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Defining and Understanding of Human Rights from Different Perspectives

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Abstracts: The paper is meritorious as it a deep investigation into the abstruse area of human rights, the definition. A meticulous attempt has been made concerning different perspectives such as legal, sociological, philosophical and peace defining human rights, and further a mentor's explanation made to justify the given definition with a rationale to its concern.

Keywords: Human, Rights, Definition, Law, Society

Introduction: 'Man is a social animal' as defined by Aristotle provides an inception to human rights. Persons live in a society; society is a structured body; here every individual has to follow certain rules and guidelines. In broader sense these are understood as law. When a particular society is considered, a segment is understood. For example, Nambudari Brahmin Society in Dravidan region is considered, it a segment in such region when considered the region as whole. In same way Dravidan is considered in Indian as a segment, and Indian society as a segment in world as whole. Human Rights refer to not any segmented society but human society as a whole and one. As a societal law or customary law exists for one society, humanitarian law is for whole human society and aims to protect human rights of its members for the either restoration or longing of peace.

During the beginning years of human civilisation people feared of committing wrong, it was why they believed they were governed by a super power, they termed as God; thus the belief might be blind one but we got a proof of belief in God's Law. As the time rolled further, human civilisation structured, assimilated, reformed with the growth of population and individuality. In the set of law made by leaders which was reformed and amended from the God's law. The present law prevailing in any society or state has its root from such God's law. The God's law is also known as primitive law. Because primitive society which had no formal institution and organisation believed in reward for right and punishment for wrong in God's Law.

If law is understood to govern the people in its operation or application limit then humanitarian law is defined as such law aims ultimately to protect humanity. The humanity is protected only by protection and preservation of rights of people. Definition Rights: In simple rights are understood as entitlement or fundamental normative rules having ethical, social and legal in nature. The rights are often considered fundamental to civilisation being regarded as established pillars of society and culture.

A wild deer in forest grazes in grasslands to survive. It has two right in general- First right to live freely in forest and secondly right to grazing. A Poacher catches and confines in a cage in zoo. Here the deer loses both the rights, there the claim of animal rights come into force. These two rights are natural and inherent to the deer thus there is the claim of right. Here

these rights are of deer not entitled to deer of particular forest but every deer in all forests of the world. Because as per nature every deer live in forest and does grazes. In same way we human beings have certain natural rights, inherent in nature, recognised or known as human rights. Broadly speaking human rights are those fundamental and inalienable rights which are essential for life as human being. These are not created by any legislation; they resemble very much the natural rights.

Let discuss the minimal need of a person. As a living being a man wants food for survival; as a social animal it needs body cover known as clothes and lastly because of environmental nuances and its biological limitations shelter is needed, thus food, cloth and shelter formed the three basic amenities of a person, and almost every society long back recognised these three basic amenities as basic human rights and minimum rights a human being entitled. With the pace of time, the social, cultural, political, civil and economic demands added more fundamental rights in different constitutions of the national. So far as universal mankind is concerned human rights are sometimes called as fundamental rights or basic rights or natural rights. As fundamental rights or basic rights they are the rights which can't, rather mustn't, be taken away by any legislation or any act of the government and which are often set out in a constitution. As a natural right they are seen as belonging to men and women by their very nature. They may also be decided as 'common rights' for they are rights which all men and women in the world share.

Since human rights are inherent and not-created by any legal body, for the protection of then a formal recognition is essential. Thus UN recognises formal recognition in its charter. The legal duty is to protect human rights is to respect human rights. As law holds the dynamic character, humanitarian law or human rights law is dynamic. Following its dynamistic character, human rights law is amended, revised and reformed when challenges and new-recognitions of rights made. For example right to property was a fundamental rights in Indian constitution is not now recognised. Gay rights are now taking importance in the list of human rights in different world nations.

Understanding from Sociological Perception:

Auguste Comte, the father of modern sociology, believed that evolution of human minds parallels that of the development of the individual's intellect, that is Phylogyny (development of the Species) recapitulates Ontogyny (development of individual). In other words, man pass through successive stages of historical evolution leading to some final stage of perfection. Division of labour and population growth are corollaries to intellectual evolution. These division of labour and population evolution. These division of labour and population growth arise individuals differentiation there the question of rights arise. For example in a factory there different category of workers do work; the wage difference are also there. When a worker realise that he is not receiving the wage in proportionate to work and time he does there thought of 'right to fair wage' come up.

As Comte stated man and society passed through three stages, Theological or Fictitious stage; Metaphysical and Abstract stage, and Positive and Scientific stage; human rights also evolved with this. Let take India as a case, till the advent of foreign forces like Alexander's invasion, India was in Theological stage where Brahmins dominated the society and Ksatriya's ruled the state, as given by Comte Priests and Military dominate. After that

religious evolution and cultural assimilation happened by conflict idealism and foreign rules brought India into transnational stage to the Comte's given final stage, positive and scientific stage, where we are living in. Human Rights passed through the stages and now marching towards the perfection stage in the positive and scientific stage.

Philosophical understanding of Human Rights:

The deep investigation into the concept of human rights is made while studying in philosophical approach. Aristotle who fathered the philosophy inspired and taught by Socrates and Plato believed in natural rights. Human Rights are natural rights that explained before are born out of national law. Aristotle is often said to be natural law. The natural law theorists believe human rights are based on natural elements, such as, moral, religious and even biological order and they have largely relation with human laws, traditions and customs. Thomas Hobbes in his writings mentioned Aristotle thought of natural law founded a contractual theory of legal positivism which began from the principle 'man in the state of nature, which is to say without 'a commonwealth' (a state) is in a state constant war one with other and thus in fear of his life and possessions (there being one properly not sought without a sovereign to define it). Hobbes given natural law is meant for individual, in survive and prosper; the first principle of natural law being to seek peace. According to his opinion the natural law prevails at the individual submitting to common wealth of a sovereign state. Submitting he meant the following the state by establishing social contract between the governed and the governor. The governed are a group of individuals act for the sake of sovereign state, and should never be misunderstood as rulers. The concept is best understood with the soviet concept of human rights, which was contrary to it. The western legal theory states it was an individual who is beneficiary of human rights asserted against the government. In Soviet concept the state was the only source of law, individuals couldn't assert against the government therefore law as an arm of government and courts are the agencies of the government.

