

Human Rights of Vulnerable Groups in SAARC Region

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ABSTRACT:

As human rights are equally applicable to all the human being on this planet, irrespective of religion, sex, caste, race, place of birth etc., it is the duty to all human beings to protect the rights of each other. Here, this Article is focused on the countries of SAARC region and their vulnerable groups, as the numbers of cases of violation of human rights are highest in this region. There are various reasons behind these violations in different countries. Relations between and among the nations, social, economic, political and religious conditions and cultures or customs are responsible for this. Besides this, victims of war also fall under this category and sometimes State laws are also responsible for violation of human rights. As the weaker sections of societies are the prime victims, almost every State has adopted some International laws, Declarations, Treaties along with their own laws to protect the vulnerable sections of the society. In addition to all the foregoing, it is the duty of all to protect the rights of others who are not able to protect their own right and not to violate the rights of other people. For this purpose, proper education, wide knowledge and total awareness is needed to promote the human rights and in this regard the governments and NGOs should take initiatives to regulate, monitor and proper implementation of human rights. Until an individual gives a full scope to another person to enjoy his or her right as a human being, that very person cannot claim his rights as a human being.

Keywords: Human Rights, Vulnerable Groups.

I. INTRODUCTION

“For to be free is not merely to cast off one’s chains, but to live in a way that respects and enhances the freedom of others.”

~Nelson Mandela

“Peace does not just mean putting an end to violence or war, but to all other factors that threaten peace, such as discrimination, such as inequality, poverty.”

~Aung San Suu Kyi

Broadly speaking Human Rights may be regarded as those fundamental and inalienable rights which are essential for life as human being. Human Rights are the rights which are possessed by every human being, irrespective of his or her nationality, race, caste, religion, sex etc., simply because he or she is a human being. Human Rights thus are those rights which are inherent in our nature and without which we cannot live as human being.¹

Human rights are moral principles or norms that describe certain standards of human behaviour and are regularly protected as natural and legal rights in municipal and international law. They are commonly understood as inalienable, fundamental rights to which a person is inherently entitled simply because she or he

¹ S.K. KAPOOR, INTERNATIONAL LAW AND HUMAN RIGHTS 817, 12th ed. 2016.

is a human being and which are inherent in all human beings, regardless of their nation, location, language, religion, ethnic origin or any other status. They are applicable everywhere and at every time in the sense of being universal, and they are egalitarian in the sense of being the same for everyone.²

Vulnerability on the other hand is the state of being exposed to the possibility of being attacked or harmed, either physically or emotionally. Group of people who are subjected to any discrimination, violation, war victims, victim of natural phenomenon, social or economic backwardness etc., fall under the category of vulnerable group.

II. CONCEPT OF VULNERABLE GROUPS:

According to European Foundation for the improvement of living Working Conditions, vulnerable people mean: “groups that experience a higher risk of poverty and social exclusion than the general population, ethnic minorities, migrants, disabled people, the homeless, those struggling with substance abuse, isolated elderly people and children all often face difficulties that can lead to further social exclusion such as low levels of education and unemployment or underemployment.”

There are some sections of society which can be tagged as vulnerable groups, these are:

1. Children and children with malnutrition;
2. Women and pregnant women;
3. Isolated elderly people;
4. LGBT people;
5. Persons with disabilities;
6. Victims of racisms;
7. Religious or communal minorities;
8. Refugees;
9. Sex workers;
10. Internally displaced people;
11. Statelessness;
12. Isolated indigenous people and any other section of the society which are suppressed.

² WIKIPEDIA (Aug. 16, 2018, 07:00PM), https://en.wikipedia.org/wiki/Human_rights

- **Children and children with malnutrition:**

Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to minors. The 1989 Convention on the Rights of the Child (CRC) defines a child as "any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier." Children's rights includes their right to association with both parents, human identity as well as the basic needs for physical protection, food, universal state-paid education, health care, and criminal laws appropriate for the age and development of the child, equal protection of the child's civil rights, and freedom from discrimination on the basis of child's race, gender identity, national origin, religion, disability, color, ethnicity, or other characteristics.

Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. Other definitions include the rights to care and nurturing. There are no definitions of other terms used to describe young people such as "adolescents", "teenagers", or "youth" in international law, but the children's rights movement is considered distinct from the youth rights movement. The field of children's rights spans the fields of law, politics, religion, and morality.

Children are the easy victims of any criminal activity. All the countries in SAARC region are developing countries and children of these countries face many problems compared to developed countries. The rate of child death, child malnutrition and crimes like child rape and trafficking are highest in South Asian countries like India, Bangladesh, Myanmar.

There are some International and Nationwide safeguards to protect the rights of children. These are:

- (i) U.N. Convention on the Rights of the Child, 1989;
- (ii) Universal Declaration of Human Rights, 1948;
- (iii) Association of South-East Asian Nations(ASEAN);
- (iv) European Union and Child Rights;
- (v) International Juvenile Justice Observatory;
- (vi) International Labour Organisation, 1919;
- (vii) Juvenile Justice (Care and Protection of Children) Act 2015;
- (viii) Child labour (Prohibition and Regulation) Act 1986;
- (ix) Factories Act, 1987;

- (x) Right of Children to Free and Compulsory Education Act, 2009;
- (xi) Prohibition of Child Marriage Act, 2006;
- (xii) The Protection of Children from Sexual Offences Act 2012 as amended in 2018.

