

byer before he joined Dacoit group: and that while some group of people were moving, he enquired as to where they were going to; to which, they answered that they were going to commit Dacoity at nearby Post Office, as such, having got the “stimuli” from the said group, he requested the said group even to join him, to which they said that they would not join him as he had no experience of committing Dacoity. Nevertheless, on pleading, they admitted him: went to the Post Office, where he was assigned the duty of watch and vigil to alert them.

This is the case where the group of people during the course of committing murder of the Post Master present in the office; committed theft of property and thereafter left alongwith the Booty. Very interestingly, the persons who committed Murder and Dacoity were not found subsequently except *Barendra Kumar Ghosh*, who as a matter of defence pleaded that he only stood as an outsider as a stand byer;

so, he was innocent of the said crime. The appeal before the Privy Counsel wherein Lord *Atthire* observed “stand wait weights much”. This predominantly is an expressive manner dwells to understand how emotions some time make an individual march towards committing certain wrongs and thereby itching as “criminal”.

It is thus, very clear that certain basic characteristics of individuals emotionally get stimuli would lead them to criminality and therefore it is a necessity to introduce the concept of managing emotions as a part of “*curriculum*” in the education system throughout from primary to post-graduation level as it is very clinching that unless these emotions are properly managed, the individual would fumble to do wrongs which are punitively chargeable leading to convictions. Thus, to manage wheel of emotions the well scheduled controlled emotions would always bring fruits of “positivism” in the life of individuals to spread aura happiness.

THE INSIGHTS OF HUMAN RIGHT VALUES IN THE INDIAN CONSTITUTION

By

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Human Rights are distinguishable inseparable rights of subjects of the State which are endowed upon an individual “pre-natal” and thereon continues even to posthumous.

One of the greatest thinkers and philosophers of human civilization is *Jean-Jacques Ronsseau* rightly said: “Man is

born free but everywhere he is in chains” which therefore, connotatively gives an impression that human rights endowed to an individual is by other human beings, by stout oppressions of manifold kinds. Therefore, it is evident that many freedom movements marched to fight against the oppressive abridgment of human rights endowed.

One great step of envisioning the cause of human rights protection for the first time documented being a famous “*MAGNA CARTA*” propounded in the year 1215 A.D., that glorified the value of Human Rights first time; since the birth of homo sapiens, unlike the codification of law done by ‘*Hammurabi*’ of *Egypt* in 1754 BC.,

The Hair Spring distinction between ‘*Hammurabi codification of law*’ and the ‘*MAGNA CARTA*’ is that later successfully was able to put laws in codification; whereas, Farmer is the document recognized the rights of Human Beings, one of them is :

No freemen shall be imprisoned, have their land taken, be exiled, or destroyed except by the lawful judgment of his peers or by the law of the land.

They will not refuse or delay right or justice and that King maintains these liberties.

“*Magna Carta*” was adopted in the year 1215 A.D., which is famously called ‘Bills of Rights’. Whereas, the Indian scenario is different, which is not united, but under the FRAGMENTS of princely States ruled by Kings and that is the time, when *Vasco Da gama* reached Calicut in the year 1498 A.D. This impact given an impetus to establish hegemony of foreigners on Indian Soil.

This is how, the Portuguese, the Dutch, the French, the Denmark and England in different periods had come to India and established their rule of hegemony over Indians, out throwing the Rule by some of the Kings in princely dynasties.

It is under the Tyrant Rule of Foreigners transformed Indians as Slaves, particularly the ‘British Raj’, even the Solidaire National commune feeling that ultimately united the Indians to rebel against the BASTION Rule. Perhaps, for certainty the “Sepoy Rebellion”

rather it is well known as “Sepoy Mutiny” under the stern leadership of *Jhansi Lakshmi Bai* instilled the feeling of nationalistic view in the Indians and undoubtedly drawn a path to Indian Freedom Movement.

So, during the conceptualization of British Administration over Indian Territorial jurisdiction, many laws were framed to channelize the interests of British Raj over Indians. This led to the written laws particularly the Indian Penal Code, 1860; the Code of Civil Procedure, 1908 so on and so forth and, the major legislation that principally considered by the Draftsmen of the Indian Constitution while its making is, the *Government of India Act 1935* enacted by the British, in which there was proposal for “Bi-Cameral Parliamentary System”, which is popularly known as *Theory of Diarchy*.

However, the post independent era, infused to have the Dawn of ‘Constituent Assembly’ under the Chairmanship of Dr. *Babu Rajendra Prasad*; and that under this stream, there is drafting Committee headed by Dr. *B.R. Ambedkar*, principally having Sri *Tej Bahadur Sapru*, Sri *Alladi Kuppaswamy Iyer* and some other as eminent members in the drafting Committee.

In this connection, it is apt to refer about the Congress Session held at Lahore, in which *Gandhiji*, Sri *Pandit Jawaharlal Nehru*, Sri *Azad*, Sri *Nethaji Subash Chandra Bose* and the other eminent leaders like *Sardhar Vallabai Patel*, the Iron Man of India declared that the Aim of Indians was to achieve “Purna Swaraj”, which means achieving complete independence, thereby it openly declared Indians no more wanted to be under the Rule of British Raj; as a consequential happening, there was a “Quit” India movement led by *Gandhiji* in the year 1942 calling and demanding the British to leave BHARATH in order to endow complete freedom to Indians.