Human rights have been defined as: "basic moral guarantees that people in all countries and cultures allegedly have simply because they are people. Calling these guarantees "rights" suggests that they attach to particular individuals who can invoke them, that they are of high priority, and that compliance with them is mandatory rather than discretionary. Human rights are frequently held to be universal in the sense that all people have and should enjoy them, and to be independent in the sense that they exist and are available as standards of justification and criticism whether or not they are recognized and implemented by the legal system or officials of a country." (Nickel, 1992:561-2)

The human rights doctrine identifies the fundamental pre-requisite of every individual. The pre-requisites leads an individual a minimally good life. As given before food, cloth and shelter the three pre-requisite or fundamental pre-requisites for human survival. These fundamental pre-requisites are referred with natural rights. Natural rights further referred to moral human rights. Thus human rights inherent to human beings and function as moral guarantee for eke out minimally good life. Human rights as moral rights is best understood in comparative study with the legal rights. Even though human rights are enforced by legal body but these are different from legal rights. Legal rights refer to all those rights found within existing legal codes. As human rights inherent and exist prior to legal entitlement, a legal

right can't be said to exist prior to its passing into law. So far as human rights as moral rights are concerned, a moral rights even understood by a society but may or may not be established in national or international law, as said by Jeremy Bentham, there can be no such thing as human rights existing prior to or independently from legal codification.

Human Rights with the concept of Peace

Man is a peace loving animal who prefers to live in harmony with each other in the society. The recognition and protection of human rights aims at restoring peace in the society. The ethic of peace is the guarantee of human rights. The human rights reaffirmed in the charter of human rights following the mass violation of it during the world wars. In the concept of peace guarantee of human rights not merely enough to live an individual in peace because human rights as natural rights guarantee minimal needs. An individual is not always live in peace with those minimal needs thus in the concept of peace human rights are defined broadly as guarantee those rights violate peace of an individual. These rights are recognised from time to time. For example, the world war brought several new rights on the international judiciary desk for recognition and protection, like rights of war displaced persons, refugees and war prisoners. Peace is generally understood as absence of hostility and retribution, is realisation characterized by the lack of violence, conflict and fear. The violence is mostly referred with human rights violence because almost all actions and phenomena term with human being.

Conclusion:

As defining human as biological entity is easy but difficult as anthropological entity because latter is all round study of human being; it is easy to define human rights in one perspective but difficult to eke out a universal definition out of collective of all perspectives. Human rights, the social, political and legal researchers should understand human rights in broad spectrum as human rights a dynamic in nature. As per its dynamic nature human rights are always re-defined from time to time not criticizing or rejecting existing definition but adding the new one. For example, in general human rights as natural rights are granting of minimal rights i.e. food, cloth, shelter existed in all societies since thousand years past, thus people offered food and clothe to destitute; shelters for old age and orphan people; seen in every civilisation since its beginning time. Now the basic rights are redefined with the addition of right to education, health, non-discrimination etc., Human rights are always re-defined with social demands. As society moves from one stage to another stage given by Auguste Comte the social primary demands changed; the claim of the demands turned into demand of rights included in human rights as mandatory to the time. One should always understand the basic of human rights because basics or fundamentals of human rights never change, but new rights added with the move of time.

- James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar, Dec 13, 2013, Stanford Encyclopedia of Philosophy, Human Rights, Retrieved Aug. 14, 2014.
- The United Nations, Office of the High Commissioner of Human Rights, What are human rights?, Retrieved Aug. 14, 2014
- Burns H. Weston, March 20, 2014, Encyclopedia Britannica, human rights, Retrieved Aug. 14, 2014

- Gary J. Bass (book reviewer), Samuel Moyn (author of book being reviewed), OCTOBER 20, 2010, The New Republic, The Old New Thing, Retrieved Aug. 14, 2014
- Merriam-Webster dictionary, [2], Retrieved Aug. 14, 2014, "rights (as freedom from unlawful imprisonment, torture, and execution) regarded as belonging fundamentally to all persons.
- Macmillan Dictionary, human rights - definition, Retrieved Aug. 14, 2014, "the rights that everyone should have in a society, including the right to express opinions about the government or to have protection from harm"
- Freeman 2002, pp. 15–17
- Moyn 2010, p. 8
- UDHR 1948
- Donnelly 2003, p. 71
- Ishay 2008, p. 64
- Danny Danziger & John Gillingham, "1215: The Year of Magna Carta"(2004 paperback edition) p278
- Freeman 2002, pp. 18–19
- Isaac Lewin, The Jewish community in Poland, Philosophical Library, the University of Michigan, 1985 p.19
- Samuel Moyn, August 30-September 6, 2010 edition, The Nation, Human Rights in History: Human rights emerged not in the 1940s but the 1970s, and on the ruins of prior dreams, Retrieved Aug. 14, 2014
- Hannum, Hurst (2006). "The concept of human rights". International Human Rights: Problems of Law, Policy, And Practice. Aspen Publishers. pp. 31–33. ISBN 0735555575.
- Turnbull, George (1742). Observations Upon Liberal Education, In All Its Branches: In Three Parts. Millar.
- Belinda Cooper (book reviewer), September 24, 2010, The New York Times, New Birth of Freedom, Retrieved Aug. 14, 2014
- Human Rights in the Twentieth Century, edited by Stefan-Ludwig Hoffmann, Introduction: Genealogies of Human Rights, Retrieved Aug. 14, 2014 (see page 2)
- Fagan 2005
- Blattberg, C (2010). "The Ironic Tragedy of Human Rights". Patriotic Elaborations: Essays in Practical Philosophy. McGill-Queen's University Press. pp. 43–59. ISBN 0-7735-3538-1.
- Andrew Fagan Philosophical criticisms of human rights Internet Encyclopedia of Philosophy Human Rights 2003-2005
- Alain Pellet "Droits-de-l'hommisme" et droit international 2000 (French)
- Alain de Benoist Au-dela des droits de l'homme Krisis 2004(French); Religion of Human Rights, 1988 (German) (Russian)
- The International Human Rights Movement: Part of the Problem? Harvard Human Rights Journal / Vol. 15, Spring 2002."
- Glendon 2004
- Glendon (2001).
- "'Mrs R' and the human rights scripture". Asia Times (Hong Kong). November 2, 2002. Retrieved August 29, 2010.
- Ball & Gready 2006, p. 34
- Henkin, Louis. The International Bill of Rights: The Universal Declaration and the Covenants, in International Enforcement of Human Rights 6–9, Bernhardt and Jolowicz, eds, (1987).

