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Dominance in the Global Stage: Analysis of Subaltern Studies from the Perspective of International Law

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ABSTRACT

The term “Subaltern” means “of lower rank or position.” As a result, they are considered to be subordinate in terms of position, power, authority, and action. In other terms, it implies to class, caste, gender, race, language, and culture are being subordinated. It also refers to those segments in society who are subject to dominance by the ruling classes. Peasants, laborers, and other groups have been denied access to hegemonic authority and hence are considered subalterns.

Subalternity is a form that turns into an umbrella concept that increases the scope of research from various subaltern perspectives. The question in debate is whether it needs such an umbrella concept or should be narrowed down to certain resistances and domination in the historical present that lead to the existence of modern hegemony. The subalterns are those who are voiceless and aren't heard on the global stage. Subaltern studies are considered a broadly influential academic movement whose main aim is to refocus history on the unique role of subalterns or marginalized people in bringing about a large-scale transformation in society. This research paper helps in understanding the lives of subalterns, their resistances in the past, and also in the modern times where their platform to question is on the global stage with an international dialect.

I. INTRODUCTION

For understanding Subaltern Studies, which is considered to be one of the complex structures of the Post-colonial concepts, one must first go deep into its original source. The Italian Marxist Antonio Gramsci is the first person to use this term in his book which he recorded during his time in prison and it is aptly called the prison notebooks. But a lot of people believed that Gramsci was actually using the word Subaltern as a coded word so that his work would pass through the prison censors instead of calling it a proletariat or giving it any other class designation. The introduction of groups relating to subaltern studies in 1980 was a pivotal moment in postcolonial studies. This term was adopted by the Post-colonial studies scholar

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Ranajit Guha in his reader, which ended up creating a new discipline called “subaltern studies” in Southeast Asia. He defines the term subaltern as “a name for the general attribute of subordination in South Asian society whether this is expressed in terms of class, caste, age, gender and office or in any other way”²

Subaltern studies examine the "binary relationship"³ between the subaltern and ruling classes, mainly focusing on the interaction of subordination and domination of power under colonial regimes, more particularly in India, though the techniques of the movement have also been adapted to other countries, locations, and historical periods. The goal of subaltern studies as a whole is to investigate the history of groups that were mostly marginalized or unrecorded in colonial and nationalist archives. The term "Subaltern" originally referred only to "peasants" who haven't been incorporated into Marx's idea of the industrial capitalist system in its Gramscian context. The objective of subaltern studies is to bridge the gap in historiography between the "people's history and the perceived history of India”, between what the British Raj has preserved in a narrative of power and what is considered popular history. The scholars of subalternity look for and continue to seek, to offer the subaltern, peasant domain freedom as a voice that permitted politics in the face of colonial domination.

II. DOMINANCE ON THE GLOBAL STAGE

In terms of the size of a country like India, it was relatively astonishing to not play a role or even showcase its opinion when it came to the creation of the Modern International Law(MIL). India lost its chance of making a sound contribution to the creation of the MIL due to the fact that post-independence there was reluctance among the lawyers who started to criticize the international law and made points on the "hegemonic international order" by citing the subaltern approach to the international law. This reluctance made a lack of sovereignty present while the creation of the MIL, which started from the time of the "Hague Peace Convention" that was held in the year 1899 and 1907 to the signing of the charter for the United Nations in the year 1945.⁴

The chance, however, had passed India by the time it attained independence in 1947. The permanent members were nominated by five great powers, with India being left out. Only, in theory, all the sovereigns were considered equals. In effect, however, the establishment of five

² Guha Ranajit, Preface - On Some Aspects of the Historiography of Colonial India, Selected Subaltern Studies, 34, Oxford University Press 37, 37-44, (1988).

³ Guha, *supra* note 2.

⁴ Singh Prabhakar, Indian International Law: From a Colonized Apologist to a Subaltern Protagonist, 23 LEIDEN JOURNAL OF INTERNATIONAL LAW 79, 79–103 (2010).

permanent members of the Security Council meant the establishment of five superpowers, with the rest of the countries filled by sub- or inferior sovereigns. In effect, this meant that these lesser sovereigns were unable to cross-fertilize, cultivate, or contribute to MIL. This effect of gaining veto power that will rule out the views of other countries and thus end up creating a post-colonial subjugation. This inferior subjugation was the wake-up call for scholars to study the Subaltern groups.

