

THE HUMAN RIGHTS COMMUNIQUÉ

YOUR MONTHLY DOSE ON HUMAN RIGHTS

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TOLERATING INTOLERANCE

“Tolerance is not the same as acceptance. Tolerance is indulging differing beliefs from one’s own. Having a differing belief isn’t intolerance. Not accepting that others have a differing belief is”

In any social system different people have different views on social, political, economic, and religious issues confronting them. On the basis of convictions evolved over generations, different groups defined ideological frames are created. With the passage of time these evolved ideological divisions sometimes lead to the creation of fault lines, which further give basis to differentiated value systems developed by these groups around themselves. In India, two forces have given basis to these cleavages in the social order vertically, *firstly* caste structure evolved on the basis of professions and capacities of the persons in discharging their functions within the social order, *secondly* due to international migrations, foreign influences, which have also given basis to other value systems.

Deeper fault lines are created with every new occurrence, on inter-caste and inter-religious levels while modernization in the 20th Century has in some cases blurred these identities and in other cases sharpened the same.

Intolerance manifests itself when a group of persons committed to a specific socio-religious value system start believing that theirs is the only approach to life, which results into contradiction with the other groups. This inclination develops fissures in the social order and sharpens these fault lines. In this background, the sharper the division the lower the level of tolerance resulting into intolerance, which may give birth to conflict and deteriorate the environment in the society.

So, intolerance is a state of mind of an individual as well as of a socio-religious group, which directly contradicts with the other group resulting into divisions which can take unhealthy turns. On the other hand, tolerance in the same system of contradictions would lead to a more cohesive social order and a stronger social fabric.

THE RECENT TREND:

Intolerance in India is the by-product of the forces which in the past few months have shown extreme levels of visibility; the political climate surrounding the Dadri incident and the political attitude after it has fed this trend and created a suffocating atmosphere of intolerance in India.

Incidents of intolerance have created much outcry in the recent past. Whether it is the murder of eminent Kannada scholar MM Kalburgi who was gunned down for his views on idol worshipping, or Mohammed Akhlaq who was murdered for allegedly killing a cow and stashing beef in his fridge; be it the terror attack on the headquarters of Charlie Hebdo, a French satirical news magazine, which was provoked by the caricature of Prophet Mohammad or the killing of two young Dalit children- the issue of intolerance is glaring.

THE INDIAN ETHOS:

December began with India's Parliament consumed in a passionate and sometimes hot-tempered debate on the mounting intolerance raging rampant across the country. In a democracy like India, tolerance is an absolute necessity for the country to progress. The demography of India is an amalgamation of different religions, ethnicities and castes. It is difficult for uniformity in beliefs and practices to exist and it therefore, requires every citizen to be tolerant to ensure harmony in the society. India's great strength, and the source of much of its soft power and the respect it commands in the world, is our precious legacy of civilizational pluralism, coupled with our robust democracy. The Indian adventure is that of human beings of different ethnicities and religions, languages and beliefs, working together under the same roof, dreaming the same dreams. The ideals of secularism and freedom are enshrined in the Constitution of India and instances of intolerance are truly against the essence of the Constitution.

One of the major problems faced in the present day is how people limit the idea of tolerance. To most people, tolerance is the principle of other individuals respecting their beliefs. They fail to understand that the scope of tolerance isn't limited to that. It also includes accepting that not every individual will respect one's beliefs. Peaceful co-existence of different factions is possible only when we interpret tolerance to be a principle which includes respecting other's beliefs and accepting the fact that not everyone will be willing to accept our beliefs.

TRIVIA

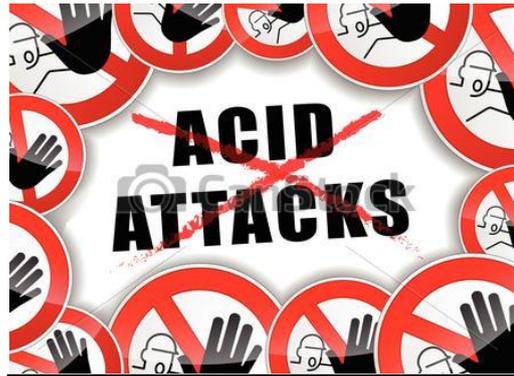
- The theme for Human Rights Day 2015 is "Our Rights, Our Freedoms, Always."
- Women make up 80% of all refugees and displaced people.
- More than 3.2 million Syrians are currently living as refugees, in the largest displacement crisis in a generation.
- An estimated 27 million people are currently enslaved in the human trafficking trade globally.
- At least 20.9 million people are victims of forced labour worldwide.