Protection of Rights of Tribal Through Acculturation in Odisha

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Abstract:

This is a small research essay on the acculturation in Christianity issue prevalent in Odisha. The positive aspect has been studied in the paper. The paper represents the developmental issues in terms of acculturation.

Keywords: Acculturation, Christianity, Dalits, Development and Tribals

Summary:

Acculturation is the process where a person, a community or a society adopts the another way shedding its own way. This explains the above cultural change and psychological change our of the meeting between two cultures. The effect of acculturation can be seen at different level in both interacting cultures. So far group level is concerned acculturation often seen change in food, clothing and language. An Enculturation, in other way, is the process of first culture learning while Acculturation is being thought as Second-culture learning.

Acculturation of Tribals and Dalits in Christian way of religion has been a common social scenario prevalent in recent decades. As per the 2001 Census Christianity make up 2.44% of the population (about 8,98,000 people). Church of God (Anderson), Council of Baptist Churches in Northern India and Evangelical Missionary Society in Mayurbhanjare among the Protestant denominations of Odisha. Christ Church the full Gospel Church, Gospel Outreach Ministries, India Evangelistic Association, Orissa Baptist Evangelical Crusade and The Pentecostal Mission are among the non-Catholic denominations of Odisha as well. The Church of North India is present in Odisha as well with the dioceses of Cuttack, Phulbani, and Sambalpur. The diocese of Chota Nagpur also serves a small part of Odisha. Oraon, Kharia and Munda people are notable ethnic groups with a significant Christian population.. (source:wikipedia/Christianity in odisha).

In Odisha Dalits have been the victims of social oppression as the dominance of brahmas and korons upper caste adversely strong in the other hand Tribals have been economic depression as following their settlement in unreachable forests and mountain of hill range. Christianity in the path of acculturation prevail against the various human rights violation to Dalits and indigenous tribals. Primary Dalits in odisha shared a major portion of Odisha population have been secluded and harassed as untouchables by non-dalits and upper caste. Even a small village the dalit community lived in a closedcommunity forming a street at the outskirts of the villages. not-to defile the upper community. The dalits are even not permitted to walk across the streets of Brahmins, Kshatriya and other upper caste, shame to say the upper caste even doesn't like to see Dalit's faces in the morning and evening following their belief it may bring ill for former.

There are individual reasons with Dalit and Tribal acculturation in Christianity. Dalits adopted the Christianity to bring them out of scourge of casteism and step into the era of development. Even though Article-17 of Indian Constitution abolished untouchability but it prevail in highly conservative and socially backward state like Odisha. The millennium long social exclusion policy towards the Dalits caused them to acculture for social inclusion. Here one may put a question 'Why they preferred to Accultured in Christianity where as other monotheistic religion such as Islam, Buddhism, Jainism or Sikhism available. The answer is wholesome effort Christian Missionaries. Various churches became successful in bringing social inclusion and change along with sustainable development among Dalits. The Missionaries never went into the motive of proselytization for growth of their population else devoted them to provide primary health and education along with solving different problems. Dalits, they have been deprived of their rights in the hassle of social exclusion are now secured their fundamental rights through acculturation.

On the other hand the tribal lands barely reachable by the Government and Non-government agencies, the Missionaries succeeded in interfering and bringing them into the mainstream. Today many tribals shunned their native culture and became an element in the mainstream society because of long effort of Christianity. Indian Constitution grants

Bibliography:

- ["Census of India - Socio-cultural aspects"](#). Government of India, Ministry of Home Affairs. Retrieved 2011-03-02.
- World Christian Encyclopedia , Second edition, 2001 Volume 1, p. 369
- World Christian Encyclopedia , Second edition, 2001 Volume 1, p. 369-370
- <http://www.anglican-mainstream.net/2008/08/26/christians-attacked-throughout-orissa-state-north-india/>
- ["The Dioceses - The Church of North India"](#). The Church of North India. Retrieved 2011-04-02.

Millennium Development in Juvenile Delinquency in India

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Abstracts: This is a research essay on the recent status and juvenile delinquency of India. Recently India is moving towards the various policies for protection and promotion of the rights of Juvenile delinquent. The paper focus on the different government initiatives with the historical touch followed from the independence of India. Juvenile delinquency is now a major problem and with the interference of united nation and its child related bodies India is moving rapidly in solving the issue.

Keywords: Child, Juvenile, Delinquent, Rights, Crime

Summary: In India the Juvenile Justice (Care and Protection of Children) Act, 2000 is the primary legal framework. It provides for a special approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. This Act brought in compliance of the 1989 UN Convention on the Rights of the Child (UNCRC), repealed the earlier Juvenile Justice Act of 1986 after India signed and ratified the UNCRC in 1992 further amended twice in 2006 and 2010 respectively.

