

Challenges of Human Rights in Nepal

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Abstract

Though human rights have been violated by different sectors in the name of war, movement, rule and security management, it is the fundamental rights for all the people across the globe. During the development process of human rights at an international level various declarations have been enacted. The Vienna Declaration-1993 called on the United Nations (UN) member states for the establishment of independent and autonomous national human rights institutions. With the political change in 1989, the protection and promotion of human rights was accepted as the state policy, although the inception of the national human rights institution didn't turn out to be easy as it was anticipated. As a result, the National Human Rights Commission Act-1996 was enacted following the vibrant civil society movement by human rights workers, legal professionals, and media. Civil society, intellectual community and professional organizations demanded the establishment of the National Human Rights Institution. Even after four years of the enactment of the Act, the National Human Rights Commission could not be brought into existence. Taking a far more tightly structure approach, Great oberleitner sets out to explore the benefits and dangers of the institutionalization of human rights, and the impact this has on their development, implementation, enforcement, and promotion around the world. The constitution of Nepal has provisionalized the right to human right.

Keywords, *Discrimination, Exceptional, Emphasized, Socialization*

Introduction

The global framework for human rights is primarily based on a series of international conventions and treaties developed and adopted by the United Nations and other international bodies. These conventions set out the fundamental rights and freedom to which all individuals are entitled. Some of the most significant global human rights

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the prohibition of discrimination) can be restricted when this is called for by critical public interest, such as serious risk to population health, but only if the restriction adheres to the principles of necessity, proportionality and purpose. When taken as complimentary readings, one is left with a greater understanding of international human rights institutions in theory and practice, and how they have enabled the development and realization of human rights around the world. Human rights concerns with freedom of expression and assembly, Right to Truth, Justice and reparation, Right to health, torture and other ill-treatment, indigenous people's rights, gender-based discrimination, universality and inalienability, indivisibility and interdependence.

It also explores equality and non-discrimination, participation and inclusion, accountability and rule of law. Human rights not only concerns with empowerment, dignity, protection of legality, transparency, and civil rights but also connects with political rights, economic rights, social rights and cultural rights.

International Human Rights Conventions was ratified by Nepal. Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948. The UDHR sets out fundamental human rights to be universally protected. The International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966 and, the ICCPR commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of speech, freedom of religion, and the right to a fair trial. Nepal ratified the ICCPR on 14 May 1991. The International Domestication of international human rights in domestic human rights measures – constitution, law and regulation. Support should include consideration of their needs as caregivers within their own families and the impact of stigma on them and their families. In the midst of a pandemic, safeguarding human rights is more important than ever, and responses to this crisis must be founded on their protection. When quarantines or lockdowns are imposed, governments are obligated to ensure access to food, water, health care, and care giving support. Many older people and people with disabilities rely uninterrupted home and community service and support. Ensuring continuity of these services and operations means that public agencies, community organizations, health care providers, and other essential service providers are able to continue performing essential functions to meet the needs of older people and people with disabilities. Government strategies should minimize disruption in services and develop contingent sources of comparable services.

Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966.

The ICESCR commits its parties to work toward granting economic, social, and cultural rights, including labor rights, the right to health, the right to education, and the right to an adequate standard of living. Invention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 and entered into force in 1981. CEDAW is often described as an international bill of rights for women. It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. Domestication of international human rights in domestic human rights measures –

Constitution, law and regulation in human rights

The Constitution of Nepal includes a comprehensive set of provisions related to human rights. It enshrines various fundamental rights and duties, reflecting the nation's commitment to protecting and promoting human rights. Right to Freedom (Article 17) explores that the freedom of opinion and expression, freedom to assemble peacefully and without arms; freedom to form political parties; freedom to form unions and associations; freedom to move and reside in any part of Nepal; freedom to practice any profession or to carry on any occupation, industry, or trade. Right to Equality (Article 18) states that equality before the law and equal protection of the law, prohibition of discrimination on the grounds of religion, race, caste, sex, economic condition, origin, language, or region and the Right to communication (Article 19) insists that freedom of communication, including the freedom of press and publication while Right to Justice (Article 20) support to right to a fair trial, right to seek constitutional remedies.

