compulsory education to all children in the age group of 6 to 14 age group;
- ☞ No child shall be held back, expelled, or required to pass a board examination until completion of elementary education;
- ☞ No child should be denied admission in a school for lack of age proof.
- ☞ After completion of elementary education the child should be awarded a certificate.
- ☞ The act Provides for 25 per cent reservation in private schools for economically disadvantaged communities in admission to Class One.
- ☞ It mandates improvement in quality of education;
- ☞ The act stipulates that teachers should acquire professional degree within five years.
- ☞ The infrastructure of schools should be improved in three years, otherwise the recognition of school would be cancelled.
- ☞ Financial burden will be shared between state and central government.

Issues and Concerns of Right to Education

Access

With the advent of RTE act, though the access to

education has increased, still there are issues of increasing attendance, reducing drop outs and increasing enrolments at the secondary level. It is officially reported that elementary school enrolment has almost 100 per cent, yet there is a cause to be sceptical about this finding, because it is 'blind' to sizeable numbers of children who are completely 'invisible' to the state. This invisibility is particularly shocking with respect to one category of these children, namely Urban Street children, who are physically visible to policy makers every day but continue to be excluded from the education system. UNICEF estimated that, there were 11 million street children in India in 1994. (2, 2014)

Out of School Children

While there has been a decline in the percentage of out-of-school children (OoSC) across gender and social categories, Muslim, scheduled caste (SC) and scheduled tribe (ST) children need greater and focused attention. The number of OoSC who are physically or mentally challenged remains a cause for concern. The proportion of disabled out-of-school children in 2005 was 34.19 per cent and remained unchanged at 34.12 per cent in 2009. It is important to note that the maximum number of OoSC are those with mental disabilities (48 per cent), followed by children with speech disabilities (37 per cent). Neither the school system nor any other institutional mechanism is equipped to address the challenging needs of mentally disabled children who are most disadvantaged both socially and educationally in the system. (GOI, 2012)

A large number of children are still OoSC. Of the 8.1 million OoSC in the country in 2009, UP (34 per cent), Bihar (17 per cent), Rajasthan (12 per cent) and West Bengal (9 per cent) account for 72 per cent. The surveys conducted have reported a decline in the proportion of OoSC to the corresponding child population of various communities such as SCs, STs and Muslims. A study conducted for rural India places the proportion of children not enrolled in schools at 3.5 per cent. However, in a few States like Rajasthan and UP, the percentage of OoS girls in the age group of 11-14 years is as high as 8.9 per cent and 9.7 per cent, respectively. (Ibid)

Infrastructure

The Right to Education Act lays down nine essential infrastructural facilities to be provided in all elementary schools. They are-

- √ School building

- √ One class room per teacher
- √ Separate toilets for boys & girls
- √ Drinking water
- √ Kitchen to cook mid-day meals
- √ Boundary wall
- √ Play ground
- √ Barrier free access
- √ One office-cum-store-cum-head teachers room

The large majority of schools are devoid of the above mentioned infrastructure facilities. Despite concentrated efforts and budget allocations to build adequate number of schools and classrooms with necessary infrastructure facilities and equipment the government reported that less than 10 per cent of the 1.3 million government schools in the country were RTE compliant in terms of infrastructure. While at the end of three year RTE deadline infrastructure shortfalls are felt by all students, some of them have a particularly detrimental impact on children from marginalized groups. As of now many schools still do not have separate girls' toilets, which often lead to girls dropping out of school, especially after puberty, or forces them to stay at home during menstruation. Similarly, the absence of ramps severely restricts school access for children with disabilities. (Prasad, 2014)

The Right to Education (RTE) Forum Stocktaking Report (2014) suggests that across the country, less than 10 per cent schools comply with all of the RTE norms. (Govt of India 2014, 2015)

All schools will have to adhere to norms laid down in the Act and schools that do not fulfill these standards within 3 years will not be allowed to function. The norms and standards of teacher qualifications are also being laid down and teachers in all schools will have to subscribe to these norms within 5 years.

Equality of Opportunity

Every child has an equal right to attend school. Making schools accessible and available is an important first step in fulfilling this right. Equality of opportunity can only be achieved by removing barriers in the community and schools.