As per the social scientists and criminologist the Act is considered to be extremely progressive legislation and the Model Rules 2007 have further added to the effectiveness of this welfare legislation. The implementation is a very serious concern even in 2013 and the Supreme Court of India is constantly looking into the implementation of this law in *Sampurna Behrua Versus Union of India and Bachpan Bachao Andolan Versus Union of India*. In addition to the Supreme Court, the Bombay and Allahabad High Courts are also monitoring implementation of the Act in judicial proceedings. To make an advancement the Juvenile Justice Administration System, the Government of India launched the Integrated Child Protection Scheme (ICPS) in 2009-10 whereby financial allocations have been increased and various existing schemes have been merged under one scheme.

The first legislation on juvenile justice in India came in 1850 with the Apprentice Act which required that children between the ages of 10-18 convicted in courts to be provided vocational training as part of their rehabilitation process. This act was transplanted by the Reformatory Schools Act, 1897, the Indian Jail Committee and later the Children Act of 1960. The Juvenile Justice Bill was first introduced in the Lok Sabha on 22 August 1986. This Act was further amended in 2006 and 2011 and is now known as the Juvenile Justice (Care and Protection) Act, 2000. The State of Jammu and Kashmir has repealed its existing juvenile law of 1997 and has enacted the Jammu & Kashmir (Care and Protection of Children) Act 2013. This legislation is very similar to India's national juvenile law except that it does not contain any provision on adoption.

Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006)., states that: “Prohibition of publication of name, etc., of juvenile or child in need of care and protection involved in any proceeding under the Act-(1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child shall nor shall any picture of any such juvenile or child shall be published: Provided that for any reason to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child. (2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees”.

While provisions relating to the Juveniles in conflict with law are very important from jurisprudence point of view, this Act becomes very crucial for Children in Need of Care and Protection, as they are very large in number. Section 29 of the Act provides constituting five members District (Administrative unit in India) level quasi-judicial body "Child Welfare Committee". One of the members is designated as Chairperson. At least one of the members shall be woman. The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the 'Children in Need of Care and Protection' as well as to provide for their basic needs and protection of human rights.

The Ministry of Women and Child Development started contemplating bringing several desired amendments in 2011 and a process of consultation with various stake holders was initiated. A draft Bill in this regard was prepared and was pending before the Ministry of Law and Justice for scrutiny and was put up on the official website of Ministry of Women & Child Development in June 2014 for public inputs. The Delhi gang rape case in December 2012 had tremendous impact on public perception of the Act. Contrary to the reality, Media highlighted that the juvenile allegedly involved in this case was the "Most Brutal" of all accused persons. Eight writ petitions alleging the Act and its several provisions to be unconstitutional were heard by the Supreme Court of India in the second week of July 2013 and were dismissed, holding the Act to be constitutional. Demands for a reduction of the age of juveniles from 18 to 16 years were also turned down by the Supreme Court, when the Union of India stated that there is no proposal to reduce the age of a juvenile.

Bibliography:

- "'Most brutal' of Delhi rape accused waits to know his fate". Hindustan Times. 3 January 2013.
- TNN (31 August 2013). "Nirbhaya gang-rape case: Juvenile found guilty of rape and murder". The Times of India. Retrieved 31 August 2013.
- "Claim to be juvenile to escape law: LeT tells its cadre". Retrieved 16 July 2014.

A Critical Analysis of LGBT Rights and Recent Development in India

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Abstract: Lesbian, gay, bisexual and transgender (LGBT) people in India face legal and social difficulties not experienced by non-LGBT persons. Sexual activity between two persons of the same sex is criminalised, and is punishable by incarceration. India does, however, legally recognize Hijras as a gender separate from men or women, making the country one of the few in the world to legally recognize a third gender.

Keywords: Bisexual, Gay, Lesbian, Transgender

Summary: India is recently moved a step advance in the issue of LGBT rights and recognition by passing of Bill in 2015. However, homosexual intercourse was made a criminal offence under Section 377 of the Indian Penal Code, 1860. This made it an offence for a person to voluntarily have "carnal intercourse against the order of nature." In 2009, the Delhi High Court decision in Naz Foundation v. Govt. of NCT of Delhi found Section 377 and other legal prohibitions against private, adult, consensual, and non-commercial same-sex conduct to be in direct violation of fundamental rights provided by the Indian Constitution.

According to a ruling by the Indian Supreme Court, decisions of a High Court on the constitutionality of a law apply throughout India, and not just to the territory of the state over which the High Court in question has jurisdiction.[clarification needed. However, even there have been incidents of harassment of homosexual groups.

On 23 February 2012, the Ministry of Home Affairs expressed its opposition to the decriminalisation of homosexual activity, stating that in India, homosexuality is seen as being immoral.[8] The Central Government reversed its stand on 28 February 2012, asserting that there was no legal error in decriminalising homosexual activity. This resulted in two judges of the Supreme Court reprimanding the central government for frequently changing its stand on the issue. "Don't make a mockery of the system and don't waste the court's time," an apex court judge told the government.

On 11 December 2013, the Supreme Court set aside the 2009 Delhi High Court order decriminalising consensual homosexual activity within its jurisdiction. The bench of justices G. S. Singhvi and S. J. Mukhopadhaya however noted that parliament should debate and decide on the matter.

On January 28, 2014 Supreme Court dismissed the review Petition filed by Central Government, NGO Naz Foundation and several others, against its December 11 verdict on

Section 377 of IPC.[14] In explaining the ruling the bench said: "While reading down Section 377, the High Court overlooked that a minuscule fraction of the country's population constitutes lesbians, gays, bisexuals or transgender people, and in the more than 150 years past, less than 200 persons have been prosecuted for committing offence under Section 377, and this cannot be made a sound basis for declaring that Section ultra vires Articles 14, 15 and 21."