- **Women and pregnant women:**

Almost all the countries are male oriented while talking about social control. So in our male oriented societies somehow women are less valuable than men. They are also easy victims of crimes outside as well as inside the home. Rape, trafficking, murder, domestic violence are some examples of crimes against women.

To uplift the social status of women, many countries have incorporated the concept of reservation in public employment so that they can live with dignity.

Different countries have enacted laws as the need of the hour to lower down crimes against women. Some of those are:

- (i) Declaration on the Elimination of All Forms of Discrimination against Women, 1967;
- (ii) Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974;
- (iii) Convention on the Elimination of All Forms of Discrimination against Women, 1979;
- (iv) Declaration on the Elimination of Violence against Women, 1993;
- (v) Criminal Law (Amendment) Act, 2018;
- (vi) Dowry Prohibition Act, 1961;
- (vii) Immoral Traffic Prevention Act, 1986;
- (viii) Prohibition of Sexual Harassment of Women at Workplace Bill, 2010;
- (ix) Protection of Women from Domestic Violence Act, 2005.

- **Isolated elderly people:**

Aged people are just like child, they need care and protection all the time. In modern days, elderly people are not safe even inside the home. There are many instances where old people have been killed for various reasons like money, valuable things, property etc. Sometimes they are thrown out from their homes by their own children. So, the reason may be anything but protection and care should be given to them as long as they live. Their weakness makes them vulnerable with time and physical and mental supports are much needed for them.

Though, there isn't many laws for the protection of aged people, some of those are as follows:

- (i) **Maintenance and Welfare of Parents and Senior Citizens Act, 2007;**

(ii) Section 125 of Criminal Procedure Code, 1973.

- **LGBT people:**

Across the globe, lesbian, gay, bisexual and transgender (LGBT) continue to face violence, legal discrimination, and other human rights violations on account of their sexual orientation or gender identity. As of today, many Western countries have recognized them and secured their rights but till date no South Asian country has ever legalized or properly implemented the rights vested on them. In India only Transgenders are given protection and Article 377 of the Constitution of India makes 'unnatural sex' punishable.

Therefore, the claim of LGBT people to grant them basic human rights is a delusion.

- **Persons with disabilities:**

The word handicapped used to refer to a 'person with a disability'. This is because the word handicap means 'obstacles', restrictions or barriers that makes the life difficult'. Handicapped people are physically or mentally disabled people. A person with a disability is one who not able to do the major physical or mental function/s of life.

In our society there are many handicapped, disabled or physically disabled people. Some of them are physically born-handicapped and some others are mentally retarded. There are others who have lost limbs or sense organs on account of an attack of some diseases. Others are victims of accidents such as train or bus accidents, bomb-explosions, fire-burns etc, or injury in factories and so on.

In this or that way, they are deprived of the pleasure of enjoying a normal life. So we must not look down upon these persons as social burdens. They must be encouraged to face life boldly and to feel that life still holds the charm for them. They can be usefully employed in various craft and vocations befitting to them.

They can achieve great success if they are given enough opportunity. A man who is blind may develop a talent for music. Beethoven, who was deaf, became a world-famous musician. We can also take the example of Helen Keller who was blind, deaf and dumb but discovered a new horizon for the blind.

It is not charity but fellow-feeling which they need. There are some philanthropic organizations and NGOs that are doing good work to rehabilitate the handicapped. The government has also taken some steps for the handicapped such as free journey by bus or by train, reservation of some employment etc.

The laws related to them are:

- (i) Convention on the Rights of Persons With Disabilities.
- (ii) UN Declaration on the Rights of Mentally Retarded Persons.

- (iii) The Persons With Disabilities (PWD) (Equal Opportunities, Protection of Rights and full Participation) Act, 1995.
- (iv) The Mental Health Act, 1987.

- **Victims of racisms:**

Victims of Racisms are those people who are socially backwards and tortured by upper class people. Racism is the belief that there are human groups with particular (usually physical) characteristics that make them superior or inferior to others. Racist behaviour can be not just overt, such as treating some people according to their race or color, but also covert, when society systematically treats groups according to some form of discriminating judgement.

Some groups of people are more vulnerable than others and often become the victims of one or several forms of discrimination.

- **Religious or communal minorities:**

In India like country where there are various ethnic groups and different cultures and religion are followed, it isn't very unusual for communal and religious intolerance. There are many instances of violence in past years. So the victims of those intolerance should be given protection from the attacking groups of people and secure their human rights.

- **Refugees:**

Now a days the Refugees are a big concern round the globe. Refugees are the migrant people who travel to another countries in the search of employment or shelter. Recently Myanmar and Bangladesh have witnessed a huge number of refugees and Bangladesh hosted millions of people of Myanmar as they entered in Bangladesh. Many International organizations and countries have spread their helping hands to them to survive.