Schools can directly or indirectly impede the access of education of children. For example, through reflecting a male dominated culture, pervading patterns of violence and sexual abuse or prevailing societal norms, such as caste bias, negative teacher

attitudes towards girls, biases in curriculum, lack of female teachers and lack of adequate access to hygiene and sanitation can also inhibit enrolment drop outs levels. Sometimes Schools may also refuse to accept children with disabilities. (UNESCO).

Issue of Private Schools

The RTE act 2009 has made it compulsory for every private unaided school to admit at least 25% class from children belonging to weaker and disadvantaged groups in neighbourhood schools. There is indisputably a growing shift towards private schooling, not only urban areas but also across rural India, where fee private school low have mushroomed, carrying a fashionable tag of English medium schools. The study conducted by Shekhar Mittal and Parth J shah of centre for civil society revealed that:

- a. The poor and disadvantaged neighbor hoods such as slums are likely to have relatively poor quality of private schools. Therefore, the neighbourhood restriction may limit the disadvantaged sections to access only to these inferior quality schools.
- b. The rules suggest that the reimbursement amount be paid directly in to bank account of private schools but do not specify whether the full amount be paid in one go or the amount be divided over the academic year.
- c. For the purpose of the implementation of 25% reservation, the whole town should be defined as the neighbourhood for urban areas. (Shekhar Mittal and Parth J shah)

The Supreme Court has upheld the constitutional validity of right of children to free and compulsory education Act 2009 and directed every school including privately-run schools to provide free education to students from socially and economically disadvantaged sections from class I till they reach the age of 14 years. However the Supreme Court Judgment has exempted said the private unaided minority schools from the RTE Act. The Private minority schools need not provide 25% seats to economically weaker sections of the society.

Quality of Teachers

Quality of teachers has been a major concern in the country and it is one of the basic prerequisites to improve quality. With the aim to recruit quality teachers, CBSE conducted the first CTET test on 26 June 2011. Around one lakh applicants cleared the test. The second test was conducted in 29 Jun 2012. It

is expected that such initiatives will enable to create a good quality teachers. Special efforts were made to impart in service training to the teachers. As a result the percentage of professionally trained teachers has gone up for both regular and contractual teachers. However, still half of the contractual teachers are untrained and about a quarter of regular teachers lack professional training. The percentage of teachers receiving in service training in govt schools has been much higher than the aided and unaided schools. With the exception of Mizoram, the teacher training percentage has been amongst the lowest in other North Eastern states as well as Bihar, Rajasthan, Uttar Pradesh, Haryana and Chandigarh.

Shortage of Teachers

Another constraining factor is the shortage of teachers. The problem is acute in same states where there is a huge backlog of untrained teachers. The capacity to train teachers is also very limited in these states. The states with large teacher vacancies are Uttar Pradesh (269539 Vacancies), Bihar (219066), West Bengal (105200), Jharkhand (69163), Odhisa (56103), Chhattisgarh (54692).

However, the UNESCO institute of statistics in its report "Teachers and Educational quality: Monitoring Global needs for 2015" estimated that India requires more than 20 lakh new teacher to meet the Millennium Development Goal of Providing elementary education to all children by 2015.

Teacher Absenteeism

A major challenge to RTE is to address the high level absenteeism among teachers. While the average of teacher absenteeism is around 20% world-wide, India has the highest teacher absenteeism in the world at 25%. The level of absenteeism among govt primary school teacher ranges from 15% to 40%, with higher rates in the case of poorer states. Difficult access to schools is a major disincentive for getting suitable qualified teachers to provide education in rural areas. Other reasons include lack of basic toilet facilities, poor electricity supply, lack of uniform policy for promotion, etc. As per the world Bank-Harvard university study, 25% primary school teacher in India were absent from schools and only about half were teaching. Rate of absenteeism varied from under 15% in Maharashtra to 42% in Jharkhand. (Michael Kremer et al 2004, 2004)

The World Bank study in 2014 observed that in an academic year of 220-225 days, on an average, at least one seventh (14 percent) of the school calendar days went unutilized of instruction. There were 3

main reasons-

- i. Teachers reported that they were not in school, either because of training, attending meetings or performing function outside of the education department for on an average 25-30 days of teacher duty days. These lost days were particularly high in govt schools, where teachers were absent 10 days more on an average than private school teachers. Moreover, within govt schools, regular, more experienced and better trained teachers were absent than.
- ii. Teacher's personal and sick leave reduces the teacher time available to school by at least an additional 12 days especially in the case of regular teachers in govt schools.
- iii. Around 3-4 days of were lost on account of local festivals, events of national importance. (Linden, 2014).

