A Significance of Human Rights

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The present day human rights advocacy can be justified on grounds of 'positive view of freedom'. This entails 'the view that individual freedom in the full sense involves having an opportunity for self- realization... The political content of the positive view is that, if certain resources, powers or abilities are needed for self-realization to be effectively achievable, then having these resources must be considered part of freedom itself. It is on this basis that modem revisionary liberals have defended the welfare state as a freedom- enhancing institution: it is alleged to confer needed resources on individuals and thereby to expand their chances of freedom'.(Gray.l986:pp.57,58). The view of Bentham on natural rights and the statement of Maurice Cranston on human rights sets in motion the contemporary debate on human rights. On natural rights Bentham opined that "Right is the child of law; from real laws come real rights, but from imaginary law, from "laws of nature", come imaginary rights...Natural rights is simple nonsense,, natural and imprescriptibly rights...rhetorical nonsense, nonsense upon stilts'.(Quoted in Cranston , Maurice 1967:p.44). According to Maurice Cranston, "The traditional human rights are political and civil rights such as the right to life, liberty and a fair trial. What are now being put forward as universal human rights human rights are social and economic rights such as the right to unemployment insurance, old-age pensions, medical services and holidays with pay. I have both a philosophical and political objection to this. The philosophical objection is that the new theory of human rights does not make sense. The Political objection is that the circulation of a confused notion of human rights hinders the effective protection of what are *correctly seen as human rights.(Ibid.p.43). The* views expressed by Cranston appealed to me as relevant on perusal of the Vienna declaration and Programme of action adopted by the World Conference on Human rights in Vienna on 25 June 1993.

1.   Introduction

The Vienna Declaration has become an omnibus of disparate aspirations masquerading as rights. These aspirations belong to a particular conception of good life with material underpinnings. The content of what constitutes good life has been a contentious issue with no agreement whatsoever even in the liberal discourse. But the dominant liberal western conceptions of democracy, secular State .pluralistic society and material prosperity and emphatic individual rights to be protected by the state are advocated as human rights. Thus human rights have become a set of principles for advocacy by transnational and international organizations. While the post world war period has seen the beginnings of human rights concern in the international organizations, the momentum picked up in the 1970s with the United States picking up the cause and insisting on implementation through tied up world bank loans(Cmiel:1999.p.l232). Human Rights and environmentalists have depended largely on information dissemination through images and lobbying with the political elites to promote the agenda of human rights and environmentalism. The advocacy of human rights is also conceived as native to American culture and its promotion as its destiny. "The American experience was from its roots characterized by a religious vision to be propagated far and wide and as to explicitly sectarian nature of that vision diminished with the growth of pluralism and toleration, it transmogrified into a religiously tinged moral mission to be a model of liberty , a champion of those who had been supplied by nature with a yearning to be free but cast by political circumstances into chains." Further, "Nor is a predisposition to Natural Law the only thing prevailing human rights norms share with neo-conservative presuppositions. Following on that natural law theory of rights, the human rights community has also tended to see its task in moral terms and the world in Manichean, divided between the children of light who would respect human rights and all the children of darkness who would savage them, be they on Pyongyong, Harare or yes, Baghdad." Following this logic, use of force is justified against states with perceived poor human rights record.(Schulz: 2009.pp4,8&9).

There are around 30 articles in the Universal Declaration of Human rights which have proliferated to 100 articles in the Vienna Declaration. The expanded list merely enclose the myriad human concerns without any particular regard to the disparities in economic development, stages of development (I am using it here in the Marxian sense of pre-capitalist stages of accumulation), religious and cultural sensibilities. Under the circumstances it can be said that human rights in their present form denote a particular hegemonic view point. This prescription of one size fits all syndrome devalues the advocacy of human rights.

2. The Real and Ideal in Human Rights

The agenda of human rights raises the specter of erosion of nation-states sovereignty. The ' new Medievalism' , a phrase coined by Hedley Bull to describe the contemporary developments in the modem state system and the system of governance reminiscent of overlapping powers and authorities in medieval Europe, perceives that sovereignty of the nation state being distributed among sub-national, national and supranational institutions. David Held 'raises the issue of the construction of new forms of authority within the global system' and put forth a model of 'cosmopolitan democracy' involving 'regional parliaments, transnational referenda, more open intergovernmental organizations, and a refined United Nations'.(Harrison, Graham,2002:p.26). If on the one hand the raise of transnational supranational and international organizations and institutions has made national boundaries tentative than real for the elite classes, state boundaries have remained very much real for the majority of the masses. War and peace are still particularized for people within boundaries of a state as targets of hostilities. It has been the conclusion of the analysts of the Washington Consensus' that , if on one hand the role of the state is expected to be minimized in facilitating the flow of financial capital, the state is also expected to play an active role in minimizing the resistance of the effected people by depoliticizing resistance by co-opting NGOs of all hues in the name of community participation, capacity building, empowerment, rural livelihoods, poverty eradication and such other ameliorative welfare measures.

3. Spirit of the times: New Vocabulary

Under the influence of Neoliberalism and globalization, while there have taken place changes in relations among institutional structures, in the cultural sphere post-modernism has influenced the outlook of individuals in their expectations from the institutions. The postmodernist identity politics with a fragmented world-view could have led to a lack of common agenda or consensus in all spheres of social existence, the emergence of environmental issues has a salutary effect on the situation by providing an agenda where the interconnectedness of all humanity is reinforced. Today, humanity at large is concerned about the ill effects of industrialization on the planet Earth. Global warming and the threat of submergence of worlds coastal lands has brought about a sense of urgency in addressing the issues relating to environmental degradation, sustainable development, conserving bio-diversity. There has come about a realization that all of the humanity have a stake in the maintenance of the 'global commons' which includes the atmosphere, lithosphere and biosphere shared by all.(Mohanty, Biswaranjan,2010.p.627). Hydrosphere is also included in the environmental concerns.(De, Anil Kumar:2005.p.3).