Similarly, Right against Preventive Detention (Article 21) states that no person shall be held under preventive detention unless there is sufficient ground of existence of an immediate threat to the sovereignty and integrity of Nepal or public peace and order while Right to Property (Article 25) preserves that every citizen has the right to acquire, own, sell, and otherwise dispose property and Rights of Women (Article 38) explores the rights to participate in all bodies of the State on the basis of the principle of proportional inclusion, Rights against physical, mental, sexual, psychological, or any other form of violence. Moreover, Rights of Children (Article 39) focuses on the rights to identity and name, rights against exploitation, rights to free education up to the secondary level but Right to Social Justice (Article 42) claims the rights of socially backward women, Dalits, Indigenous people, Madhesis, Tharus, minorities, persons with disabilities, marginalized communities, Muslims, and others.

conventions are: Universal declaration of human rights (UDHR) was adopted on 10 December 1948. The UDHR is a milestone document in the history of human rights, proclaiming the unalienable rights that everyone is entitled to as a human being, regardless of race, color, religion, sex, language, political or other opinion, national or social origin, property, birth, or other status. It consists of 30 articles detailing these fundamental rights and freedom. The International Covenant on Civil and Political Rights (ICCPR) was adopted on 16 December 1966 and entered into force on 23 March 1976. This covenant commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of speech, freedom of assembly, electoral rights, and rights to a fair trial. International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted on 16 December 1966. This covenant commits its parties to work toward granting economic, social, and cultural rights to individuals, including labor rights, the right to health, the right to education, and the right to an adequate standard of living.

Method

With an emphasis on the effects and difficulties presented by Nepal this review-based study is used to examine the political function of global context in general and Nepalese context in particular. A thorough literature analysis of scholarly books, reports, and articles on media studies, and human rights in Nepal has been done in the research process. The selection of sources was focused on their academic rigor, relevance, and ability to shed light on the challenges of human rights in Nepal both national and international context.

To detect common themes, the study aims to provide a comprehensive perspective of the difficulties human experience in upholding impartiality and ethical norms in a politically charged context by critically reviewing the body of previous material. This approach guarantees a careful investigation of the topic, utilizing a range of viewpoints to provide a full understanding of how the political environment affects human rights in Nepal.

Discussion and Analysis

Nepal is a signatory to several international human rights conventions and treaties, demonstrating its commitment to upholding and promoting human rights at a global level. This article explores the challenges of human rights in Nepal. With no adequate capacity in the system to meet their needs, healthcare professionals are turning patients away, costing a number of people their chance to exercise their right to healthcare. This article explores similar burning challenges of human rights in Nepal. Rights (apart from

In the context of human right, we need to understand about the Right to Health Care (Article 35) that regards the right to free basic health services from the state while Right to Education (Article 31) regards the right to compulsory and free basic education, and free education up to the secondary level and Right to Employment (Article 33) focuses on the right to employment and unemployment benefits. Moreover, Right to Food (Article 36) explores the right to food sovereignty while Right to Housing (Article 37) concerns the right to appropriate housing. The constitution also contains directives, principles, policies, and responsibilities of the state which guide the interpretation of fundamental rights and the development of laws and policies. The constitution empowers the judiciary to enforce these fundamental rights, allowing individuals to approach the courts if their rights are violated. These provisions reflect Nepal's commitment to safeguarding human rights and ensuring social justice and equality for all its citizens. Bottom of Form

International human right law, notably the international Covenant on Civil and Political Rights (ICCPR), requires that restrictions on rights for reasons of public health or national emergency be lawful, necessary and proportionate (Adam, 2020, P.21). Several councils of European texts are relevant to mitigate these risks, including the European prison rules and committee of ministers' recommendations. Human Rights Watch has long urged governments to guarantee paid sick and family leave to enable workers to take time off to care for new children or ill or older family members or to deal with their own serious health conditions without losing pay. But remote work is not an option for millions of workers in fields like retail, restaurants, personal services, the gig economy, and informal sectors. In these fields, employment situations are more precarious, wages tend to be lower, and in some countries workers have low rate of paid sick leave (Ricardo, 2020, P. 21). Particularly in countries such as the US, where low pay may combine with lack of access to sick leave and healthcare coverage, these workers will need assistance (Tiffany, 2020, P.21). Many governments guarantee some paid sick leave to all workers. Others –most notably, the US among developed economics-do not.