Deployment of Teachers to Non-Academic Work

The act Prohibits deployment of teachers for non-academic works, except decennial census, disaster relief and elections to Central, State, Municipality and Panchayati Raj institutions. The study conducted by Vimala Ramchandran and her colleagues have quoted a Primary School Teacher in 2005 as saying: We have five teachers in our school. One of them is a daktar, who responds to enquiries that came from above and dispatches data/information to the district or block office. The other is a halwai, who manages the mid-day meal. The third one is perpetually on training and the fourth is a clerk who has to maintain accounts and pay salaries. Who then, is left to manage five classes and teach around 200 children? The act has relieved teachers of all non-academic duties. However, it is silent on these non-academic responsibilities. (ramchandran, 2005)

Exclusion of Dalit Children

The RTE defined the Disadvantaged Groups as those that belong to "the SC, ST, socially and educationally backward classes or such other groups having disadvantage owing to social, cultural, economical, geographical, linguistic, gender, or such other factors as may be specified by the appropriate Government by notification.

The following are some of the documented experiences of exclusion faced by Dalit children.

Exclusion of Dalit Children by Teachers

- ☞ Separate seating arrangements in the classroom,

with Dalit children made to sit separately or outside the classroom.

- ☞ Undue harshness in reprimanding Dalit children. For instance, in scolding children for coming late to school, in resolving fights between children, condoning name-calling by upper caste children, etc.
- ☞ Not giving time and attention to Dalit children in the classroom, such as not checking their homework or class work, not answering their queries – even rebuking them for asking questions in class.
- ☞ Excluding Dalit children from public functions in the school. These include non-participation in the morning assembly or other public events such as on Republic Day or Independence Day.
- ☞ Making derogatory remarks about Dalit children – their supposed lack of cleanliness and inability to keep up with academic work.
- ☞ Denying Dalit children the use of school facilities, including water source.
- ☞ Asking Dalit children to do menial tasks in school, including cleaning the school premises and even the toilets.

Exclusion of Dalit Children by Peer Groups

- (i) Calling Dalit children by derogatory caste names.
- (ii) Not including Dalit children in games and play activities in the classroom or in break time when children go out to play; Dalit children often return to their own neighbourhoods to play with non-enrolled Dalit children.
- (iii) Not sitting with Dalit children in the classroom.

The above issues have to be urgently addressed by the authorities for the successful implementation of the RTE.

Poor Level of Learning out Comes

Though there are rapid gains in enrolment and attendance, average levels of educational attainments and basic skill acquisition, including reading and writing, remain low by international standards. (Sam Hill and Thomas Chalaux, 2011) The biggest concern in elementary education is the poor level of student learning-both scholastic and co-scholastic/non-cognitive. Evidence suggests that learning out comes for children in schools are far below corresponding class levels in other countries, and that the learning

trajectories for children who remain in school are almost flat. Clearly, the additional time spent by student in schools as they move from one class to another is not translating in too much improvement in learning levels. At the heart of the issue of quality are the weak teaching processes and transactions between teacher and learners that are neither child-friendly, nor adopt child centred approach to curriculum.

The Annual Status of Education Report (ASER) 2014 mentions that of all children enrolled in standard V, about half cannot read at standard II level. The survey also revealed that children in standard II cannot even recognize the letters. Even worse is in 2010 only 13.4 percent in Standard II children could not recognize the letters; their number has gone up to 32.5% in 2014. By the end of standard ii children should be able to read simple sentences easily.

With regard to number recognition, standard II children did not recognize numbers 1-9 and the standard III children did not recognize the numbers till 100.

The ASER 2014 further revealed that a growing proportion of standard ii children do not know numbers 1 to 9 in standard I. This means that they are not learning them in standard 1. The reports also revealed an increasing numbers of children in standard III do not recognize numbers till 100. This means that they did not pick them up in standard II. (ASER, 2014).

