

human rights AND insurgency



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North-East India

Ranju R. Dhamala
Sukalpa Bhattacharjee

The book makes a critical intervention in contemporary discourses on Human Rights and examines them in the context of insurgency, particularly in North-East India. The institutionalization of Human Rights has made the modern Nation-States and international bodies like the United Nations, the custodian of individual and collective rights. The violation of Human Rights takes place when such bodies and the State assume the role of 'hegemonic actor in the public realm'. Insurgency, as a counter-hegemonic discourse appropriates the various agencies of Statist domination, posing a threat to the legitimacy of the State. However, the primary concern here is to locate the subject of the drama of hegemonic and counter-hegemonic violence - women, children and innocent masses who suffer the worst casualty on this tension.

Such a politics of tension can be resolved to a great extent by creating a space for dialogue among activists, academics, bureaucrats, philosophers and feminists, who occupy different positions centering round the conflict.

An attempt has been made here to bring together a host of critical views from these various perspectives. This book would be immensely useful to scholars and social activists who are looking for a starting point for a dialogic encounter in a climate of confusion and unrest in NE India.

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Human Rights and Insurgency

The North-East India

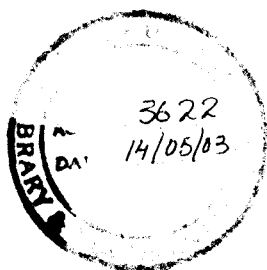


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Introduction

Human Rights (HR) discourse in contemporary times has become an effective institutional tool for the State to impose authoritarian self-serving agenda on the people. The rhetoric of HR expresses a moral concern based on the assumption that human beings possess certain individual rights which should be guarded against the State or groups that violate them. Paradoxically the institutional network of the State, grounds the justification of State intervention on the lives of individuals setting matters right on this moral concern. In a sense, the State tends to own the moral concern of a milieu. As it mobilises popular consent in support of such intervention and calls it a 'humanitarian concern', it becomes rather difficult to make an acceptable critique of this intervention.¹ A true human rights culture is thus juxtaposed to the politics of HR, manouvered by the State. Any interrogation of the basic premise of HR must be read today with reference to this bifurcation. Surprisingly, the issue of HR is being discussed at the level of an utopian ideal rather than being considered in relation to power. The international crusade for HR has been institutionalised through a variety of international organisations and NGOs. A clear manifestation of this approach can be found in most UN publications. A case in point is the UN Secretary General D. Boutros Ghali's report in 1992, which represents a strategic affirmation for the diplomacy of HR, turning the UN into a global police force. Not only the UN but even organisations focussing on hard economic issues like the World Bank claim to be 'humane' and 'people centered' and thus, adopt the new humanitarian rhetoric of human rights discourse. At the level of rhetoric, it is difficult to object to an international perspective, which claims to be people centered and ethical. However, HR is not only an intellectual project or an exercise in ethics. The UN, in practice, has hardly raised its voice against military interventions, organised violence and coercion. Since its inception in the 1940s, the UN has initiated 34 peace-keeping operations which are rarely criticised. Today, HR advocates uphold their argument as an expression of self evident universal rights that no one can question. Article 55 of the United Nations Declaration on Human Rights (1948) states that the UN shall "promote universal

respect for and observance of human rights and fundamental freedoms for all". Article 56 states "all members pledge themselves to take joint and separate action in co-operation with the organisation for the achievement of the purpose set forward in Article 55". The debates surrounding the Declaration of Human Rights indicate that there has been little consensus about what constitutes a human right. The HR concept, therefore, became a trump card through which "diplomatic priorities of the most powerful nations have turned into a universal objective for others, turning aside the voice of weaker nations."²

The originary violation of HR takes place when an institutional authority like the UN or the State becomes the custodian of individual or collective rights. The most prominent feature of modern Nation-State is its role as the 'hegemonic actor in the public realm'. From matters of art and literature to the field of sports, virtually every sphere of life is under the jurisdiction of the State.³ The emergence of the post-colonial Indian state gave birth to an elite leadership which tried to function with an imported concept of statecraft and legitimised the concept, invoking India's past culture. One of the expectations involved in this strategy was that modernity would diminish the diversities of the Indian nation. The other expectation of the ruling elite was that principles of the statecraft would adjust to the dominant State ideology. The strategy of nation building sought to integrate the minority cultures with the dominant ones instead of a recognition of specifics of cultures. Obviously, the Indian State became the central arbitrator in settling ethnic or religious conflicts. Etienne Balbir uses the term 'fictive ethnicity' to denote the community instituted by the nation-state to legitimise its 'presence'.⁴ 'Fictive ethnicity' is not patriotism but an invocation of the past 'historic mission' against which the present is measured and which justifies the strategies employed by the State to control the masses. It attributes only one identity to an individual and interpellates the individual in the name of the collective, where human essence is eroded. Collectivity becomes a great threat to civil rights when the nation defines collective individuals standardising them by negative differences. A nation has its own culture industry through which it labels individuals, categorises people and creates images of the nation and the human being. Plurality is the essence of a human being and so human essence is lost when the nation produces certain stereotypes of individuals and communities.