To support families during the outbreak, sick and family leave should cover self-isolation and care giving responsibility during schools and care facilities closures. Some female care workers are migrant domestic workers (Tiffany, 2020, p.31). They can be vulnerable to abusive employment conditioning normal times, and are at heightened risk of abuse, losing employment, being frontline caregivers without adequate protections, and of being trapped and unable to reach homes during the crisis (Adam, 2020, p.21). They may also face barriers to protecting their own health. Women globally do

almost 2.5 times as much unpaid care and domestic work as men, and they are more likely than men to face additional care giving responsibilities when schools close, making it harder to maintain paid employment (Bell, 2009, P.87). Japan responded to the potential for a disproportionate impact on families with young children by offering to offset costs to businesses for workers taking paid leave to care for children during school closures, though the amount offered was low (Sukumar, 2020, p. 45). Italy was considering measures to mitigate the effects of the lockdown on families with children (Bert, 2015, p.46). These could include emergency paid parental leave or vouchers for families with children up to 12 years old (or children with disabilities without any age limit) who need to pay for children for the prolonged school closures.

Human rights in Nepal have seen significant progress and challenges over the years. Here's an overview of the current situation. Nepal has experienced a tumultuous history, marked by a decade-long civil war (1996-2006) between government forces and Maoist insurgents. The conflict resulted in numerous human rights violations on both sides. The Comprehensive Peace Agreement (CPA) signed in 2006 ended the war and led to the establishment of a republic in 2008, abolishing the monarchy. Nepal's legal framework for human rights includes The Constitution of Nepal (2015) guarantees fundamental rights such as equality, freedom, and social justice. National Human Rights Commission (NHRC), an independent body was established to monitor and protect human rights. While the constitution guarantees these freedom, there have been reports of government restrictions and cracking down on protests. Media freedom is constitutionally protected, but journalists often face threats and violence. There is a significant issue with impunity for human rights violations committed during the civil war. The transitional justice mechanisms have been criticized for being slow and ineffective. The judiciary is supposed to be independent, but there have been concerns about political influence and corruption.

Similarly, Convention on the Elimination of All Forms of Racial Discrimination (ICERD) which was adopted on 21 December 1965 commits its members to the elimination of racial discrimination and the promotion of understanding among all races. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations General Assembly on 18 December 1979, often described as an international bill of rights for women, defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. Convention

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984 aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world.

Convention on the Rights of the Child (CRC) 1989 sets out the civil, political, economic, social, health, and cultural rights of children whereas the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) adopted in 1990 aims to protect the rights of migrant workers and their families. Similarly, Convention on the Rights of Persons with Disabilities (CRPD) 2006 protects the rights and dignity of persons with disabilities. The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) in 2006 aims to prevent enforced disappearances defined as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state. European Convention on Human Rights (ECHR) treaty signed in 1950 established by the Council of Europe, protects the human rights and fundamental freedoms of individuals within the European continent. American Convention on Human Rights (ACHR) adopted in 1969 protects human rights in the Americas and establishes the Inter-American Court of Human Rights. African Charter on Human and Peoples' Rights (ACHPR) adopted in 1981 protects human rights and basic freedoms in the African continent and establishes the African commission on human and peoples' rights. United Nations Human Rights Council is an inter-governmental body responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations. High Commissioner for Human Rights works to promote and protect the human rights that are guaranteed under international law and stipulated in the UDHR. Committees of independent experts monitor the implementation of the core international human rights treaties. These global conventions and mechanisms provide a framework for the protection and promotion of human rights worldwide, although their implementation and enforcement can vary significantly across different countries and regions. The most significant role in this course was played by the United Nations General Assembly by adopting the Universal Declaration of Human Rights on 10 December 1948 as a response to World War II. Forty-eight member nations took into consideration the right which was violated during World War II and accepted the preamble for the UDHR recognition of the inherent dignity and of the equal and inalienable rights of all members of the family. It is the foundation of freedom. Today the general consent of all

United Nations Member states on the basis of human Rights laid down in the declaration makes it even stronger and emphasizes the relevance of Human Rights in our daily lives. So, human rights are fundamental requirements for human dignity. Governments should ensure public awareness campaigns to address how victims of domestic violence can access services, and should ensure that the services are available to all victims of domestic violence, including those living in restricted zones.