Increase in Private Schools Enrolment

The ASER survey 2014 report data reveals that private school enrolment has been rising year after year. In 2009, 21.8% children had enrolled in private schools where as in 2014, their number has gone up to 30.8 at all India level. However, there is a great deal of variation across states in levels and pace of growth over time. The high enrolled in private school states are Punjab with 49.3%, Haryana with 53.6%, Rajasthan with 43.5% and U.P. with 52.8% in 2014. (ASER, 2014)

Education Financing

Education resource requirements are massive, e.g., for construction of thousands of new schools, recruitment of 1.5 million additional teachers, education costs for millions of children added to the school population every year. The Act provides for a 65-35 per cent cost-sharing scheme for education expenditure between central and state governments.

However it is feared that states which are poor and have limited resources, or whose local administrations lack commitment to education, will not match the funding required.

Financing for RTE remain inadequate. Total public expenditure for education, at less than 3.5 per cent of GDP, is way below the 6 per cent commitment in National Education Policies. Accountability Initiative notes that with the launch of RTE, the total SSA budget including Government of India (GOI) and state shares increased over two-fold from Rs 27,552 crore in Financial Year 2009-10 to Rs 69,937 crore in Financial Year 2012-13. However, the total approved budget shows reductions. In Financial Year 2014-15, only Rs 54,925 crore was approved under SSA, a drop of 22 per cent from FY 2012- 13.

As Dr. Shantha Sinha has Rightly Observed

“What is missing is accountability in the Law. The RTE Act has 60 or 80 entitlements. But who is to be held responsible for failure to comply with each entitlement is not in the Act RTE is a complex Act involving several authorities. For toilets and water, you have one department, for buildings you have another, for Mid-day meal and corporal punishment another department you have to specify who is responsible for each. This is not in the Act.” (Limitations make RTE Act Difficult to implement, 2012).

Right laws have failed to some extent to tackle the question of administrative capability head on. It is striking that with each new law, the government expanded significant political capital in determining financial allocations for implementing the laws. However, no parallel effort was made to identify the human resources and administrative requirements—the staff, skill-sets, training needs, management system to implement these laws. This is particularly relevant given the limited capacity of the bureaucracy in its current form—both in terms of size and structure. (Accountability Initiative 2014, Rights, Accountability and citizenship: Examining India’s Emerging welfare State, 2014)

To conclude, despite limitations in its implementation, the Right to Education Act which came about as the result of a long struggle by people’s movements remain a remarkable achievement. As a new law enshrining the rights of all children to free and compulsory education sell further lift enrolment, bringing closer the government’s goal of universal elementary education, which comprises eight years of schooling. While concerns regarding privatization and quality of education, high dropout rates and

law attendance in schools remain, the Right to Education Act offers a first step towards an educational system in India that offers access, equity, equality and inclusion of all children.

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Liberal Notion of Human Rights: A Critique

Sonali Singh

Abstract

Human rights discourse is predominantly derived from the liberal philosophy. Most of the human rights declarations have been formulated incorporating the philosophical tenets of thinkers like Locke, Rousseau, Montesquieu amongst others. But all liberal concepts cannot be applied to non-western societies because they are not compatible with their different social and cultural backgrounds. Hence, scholars whether communitarians or feminists from both western and non-western worlds have challenged the liberal notion of human rights on multifarious grounds. Further, how Universal Declaration of human rights, which is derived from liberal philosophy, can be called universal when most of the third world countries were not free when it was formulated. There is no doubt that liberal notion of rights has played a very significant role in the evolution of modern human rights discourse, securing individual against multitudinous tyrannies of state and society. But non-western societies have not developed as per the parameters of liberal traditions and have different social and cultural constructs to secure human dignity. Many issues like concept of individual, priority of rights over duties, male-centrism, absence of community and cultural rights have been contentious, that have characterized the human rights debate. In order to develop a truly universal human rights, there is need to incorporate non-liberal conception of rights along with the liberal traditions. But caution has to be exercised while selecting the useful and relevant and eschewing the repugnant elements of any culture.

Keywords: Human Rights; Liberalism; Third World; Universal; Communitarian.