Conceptualising HR requires understanding of what rights one possesses by virtue of being 'human'. Having 'rights' does not

necessarily mean that one is a 'human being'. Rather one is a human being with human rights when one has rights simply because one is a human being irrespective of varying social circumstances.⁵ Rights are there to strengthen human or collective identity and violations of these rights take place when nation disfigures certain identities, erasing specific differences and replacing them with artificial differences. Arbitrary nature of creating differences and legitimising them through the culture industry is one of the highest violations of HR in any civil society. The idea of HR becomes a misnomer and an idealistic illusion in a society where the means of production of economy and culture rest with a few. Concepts like law, justice, morality, democracy, freedom and HR cannot be regarded as fixed historical categories, for, as the conditions of life and material forces change, the content of notions and ideas may also change. Differences among individuals and groups also change under historical and cultural circumstances. Besides, all differences are not necessarily conflictual in nature and so erasing differences on a flat scale or imposing similarities would negate the 'dialectics of differences'. Rights are assigned by the State, institutionalised and then legitimised by it through its agencies. The State uses violence to implement those rights or guard the violation of these rights. In either case, power and violence in covert or overt form become the weapon of the State. Imaginary tales of 'epistemic violence' and its sources are constructed by the State to suit its ideology. Structural violence is involved in the very construction of national imagery, through writing of partial histories and claiming totality. This violation is also evident in the imposition of 'sex' on gender, gender being a cultural construct of the patriarchal ideology of the State. Woman as sex subject is the "crucial 'site' upon which battles are waged between tradition and modernity, nationalism and colonialism."⁶ Besides, the imposition of national or State languages, the forced inscription of dominant national symbols and uniform also constitute structural and epistemic violation of HR.

Domination in civil societies arrange identities against each other and resist transcendence and intercultural mixing, which transgress the rigidly defined limits of an identity. Once such an arrangement becomes a social reality, the contest among various identities get shifted from 'contest of definite markers' to contest over issues of encroachment and transgression of the narrow limits of identities. Thus, the nature of the conflict among various identities depend on how the immediately contestable 'other' behaves and acts. The colonial State produced a

public space in which the defined limits of various identities were ruffled against one another in the sites of production, politics and administration. This is how modernity reinforced the dominant-dominated relationship in cultural terms, where one identity saw the 'other' as a threat to its existence. The Indian nationalist discourse operating through such a contest ridden public space mediated the intercultural relationship between communities without addressing their specific culture claims. And so, instead of a nation emerging from the cultural grass-roots, a colonial mosaic of dominance and Statecraft was superimposed. The nationalist ideology of post-colonial India operated through the interest of the social and cultural dominant groups and so invited resistance from non-dominant ones. The Indian State thrives on the retention of the dominance of particular social identities and uses coercion to establish its authority through these identities. The State assumes a hegemonic presence through the use of force and manipulates the process of identity construction, projecting some identities as more dominant than the others.

Counter-hegemonic struggle like Insurgency, instead of striking at the root of Statist ideology, is mostly directed against the socially rooted dominance. The monological agenda of Insurgency is that of the subversion of nationalism and the reforming of smaller identities within the dominant social identity recognised by the State. Insurgency in the North East India claims to represent the non-dominant and subaltern identities. Here, the 'nation' as a metaphor of the dominant social identity is contested in the struggle of the insurgent groups for cultural and political autonomy. 'Internal decolonization'⁷, has produced a contradictory situation of the duality of the 'civic citizen' and the 'native citizen' and also an alternative layer of exclusive membership of citizens as subjects of native communities. In North East India, the maintenance of socially rooted dominance in the political space has been exhibited in the effort to create separate provinces for various tribes and communities—such as Nagaland for Nagas, Meghalaya for Khasis, Jaintias and Garos, Mizoram for Mizos. Counter-hegemonic struggle also bases its social action on violence. Thus, violence becomes a weapon of both the hegemonic and counter-hegemonic players. Besides, insurgents may not always be counter-hegemonic players, because they do not attack the Statist architecture of violence. Insurgency does not interrogate the institutional build up of the State in which social highways are created and the rituals of the constitutional passages are established. Insurgency does not address