The Tamil Nadu state in India was the first state to introduce a transgender (hijra/aravani) welfare policy. According to the transgender welfare policy transgender people can access free Sex Reassignment Surgery (SRS) in the Government Hospital (only for MTF); free housing program; various citizenship documents; admission in government colleges with full scholarship for higher studies; alternative sources of livelihood through formation of self-help groups (for savings) and initiating income-generation programmes (IGP). Tamil Nadu was also the first state to form a Transgender Welfare Board with representatives from the transgender community.

In India one group of transgender people are called Hijras. They were legally granted voting rights as a third sex in 1994. Due to alleged legal ambiguity of the procedure, Indian transgender individuals do not have access to safe medical facilities for SRS. On 15 April 2014, Supreme Court of India declared transgender people as a socially and economically backward class entitled to reservations in Education and Job, and also directed union and state governments to frame welfare schemes for them.

On 24 April 2015, the Rajya Sabha passed The Rights of Transgender Persons Bill, 2014 guaranteeing rights and entitlements, reservations in education and jobs (2% reservation in government jobs), legal aid, pensions, unemployment allowances and skill development for transgender people. It also contains provisions to prohibit discrimination in employment, prevent abuse, violence and exploitation of transgender people. The Bill also provides for the establishment of welfare boards at the Centre and State level, and for Transgender Rights Courts. The Bill was introduced by DMK MP Tiruchi Siva, and marked the first time the House had passed a private member's bill in 45 years. The Bill was passed unanimously by the House. However, the Bill contains several anomalies and a lack of clarity on how various ministries will co-ordinate to implement its provisions. Social Justice and Empowerment Minister Thaawar Chand Gehlot stated on 11 June 2015 that the Government would introduce a comprehensive Bill for transgender rights in the Monsoon session of Parliament. The Bill will be based on the study on transgender issues conducted by a committee appointed on 27 January 2014. According to Gehlot, the Government intends to provide transgender people with all rights and entitlements currently enjoyed by Scheduled Castes and Scheduled Tribes.

The All India Hijra Kalyan Sabha fought for over a decade to get voting rights, which they finally got in 1994. In 1996 Kali stood for elections in Patna under the then Judicial Reform Party and gave the Janata Dal and the BJP a bit of a fight. Munni ran for the

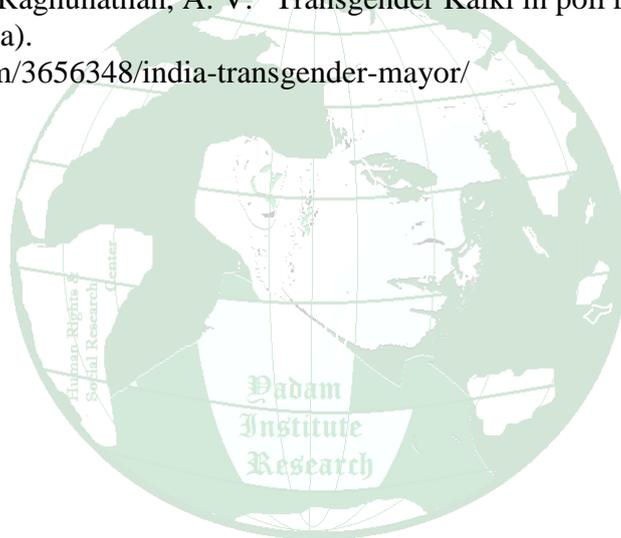
elections as well from South Bombay that year. They both lost, more than 13 years Hijras are participating in the politics in India.

After the defeat of Kali and Munni, three years later we saw Kamla Jaan run and win the position of the mayor of Katni in MP. Then there was Shabnam Mausi, who was elected to the Legislative Assembly in 2002 as well. In the huge political machinery, Heera won a seat at the city council of Jabalpur, Meera won a similar position in Sehora, and so did Gulshan in Bina. In December 2000, Asha Devi became the mayor of Gorakhpur, and Kallu Kinnar was elected to the city council in Varanasi. I am sure there are many more low level, inconspicuous bureaucratic positions that were held by the hijras but did not whip up any excitement for the media — not to mention the cases where they were probably threatened, bullied and killed to prevent them from running for seats. This brings us to the current elections, which has Mangesh Bharat Khandye running for the Thane Lok Sabha seat.

Shabnam Mausi is the first transgender Indian or hijra to be elected to public office. She was an elected member of the Madhya Pradesh State Legislative Assembly from 1998 to 2003. In 2000 Shabnam Mausi became India's first eunuch MP. (Hijras were granted voting rights in 1994 in India.) In 2003, Hijras in Madhya Pradesh have announced establishing their own political party called "Jeeti Jitayi Politics" (JJP), which literally means 'politics that has already been won'. The party has also released an eight-page election manifesto which it claims outlines why it is different from mainstream political parties. Hira bai became first TG MLA of India from Jabalpur vidhanshaba seat.