Liberal philosophy has shaped our dominant understanding of human rights. It lays down a unique form of relationship between the (new, modern) individual and the (new, modern) state, a relationship based on the prima facie priority of the individual over the state in those areas protected by human rights. According to liberal notion, "a human right is a right that a human person has simply by virtue of being a human person, irrespective of his or her social status, cultural accomplishments, moral merits, religious beliefs, class membership or cultural relationships" [1]. It is based on liberal conception of a rational, autonomous, competitive, independent individual as the fundamental unit of society, who

are entitled to equal concern and respect.

The roots of liberal theory of human rights can be traced back to John Locke and his work *Two Treatises of Government*, published in 1689. He defended natural right to life, liberty and property of the individuals and established its supremacy over the state. Some of the important linkages between Lock's notion of natural rights and present notion of human rights can be mentioned as follows [2]: 1. Concern for equal worth and dignity of individual based on universal human nature; 2. Emphasis on the right of the individuals; 3. Conception of individuals as discrete and autonomous unit; 4. State as a means to protect and safeguard individual's rights; 5. Right to

revolt against misuse of power and arbitrary rule.

The teachings of Locke have influenced American Declaration of Independence, July 1776 and French Declaration of the Rights of Man and of the Citizen, 1789. Other liberal thinkers who have influenced development of modern notion of human rights were Rousseau, Montesquieu, J.S. Mill, T.H. Green, Rhoda Howard, Jack Donnelly, John Rawls, Ronald Dworkin amongst others. In the modern times, the liberal notion of human rights is exemplified in the Universal Declaration of Human Rights, 1948 and two Covenants-Covenant on Civil and Political Rights, 1966 and the Covenant on Economic, Social and Cultural Rights, 1966-along with two Protocols. The metamorphosis of natural rights doctrine to universal human rights has not taken place in one go but through many stages, which can be divided as [3]: 1. the first stage is to be found in the philosophical works; 2. the second stage in the history of human rights is the transition from theory to practice, from the mere perception of a right to its enactment; 3. the 1948 Declaration commenced in the third and last stage in which the assertion of human rights is both universal and positive: Universal in the sense that the principles it contains no longer concern only the citizens of this or that state, but all human beings, and positive in the sense that it initiates a process whose end is that human rights should no longer be proclaimed and recognized as ideals, but effectively protected even against the state which violates them.

This derivation of universal human rights from liberal philosophy has been subject to multifarious criticisms. The first is regards the definition of individual in the liberal notion of rights, because the bearer of human rights are individuals, irrespective of class, gender, race or place of birth. There is necessity to understand this definition of individual to fully understand the impact of modern notion of human rights on non-western societies. Liberals define individual as essentially rational, independent, competitive and autonomous being. It ignores the nurturing cooperation and mutual respect that are the essential, not only for the development of individual but also forms the basis of human society. In non-liberal tradition by contrast, individuals have social meanings only as part of a group defined by birth. Explaining this difference through the notion of *individual* and *person*, Panikkar writes, 'nothing could be more important than to underscore and defend the *dignity of the human person*. But the person should be distinguished from the individual. The individual is just an abstraction, i.e., a selection of a few aspects of the person for practical purposes.

My person, on the other hand, is also 'my parents, children, friends, foes, ancestors and successors...One individual is an isolated knot; a person is the entire fabric around that knot woven from the total fabric of the real...' [4]. Liberals consider differential treatment of individuals as a result of individual's achieved status, while non-liberals' conception involves differential treatment based on ascribed status. Hence, adopting liberal view of rights means becoming homogenous, "de-socialized" and "de-culturalised" beings. Further, the equalitarian focus inherent in the development of liberalism - the claim that all individuals were fundamentally equal, can not be completely reconciled with the emphasis on creative self-determination or authenticity that have changed the modern meaning of "individualism" to connote distinctiveness. Iris Marion Young argues that the ideal of impartiality upon which liberal justice is grounded produces a 'logic of identity that seeks to reduce differences to unity.

According to liberal notion, the individual does have social duties (Art. 29, Universal Dec. of Human Rights), but the discharge of social obligations is not a precondition for having or exercising human rights. The corporate sense of personhood in non-liberal tradition means that as one claims rights based on group identity, so one correspondingly has duties which flow from that identity.