DAYS OF MONTH

- World AIDS Day- 1st December
- The International Day Against Corruption- 9th December
- National Girl child day in India- 9th December
- World Human Rights Day- 10th December
- International Migrants Day- 18th December
- National Farmer's day (India) – 23rd December

DID YOU KNOW?

In 539 B.C., Persian King Cyrus the Great issued the first ever decree on human rights. He freed slaves, declared that all people had the right to choose their own religion, and established racial equality.



“There is one universal truth, applicable to all countries, cultures and communities, violence against women is never acceptable, never excusable, never tolerable.”

-Nelson Mandela

ACID ATTACKS: A VIOLATION OF HUMAN RIGHTS**INTRODUCTION**

One of the most serious forms of human rights violence against women in the recent decades primarily in South Asian countries is acid violence. Acid attacks are a form of gender-based violence aimed at silencing and controlling women and the main reason behind this menace can be attributed to the evil motive of men, which is to disfigure women so that they are forced to live with the physical mark of the attack for the rest of their lives. Usually, acid attacks are used as a weapon against those women who refuse sexual or other advances of men and this problem is on a rise in India.

Other than the social and psychological impact, a subsequent economic impact of this is decrease in income for the victims and their families as they are forced to give up work. Even if they recover to the extent that they are fit for employment, few employers are willing to hire people with such physical deformities. Furthermore, many victims have to pay enormous healthcare costs as a result of essential medical treatment being required on an ongoing basis. It is often the case that medical expenses easily reach six to ten lakhs. As per a research by the Acid Survivors Foundation India (ASFI) last year, 349 people in India, mostly women, had acid thrown on them in deliberate assaults. Many were seriously injured; some died. The number is three times higher than in 2013 and more than four times higher than in 2010.

APPLICABLE LAWS

It is apparent that acid attacks can be described as one of the most heinous violations of human rights of women in Indian society. Women have the right under International Human Rights Law, specifically the Convention on the Elimination of All Forms of Discrimination against Women, 1980 (CEDAW) to be free from such violent attacks. Furthermore, numerous rights guaranteed under the Indian Constitution are violated when acid attacks are perpetrated against women. Article 14, equal protection of the law is routinely violated when police fails to conduct a timely investigation and also harass the victims instead of investigating the crime. Article 15(3) permits the State to make special provision for women and children, but the government has failed in its duty by not making any provisions or schemes for the welfare of acid attack victims and their children.

The right to live with dignity, which is a very important facet of the right to life under Article 21 of the Constitution and an equally important human right, is violated because the acid attack victims are driven underground in the face of ridicule insensitivity and harsh behaviour. When women are forced to confine themselves to one place, the right to liberty and other freedoms, which are enumerated in the Constitution of India, are adversely affected. Further, Section 326A of the Indian Penal Code, 1860 makes throwing acid or administering acid to another person a criminal offence. Keeping in view this gross violation of human rights, Section 357C was added in Indian Penal Code, 1860 in 2013, which makes it a statutory mandate for all the hospitals, whether public or private, to provide necessary medical treatment or first-aid to the victims of acid attacks, free of cost.

CONCLUSION

Access to adequate and proper medical care forms a very important human right, which, if ignored, will lead to the violation of the same. Violence against women is an obstacle to the achievement of development and peace; restricts women in all areas of social life and their access to sources, services and activities. It is important to strive towards creation of social climate with no tolerance for violence against women or any other form of violence, only then can the human rights be adequately protected, irrespective of gender or nationality.

HUMAN RIGHTS NEWS...