- Pervez Iqbal Siddiqui (28 December 2010). "Crackdown on gay party in Saharanpur, 13 held". The Times of India. Retrieved 20 January 2011.
- Mahapatra, Dhananjay (23 February 2012). "Centre opposes decriminalisation of homosexuality in SC". Economic Times (Times Internet). Retrieved 9 September 2014.
- "Supreme Court pulls up Centre for flip-flop on homosexuality". The Indian Express. 28 February 2012. Retrieved 9 September 2014.
- "Supreme Court sets aside Delhi High Court judgment in Naz Foundation; Declares S.377 to be constitutional".
- Nelson, Dean (11 December 2013). "India's top court upholds law criminalising gay sex". London: The Telegraph. Retrieved 11 December 2013.
- "Supreme Court makes gay sex punishable offence, again; Twitter war breaks out between those for and against the verdict". DNA India. Retrieved 11 December 2013.
- "Homosexuality is criminal offence: Supreme Court". Economic Times. 11 December 2013. Retrieved 11 December 2013.
- "Supreme Court refuses overruling its Verdict on Section 377 and Homosexuality". IANS. Biharprabha News. Retrieved 28 January 2014.
- J Venkatesan (11 December 2013). "Supreme Court sets aside Delhi HC verdict decriminalising gay sex". The Hindu (Chennai, India). Retrieved 2013-12-12.
- Harmit Shah Singh (11 December 2013). "India's Supreme Court declares homosexual sex illegal". CNN.
- "Naz Foundation to file review petition against SC order on section 377".

- "In a first, Gurgaon court recognizes lesbian marriage", Times of India
- "India's first married lesbian couple given 24-hour protection", The Telegraph
- "Lesbian couple's parents accept their relationship - The Times of India". The Times Of India.
- Shackle, Samira. "Politicians of the third gender: the "shemale" candidates of Pakistan". New Statesman. Retrieved 11/05/2013. Check date values in: `|accessdate=` (help)
- "Crystallising Queer Politics-The Naz Foundation Case and Its Implications For India's Transgender Communities" (PDF). NUJS Law Review. 2009.
- "Supreme Court's Third Gender Status to Transgenders is a landmark". IANS. news.biharprabha.com. Retrieved 15 April 2014.
- <http://indianexpress.com/article/india/india-others/rajya-sabha-passes-private-bill-to-protect-the-rights-of-transgenders/99/>
- <http://www.newkerala.com/news/2015/fullnews-72086.html>
- <http://www.newindianexpress.com/magazine/article119373.ece?service=print>
- "Eunuch MP takes seat". BBC News. 6 March 2000.
- http://www.newindianexpress.com/states/tamil_nadu/article452450.ece?service=print
- Jaisankar, C.; Raghunathan, A. V. "Transgender Kalki in poll race". The Hindu (Chennai, India).
- <http://time.com/3656348/india-transgender-mayor/>



Women in Crime: Modern Indian Approach to Feminine Crime

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Abstracts: The paper is based on the crime committed by women in India. A sample of Odisha Circle jail has been studied for the in depth evaluation of this issue. the paper is a simple prosaically draft on reasons of crime and their social back ground committing crime.

Keywords: Crime, Offence, Women, Society, India

Summary:

The causes of female crime may be attributed to various reasons. It might be because of the personal cause. The male offenders have relatively more educated than the female offenders. When offenders are illiterate or uneducated, then the female prisoners lack less legal awareness. Sometime domestic violence becomes another reason behind female committing crime. In some family women are confined to do the house hold cores and they have no income source.

Sometime they are victim of the husband beating. The imbalance in family structure creates space for domestic violence. The breakdown of the marriage relationship is a serious psychological blow to women, and it will make psychological crisis. And if there is not a timely manner to ease the psychological crisis, some women will commit crime in society.

From the last decades there have been further fundamental societal changes contributing to an increasing crime load. Female crime, by definition, refers to the crimes committed by women. It corresponds with the male crime, and crime classification which is made from a gender perspective. The needs and necessity of women prisoners are different from male prisoners.

Women delinquency is increasing rampantly and we can't say single factor is responsible for it. Women are always a part of exploitation. Physiological or psychological behaviour of women offenders were usually viewed as pathological distortions or departures from the normal, inherent nature of women. Greater freedom has allowed them to enter new positions and new roles, thereby giving them more opportunities for participation in crime. Maintaining double standards by women also helps create female crime because it leads to frustrations and greed on their part. Freedom has allowed them to enter new positions and new roles, thereby giving them more opportunities for participation in crime. Maintaining double standards by women also helps create female crime because it leads to frustrations and desire on their part. Restrictions and social roles have also impact on women criminality. The reduction of restraints on women is further likely to increase female crime. It contends that educated girls and women

are more willing than ever to challenge traditional. Interpersonal relations with husband and other family members, husband's extra-family relations, deprivation and denial of basic needs of life (like affection, security, etc.) were the main causes of frustrations and ultimate crimes. Women convicted for minor thefts are mainly housewives who usually lack money to be able to buy things which were later stolen. Many a time, they steal to 'stretch their budgets'. The lower-class social status of women convicted. Female crime is a main indicator to measure a community's moral standards. Because compared with male crime, the number and proportion of female crime is low. More men than women are commits crimes and tend to be more violent in nature. Men have a greater involvement in crime in compare to women, yet it is important to understand women in crime. The gender approach to understanding women crime is less due to gender differentiations. The different norms in socialization, culture, psychological differences between men and women are always looked women delinquency in different ways. Although men are more in to heinous crime in compare to women. Male crime rates are more in compare to those females. Criminologist points out that the emotional, Psychological differences between male and female explain the differences in crime rates. The female criminality was often neglected by justice and authorities were reluctant to take any action against women. The main gender base traits are the sole factor of crime rate differences. Women comprise just a small segment of all the people in prison. But now a days the females are offending serious crime. The gender approach reflects both man and women are socialized differently. Girls are more supervised and controlled by the social system and norms. Discrimination against women is deeply historically and culturally rooted in the society. Women are always staying under the clutches of man's grip (Renzetti & Goodstein, 2000). The patriarchal society controls the economic power as well as status of women. From economic point of view women is always marginalized from the economic resources. In the present society women want to stand equally with man, so to get success they are not stepping behind to adopt wrong paths. Even the women commit the social environment contributes a lot to the making of women criminals. It reflects that female offenders have lost faith in social system. Despite constitutional guarantees of equal rights and privileges, women's fate could not be changed. Discrimination prevails from birth till last breath. Even her education, her involvement in every work equally is not enough to give any credit to her (Bajpai & Bajpai, 2000). The problem becomes manifold when despite her awareness and ability she is to obey orders of man (in form of father, brother, husband etc.) of lesser ability. Her own opinion is brutally crushed overheard and she is subjected to victimisation because she is a woman. Most of the women commit crimes because they are at some point of time are the victim of crime and gradually steps in to the arena of crime.