Underlying the linkages between liberalism and political regime, it is argued that, 'only liberalism understood as a regime based on the political right to equal concern and respect, is a political system based on human rights [5]. Further, Jack Donnelly argues that - ".....these rights in turn demand and if implemented would play a crucial role in creating a liberal society and ideal person envisioned by liberalism" [6]. But the majority of humanity do not live in such societies and have never done so. The idea of human rights as that of an ideal standard consisting of liberal democratic rights makes many of such rights irrelevant to much of humanity. Then what is the justification for calling them human rights as distinct from liberal democratic rights [7]?

Asmarom Legesse in "Human Rights in African Political Culture", argues that Declaration is universal in its intent, but not in its derivation [8]. Human rights enshrined in the Universal Declaration is a statement of values that derive directly from the liberal democracies of the western world and was formulated before most of the Third World achieved independence. It faces the danger of becoming an instrument of cultural imperialism. Two factors that account for the limited viability and

applicability of the liberal notion of human rights in the non-western world are- 1. the cultural patterns; 2. the development goal of new states including the ideological framework within which they are formulated [9].

Johan Galtung challenges the entire construction generated by liberal tradition of human rights itself [10]. According to him, there is a norm triad gradient in human rights- [the norm receivers (R), the states; the norm senders (S), the U.N. General Assembly for universal human rights; and the norm objects (O) are individual human rights (S.R.O.) triad], expresses vertical slope of an ethics of rights and duties from above rather than human compassion. Further, the construction gives the universal and regional organizations of states increasing legitimacy, leading to a more centralized world society. It also gives the states increasing legitimacy leading to a more centralized national society. The construction detaches the individual knot even more from the net of reciprocity and solidarity leading to more alienation.

Non-liberals challenge the liberal argument that - economic and social rights, are neither universal, practical, nor of paramount importance and they are not truly human rights [11]. They argue that non-western societies place greater emphasis on the community basis of rights and duties, on economic and social rights and on the relative nature of human rights. Proponents of the "rule of law" convinced of the uniqueness of the west are not prepared to concede that customs and traditional usages in most third world countries have functioned for centuries in place of "law" and that even without the "rule of law" these were conventions and traditions which bound one person to respect the rights of another [12].

Many scholars have associated liberal notion of human rights with western societies like, Joseph Raz associated autonomy with the western ways of life and its absence with immigrants and indigenous people, both black [13]. He equates non-liberals with illiberal. Brian Barry's liberalism centers around a single and narrow view of the good life and has little patience with the religious and communal ways of life. John Rawls, too, in his *Theory of Justice* advocated a narrow conception of liberal society. He does not recognize cultural identity as a primary good and a source of legitimate claims on the state.

On the other hand, Abdul Aziz Said, Chris Mojekwu and Richard Claude argue that the cultural factors are an additional - frequently overlooked but necessarily relevant element in understanding the multifactorial basis of human rights at the

individual, local, national and international levels. Liberals concept of equal respect for persons confines to respect for their own cultures and ways of life. Most Third World and many First World countries have minorities and even previously dominant cultures that are threatened. For example, Indians, Inuit and Metis in Canada; Native Americans, Chicanas and Cubans in the United States, Bretons in France. The Welch in Britain; Khazaks and Uzbeks in the Soviet Union; the Aborjines; Torres Strait Islanders of Australia; and Maori of New Zealand. In extreme cases, such as the Amazonian Indians, cultural rights may be literally a matter of life and death.

The individualizing prospect of human rights deprives these underprivileged groups as such of their major political asset: mobilization and organized struggle as a group. For example, the right to education means that each individual's right to have access to public schools as defined by and organized by the dominant (majority or not) group. It does not necessarily mean the right of a group of individuals with some shared (ascribed or achieved) characteristics to institutionalize their own type of education. To be an equal member of any society, not only must we have equal "rights" but our identities must be given equal value, "just as all must have equal civil rights, and equal voting rights, regardless of race or culture, so all should enjoy the presumption that their traditional culture has value [14]."

Some organizations such as the Minority Rights Group (London) and Cultural Survival (Boston) have adopted a broader conception of "human rights", whose discourse is concerned with the numerous rights of "collectivities" whether conceived in terms of race, gender, class, ethnic or linguistic background.

