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### Human Rights Discourses in Anthropology

Human rights discourses in anthropology are of relatively recent origin. It began with the "statement on human rights" that Melville J Herskovits drafted on behalf of the American Anthropological Association. He wrote: "It will not be convincing to the Indonesian, the African, the Indian, the Chinese, if it lies on the same plane as like documents of an earlier period. The rights of man in the Twentieth Century cannot be circumscribed by the standards of any single culture, or be dictated by the aspirations of any single people. Such a document will lead to frustration, not realization of the personalities of vast numbers of human beings." American Anthropological Association, 1947. Statement on Human Rights, *Am. Anthropol.*, 49(4):539-43. The concern for cultural relativism seen here had almost assumed an ideological status in the early part of twentieth century. It was indeed considered as the hallmark of anthropology till half a century ago but today anthropologists are not quite sure of its value, or the value of the other hallmark of anthropology called holism. In fact, Fredrik Barth considered the latter as an illusion of the nineteenth century nationalism and Durkheimian sociology.<sup>1</sup> The concern for cultural relativism seen here had almost assumed an ideological status in the early part of twentieth century. It was indeed considered as the hallmark of anthropology till half a century ago but today anthropologists are not quite sure of its value, or the value of the other hallmark of anthropology called holism. In fact, Fredrik Barth considered the latter as an illusion of the nineteenth century nationalism and Durkheimian sociology.<sup>2</sup>

The statement on human rights referred to above did not spark off any major debate in anthropology until as late as 1980s, probably because the discipline was still heavily under the spell of persons like

Herskovits, Franz Boas and Ruth Benedict. A major effort of anthropologists then was to win the approval of fellow academicians for anthropology as a science and any effort towards that required anthropology to be value-free, which was not possible without cultural relativism. Hence, it is no wonder that the relationship between anthropology and human rights was, for the first time, addressed meaningfully only in the 1988 publication titled *Human Rights and Anthropology* edited by Downing and Kushner. The American Anthropological Association itself did not address the issue of human rights until 1994. As a Stockholm Conference held in May 1999 to discuss the anthropological understanding of human rights shows, the question of human rights is quite alien to most anthropologists today. Anthropologists are, by and large, uncomfortable to address the issue of human rights primarily for two reasons. One, there are many who do not think that it is good for them to indulge in advocacy. Their objectivity and their status as 'scientists' would be subject to suspicion if they did that. Two, cultural relativism has been a hallmark of the discipline for almost hundred years and it is clearly difficult to abandon this now without an equally important identity marker.

According to Richard Wilson, their hesitation is due to two factors-methodological emphasis on localism and theoretical concern with culture.<sup>3</sup> In an article written four years earlier, Ellen Messer brings out five reasons for their lack of involvement in issues like the violation of human rights, which include the two mentioned by Wilson above.<sup>4</sup> They are: their insistence that human rights concepts are culturally relative, their advocacy for collective or indigenous rights, their commitment to applied anthropology, fieldwork, and involvement in the study of small scale societies.

The relativity of human rights has been one of the major issues for anthropologists. They argue that the human rights are both historically and culturally bound with the West. This view is most clearly argued in Herskovits' statement mentioned above. Recognition of certain rights as universal is seen as tantamount to derecognizing culture diversity or difference, a value, which is highly cherished and has always assumed the status of a national symbol in India due to extreme diversity in its cultures. But should relativism mean a blanket license to cultures to practice what they please? Alison Renteln is one such relativist who argues that it is possible to look for cultural universals without abandoning relativism as it, according to her, does not stand in the way of building "cross cultural universals."<sup>5</sup> She argues that relativism is much misunderstood mainly because of what has gone into making this theory in its early stages. To her, the central idea in relativism is 'enculturation' and not 'tolerance', as "the idea that people unconsciously acquire the categories and standards of

their cultures."6 She further contends, since relativism is a meta-ethical theory, moral criticism from within is possible for the relativist. But her theory based on empirically proved universality of a moral principle of reciprocal vengeance, seems as porous as the one based on western theories of natural rights. As Wilson rightly points out "...if there is local evidence to build a universalistic foundation for human rights, then there must be enough evidence to cause subsidence in claims of moral incommensurability." 7