III. INTERNATIONAL RELATIONS AND SUBALTERNITY

The role of India in international relations and regional relations grew over time from the year 1947 to 2009. In the year 1954, the “Panchsheel Agreement”⁵ was made with China and this agreement aimed at internationalisation of the good neighbour policy of India. This agreement was a success for India because of an indigenous approach to developing new principles of international law.⁶ This effort needs to be appreciated as it is difficult to change the principles of the MIL which is clearly dominated by the first world states during that time. This domination was called the “politics of knowledge creation”. This step was seen as the first form of post-colonial resistance by the voiceless states even before the subaltern studies came into the picture.

However, for any resistance there will be a consequence, similarly, when India tried to highlight the usage of the dominant language in the MIL, China showed conceit behaviour as being the permanent member of the Security Council remembering the 1962 Indo-China war. In the coming years, the SAARC (South Asian Association for Regional Cooperation) was formed and this was a turning point in Indian foreign policy since it gave the people of South Asians a framework to interact together in a sense of friendship, confidence, and cooperation. From the year 1985, India was involved in various missions and was part of many international organizations such as the UN peacekeeping missions, the civil nuclear deal with the United States, signing the free trade agreement of ASEAN and played a major role by involving in the global financial crisis by participating in the G20 meeting. This is how India grew to be a key player in international relations by facing the backlash of dominant discourse and also assisting in establishing new principles of international law.

IV. SUBALTERNITY AND THIRD WORLD APPROACHES TO INTERNATIONAL LAW

A branch of contemporary legal discourse on public international law known as “Third World

⁵ The agreement discussed here is the Panchsheel agreement or called as the Five Principles of Peaceful Coexistence, it was first formally signed on April 28, 1954, between India and the Tibet region of China.

⁶ Singh Niranjana Alakh, & Singh Prabhakar, What Can International Law Learn From Indian Mythology, Hinduism And History?, 263, 2:1 Journal of East Asia & Int'l Law 239, 239-271 (2009).

Approaches to International Law (TWAII)” has arisen during the last 15 years, with several Indian scholars serving as its representative. There was TWAII I and TWAII II as distinguished by the scholar Chimni, whereas the contemporary one is TWAII II which is a different version that acts as an opposition to the global North which has sponsored the politics of “dominant knowledge creation” in the contemporary world.⁷ Speaking of knowledge creation, it also opposed the ideas of international law that were exhibited by all those scholars of TWAII I (in the 1950s - 70s). So, the early years post the independence showed how there were dominant and tried to exclude the expressions of the Global south. This was the rise of alternative international law.

Many scholars were present who acted as the torch bearers for India to have a voice in the creation of MIL. During the early years of independence, the Subaltern concept was not present. The most profound works of Prof.R.P.Anand (a very keen player) emphasized representing the Asian states in the Modern International Law and New International Order (NIO)⁸.

Anand was the first person who claimed that western scholars have tried to actually revamp the archived Indian principles to create the MIL doctrines and they also haven’t acknowledged the fact that it was an original work of our country. These were strong allegations posted against the scholars of the Global north. But this discovery was instrumental in nature which inspired the next set of young Indian scholars who are now acting as advocates of TWAII II. This reproduction of Indian knowledge was due to the colonial conjugation of cultures. Mr. Singh in his work has quoted an amazing line which says “**Colonisation educated the coloniser as much as it harmed the colonised**”.⁹

In the 1990s, TWAII II emerged as a consequence of the rising of scholars in various fields of international law. This was after the time when subaltern studies gained momentum in India. Hence the thoughts of the new scholars were much different and they started looking at the structure, history and the process of creation of MIL in the viewpoint of the people of the marginalized sector of the third world countries. The new scholars were more equipped and were versatile in their advocacy skills by writing on issues like MIL, economic law and especially on “International Human Rights”. Some of the major scholars who advocated for

⁷ Fidler D.P, Revolt Against or From Within the West? TWAII, the Developing World and the Future Direction of International Law, 30, 2 Chinese JIL. 29, 29-76 (2003).

⁸ Anand R.P., Role of the “New” Asian-African Countries in the Present International Legal Order, 56:2, AJIL 383, 383-406 (1962)

⁹ Singh Prabhakar, *supra* note 4.

human rights were, Mahendra Pal Singh, B.S.Chimni¹⁰, Balakrishnan Rajagopal¹¹ and Upendra Baxi.

These viewpoints of various scholars brought international law and India's social, political and cultural diversity further closer. Early thought had certainly failed to articulate such a diverse variety of Indian realities to a global audience in their works. India's new wave of international law study has resulted in a flood of publications in various international law journals. Even some international writers have begun to acknowledge India's key position in the development of different aspects of international law, such as "international economic law" at the WTO¹², as compared to a permanent member of the UN Security Council such as China.