Feminist thinkers argue that abstract notion of impartiality treats women as human beings without taking into cognizance that women have specific needs and capabilities arising from characteristics concerning them alone that require protection by means of rights and without which they are fundamentally dehumanized [15].

Even in the modern west, where individualism seems to have reached the pinnacle of its historical development, few people define themselves entirely as individuals. For example, the rise of an aggressively Evangelical Protestants who strongly emphasize the link between their religion and their personal identity. Most Blacks see their race as an important facet of both their self-determination and their definition of others in society.

The irony of cultural domination perpetuated by liberal regime is that it has reversed its course and

emerged within its national boundaries as well. Britain and also France, once the epitome of a powerful colonial power, is now looking inward, re-examining the very structure of national life and restructuring the position of the subdominant nationalities. It is easy for liberals to preach human rights to whole world, but dismiss one's own atrocities as minor aberrations. For example, use of Black American as cheap and disposable labor and denial of human rights to impoverished populations remaining locked in ghettos.

It may not be out of place to mention how Galtung, by criticizing Art. 27(2) of Universal Declaration of Human Rights highlights its indifference to collectivity and gender issues. Art. 27(2) of Universal Declaration of Human Rights mentions, everyone has the right to the protection of the moral and material interests from any scientific, literary or artistic production of which he is the author. The key, phrase in article, of which he is the author, highlights male chauvinism, expresses the interest of a particular class of workers only-cultural workers and denies the collectivity of workers "the right to protection" of moral and material interests [16].

Hence the entire liberal human rights tradition is based on- first, center/periphery relationship with west at the center of the world; second, universalism, with the idea that western liberal notion of rights is applicable throughout the world; thirdly, good/evil dichotomy, where everything which is western and liberal is good and the opposite as evil, with right to marginalize evil with crusades or deter it with atom bombs.

Further, the question of human rights is not just a liberal concept based only on the eighteenth century pronouncements of the French and American revolutions. Human rights perspective is also present in Hindu, Islamic, Chinese, Buddhist and African traditions, that very much protect the dignity of human person, though in collectivity, and not necessarily defined in liberal rights language. To illustrate, firstly, in Hindu philosophy, corporate nature of rights based on caste and collective group obligations, make little sense of a uniform standard that can be applicable to all men. It rejects single perception of truth, common to all and hence if there are many levels of rights, then all are valid. Rights bring obligations and failure to perform obligations can deprive an individual of his or her rights- a theme that is antithetical to western view [17]. With regards to Islamic perspective, Ahmad Farrag in "Human Rights and Liberties in Islam", explains that Islam is a view on social life that is spiritual rather than materialist, it formalizes the relationship between

man and God, concentrates more on duties than on rights. Correspondingly from the Chinese tradition could come a respect for the family as a unit partly by having the family as a norm receiver for basic needs provision, partly by having the family as a norm object to be protected by the state [18]. In Africa, it was a person's place of birth, his membership or belonging to a particular community that gave content and meaning to his human rights-social, economic and political. They emphasize collective or communal rights as opposed to individual rights.

European colonizers intervention and induction of liberal values in contemporary Africa, has destroyed the precolonial African authority structure and choked its concept of human rights [19]. In the Buddhist conception, society is patterned on family: the political leaders - the emperor, in the past - is like the father of a family with all the powers, authority, responsibilities of the pater-families [20].

Hence, Asmaron Legesse argues that, "any system of ideas that to be universal must contain critical elements in its fabric that are avowedly African, L. American or Asian derivation [21]." The present liberal notion of human rights is euro-centric, narrow, dogmatic and abhorrent of non-liberal lives. Hence it stands in need of urgent revision. True universality is a never ending process, involving all cultures. Evolution of our own indigenous perspective of human rights generic to our social-cultural milieu requires that the concept be presented in such a way that it strikes a chord in peoples' heart, that it relates to local cultures and that it addresses the concerns of local communities. There is need to preserve the best and most distinctive features of all cultures and value system and jettison the most repugnant when making changes required for compliance with human rights. Mankind is in urgent need of a notion of human Rights which is dynamic, responsive and truly universal.

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