It can be said that Human Rights discourse and the environmental concerns has assumed in the primacy that was previously occupied by the idea of 'progress' and development. "The emergence of 'epistemic communities' as suggested by Peter Haas has rejuvenated recurrent notions about the possibility of attaining common norms and consensual solutions through an enlightened international democracy". (Coussy, Jean:2005.p.l79) New areas of study have emerged highlighting the primacy of the environmental concerns in human affairs like 'Environmental chemistry', 'Environmental Economics,' 'Ecological Ethics', 'Environmental Studies', 'Political Ecology' etc. Concepts and approaches have emerged like World Wide Public Goods, Global Public Goodsfpure and impure), Externalities, trading of emissions, managerial environmentalism, sustainable development, Livelihoods, stake holding, deep ecology, Green politics with approaches of light and dark green approaches etc. "The study of International Political Economy has ...incorporated the environment as one of its concern... This intersection of environmental concerns and the international political economy can be termed the problem of international or global governance". (O'Brien and Marc Williams, 2007:p.332).

4. Overlapping concerns of Environmentalism and Human Rights

The Environmental concern of the Western nations is also shared by the nations of rest of the world but when it comes to the practical steps to halt environmental degradation, there is no consensus. The main arguments of the developing nations are that 1) the present day developed economies have been the major environmental polluters and their pattern of development is unsustainable. 2) Imposing of restrictions on the exploitation of natural resources would be detrimental to the economic development of the developing countries. 3) The developing countries expect that the developed nations should foot the bill for meeting the costs of control of environmental pollution. 4) Sharing of clean technologies with the developing countries would reduce environmental costs. Thus, there is no agreement on cost-benefit allocation for a sustained effort at containment of environmental degradation. According to Robert O'Brien and Marc Williams, "the environmental problematic is a complex and multi- faceted one, with diverse

political, social, economic and ethical dimensions ...to assume that all environmental problems are global can lead to the erroneous conclusion that environmental degradation translates into shared concerns, that we share a common future, and that we have a common interest in combating environmental destruction. Such a conclusion is apolitical and abstracts from the power relations inherent in both the causation of ecological harm and the steps necessary to provide workable solutions."(2004:p.335)

5. The Indian scenario

In the specific Indian context, Indian parliament passed the Protection of Human rights bill in 1993, | which became an Act in 1994. Under this Act NHRC has come into existence. According to Ghanshyam ! shaw " More often... the struggles of the people on the issues of their livelihood and access to forest and other natural resources are coined as 'Environmental Movements'. (Shaw,2002.pp.248,250). India being a vast country with multi-religious and ethnic demographic profile, unresolved issues of group /regional identities and politics, the repressive nature of state is faced by sections of society not in consonance with mainstream politics. Castism, communalism, ethnicism, separatism, gender inequalities, are the locus of human rights violation. The shortfalls in the Governmental effort to provide basic amenities like food, shelter, water, sanitation, access to health and educational facilities which are taken into stride mostly, may also be deemed as human rights violation and the Supreme court has held just such a view. India has seen developmental displaced population even before the opening up of the economy in the 1990s. With growing awareness of the rights of the people Media has also given an exposure of the people's resistance to loss of their lands and livelihoods sacrificed to accommodate the interests of big business (an ambiguous term covering national, transnational and international corporate interests and investments). The Rehabilitation and compensation package offered by the government is not considered equitable. The perception is that while formal laws are in place the state and its machinery is lax is administering the law. The reasons vary from corruption, class (and caste) bias, vested interests and the belief in a trickle- down theory of economic development.

The question of quantity v/s quality needs to be debated seriously in the context of depriving people of their livelihoods, eviction from traditional ways of existence and then offering institutionalized paltry assistance in an adhoc and unsustainable manner. The essence of the developmental model adopted appears to pauperize the marginal and vulnerable sections of the society and treating their ways of living as dispensable. According to C.T.Kurien "to the extent that people recognize the politics of global capitalism and assert their right to livelihood, employment and an orderly life, national governments...have the option and power to discipline the MNCs.(Kurien:1994.p.87). Pranab Bardhan points out that "in general, while globalization ...can constrain some policy options and wipe out some existing jobs and entrepreneurial opportunities for the poor and for small enterprises, in the medium to long run it need not make the poor much worse off if appropriate domestic policies and institutions are in place and if appropriate coordination among the involved parties can be organized". (Bardhan:2006.p.27). On the whole Bardhan stresses the importance of domestic institutional reform and says "serious obstacles to redistributive policies are often domestic".(zZ>/d ,p.2l). But the question of autonomy of the state to pursue policies free from global compulsions. "The coercive influence of the international financial institutions together with the realities of the contemporary global economy have severely limited the policy autonomy of domestic political actors , ineluctably forcing all governments to converge on orthodox neoliberal policies, manifest in little regulation and privatization.., reduced social welfare expenditure flexible labor markets, and a shift in the burden of taxation from capital onto labor". Doyle,David:2012.p.573). However the conclusion of David Doyle on the question of autonomy of the state to adopt a partisan policy is that the compulsion of domestic electoral calculations leaves some scope for adoption of partisan policies. The relevance of Human rights in an ecological approach is a contestable theme. The desirability of sustainable development though is not contestable; the method to be adopted to achieve the same is contestable.

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