

International Multidisciplinary
Research Journal

*Indian Streams
Research Journal*

Executive Editor
Ashok Yakkaldevi

Editor-in-Chief
H.N.Jagtap

Indian Streams Research Journal is a multidisciplinary research journal, published monthly in English, Hindi & Marathi Language. All research papers submitted to the journal will be double - blind peer reviewed referred by members of the editorial board. Readers will include investigator in universities, research institutes government and industry with research interest in the general subjects.

Regional Editor

Dr. T. Manichander

Mr. Dikonda Govardhan Krushanahari
Professor and Researcher ,
Rayat shikshan sanstha's, Rajarshi Chhatrapati Shahu College, Kolhapur.

International Advisory Board

Kamani Perera
Regional Center For Strategic Studies, Sri Lanka

Mohammad Hailat
Dept. of Mathematical Sciences,
University of South Carolina Aiken

Hasan Baktir
English Language and Literature
Department, Kayseri

Janaki Sinnasamy
Librarian, University of Malaya

Abdullah Sabbagh
Engineering Studies, Sydney

Ghayoor Abbas Chotana
Dept of Chemistry, Lahore University of
Management Sciences[PK]

Romona Mihaila
Spiru Haret University, Romania

Ecaterina Patrascu
Spiru Haret University, Bucharest

Anna Maria Constantinovici
AL. I. Cuza University, Romania

Delia Serbescu
Spiru Haret University, Bucharest,
Romania

Loredana Bosca
Spiru Haret University, Romania

Ilie Pinteau,
Spiru Haret University, Romania

Anurag Misra
DBS College, Kanpur

Fabricio Moraes de Almeida
Federal University of Rondonia, Brazil

Xiaohua Yang
PhD, USA

Titus PopPhD, Partium Christian
University, Oradea, Romania

George - Calin SERITAN
Faculty of Philosophy and Socio-Political
Sciences Al. I. Cuza University, Iasi

.....More

Editorial Board

Pratap Vyamktrao Naikwade
ASP College Devrukh, Ratnagiri, MS India

Iresh Swami
Ex - VC. Solapur University, Solapur

Rajendra Shendge
Director, B.C.U.D. Solapur University,
Solapur

R. R. Patil
Head Geology Department Solapur
University, Solapur

N.S. Dhaygude
Ex. Prin. Dayanand College, Solapur

R. R. Yallickar
Director Management Institute, Solapur

Rama Bhosale
Prin. and Jt. Director Higher Education,
Panvel

Narendra Kadu
Jt. Director Higher Education, Pune

Umesh Rajderkar
Head Humanities & Social Science
YCMOU, Nashik

Salve R. N.
Department of Sociology, Shivaji
University, Kolhapur

K. M. Bhandarkar
Praful Patel College of Education, Gondia

S. R. Pandya
Head Education Dept. Mumbai University,
Mumbai

Govind P. Shinde
Bharati Vidyapeeth School of Distance
Education Center, Navi Mumbai

G. P. Patankar
S. D. M. Degree College, Honavar, Karnataka

Alka Darshan Shrivastava
Shaskiya Snatkottar Mahavidyalaya, Dhar

Chakane Sanjay Dnyaneshwar
Arts, Science & Commerce College,
Indapur, Pune

Maj. S. Bakhtiar Choudhary
Director, Hyderabad AP India.

Rahul Shriram Sudke
Devi Ahilya Vishwavidyalaya, Indore

Awadhesh Kumar Shirotiya
Secretary, Play India Play, Meerut (U.P.)

S. Parvathi Devi
Ph.D.-University of Allahabad

S. KANNAN
Annamalai University, TN

Sonal Singh,
Vikram University, Ujjain

Satish Kumar Kalhotra
Maulana Azad National Urdu University



ECONOMIC AND SOCIAL PROGRESS CHILDREN AND HUMAN RIGHTS

Swapna Rajendra

**Guest Faculty, Department Of Social Work,
Gulbarga University, Jnana Karanja, Post
Graduation Centre, Halahalli, Bidar.**

Indian children as well as suggesting some ways of addressing the problems faced by them.

KEYWORDS: *Economic and Social Progress Children , Indian children, Human Rights.*

ABSTRACT

There has been considerable economic and social progress in India in recent years. But some serious problems remain largely unremedied in fact substantially unaddressed. The long-standing deprivation of the children of India has remained extraordinarily grim and unchanging. India has one of the highest incidences of child undernourishment in the world, and despite the progress in some of the Indian states, there is no evidence in recent years to indicate that there has been any major progress in reducing the proportion of underweight children for the country as a whole. In fact, the incidence of anaemia among children seems to have gone up. not down. There is also disturbing evidence that the coverage of full immunization has hardly increased for the country as a whole, despite progress in some parts of the country, and more than 40 per cent of Indian children are still partially or wholly unprotected from avoidable diseases. The new report published by the Citizens. Initiative for the Rights of Children under Six, called Focus on Children under Six, which was released on December 19, 2006, brings out quite starkly the seriousness of the predicament of young

