VIOLATION OF HUMAN RIGHTS BY STATE: A CASE STUDY OF CUSTODIAL VIOLENCE IN DELHI

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BY

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I, Pooja Talwar, author of this Doctoral thesis, declare that the material included in this work has not been submitted for the award of any degree, hereto before and, to the best of my knowledge and belief, it is original in nature.

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Preface
The quality of a nation’s civilization can be largely measured by the respect for the protection and promotion of human rights. The theme of human rights is of universal concern and it cuts across all ideological, political and cultural boundaries. It is for this reason that linkages between institutions relating to the protection of human rights between the countries are important.

After the I World War, the world community for the first time realized the need to establish some institutional mechanism to protect and preserve the rights of man. But it is only after the horrors and worst kind of brutalisation of human rights in the II World War, that human rights movement gained some momentum. Efforts at securing human rights were intensified.

Soon after the coming into force of the UN Charter on December 10th, 1948, the General Assembly of the United Nations adopted and proclaimed the universal declaration of human rights. The United Charter was the first international instrument which in unequivocal terms proclaimed “Universal respect for, and observance of human rights and fundamental freedom for all without distinction as to race, sex, language or religion”. The United Nations Charter has provided a constitutional basis on which the United Nations can bring about changes in the status of the individual vis-à-vis his own state.

Hence, The Universal Declaration of Human Rights and the entry into force of the International Covenants on Human Rights alongwith the Optional Protocols to the International Covenants on Civil and Political Rights mark the turning point in the international instruments constitute a code of human rights and set an international standard for the protection and promotion of human rights.
In India, the gneiss of human rights can be found in Vedic scriptures of Hinduism. The Vedas, the metrical religious works of the ancient Hindus, offering guidance, inter alia, on religious and social obligations. These constituted the base on which the Hindu Law was built.

The golden threads of human rights run through the entire Constitution of India. The Fundamental Rights, the Directive Principles of the State Policy, the Fundamental Duties and independent effective judiciary are some of the important mechanisms for the protection of human rights.

An attempt has been made in the present thesis to understand the causes of the violation of human rights in India. To identify the reasons of occurrence of custodial violence and its effect on police image and people’s participation in police. The study is analytical and descriptive in its nature.

India has made the most sincere efforts for the protection and promotion of Human Rights the world over and is the greatest champion of the human rights in the Third World. The impact of the universal Declaration of Human Rights on the drafting of Human Rights Chapters (Part III and IV) in the India Constitution.

However, the fact remains that there is a wide gap between theory and practice. All that is preached is not always put into practice and India is no exception. The denial of fundamental freedoms and human rights by the states creates the conditions of social and political unrest. It definitely sows the seeds of violence and conflicts within and between societies and nations.

Violation of human rights is a global phenomenon. The difference is only of degree. Where the people in India, in majority are illiterate, ignorant poor and exploited ones, the violation of human rights are bound to be mere but where the people are educated, advance they are likely to be less prone to inhumane treatment and exploitations. India being a vast country, with greater part of masses being poor, ignorant and illiterate, they are bound to suffer more atrocities and inhuman treatment at the hand of the richer ones.
Police atrocities are a common feature of Indian scenario. These violations are committed under the shields of "uniform" and "authority" between the four walls of a police station, lock-up and prison, where the victims are totally helpless. Some of the common feature of violations of human rights are the torture of arrested persons, the disappearance of suspects who ought to have been in regular police custody, deaths in fake encounters and at police stations, and undertrials denied in jails for years without trials. Extensive societal violence against women, female bondage and prostitution; trafficking in women; child prostitution, trafficking, and infanticide; discrimination and violence against indigenous people and scheduled castes and tribes; widespread inter-caste and communal violence; increasing societal violence against Christians; and widespread exploitation of indentured, bonded, and child labour. The statute book is presently disfigured by laws like Terrorist and Disruptive Activities Prevention Act, the National Security Act, and the armed Forces Special powers Act, which need closer scrutiny. Such laws make a mockery of human rights.

Moreover, the present study shows that the Indian police and other forces have become unruly and turbulent. It carries an image of terror and torture in our country. This is because the incidents of police torture and brutality often hit the headlines in newspapers and expose police to severe criticism from different sections of the society. Indeed nothing tarnishes the image of police more than brutality directed against persons in their custody.

The thesis is divided into Five chapters. In Chapter 1, a brief survey of Epistemology of Human Rights is been made. In Chapter 2, entitled: Violation of Human Rights in the Indian States shows that why do violations of human rights occur in our country. The significant role that NHRC is playing in India for creating mass awareness and building mass opinion against human rights violation in India. This chapter also deals with the different patterns of violation of human rights. Last but not the least the commendable role-played by judiciary
in protecting human rights in India. Whereas, Chapter 3, Custodial Violence and Human Rights in India, deals with the various methods of torture and its repercussions on the vulnerable victims like women, poor and deprived section of people etc. It also shows that how in the name of national security the worst form of torture takes place. It also deals with the rights of accused/suspects prisoners and the prison condition in India. The Chapter 4, shows the various case studies of custodial violence in Delhi (India). Custodial violence often results in custodial deaths, which is treated as the worst crime in a civilized society, governed by the Rule of Law. The presence of this pernicious practice in our criminal justice system is a slur on the good name of our democracy. A sincere attempt has been made to suggest various remedial measures, which would curb this brutal practice. And Chapter 5 attempts to draw the conclusions from the findings of the above chapters.

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