HUMAN RIGHTS COMMISSION IN INDIA OPENS OFFICIAL PROBE INTO EXCESSIVE RADIATION EXPOSURES

A government commission that monitors and enforces human rights in India has opened a probe into allegations reported by the Center for Public Integrity that villagers living near government-run uranium mines and others living downstream have persistently been exposed to high levels of radiation and suffered ill health as a result. The charges were referenced as part of a Center series this week on issues surrounding India's nuclear industry.

The Commission, which functions like a civil court and has the power to obtain testimony, examine documents and request affidavits, stated it had opened the probe on its own authority after reading the Center's article about toxic leaks from the Jadugoda mining complex in Jharkhand and its effects on people, livestock, rivers, forests and agricultural produce in the area. The commission said one of its members, Justice Shri D. Murugesan, had observed that the Center's article raised a serious issue of violation of rights to health of the workers and local residents, besides damage to the environment, flora and fauna.

MPS MUST WORK WITH GOVT TO IMPROVE JUVENILE HOMES

The Women and Child Development (WCD) Minister, Maneka Gandhi suggested that MPs should share some of the government's burden in improving the condition in juvenile homes. She wrote to all MPs requesting them to start visiting juvenile homes in their respective constituencies, observe their condition, to meet the officials running it, seek explanation why services are deficient and report to the government on possible solutions. Juvenile homes across the country are often run-down facilities where children have unfettered access to drugs and are often sexually abused, a fact that has come to the fore during recent debates on rehabilitation of underage offenders in the aftermath of the December 16 gang rape case in 2012. But despite reports — a 2013 report by the Asian Centre for Human Rights titled "India's Hell Holes: Child Sexual Assault in Juvenile Justice Homes" highlighted several cases of sexual assault — little has been done to remedy the situation.

FAIR COMPENSATION FOR LAND ACQUIRED BY GOVT IS FARMER'S HUMAN RIGHT

The Supreme Court on Friday said right to property was part of human rights, and landowners had a right to fair compensation for land acquired by the government. The ruling in a case arising from the demand by a group of farmers in Rajasthan for fair compensation for the land acquired from them by the government marks a step towards elevation of right to property. Recognized as a fundamental right by the framers of the Constitution, right to property was done away with by the 44th amendment to the Constitution in 1978, in what reflected the ethos which had reigned supreme until the 1980s. It was stated in the ruling that the persistent denial of the farmer's right to the developed land in lieu

of compensation and that too without any legally acceptable justification, has ensued in manifest injustice to them over the years. Neither had they been paid just compensation for the land acquired nor have they been provided with the developed land in place thereof, as assured.

CHIEF JUSTICE QUESTIONS ABSENCE OF COMMISSION

Chief Justice of India T S Thakur has questioned as to why Delhi, the capital of the country, did not have a State Human Rights Commission. Speaking at an event on the occasion of Human Rights Day, he stated that it was surprising that the very capital of the country does not have a State Human Rights Commission. Human rights violations are taking place in every society and across the world, including Delhi. To assume that human rights violations happen only in tribal areas is a misnomer. There are violations happening in the city of Delhi as well.

In July 2015, a bench headed by Justice T S Thakur had directed states, which didn't have a human rights commission, to set up one within three months. The court had also asked the NHRC and all State Human Rights Commissions to fill all their vacancies within three months. Delhi, Arunachal Pradesh, Meghalaya, Mizoram, Tripura and Nagaland are some of the states which don't have a human rights commission even 22 years after the Protection of Human Rights Act, 1993, was passed.

AROUND THE GLOBE...

AHRC CALLS FOR INDIAN CIVIL SOCIETY TO 'WAKE UP' & 'ENGAGE'

Human Rights assured to average Indian citizens by the Constitution stand far from realised. This has cropped from deep-rooted corruption giving way to an overall environment of uncertainty. The Asian Human Rights Commission (AHRC) stated this on the eve of the International Human Rights Day, observed on December 10 each year. It called for the Indian civil society to "wake up" and "engage" with India's justice institutions. This year the United Nations has declared the day to mark a year-long campaign for global recommitment to guaranteeing freedoms and protecting human rights for all. To this end, the UN has called upon member states to revisit commitments made to the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. India is a party to both these covenants, informed the AHRC. The rights thus enshrined are also guaranteed in the Indian Constitution, a document that predates both covenants by two decades.