- **Sex workers:**

Sex workers are those people who are connected with sex industries or who's profession is to give sex service. Most of the sex workers live with social and mental agony. They need licence to run the business and restricted within a particular area. They don't have any social status in any civil society and the children of sex workers are neglected by the society. No sex worker employs themselves willfully, sometimes they are forced or sometimes they are the victims of their situations. Therefore, it is the duty of the government to protect their basic human rights.

- **Internally displaced people:**

There is a thin line between refugees and internally displaced people. Refugees mainly refers those people who

are alien to a country i.e. citizen of any other country but internally displaced people are those people who are forced to shift their domicile due to various reason. Every region has its original or native group of people so when any other group enters into their region, they defend themselves sometimes by attacking the alien group. As Indian Constitution guarantees Fundamental Right under Article 19(1) (e) to settle down in any part of the territory, it is the duty of the administration to sure the rights of every citizen to reside peacefully.

- **Statelessness:**

Sometimes it happens a person does not possesses citizenship of any State. That condition is referred as Statelessness. Statelessness is a burning issue of International law. The situation of statelessness is recognized under German law, English Law, and International Law. The international law commission considered the subject of statelessness together with the question of Nationality. The General Assembly decided to convene a conference to conclude a convention on reduction on statelessness.

The conference was called in 1959 and adopted in 1961. The Convention on Reduction of Statelessness. This convention was ratified by 37 countries and India has not ratified the said convention and as such it is not a party to the convention. A party to the convention shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted either by birth or by operation of law.

- **Isolated Indigenous People:**

Indigenous people are people defined in international or national legislation as having a set of specific rights based on their historical ties to a particular territory, and their cultural or historical distinctiveness from other populations that are often politically dominant. The concept of indigenous people defines these groups as particularly vulnerable to exploitation, marginalization and oppression by nation states that may still be formed from the colonising populations, or by politically dominant ethnic groups. As a result, a special set of political rights in accordance with international law have been set forth by international organisation.

The International Labour Organization and the World Bank. The United Nations has issued a Declaration on the Rights of Indigenous Peoples to guide member-state national policies to collective rights of indigenous people such as culture, identity, language, and access to employment, health, education, and natural resources.

III. SAARC COUNTRIES:

The South Asian Association for Regional Cooperation (SAARC) is the regional intergovernmental organization and geopolitical union of nations in South Asia. Its member States include Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka. SAARC was founded in Dhaka on 8 December 1985. Its secretariat is based in Kathmandu, Nepal. The organization promotes development of economic and regional integration. It launched the South Asian Free Trade Area in 2006. SAARC maintains

permanent diplomatic relations at the United Nations as an observer and has developed links with multilateral entities, including the European Union.

SAARC was founded by seven states in 1985. In 2005, Afghanistan began negotiating their accession to SAARC and formally applied for membership on the same year. The issue of Afghanistan joining SAARC generated a great deal of debate in each member state, including concerns about the definition of South Asian identity because Afghanistan is a Central Asian country.

The SAARC member states imposed a stipulation for Afghanistan to hold a general election; the non-partisan elections were held in late 2005. Despite initial reluctance and internal debates, Afghanistan joined SAARC as its eighth member state in April 2007.

- **Observers:**

States with Observer status include Australia, China, The European Union, Iran, Japan, Mauritius, Myanmar, South Korea and United States. On 2 August 2006, the foreign ministers of the SAARC countries agreed in principle to grant observer status to three applicants; the US and South Korea (both made requests in April 2006), as well as the European Union (requested in July 2006). On 4 March 2007, Iran requested observer status, followed shortly by Mauritius.

- **Potential future members:**

Myanmar has expressed interest in upgrading its from an observer to a full member of SAARC. Russia has applied for observer status membership of SAARC. Turkey applied for observer status membership of SAARC in 2012. South Africa has participated in meetings and so on.

IV. SUGGESTION AND CONCLUSION:

There is a strong nexus between the words 'Human Rights' and 'Vulnerable Group'. Both are related to each other in various ways. Though Human Rights are for all Human beings irrespective of any social aspect, vulnerable group of people need it the most. The prime governing body of Human Rights is Universal Declaration of Human Rights 1948 and according to Article 1, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

In recent times we have witnessed many violations of human rights across the world and many of them could be avoided by little compassion from the neighbor countries. The violation of human right in SAARC region and middle east are highest due to political disturbance, war etc. SAARC was formed for the cooperation

among the member countries and hence it should be followed by each and every country for the future of all human beings.

Political stability, good administrative actions, implementations of the laws and regulations and amend the existing laws time to time and awareness among the people of their human rights are most important to uplift the status to live with dignity.

Most of us don't know about our basic human rights and this gives a way to the violators of human rights to exploit the vulnerable group of people and it became a big challenge to the protectors of human rights.

The base is somehow related to proper education of the people about their rights and liabilities. If every single person see the light of knowledge and educate themselves, the number of human right violations can be minimized.

“Let us pick up our books and our pens,” I said. “They are our most powerful weapons. One child, one teacher, one book and one pen can change the world.”

~Malala Yousafzai