INTRODUCTION

Since action is needed involving many different agencies and persons, we have to look for a sufficiently broad framework which can unify the efforts of distinct agents of action moved by a shared recognition of the importance and urgency of redressing the dreadful deprivation of Indian children. It is natural to expect that the idea of human rights, along with the duties that go with these rights, could serve as a good intellectual basis for such a unified social approach. The discipline and also the evocative power of human rights have been frequently invoked in the contemporary world to help remedy preventable deprivation and injustice in many other fields. The moral appeal of human rights has been used for varying purposes across the world, from resisting torture and arbitrary incarceration to demanding the end of famines and neglect of political refugees. Can we not, it is natural to ask, use the framework of human rights to help us to remedy the long-standing deprivation of Indian children? The new report, Focus on Children under Six, to which I have referred already, invokes the appeal and force of human rights, even though the use is often implicit rather than spelt out.

The question we have to ask is whether the discipline of human rights is correctly and effectively usable for this purpose. This is the question that I want to address in this lecture, aside from discussing the discipline of human rights in general and its applicability to children's deprivations in particular. Our ability to make legitimate and effective use of human rights depends on an adequate understanding of the discipline of human rights what they are, how they work, what they demand, and how they can influence not only our ideas but also the actual world that lies behind our hopes and commitments. The bulk of the lecture will deal with the nature and



functioning of human rights, and how this discipline can be applied to what can be seen as the rights of children in particular.

Human rights may motivate law, but they have to be distinguished from legal rights, since these human rights exist whether or not the makers and interpreters of law have had the wisdom and opportunity to reflect these rights in actual legislation. As it happens, the Indian Supreme Court has been at the forefront in the world in interpreting legal requirements in the broad light of enlightened civil recognitions. And yet this remarkable record does not eliminate the need to treat human rights as being distinct from legal rights, even though many legal rights do adjust to the civic understanding of human rights, through fresh legislation or new interpretations presented by the courts.

Despite the tremendous appeal of the idea of human rights, it is seen by many legal and political theorists as intellectually frail and lacking in foundation and perhaps even in coherence and cogency. It is certainly true that frequent use of the language of 'rights of all human beings,' which can be seen in many practical arguments and pronouncements, has not been adequately matched by critical scrutiny of the basis and congruity of the underlying concepts. This is partly because the invoking of human rights tends to come mostly from those who are more concerned with changing the world than with interpreting it, to use a distinction made famous by that remarkable theorist-turned-political leader, Karl Marx. There is stirring appeal, on one side, and deep conceptual skepticism, on the other. Underlying that skepticism is the question: what exactly are human rights, and why do we need them?

In the interpretation pursued there, I would argue that human rights are best seen as articulations of a commitment in social ethics. Their ethical status is prior to their legal relevance, if any. In this sense the ethics of human rights is comparable to but substantively very different from accepting utilitarian reasoning. The ethical status of human rights can, of course, be disputed, but the claim is that they will survive open and informed scrutiny. The validity and universality of human rights is, in this view, dependent on the opportunity of unobstructed discussion and their viability in such open discussion.

In extending this idea, I would argue that this cluster of requirements can be fruitfully linked to the survival of a proposed principle in public discussion after they have undertaken their personal reflections, their individual and joint consideration of evidence, and their interactive deliberation and debates on how the underlying issues should be seen. Drawing on this general approach, I would argue that the claim to objectivity, in this general approach, lies in the ability to face challenges from well-informed and well-reasoned scrutiny, and it is to such scrutinizes that we have to look in order to proceed to a disavowal or an affirmation.

This ethical and political interpretation of human rights contrasts with seeing human rights in primarily legal terms, either as consequences of humane legislation, or as precursors of legal rights. Once that is accepted, human rights can, of course, be reflected in legislation, and may also inspire legislation, but this is a further fact, to be distinguished from being seen as a defining characteristic of human rights themselves.

It is however, true that taking a definitional legal view of human rights appeals to many. Reasons for that appeal are not hard to understand. The concept of legal rights has been well established for a very long time, and the language of rights, even human rights is certainly influenced by legal terminology. Also, a great many acts of legislation and legal conventions have clearly been inspired by a belief in some pre-existing rights of all human beings. In a classic essay 'Are There Any Natural Rights?' (Published in 1955), Herbert Hart has argued that people 'speak of their moral rights mainly when advocating their incorporation in a legal system.'³ This is certainly a very important way in which human rights have been invoked, and Harts qualified defence of the idea and usefulness of human rights in this context has been justly influential.