V. NEED FOR SUBALTERN STUDIES

According to one of the scholars, namely, Dipesh Chakrabarty, the idea of the subaltern emerged because of an “anti-social” feeling rather than a “post-colonial one”. This thought of the scholar is so right on many levels because the kind of oppression that the subaltern groups have faced is being unrecorded due to the fact that they were seen as the subjects of such oppression and not as the object in history. There may be many resistances and movements in history where they played a significant role as participants and there were instances of immense support as well. But still, their voices weren't recorded in a manner they should have been recorded. This is the main reason why Guha was keen on studying what was recorded and he wanted to clarify the insurgence of the subaltern groups, especially the peasants.¹³

In the work of Guha as explained above, the scholar feels that in the subaltern perspective the history of India is being written or the historiography of India is written in a colonialist sense by the elite class or in the lens of the bourgeoisie. This simply means that there was a false representation of the subaltern groups of India, especially the peasants. Guha's input then traces the growing number of ordinary behaviours that are being ignored in favour of the greater event. In this intervention, he aims to refute the myth that Indian colonial subjects were voiceless throughout colonial authority, notably from the year 1783 to 1900, by describing the intricate connections of subordination, domination, and subsequent resistance from the

¹⁰ Chimni B.S., *The Past, Present And Future Of International Law: A Critical Third World Approach*, 8 Melbourne JIL, 499, 499-515 (2007).

¹¹ Rajagopal Balakishnan, *International Law from Below: Development, Social Movements and Third World Resistance*, Cambridge University Press, 171, 171-232 (2003).

¹² Julia Ya Qin, *China, India, and the Law of the World Trade Organization*, 3:1 Asian Journal of Comparative Law, 1, 1 - 43 (2008)

¹³ Hauser Walter Reviewed Work: *Elementary Aspects of Peasant Insurgency in Colonial India*. by Ranajit Guha, *The Journal of Asian Studies*, 45, 174, 174-77, (1985).

perspective of the peasants.¹⁴

When coming to capital and power, there is a need to look at them as two separate variables. This perspective helps in understanding the systems of domination and subordination in colonial India. But the scholars of Subaltern studies feel that European scholars like that of the “Cambridge School of historiography” were unable to look at the capital and power as separate ones and they ended up theorizing it as one variable. These absurd understandings of the history of the subaltern groups depict a different perspective of resistance when they are studied by international scholars. This may not be a huge deal in today’s scenario because of the emergence of strong international human rights that protect the suppressed and also give the opportunity to them by reserved rights and representation in all major aspects such as politics, education, policy-making, etc. But we must understand that misrepresentation of the subaltern group means forgetting their sufferings, resistance and especially their historical significance. Ignorance in this instance is not considered a blissful one but a problematic one.

Moreover, all the new principles of international law were not added or modified instantly, the process for India to enter the international political arena took a lot of time. Similarly, the subaltern’s voices took a lot of time to be heard and were often excluded from the state power in a national sense and they were marginalized or silenced in world politics. This kind of exclusion from politics simply means exclusion from knowledge, education, rights and awareness which leads to suffering in terms of their standard of living.

We all know the saying, “necessity is the mother of invention”, in that case, there was an abundance of ideas and ideologies present to alter this exclusion during colonial rule. Hence there was a need present, but there were also other social forces present in the society. For example, if I want to exercise my fundamental right in today’s day and age, we have proper redressal mechanisms and institutions. It wasn’t the case during that time because the “socially-induced consciousness” or the social values were completely different. Those were values that weren’t for the greater good and they changed according to the powers that were concentrated with the ruling classes. So the problem was undermining the role of these subalterns. This led to the necessity for the emergence of the Subaltern studies that aimed in restructuring the history by including the unorganized classes.

VI. THE PROBLEM OF INCOMMENSURABILITY OF DIFFERENCE

The term “commensurability” simply means to have a common measure, in the case of sub-

¹⁴ Prabhakar, *supra* note 4.

alternity there was incommensurability of the difference in relation to the European idea of modernity. In their search for the voice of the "Indian peasant" in the emergence of the Indian nation, the scholars of the Subaltern Studies have discovered that firstly Indian modernity could only be understood in relation to the European idea of modernity. Secondly, the peasants of India could only be theorised through the European device of thought. In other words, non-commensurable experiences that were not part of the European experience could not be represented in the vocabulary of contemporary thought. That is not to say that the subalterns or the subaltern group can't speak for themselves; rather, they aren't permitted to speak on their own terms.¹⁵ When it comes to the democratic desire created by the European standards, in the norms of "self-determination and sovereign equality". But this setup is also within the dominant discussion of the global community. Until this date, these rules have been applied to a community imagined as a society of nation-states in a restricted and unequal manner.