Educational status plays as major role in criminal activities. As it is observed the percentage of literacy is less among women in comparison to man they lack analytical skills in dealing with problems, and they are not sensible to deal with things. When they are instigated or enticed by others, they easily fall in trap of crime. Because of the low level of education; their legal awareness is relatively weak. When they have been

violated by unlawful infringements, they cannot look at and solve the problems from a legal perspective, but take extreme and violent and lawless ways to solve the problems. Highlighting the educational status of women in prison in Scotland, Loucks claimed that the women in prison are not much educated. Around 90% of them had left school at age 16 or under (2004). The similar kind of study conducted by Henderson in Scotland reflected that only 14% of women in prison had stayed in school beyond the statutory minimum age (16 years), and 61% left school with no qualification (2001). Highlighting the reason for crime, Henderson said that shortage of money and financial requirement are the main cause of crime. Citing the example from his study at Scotland he claimed that around 50% of the respondent revealed that their offence was related to financial need (2001). According to Klein, the female crime is the result of physiological or psychological characteristics of individuals, with little or no recognition being given to the importance of social-structural factors (1973). While discussing the causes of crime in USA Potter said that women usually commit violent crimes against husbands and boyfriends, usually after years of abuse (Potter, 1979). The economic crime done by women stands for the economic gain basically related to earning income. Prostitution, shoplifting, theft, fraud and forgery and drugs are related to economic crime. These crimes are committed by women due to lack of money or to obtain more money (Davies, 2001).

As of 31 December 2011, there are 1382 functioning jails in India having a total capacity to house 3,32,782 prisoners.

The study conducted among 35 women prisoners in three jails of Odisha. Majority of the women prisoners are from Hindu community, while few are from Muslim community. Most of the women prisoners are unemployed and having poor family background. Most of the women prisoners are married and from joint family and do not possess any land particulars and having annual income level Rupees 1000 to 5000. Most of the women prisoners are imprisoned in case of murder for enmity, dowry, drug related issues and theft. Basically the poor condition of their families has compelled them to commit the crime. Some of the women prisoners are trapped by mafias and found to be guilty. Due to lack of legal awareness and lack of adequate financial and physical resources they fail to get justice. Most of the women are from poor economic class they are unable to hire private lawyer to fight for their justice. Traditionally prison facilities are designed according to male needs rather than on female needs. As the women prisoners are less in number, the Govt. has not paid much attention for their betterment. Due to their minority number they are neglected from the benefits and development of prison. Even no special step is being taken to provide either the basic education or vocational training. The most depressed fact is that there is no provision of employment opportunity for these small numbers of women prisoners. So they feel more helpless and loss the financial security. Neither the Govt nor the prison authority has taken any significant reformation or step to create income generation for these women prisoners. Though very less employment

opportunity has created like sweeping and cleaning of the jail for the convicted prisoners and which is also in temporary basis.

The current study reflects that the imprisonment have adverse impact on the personal life as well as on the social life of the women prisoners. The stringent rules of the jail put restriction on the individual freedom and kill the positive spirit towards life. There is imposition of restriction on use of Drugs and Alcohol consumption inside the prison. Imprisonment directly affects the physical and mental health of the women prisoners. Health care facilities are available in the jail for the prisoners but insufficient. Women prisoners are guided by the guards during their check up and they hesitate to discuss their personal health problems with the male doctors. Though there is no serious mental disorder found among the female offenders, still they suffer from depression and mental trauma. There are no proper facilities available for the women prisoners to deal with traumatic disorders. Almost all the respondents who were interviewed are of middle aged and old. Most of them suffer from physical illness like high blood pressure, diabetics, menopausal disorder, asthma and arthritis. There is no prevalence of HIV/AIDS among the women prisoners. The day to day medical expenses are being meeting by prison authorities. None of the women prisoners have ever been sexually abused or assaulted or molested. The majority of the women prisoners are married and bear children. Some of the women prisoners are having small children who are staying within the jail. They are not happy from the facility that has been provided by the prison authority to their children. The most pathetic part is they are victim of their mother's crime and face hardship from the innocence stage of their life. They are restricted from playing outside. It can be fairly seen that the imprisonment has badly affected their relationship with their family and children. The prison conditions are always disappointing. The ruined infrastructure and overcrowding prison are the terrible part of prison. Majority of the women prisoners have rated the hygiene facility of prisons are poor. Though the prison authority provides mosquito nets and sanitary napkins that are inadequate. The prisons have source of recreation facility for the women prisoners like watching TV, games, etc. All most all of the women prisoners are jolting with their past life. Some have realised their mistake and they strongly miss their family life. The women prisoners describe the jail administration has to be stringent by nature. The jail administration should bring some reformation in prison system. Poor legal awareness among the prisoners makes women likely to serve longer period of sentence. The jail authority should draw attention towards the counselling of women prisoners and create some income avenue for the women prisoners. The respondent has felt that the society won't accept them after releasing from the prison. The prisoners felt the guilty of their crime and repentant. The rigid custom and typical attitude towards the women has precipitated the women to commit crime in the society. Most of them feel that they have lost their status in the society. All the respondents have viewed that the jail or prison should not be a punishment place. Rather it should be positive reformatories place.

Meeting with the relatives should be more frequent and should allow some special arrangement to meet their relatives and lawyer. Women prisoners expressed they need

a lot of support and encouragement from their families. So family oriented counselling should be organized by the jail administration to cope of them during the imprisonment period. While few feel that they deserve the punishment, others want to start life again.