UN RIGHTS CHIEF URGES CUBA TO HALT HARASSMENT OF ACTIVISTS AND RESPECT HUMAN RIGHTS

The top United Nations human rights official expressed concern today over the extremely high number of arbitrary arrests and

short-term detentions of individuals, including human rights defenders and dissidents, in Cuba in recent weeks. UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein stated that there had been many hundreds of arbitrary arrests and short-term detentions – which amount to harassment – in the past six weeks alone. These often take place without a warrant and ahead of specific meetings or demonstrations, and seem to be aimed at preventing people from exercising their right to freedom of expression and to peaceful assembly.

HUMAN RIGHTS LAWYER PU ZHIQIANG HANDED THREE-YEAR SUSPENDED JAIL SENTENCE

One of China's most celebrated human rights lawyers was given a three-year suspended prison term on Tuesday (Dec 22) in the latest clampdown on critics of the ruling Communist Party. Police and plainclothes security officials were out in force to try to stop supporters and journalists reaching the court where Pu Zhiqiang was sentenced for "inciting ethnic hatred" and "picking quarrels and provoking trouble". The verdict is the latest in a widening crackdown on civil society under President Xi Jinping, with more than 200 lawyers and activists detained or called in for questioning since the summer. Amnesty International called it a "gross injustice". Pu, who has represented labour camp victims and

dissident artist Ai Weiwei, was arrested a year-and-a-half ago over posts on social media between 2011 and 2014. His secretive trial at Beijing's No. 2 Intermediate People's Court ended Tuesday with a widely-anticipated guilty verdict, but with the sentence suspended for three years. The ruling means Pu may be sent to jail if he repeats his criticism or runs afoul of police-imposed rules

JAPAN SEEKS 1,000 YOUNG 'HUMAN RIGHTS SUPPORTERS' TO MONITOR INTERNET FOR ABUSES

Amid a steady increase in incidents of online human rights abuses and an uptick of attention on the issue in the media, the Justice Ministry is set to recruit about 1,000 young people in fiscal 2016, mainly high school and university students, who will be asked to help combat such cases on the Internet. The program is intended to reflect young people's opinions in the fight against abusive behaviour on the Internet, sources said. These "human rights supporters" will also help promote activities for human rights protection among youth. According to the ministry, the number of human rights abuse cases using Internet tools such as social networking services and Twitter has been increasing year by year, totalling 1,429 in 2014, up from 658 in 2010. according to the ministry.

INTERNATIONAL HUMAN RIGHTS DAY

10th December is celebrated world over as Human Rights Day, commemorating the day in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights. The Declaration, was proclaimed as a "common standard of achievement for all peoples and all nations." While human rights have always been of paramount importance in the world, at present; with terror attacks and refugee crisis at the global level, and the intolerance and free speech debate at the national level, their significance is ever more. They are not only a precondition for survival but are central to the notion of peace and development. Therefore, as citizens of this nation, Human Rights Day is the day we should look back on how and whether we have truly reduced human rights violations in our country, and if we have been able to achieve the goals of human rights, that were enshrined in our constitution and that we promised ourselves at the eve of independence.

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ANIMAL WELFARE BOARD OF INDIA V. A. NAGARAJA



The Supreme Court banned the Jallikattu tradition of Tamil Nadu and various other practices which involve cruelty towards animals in its landmark judgment titled *Animal Welfare Board of India v. A. Nagaraja & Ors.* Justice Radhakrishnan also pointed out in the process that the court, under the doctrine of *Parens Patriae* has a duty to look after the rights of the animals, since they are unable to take care of themselves.

Facts:

Following the dynamic and vigorous campaigning of PETA against the use of bulls in the brutal events of Jallikattu and various bull racings where the animals are subjected to cruelties such as being hit by nail-studded sticks, punching, stabbing, and tail twisting and dragging; the Ministry of Environment and Forests (MoEF) issued a notification in 2011 banning the use of bulls as performing animals but Jallikattu, however, bull fights and bull races were still permitted to be held.