The roots of resistance can be seen in the contradictions between the vocabulary and actuality of these democratic standards. One way to address the difficulties exemplified by the G77 manifesto is to insist on the universal application of European standards in reality. However, a major component of European hegemony is the ambition to become commensurable to the European experience, rather than the creation of a new international order that also has the experience of the subaltern groups, as asserted by the G77.

The goal of the Subaltern studies is contradicting to such thought apparatus and it pushes the polity envelope to be more inclusive and representative of such differences. The international legal system is a strong venue for contesting the restrictions of concepts about community and democracy's legitimacy. The capacity to speak to and influence law-making processes is a crucial determinant of "access to power" because the law has the constitutive power to broaden certain knowledge while excluding others.

To begin with the crucial task of creating an environment for the international community that is not based on violence and discipline, some strategies are suggested by the Subaltern studies. These strategies include disrupting the western hegemony and trying to develop a dialogue between Europe and the Others. Moreover, it also suggests accepting the incommensurability of difference that has to be looked at in a practical manner by International practitioners. International attorneys must create the skills necessary to discuss these possibilities and unlearn the structures of European privilege.

¹⁵ Spivak Chakravorty Gayatri, *Can the Subaltern Speak?*, C. Nelson and L. Grossberg, *Marxism and the Interpretation of Culture Urbana*, University of Illinois Press, 271, 271-313 (1988).

VII. SUGGESTIONS

When Subaltern studies are analyzed from the perspective of International law, we could see how there were various instances in which the Global South countries which include India and others were completely excluded when it comes to international politics, law and mainly historiography. The reason why many subaltern scholars were concerned about our incorrect historical records was due to the fact that it will be an “identity crisis”. When the contributions made by the peasants, tribal people and other unorganized and marginalized sectors of the colonial society were ignored, it was seen as a threat to the identity of such groups. For example, let’s take the game of basketball in a college tournament. There is a team of 5 main players and the rest are selected as substitute players. But during the break, the sub-player replaces one of the main players. The team wins the match. But while posting it on the university’s poster, the substitute player’s names are not included. In this case, the substitute players are the subaltern groups who aren’t heard and were often neglected by the elite groups or the western scholars while recording the history.

Moreover, the reproduction of Indian principles of international law to create Modern International Law was not acknowledged by European scholars. Let’s take the example of Apple company which has patented almost every feature in its product. In that case, if any other company tries to use the same feature, they will be either restricted from using such feature or they will be asked to pay a royalty to use them. If that is the case for a company, then important legal principles when borrowed or revamped should be acknowledged by the users. The European scholars need not pay any royalty, but acknowledging the work of Indian scholars would go a long way.

We all know how Dr. Ambedkar is looked at as a prominent spokesperson who carries the Constitution of India in his hand. He is worshipped by the Dalit group, who faced the oppression of caste system. In the minds of Dalit people, they aspire to become like him, so they try to end up in public jobs. All their movements and revolts were to bring a change in the legal system and to showcase their anger once they get the jobs. But when opportunities are given, some of them use this as a weapon to showcase their anger towards the upper caste elites whose ancestors were colonial oppressors. Even though we may consider the Dalit group as the Subalterns whose voice must be heard and who deserve the opportunities that they lost before, there is always another complication attached to it. In my opinion, even though there is a reason to deny opportunity to those who misuse it, we cannot deny them what is rightfully theirs.

VIII. CONCLUSION

There are two sides to a coin. Even though India is establishing itself as a powerful country in the world and becoming a powerful country by making various international ties, there is the other side of the coin which is suppressed because there are still voices of the subaltern groups who are facing oppression in different walks of their life. It is a long process for each and every human to treat each other as equals and not see them as potential threats or simply even judge them before knowing who they are. There is a presence of a “Colonial mindset” which is prevailing even after so many years after the British left India. I can’t be talking on behalf of the experiences of other countries, but I certainly can give my views about India. The term “colonial mindset” simply means that even post the colonialism, there is still domination and subordination that is subconsciously present in the minds of many. The memories of past oppression have deeply wounded certain groups. These groups need to be protected and properly treated to the extent that the wound heals. One major factor contributing to this healing process and restoration of their lost rights is by providing education which is exceptional in nature and creating opportunities.

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