itself to the fundamental question of class which is the starting point of analysis of a class-divided society.⁸ The essence of Insurgency is such that certain expectations are aroused without a sense of accountability. However, the State as a social actor of violence uses armed force to suppress anything that comes on its way. It seeks to acquire legitimacy from within by activating more of military violence. Insurgency, on the other hand, strives to get legitimacy from without by making an ideological critique of the State and, ironically, pursuing the same agenda of power. In the North East the State is suffering a crisis of legitimacy, but it is functioning forcefully representing antagonistic interests. Insurgency, contrary to its claims, does not identify itself with subaltern class interests and operates in a mode that reinforces the legitimacy of State apparatus.

II

The concept of HR has been in existence since many centuries either as 'natural law', 'natural rights' or 'positive rights' though the internationalisation of the concept started only half a century back with the adoption of the Universal Declaration of Human Rights by the UN (1946). Since then the UN has attempted to define and formulate the concept through various covenants and instruments. The Indian Constitution guarantees its citizens fundamental rights such as right to life, liberty, equality, freedom and protection against inhuman treatment and cruelty. These are in essence, what the HR seeks to achieve for the people. In India, HR is defined under the Protection of Human Rights Act, 1993 as follows (S.N. Bhargava):

Human Rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenant and enforceable by courts in India.

The practice of HR underlines problem of demarcating the area of freedom and authority. It is not unoften that the need to maintain the territorial integrity and sovereignty of a country clashes with the autonomy aspirations of groups within the country. Bhargava succinctly points out: 'it is an irony of human existence that one man's spirit of independence is the other man's crime of terrorism or insurgency.'

India is known internationally to champion the rights of States fighting colonialism and racist regime but at the same time, it is one such country, which has faced the autonomy and liberation movements.

These movements, be it in Assam, Nagaland, Mizoram or Manipur, rationalize their demand on the basis of cultural or minority rights and historical antecedents. Hence, demand for the exercise of right of national self-determination is raised time and again. The Government has sought to resolve the problem by advocating counter insurgency. This policy has resulted in atrocities committed by the military and para-military forces on the insurgents and civilians alike. Thus, a country which claims to have won political independence on the principle of non-violence has opted for violent means to maintain its territorial integrity and sovereignty.

Any discussion on the counter-insurgency policy remains incomplete without a reference to the Armed Forces Special Powers Act, 1958. Bhargava, Dhamala and Nag discuss the various provisions under the Act and show how the application of those powers put a small premium on the ethics of HR. Various operations such as Singimei and Blue Bird to flush out the so called insurgents, have brought untold misery, torture and extra-judicial execution. To bring succour to the people in the face of such atrocities IIR organisations like CLAHRO and NPMHR have been formed. These organisations have been working consistently towards the spread of HR awareness among the people as also to bring relief to the victims by seeking administrative and judicial remedy (Dhamala). Narrating the history of these atrocities, Nag shows how these are translated into their folk tales and folk songs.

To be fair to the Army, it must be remembered that the State policy has been to call the Army when the situation goes out of control and the administration fails to contain the situation. They are not called at the preventive stage. According to T. Mukherjee 'special laws are essential both for operating as also to protect individuals against long-drawn legal battles for action taken in good faith to restore normalcy.'

There are cases of violence committed by the Insurgents and the Army. The obvious suffers in the process are the people whose rights are subjected to violations. To protect the people from the abuse of their rights it is essential to spread the HR knowledge not only among the army personnel but also among the people. To strengthen the HR movement N.B. Biswas suggests that HR education should constitute one of the essential components of school curriculum. The curriculum as developed by him puts special emphasis on value education which would help in the character formation of the young people and also make them aware of the concept and practices of HR.

It is admitted that since the Independence, the NE India is embroiled

in conflict-like situations. The Naga uprising, the struggle carried by the MNF for an independent Mizoram was followed by a process of ethnic conflict such as in Meghalaya, Assam, Manipur etc. The general attitude is to externalise the problem by blaming either the non-tribals or the Centre. This obviously refers to the role of the State in the development process of any region. Since the inception of the planned programmes, the NE region has been exposed to various development experiments. These programmes are developed without taking into consideration the socio-cultural context. As a result of the implementation of ill-conceived planned programmes and the sudden exposure of the society to outside influences certain disfunctionalities began to appear. (C.K. Biswas; Tanmoy Bhattacharjee).