Limitation of the Study There was a strict prohibition of using electronic gadgets like camera, tape recorder etc, which would have helped in collecting more information. The respondents' self reports might have been biased due to social desirability factor or reluctant to share the crime. Due to academic constrains and long official procedure to get appointment, the research failed to carry out the field work for long time. The number female prisoners are less in all the three jails, again the shortage of time and difficulty in getting permission to various jail has reduced the sample size of the study. The political crisis and administrative rigidity did not allow much time to interact with the prisoners.

Scope of the study The basic understanding about the socio-economic factors of crime helped us in developing an idea for further study. A future study can be carried out in relating to a particular crime. Even Govt. policy and provision should be studied for an intensive study.

Suggestions

The reformative objectives of prison should be based on learning and earning for the prisoners. Awareness should be created among the people about the consequence of committing crime and the adverse impact of imprisonment on family. Most importantly women prisoners should not be kept under trial for a longer period of time. The accessible to lawyer for the poor women prisoners should be given priority. Women are more tender and prone to psychological depression during the imprisonment period. Inside the prison there should be provision of psychological counselling for the women prisoners. The prisons authority needs to address the health and hygienic conditions of the women cells and prisoners. The prisoners who are facing the serious diseases should avail the proper health and diet by the prison.

The children who are staying inside the jail should get the facility, which a normal child used to get. There should not be any deprivation for the development of the children. The prisoners are afraid of their acceptance by the society after releasing from the prison. So proper counselling and positive environment should be created. How well the prison might be after all the prison culture restricts the personal freedom of the person. Released convicts should be encouraged to start their life again. The prison authority must come with some rehabilitations programme for bringing change in the attitudes towards society and life of the women prisoners. Govt and NGO's can come up with counselling centres for women to coping with the inter-personal problem.

The joint ventures can be created by the prison and NGO's to create employment opportunity for the women prisoners, which will give economic security to the women. The prison should encourage the yoga facility for the women prisoners, which will help the prisoner to a greater extent. Legal awareness should be given to them. The women should be engaged by some productive work which will occupy them busy and they won't think about their guiltiness much and this will help them a new start to their life.

References

- Bajpai, A & Bajpai, P.K. (2000) Female criminality in India, Rawat publication, Jaipur
- Cauffman, P. H. E. (2004) A State wide screening of Mental Health Symptoms Among Juvenile
- Offenders in Detention. Journal of the American Academy of Child & Adolescent Psychiatry,
- 43(4): 430-440.
- Conly, C. (1998) The Women Prison Association: Supporting Women Offenders and Their
- Family, National Institute of Justice, Washington
- Davies, P. (1991) Women, Crime and Informal Economy: Female offending and crime for Gain,
- British Society of Criminology, 2.
- Douglas, N., Plugge, E. and Fitzpatrick, R. (2009) The impact of imprisonment on health: what
- do women prisoners say? J Epidemiol Community Health, vol:63: 749-754.
- Faith, K. (1979) International symposium on the female offenders, Off Our Back, 9, pp 14-15.
- Frost, N. (2006) HARD HIT: The Growth in the Imprisonment of women, 1997-2004, Institute
- on Women and Criminal Justice, New York.
- Garry, K. (2011) Health Care for Women in Prison is Dismal, Heart and
- Soul.Com, August/September:47-49.
- Haney, C (2006) The wages of Prison Overcrowding: Harmful Psychological Consequences and
- Dysfunctional Correctional Reaction, Journal of Law and Policy, 22:265, pp263-293
- Henderson, S. (2001) Women offender: Effective Management and Interaction, Scottish Prison
- service occasional paper, Edinburgh Scottish Prison Service.
- Jennifer, S. (1983) Defending battered women, who kill, off our backs, 30, 13 (4):26.
- Kle in, D. (1973) The etiology of female crime : a review of the literature , Issues in Criminology,
- 8(3):30.Monitor, 2(4): 96-97.
- Loucks, N. (2004) Prison Without Bars': Needs, support, and good practice for work with
- Prisoners' Families, Retrieved on April 4, 2013 from www.
- Familiesoutside.org.uk/content/uploads/2011/02/ PrisonWithoutBar.
- 30
- Meixiang, L.I., (2013) Discussion on the Causes of Female Crime and Its Control and
- Prevention, M&D, Forum.
- <http://www.seiofbluemountain.com/upload/product/201112/2011nxscfz04a1>.
- Morash, M et.al, (1998) Women Offenders: Programming Needs and Promising
- Approaches,
- National Institute of Justice.
- Pettigrew, J and Shneiderman, S (2003) Ideology and Agency in Nepal's Maoist Movement,
- Retrieved on March 22, 2013 from <http://www.himalmag.com/component/content/article/50/1700-ideology-and-agency-in-nepals-maoist-movement.html>.

- Potter, J. (1979) "Women's work" Corrections. Magazines 5/ September 1979: 43-60.
- Poole, S. (2007) Voicing the Non-Place: Precarious Theatre in a Women's Prison. Feminist
- Review, No 87, pp 141-152.
- Renzetti, C. & Goodstein, L. (2000) Women, Crime, and Criminal Justice: Original Feminist
- Readings, Oxford, UK.
- Sella, S. (1988) Palestinian Women in Struggle and in Prison. Off Our Backs, 18, pp.19.
- Skurnik, a,j (1982) Legislative workshop: the female offenders. Off Our Back, 12, p 14
- Review, 87, pp 141-152.
- Swanson, C. (1993) Citizens Perceptions of Prison Effects on Their community. State and local
- Government Review,25,pp 141-151.
- Victoria, Law, 2002, Invisibility of Women prisoners Resistance,
- <http://zinelibrary.info/files/invisibility%20of%20women%20prisoner%20resist%20zine%20FINAL.pdf>