Issue Raised:

The case comprises two set of cases. One challenges the validity of the above mentioned Notification dated 11.07.2011, while the other challenges the Division Bench Judgment of the Bombay High Court upholding the MoEF.

Judgment:

In the judgment, while giving examples of contemporary laws regarding animal protection in various countries such as Germany, Austria, Slovenia and the U.K.; the bench headed by Justice Radhakrishnan, stated that Jallikattu, bullfights, bull racing “inherently involve pain and suffering” and is done purely for the purpose of human pleasure. This age old tradition has been corrupted in today’s world and the ancient civilization was also concerned about the safety of animals. But in this Judgment the court has completely banned Jallikattu, along with striking down the Tamil Nadu Regulation of Jallikattu Act No. 27 of 2009, a state law that permitted Jallikattu.

The World Health Organization recognizes five freedoms of animals: Freedom from hunger, thirst and malnutrition; Freedom from fear and distress; Freedom from physical and thermal

discomfort; freedom from pain, injury and disease; and Freedom to express normal patterns of behaviour.

These freedoms are enshrined in the sections 3 and 11 of PCA Act. Also according to the Article 51A (g) of the Constitution of India, it is a fundamental duty of every citizen to have compassion for living creatures. The judgment also addresses a key issue about the interim rights of the animals and is those rights placed above or below the right of the human beings. It also shows the clash between the Doctrine of the necessity and the principle of *Parens Patriae*. It brings in the philosophy of Speciesism and Humanism

Analysis:

The judgment shows that law is stronger than the customs and it is potent enough to abolish the ones which go against the Constitution of India. The judgment though a liberal one, was need of the hour and upheld that Animal Rights are as important as Human Rights and both can go hand in hand. The 103 page long judgment while taking in account the arguments from both the sides, took in account of all the aspects of the aftermaths of the age old tradition of Jallikattu and various other activities which involves animals. It showed that those activities are equally dangerous for human beings and causes a lot of destruction. Many lives have been lost in the past years and the toll is ever increasing. The risks involved can’t be overlooked. As it is not in the nature of a bull to run, they assume a flee mode while doing so and therefore can possibly damage anything around. Various scientific explanations were also taken in account to furnish a practical and logical judgment rather than the one based on presumptions and religious superstitions.

But there is also another side to the judgment. The society that practices the tradition of Jallikattu is a primitive one which is miles away from the science and blindly believes in the religion and can do anything in the name of worship; even if this means going against the law. The problem arises in the implementation of such a liberal judgment. Vast protests have been going in various districts as people are not ready to accept the ban on an integral part of the Tamilian festivity.

There is a need to improve the adjudicatory machinery under various environmental laws essential for a proper and fair adjudication of the disputes relating to environmental protection. The Supreme Court, through this judgement, pointed out that except in one State where the appellate authority was manned by a retired High Court Judge, in other States they were manned only by bureaucrats. The Court opined that the Law Commission could therefore examine the disparities in the constitution of these quasi-judicial bodies and suggest a new scheme so that there could be uniformity in the structure of the quasi-judicial bodies which supervise the orders passed by administrative or public authorities, including orders of the Government.

*Animal Welfare Board of India v. A. Nagaraja 2014 7 SCC 547

ACTIVITIES @ CASIHR: A RECAPITULATION OF 2015

As we bid adieu to 2015 and make way for 2016, let's take a minute to stop and recollect what we all went through in the year 2015. India, home to a thriving democracy and also to recent stunning economic growth could not escape the clutches of multiple serious human rights abuses from remaining a fact of life in many parts of the country. Political and separatist violence and the government's heavy-handed response have threatened the well-being and human rights of millions. Even economic development has not gone hand in hand with the well being of the people and the rights of millions have been crushed who tried to come in the way. Many other issues of equal importance like poverty, LGBT rights still continue to haunt the legal as well as the political system of the country.

Along with these headline-grabbing issues are various other concerns that threaten the economic, cultural and social rights of the Indians. Hundreds of millions of Indians live in extreme poverty and these marginalized people suffer most from a poor healthcare system, often non-existent education, economic exploitation, sexual violence, an overwhelmed judicial system, and police brutality and impunity. Extrajudicial killings by the police are as common as torture in police custody. Death penalty still continues to be a highly debated issue in India.