This has created social cleavages and differences in the otherwise classless tribal society. The rapid monetisation of the economy led to exploitation of the people. In order to ensure popular participation in the political process as also to develop the region as per the local needs, the Autonomous District Councils have been established. But Tanmoy Bhattacharjee, citing the case of Haflong Autonomous District Council, points out the failure of these institutions to integrate the traditional institutions. These institutions have emphasised over bureaucratisation and have ignored the youths and their aspirations. These disgruntled youths have been recruited and used by different insurgent outfits. Here, the need is not only to empower the people but also to take into account the socio-cultural context.

These planned programmes have not only ignored the socio-cultural context but also the ecological aspect which has received scant attention from the planners. The objective of sustainable development has failed to evolve. Consequently, incursions into the fragile ecology of the region led to the rapid depletion of resources resulting in stiff resource-competition among the various groups. Naturally, the non-tribals, immigrants and the so-called foreigners had to face expulsion or the threat of expulsion. This can be exemplified by referring to instances of ethnic conflicts in the region (Abhik Gupta). Under the prevailing situation, on the one hand, the legitimacy of the State stands questioned and the developmental programmes fail to achieve the stated goals, on the other.

The discussion on HR brings into focus the issues of minority rights, the emergence of various ethnic groups through constant redefinition of ethnic boundaries and above all the justification for the existence of State as the guarantor of human rights and freedom.

In a multi-ethnic society the definition of minority is beset with problems since the status of majority-minority is not constant in the Indian context. In the NE India the (national) minority (otherwise regional majority) has been provided with constitutional safeguards and privileges but to what extent has this protected and furthered the cause of minority in the region, *i.e.* the non-tribals of the region, is an open question. The dichotomy in the interpretation of the majority-minority status has led to the violations of the HR of the regional minorities but these have failed to receive national attention. This reflects the gap between the principles and practices of HR as also between universalism and particularism. (Rajesh Dev).

Human Rights has become one of the agencies of the State to propagate its ideology and justify the existence of the machineries of violence and coercion. The hegemonic presence of the State has been appropriated by Insurgent uprising as evident in the North-Eastern context. However, Insurgency in its failure to make a critique of the logic of the capital has fallen into the drama of violence and HR violation like the State. B. S. Butola, Prasenjit Biswas and Sukalpa Bhattacharjee make a critique of the formation of the Indian Nation-State and discuss how structural violence is involved in the very history and ideology of the State apparatus. Prasenjit Biswas examines the 'new subaltern' emergence of the identities of NE India and the birth of 'nations from below'. Sukalpa Bhattacharjee's paper examines the cultural construction of gender in an ethnic community, where the (wo)man as a bracketed entity experiences an exclusion both from the public space of a Nation or Human Rights and from the discourses of ethnic resistance manifest in Insurgency. And yet she is the common site/sight of both the warring sides for the inscription of violence. Sukalpa Bhattacharjee analyses how from such a peripheral position, the ethnic woman reclaims her cultural rights as HR and reconstructs her (self) as an ethno-sexual subject. B. S. Butola states that HR is a misnomer in a Capitalist State and will remain so till the policy of 'internal colonization persists.' Prasenjit Biswas offers a perspective of ethnic and communitarian resistance, by way of the ethno-cultural construction of the 'nations from below', which is interrogating the State hegemony that operates through this 'internal decolonization' of the State. The parameter of HR violation is very fuzzy and the common people are the ultimate victims, whether the State uses force to curb Insurgency or the Insurgents take to armed struggle to destabilise the power of the State.

Under such circumstances the emphasis of the State on fraternity, friendship, peace and harmony is philosophically vacuous because it does not contain the spirit of genuine multiculturalism. In “Right’ Consciousness and the ‘Other’: A Parapolitical Approach”, Goutam Biswas maintains that violation of HR takes place when ‘right consciousness’ is monopolised by a dominant group to marginalise the smaller groups. The degradation of the dignity, freedom and liberty of the people as a result of this dominant versus marginal contest, in the hands of State authority and the Insurgents alike, can be mitigated only if the ‘other’ in the community is recognised and accepted. He visualises the solution of the problem in the social translation of the notion of ‘Swaraj’ as developed by Gandhiji. The politics of tension can be resolved by creating a space for dialogue among diverse ethnic and cultural groups for the restoration of HR.

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