Challenges of human rights in Nepal

Caste hierarchy and access to power influence access to the different forms of resources. Economic marginalization such as forced/bonded labor and landlessness are common phenomenon for Dalits in Nepal. Similar to this, in the economic sphere, the status of inequality effects on education are literacy rate for Dalit is 52.4% compared to 81.9% for the higher caste Brahmin (Sharma, 2014). Status inequality also has detrimental effects on the political dimension. Dalit are neither sufficiently represented in the political party structure nor in the governance mechanism. Dalit are most similar to other subordinated groups, particularly those excluded from any meaningful social, economic, or political participation, those with no voice in society, and those whose subordination is as a consequence of the hegemony of the ruling classes (Onazi, 2009). Dalit comprise 13 percent of the Nepalese population, were previously known as an untouchable group, and include 26 separate sub-caste groups. Dalit are divided mainly into the two categories of Hill and Tarai Dalit. According to the National Dalit Commission (2016), among 26 different caste groups of Dalit seven are from Hill and 19 from Tarai. While Hill Dalit mostly speak the Nepali language, Tarai Dalit have their own local languages, which shows the diversity among Dalit. Dalit used to be known as the ‘Sudra’, ‘Untouchable’, ‘Kujat’, ‘Pauni,’ or ‘Atisudra’ etc.– derogative terms used to dominate them in society (Ahuti, 2010; Muthaiah, 2004). The Dalit word emerged when renowned Dalit leader B R Ambedkar used it to address all the caste groups who were primarily oppressed through the untouchability practices of the Varna system in Hindu society. The use of the word ‘Dalit’ was well established during the Dalit struggle that emerged in 1927 in India. The term derived from the Hebrew root ‘Dal’ meaning ‘broken’ or ‘crushed’. In Sankrit it means ‘downtrodden,’ ‘oppressed.’ or ‘exploited’ (Muthaiah, 2004: 397. It is considered that Dalit are broken from the society and living outside of it. When the word Dalit is spoken by a non-Dalit it might have the character of a derogatory remark.

In fact, Poe and Tate’s (1994) findings corroborated an enduring finding in the comparative

politics literature on the negative impact of democracy on political repression (eg. Hibbs, 1973; McKinlay & Cohen, 1975; Ziegenhagen, 1986; Mitchell & McCormick, 1988; Henderson, 1991). Political repression, in the broadest sense, refers to the systematic violation of the civil liberties and human rights of groups and/or individuals. While civil liberties generally refer to particular types of expression, human rights refer to respect for people's personal integrity. It is these 'personal integrity rights' that are usually the focus of studies of political repression. Nepal has been suffering from political repression since long time.

First, Nepal still faces a significant poverty challenge. Based on 2017 data, more than 8.1 million people are living in poverty, and 28.6% of Nepal is facing multi-dimensional poverty, which means they also lack access to essential services. 44% of Nepal has unacceptable levels of food insecurity and malnutrition; approximately 36% of children under five years are stunted, while 27% are underweight and 10% suffer from wasting due to acute malnutrition. Malnutrition perpetuates poverty, increases health costs and prevents people making a contribution to society and to economic growth. Second, poor infrastructure and a weak domestic economy have led to high levels of unemployment (Patnaik, 2004). Coupled with the devastating earthquake of April 2015, food insecurity, and climate change, this means the poorest communities are struggling to make a living and to survive. The evidence also indicates that this situation is driving the poorest families into significant debt, as data shows that their spending outstrips their earnings. For example, in 2010/11, 60% of the poorest quintile received 24.1% of income but were responsible for around 34% of total consumption. Third, inequality is high in Nepal: it ranks 81st out of 152 countries in terms of economic inequality. This level of inequality is a barrier to poverty reduction, and is preventing the poorest and most marginalized groups from sharing in the country's progress (William, 2019).

Refugee and Migration

The refugee issues have unconstructively affected Nepal's relation with her neighbours, other countries and agencies. Effort of Government of Nepal has not been enough for refugee management and solution finding; however, effort of UNHCR and IOM for 100,706 Bhutanese refugee resettlement was highly appreciated. International efforts should be more intensified to manage approximately 33,118 refugees residing in Nepal with more economic assistance, providing educational opportunities, enhancing vocational skills, assistance for repatriation or resettlement in the third countries.

Environmental Degradation

Changing environments worsen the effects of diseases on children, particularly the youngest and most vulnerable. The habitat for mosquitoes transmitting malaria, dengue fever, and yellow fever is projected to almost certainly expand, thus taking a further toll on communities already suffering greatly from these diseases. Diseases such as malaria are more likely to affect rural areas but have the potential to spread to urban settings, which are already suffering from rising levels of air pollution. Air pollution is linked with one in eight under-five deaths. So, environmental degradation is also hindrance for human right in Nepal.