MINORITIES AND HUMAN RIGHTS

Incidents of violence against religious minorities spiked in 2013 in the run-up to national elections; according to government sources 133 people were killed and 2,269 injured in 823 incidents. Similarly the Dadri lynching incident again created huge uproar throughout the country and the government was again asked to clarify its stand regarding the minorities. The debate over "Beef Ban" also intensified during this time and again the primary question was the right of minorities to have food of their choice. Dalits and tribal groups continue to face discrimination and violence. Despite numerous initiatives and laws prohibiting "manual scavenging"= the cleaning by hand of human waste by members of communities considered low-caste- the practice persists in various rural areas of the country.

HUMAN RIGHTS IN THE VALLEY

The situation in the Valley has been grim ever since the first bomb blasts in 1988; the attacks marked the beginning of an armed rebellion for the right to self-determination that still continues. During the 1990s, India used torture, coercion, killings, enforced disappearances, kidnappings, and government corruption to maintain its control over Kashmir. Despite the thousands of human rights violations in the region, few men in uniform involved have faced justice. Rights' groups have been demanding investigations into these cases by an impartial international body. A local human rights group, the Jammu Kashmir Coalition of Civil Society (JKCCS), run by Parvez Imroz, a lawyer, has documented human rights violations committed by the Indian armed forces. The group has also exposed more than 7,000 mass graves over the years. Despite these revelations, the government has yet to take action.

The latest 800-page report, Structures of Violence, released by the group, examines 333 case studies that span over four chapters. The report names 972 perpetrators of human rights violations: 464 army personnel, 189 government gunmen, 158 Jammu and Kashmir

police personnel, and 161 paramilitary personnel. Even after repeated demands of getting investigations done by some independent international authority the government has not broken its silence over the same and therefore it continues to be a highly contentious issue even at the present.

WOMEN RIGHTS

Even after the Nirbhaya incident which shook the nation at the end of 2013 women security still continues to be in a lurch in the nation. The incidents of rape and other sexual offences continue to hit the headlines at a daily basis. Not only sexual offences but other offences such as domestic violence also continue to torment the cause of women in the country. The Delhi Police have come up with some startling figures on redressal of crimes against women in the Capital. In response to a query put up by Delhi Commission for Women (DCW) chairperson, Swati Maliwal, the police have revealed that 7,124 FIRs have been lodged of atrocities on women till August 2015, out of which only one case was decided. Therefore this is another issue over which lots of work needs to be done.

LGBT AND CHILDREN RIGHTS

In 2014, the Supreme Court ruled that transgender people be recognized as a third gender and enjoy all fundamental rights. The Supreme Court stated: "Transgender persons" right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender." The Rights of Transgender Persons Bill, which was passed by the upper house of parliament on April 24, 2015, calls for equal rights of transgender people. To become law, it now must be passed by the lower house of Parliament, where the ruling Bharatiya Janata Party (BJP) has a majority. The Minister for Social Justice and Empowerment, belonging to the BJP, has thus far said that the government supports the issue but wants to bring its own comprehensive bill in this regard.

On the other hand The National Commission for Protection of Child Rights has reported 2404, 3281, 3340 and 2270 cases of violation of Child Rights in 2012-13, 2013-14, 2014-15 and 2015-16 (till 30.06.2015) respectively. The National Commission for Women has registered 16584, 22422, 32118 and 9786 cases of violation of rights of women in 2012-13, 2013-14, 2014-15 and 2015-16 (till date) respectively. The actions taken by National Commission for Protection of Child Rights include conduct of summon hearings and giving directions to concerned officials, giving recommendations to State Governments, etc. The government has also enacted several laws such as the Juvenile Justice (Care and Protection of Children) Act, 2000, the Protection of Children from Sexual Offences Act, 2012, the Prohibition of Child marriage Act, 2006 and is implementing schemes for the protection of children such as the Integrated Child Protection Scheme, etc.

Therefore we still have miles to go, but, at the present juncture all we can say is that= all is not lost. So let's be positive and welcome 2016 with new energy, zeal and a hope that we can make this world be a better place to live in.