It is, however, extremely important to see that the idea of human rights can be, and actually is used in several other ways as well. In a great many contexts, legislation is not at all involved, and indeed in some cases, legislation might be a serious error. Indeed, many of the cases in which the idea of human rights is used. Often to great effect are not matters of legal rights at all, but which can nevertheless be included within what can be broadly called moral or ethical rights. If a government is accused of violating some human right. (For example through arbitrary incarceration with access to legal redress), that accusation cannot really be answered simply by pointing out that there are no legally established rules in that country guaranteeing those rights. The case for fulfilling these rights even in the absence of legislation is seen to be relevant and legitimate, and that is quintessentially an application of the idea of human rights. This applies particularly to human rights that relate to development, such as the right to food or to medicine or to some basic income.⁴ Many indeed most countries in the world have few of

these developmental claims guaranteed by law, and hardly any country in the world has an adequate legal coverage against all the- deprivations that are involved. This raises an immediate question: should a rights- based approach to development be guided primarily by a law-related perspective, working either through already established legislation, or through demanding new legislation, or at least through thinking in terms of ideal legislation? I have argued against the adequacy of a rights-based approach woven, in one way or another, around actual or proposed or imagined legislation. This claim, which I have defended elsewhere in some detail, argues against seeing human rights as guiding principles to .actual legal or proto-legal,. Or ideal-legal ideas.⁵ The legal relevance is posterior rather than prior to ethical reasoning, and legal use is not the only field of application of the ethical and political idea of human rights.

It can indeed be argued that Mary Wollstonecraft was pointing to ways that provide powerful bases for the work today that many non-legislative organizations, including international associations, civil society organizations, and developmental NGOs, try to do, often with good effect. The United Nations, through the Universal Declaration of Human Rights, made in 1948, paved the way for many constructive global activities. That declaration did not give the recognized human rights any legal status, but the effectiveness of recognition has come in other ways. The ways include fresh legislation which an agreed recognition can inspire, but also other efforts that are supported and bolstered by the recognition of some foundational claims as globally acknowledged human rights. Also, global NGOs (such as OXFAM, Save the Children, Actionaid, Medicines Sans Frontiers, and others) have been involved for a long time in advancing human rights through actual programmers in providing food or medicine or shelter, or by helping to develop economic and social opportunities, and also through public discussion and advocacy, and through publicizing and criticizing violations.

Imperfect obligations, along with the inescapable ambiguities involved in that idea, can be avoided only if the rest of humanity other than those directly involved are exempted from any responsibility to try to do what they reasonably can, to help. A general immunity from having to do anything for others might seem plausible, at least arguably so, for legal requirements enforced by well specified legislation, but the case for such an impunity from a general (or .imperfect.) obligation in the ethical domain would be hard to justify. As it happens, however, in the laws of some countries, there is even a legal demand, which can hardly have extreme precision, for providing reasonable help to third parties. For example, in France, there is provision for .criminal liability of omissions in the failure to provide reasonable help to others suffering from particular types of transgressions. Not surprisingly ambiguities in the application of such laws have proved to be quite large and have been the subject of considerable legal discussion in recent years. The ambiguity of duties of this type whether in ethics or in law would be difficult to avoid if third-party obligations of others in general are given some room, and this cannot be avoided for an adequate theory of human rights.

The discipline of human rights has much to offer in systematizing the perfect and imperfect obligations that the society has towards children. Not only is there no contradiction here, the social perspective on human rights of children is quite central to the demands of a good or of even an acceptable society. If we have a long way to go in making good use of that perspective, especially in India, the fault does not lie in our stars. To think clearly on the subject, giving it due attention, may be a good way to begin. At least that is my submission on behalf of the children of India indeed anywhere in the world.

REFERENCES

- 1.Ashworth, Andrew and Eva Steiner (1990). .Criminal Omissions and Public Duties: The French Experience,. Legal Studies, Vol. 10.
- 2.Bentham, Jeremy (1792). .Anarchical Fallacies: Being an Examination of the Declaration of Rights Issued during the French Revolution.; re-published in J. Bowring (ed.) (1843), The Works of Jeremy Bentham, Vol. II, William Tait, Edinburgh.
- 3.Hart, H.L.A. (1955). .Are There Any Natural Rights?., The Philosophical Review, Vol. 64, April,
- 4.reprinted in Jeremy Waldron (ed.) (1984), Theories of Rights, Oxford University Press, Oxford. Paine, Thomas (1791). The Rights of Man: Being an Answer to Mr. Burke.s Attack on the French Revolution; second part, Combining Principle and Practice (1792); re-published in The Rights of Man (1906), Dent, London and Dutton, New York.
- 5.Rawls, John (1993). Political Liberalism, Columbia University Press, New York.

Publish Research Article

International Level Multidisciplinary Research Journal

For All Subjects

Dear Sir/Mam,

We invite unpublished Research Paper, Summary of Research Project, Theses, Books and Book Review for publication, you will be pleased to know that our journals are

Associated and Indexed, India

- * International Scientific Journal Consortium
- * OPEN J-GATE

Associated and Indexed, USA

- Google Scholar
- EBSCO
- DOAJ
- Index Copernicus
- Publication Index
- Academic Journal Database
- Contemporary Research Index
- Academic Paper Database
- Digital Journals Database
- Current Index to Scholarly Journals
- Elite Scientific Journal Archive
- Directory Of Academic Resources
- Scholar Journal Index
- Recent Science Index
- Scientific Resources Database
- Directory Of Research Journal Indexing

Indian Streams Research Journal
258/34 Raviwar Peth Solapur-413005, Maharashtra
Contact-9595359435
E-Mail-ayisrj@yahoo.in/ayisrj2011@gmail.com
Website : www.isrj.org