Right of Indigenous Peoples

Different projects are funding to protect rights of indigenous people. Government control is increasing. While indigenous organizations each have their specific work focused on the women's rights, legal defense, socio-economic development, etc. Organizations and individuals working in the sector have a strong discourse on the need to promote indigenous peoples' rights.

Gender Based Violence

Gender-based violence (GBV) occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between genders, within the context of a specific society. Domestic violence, marital rape, dowry-related violence, child marriage, polygamy, female infanticide, witchcraft accusations, Chhaupadi, and trafficking of women and girls for sexual exploitation are common GBV issues in Nepal. In Nepal, gender based violence is widespread cutting across classes, races, ages and religions. Women are facing violence at home, work place, market, road, bus, school, campus, hotel, office, law, policy, program, health, business, and court and so on. Persistent patriarchy and dominance of Hindu religion and culture has treated women as a second class citizen from the very beginning. Furthermore, Hindu scripture also suggest that fathers, husbands and even sons should control women.

Child labor Exploitation

According to the Nepal-Living Standards Survey (NLSS) III, 53 % of the children are attending school but not working, 38 % are attending school while working, 4 % are working only, and the remaining children are idle. Approximately, 72 % of children work less than 20 hours a week while about 20 % work for 20-39 hours, and 8 % work for 40 or more hours a week. The proportion of children working more than 40 hours a

week is higher among those aged 10–14, females, and children from lower consumption quintiles. Distribution of main sector of child employment shows that 74 % of children are in the agriculture self-employment sector. Extended economic work employs 20 % of working children while other sectors have negligible shares. According to Nepal Labor Force Survey (NLFS), 7% of the working children are being employed in agricultural sector, 1.4 % employed children work in the manufacturing sector, 0.3% works in construction sector, 1.6% is employed in wholesale and retail trade, 1.0% works in hotels and restaurants, 0.1% are working in private households with employed persons, and 6.9% work in other types of industries. Although we have Children's Act, 1992, The Labor Act, 1992, and Labor Rules, 1993, The Child Labour (Prohibition and Regulation) Act, 1999, Kamaiya Labor Prohibition Act, 2001, International Labour Organization (ILO) Worst Forms of Child Labor Convention (No. 182); ILO Minimum Age Convention (No. 138); ILO Forced Labor Convention (No. 29), and UN Convention on the Rights of the Child (CRC) the rights of the children are still violated.

Health Crisis

The government of Nepal has not properly addressed urgent priorities such as mental health. However, the government has come up with a robust advocacy and public campaign on the issue, which targeted young people. The opportunity to strategically and regularly join forces to ensure community engagement outreach and behavioral changes is inextricably linked with the activities of external relations and is an area that needs to be prioritized and strengthened.

Conclusion

The concept of 'human rights' is based on the principles of non- discrimination, dignity of humanity. It is the result of long and continuing process of development that has not yet reached its conclusion. The United Nations Human Rights concerns with justice and peace in the world. Although the declaration with its broad range of political, civil, social cultural and economic rights is not a binding document, it inspired more than 60 human rights instruments which together constitute an international standard of human rights. Mainly, human right concerns in with social, cultural and economic rights such as poverty, and inequality. Despite some economic progress, poverty remains widespread, especially in rural areas. Discrimination based on caste, gender, and ethnicity persists. Access to education and healthcare has improved, but disparities remain, particularly for marginalized communities. Women's rights and gender equality such as violence

against women, gender-based violence, including domestic violence, remains a critical issue. Legal protections exist, but enforcement is weak in Nepal. Women's political participation has increased, with a constitutional provision for 33% representation in parliament although child labor is prevalent, and child trafficking remains a significant problem. Efforts are being made to combat these issues, but challenges persist. Rights of indigenous peoples and minorities where indigenous peoples and other minority groups often face discrimination and lack of representation in political and economic spheres. Nepal is a party to various international human rights treaties and conventions. However, implementation and adherence to these treaties often fall short. Nepal has made strides in improving human rights, but significant challenges remain. Continued efforts from the government, civil society, and international community are crucial to address these issues and ensure the protection and promotion of human rights for all Nepalese.

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