It is worthy to consider for reference, that drafting Committee headed by Dr. B.R. Ambedkar very much considered some postulates envisaged under *Poorna Swaraj pact*. One admiring facet while framing the Indian Constitution was the sufferance that the Indians undergone while fighting to achieve independence was greatly considered and this blood toil history of the freedom movement, therefore, to the core could elicit the importance and significance to the *human dignity* as such the constitutional mandate and its frame to the crust; crux into human dignity and values as such, the Constitution of India is the true document on Human Rights and its protection.

Aptly, when Justice *Felix Frankfurter*, Associate Justice of the U.S. Supreme Court, opposed to consider the incorporation of 'Part-III' of Indian Constitution on "Fundamental Rights"; however, the steward loyal leadership of Dr. B.R. Ambedkar *Sabeb*, who himself a Crusader of Human Rights Protection and its Philosophy very well denied the proposal made by Justice *Frankfurter* thereby paved the Way to introduce "Chapter-III" of 'the Indian Constitution' promulgating the fundamental rights to individuals under the sovereign governance to enjoy certain privileges.

Moreso, there is the incorporation of "Preamble" which is the introductory note and gist to the Constitution of India.

The greatest concern here is that the Hon'ble Supreme Court of India speaking through Justice *Koka Subba Rao* in *Golaknath* Case verdicted that the preamble of the Indian Constitution can be amended; however, the Hon'ble Supreme Court in *Kesavananda Bharathi v. State of Kerala*, which judgment standing 1,432 pages very firmly decided that the "Preamble" of the Constitution cannot be amended as it is the 'Basic structure' of the Indian Constitution.

Interestingly, the "Constitutional Review Committee" was constituted during the ruling of *Atal Bihari Vajpayee*, the then Prime Minister of India; and the shoulder responsibility of reviewing its functioning and mechanism was entrusted to Hon'ble Justice *M.N. Venkata Chellaiah*, the former Chief Justice of India; when there was proposal, whether there could be ways and means to amend the preamble of the Indian Constitution: His Lordship sternly and in a solidaire manner stated; that if the intention of the Government were to amend the 'Preamble' of the Indian Constitution, His Lordship would not act as the Chairman to the "Constitutional Review Committee", which therefore lays a spirited view that the "Preamble" of the Indian Constitution need no amendments.

As a significance, the Preamble of the Indian Constitution when considered in a holistic manner; contains many human values, ethics, rights and, as how to Champion the cause of Human Rights Machinery to protect the individual against the oppression and tyrant rule under the Sovereign State.

The gospel truth is that there is clear mechanism laid under the Constitution and its doctrinal feature as how there is a specified mechanism to restore the human rights "breached" or "violated".

So, Dr. B.R. Ambedkar wholeheartedly commented that 'Article 32' of the Indian Constitution is the "Heart and Soul" to it, as any individual or citizen can directly approach the Hon'ble Apex Court of India, in case there is violation of human rights particularly the 'fundamental rights' guaranteed to its citizen to have redressal invoking the powers of the Apex Court under Article 32 of the Indian Constitution.

Similarly, there is also mechanism under Article 226 of the Indian Constitution to

entertain such a violation touching human rights by invoking the powers of respective High Courts through writ jurisdiction to restore the violations caused to normalcy.

It is under these *aegis*, the Hon'ble Supreme Court pronounced land mark judgments: to refer a few: *Hussainara Khatton*, *ADM Jabalpur*, *Sunil Batra*, *Rudolf Shaw*, *Olga Tellis*, *Bombay Payments etc.*

It is apt to refer here about Hon'ble Justice *H.R. Khanna* of the Hon'ble Supreme Court in *ADM Jabalpur Case*, where a question arose before the Constitutional Bench in connection to; whether, the Fundamental Right guaranteed under Article 21 of the Indian Constitution, which being right to life, whether can be suspended during State Emergency declared under *Article 356* of the Indian Constitution; to which, except Justice *H.R. Khanna* the other Hon'ble Judges held that it can be suspended; however, Justice *H.R. Khanna* clearly deferred with the judgment of the others, holding that the State has no such Authority to take away the life of

an individual even during emergency and, *per se* Justice *H.R. Khanna*, in case State were to be endowed with such Arbitrary Powers, it would certainly exercise the same without discretion to its advantages, thereby stifle to intrude into private rights of the individuals. Hence, this judgment and view was hailed by the Nations of the World and there was an Article published in Newyork Times hailing his Lordship *H.R. Khanna* as the true Crusader of Human Rights, and recognizing the intellectuality, Hon'ble Justice *H.R. Khanna* was given the Doctorate by Columbia University on this deferred judgment.

In all colours, so far, the Indian Constitution very well functioned through the mechanism of the Indian Judicial System, particularly, the Hon'ble Supreme Court stood as the Torch Bearer and Watch Dog to the excesses committed by the Sovereign Authority by enthuse and arbitrariness. Hence, the Constitution of India is the "*Hallmark Doyen*" in protecting the Rights of the Citizens, particularly the cause of Human Rights.

OFFENCES RELATING TO ELECTIONS – PUNISHMENTS

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Introduction :

The electoral offences under Chapter IX-A of the IPC are enumerated under the heading 'Of Offences Relating to Elections'. This chapter was inserted in the chapter was added more than 90 years ago in 1920 by the Indian Elections Offences

and Inquiries Act, 1920 when the concept of elections in a limited way was introduced in some of the legislative bodies under the Government of India Act, 1919. Under IPC, the electoral offences are bribery at elections (Section 171-B), undue influence at elections (Section 171-C), personation at elections (Section 171-D), false statement in