There are scholars who believe in the relativity of human rights themselves. One such anthropologist is Ellan Messer, who argues how the alleged opposition by anthropologists to the human rights issues has actually contributed to the expansion of the concept to include collective indigenous rights, and how the human rights discourse has brought certain changes in anthropology itself.<sup>8</sup> Human rights until recently were confined to individuals and it is only recently that collective rights have been recognized. Like Renteln he thinks that it is possible to gradually move from relativism to universals, to develop universal standards to measure particular rights by exploring which principles of human rights are most widely shared. According to him, anthropologists are gradually moving towards an agreement on certain minimum standards of human rights. This is however, quite an optimistic statement and many anthropologists are even today unable to engage themselves with such issues, which according to them, should be better left to the activists. Their job is 'academic' or 'scientific' and it is for some other people to address such issues. This was clear from the discussion in a conference in April 1999 on indigenous people at the University of Uppsala, Sweden. One of the distinguished participants remarked that the tension between academics and advocacy would not be good for either. Hence it is better that separate people handle them separately.

Marie-Benedict Dembour also argues about the falseness of the universality of human rights.<sup>9</sup> According to her: The effectiveness of human rights at an individual level depends on the person belonging to the 'right' national state even though they derive from a universal concept of the human being, that their practice exclude whole classes of people even though they rest on an ideal which emphasizes individual freedom and brotherhood, that they represent the language of not-yet-realized-and ever-to-be re-identified-political claims at the same time as they are phrased in terms of eternal truth, in other words that the reality of their discourse is highly contingent even though the concept presents itself as absolute and value free.<sup>10</sup>

This was quite obvious during the Gorkhaland movement in Darjeeling during the late 1980s. The state and the media were highly unsympathetic to the demand and even turned a blind eye to the

third degree tortures in police lock-ups because those who were demanding a separate statehood called Gorkhaland were branded as immigrants from Nepal. Hence, they were considered to have no moral or legal right to demand so and if they still did, the state backlash is most justified. *The Statesman* editorial titled "Time to be Firm" of 23 December 1987 and relating to the Gorkhaland movement says: "no administration can afford to allow such defiance of authority" and finds it 'entirely justifiable' the state government's clamping of the Anti-terrorist Act. The editorial further contends that this is necessary "even at the risk of alienating innocent people." The same national daily has another editorial on 4 January 1988 about the Khalistan movement as follows: "While draconian counter insurgency methods yield temporary results, the long term implications are dangerous, there is every possibility of the forces and the para-military forces becoming a new law unto themselves and alienating ordinary Sikhs." What do we make of it? Does this instance not justify what Dembour writes above?

According to the *Statesman* editorials while the anti-terrorist Act was considered unreasonable for the Sikhs demanding a sovereign state called Khalistan the same Act was considered appropriate for the Nepalis in Darjeeling demanding a separate state within the Union of India even at the cost of alienating the innocent. The human rights organizations like the PUDR and PUeL did not even respond to the requests from the hills of West Bengal to come and visit the area and report independently. To which community one belongs is, therefore, important about what kind of human rights attention one gets.

Writing further on the falseness of the universality of human rights, Dembour draws our attention to the fact that this concept is of western origin and the spread of this concept is seen as a new form of western imperialism.<sup>12</sup> She does not agree with the views of some anthropologist that even the traditional societies had the concept of human rights. According to her, the concept as it is understood today, has both originated and evolved in the west.

The universality of human rights is actually meaningless until it is contextualized and for this, as Wilson rightly points out, relativisation is not necessary.<sup>13</sup> The process of globalization of the human rights movement has also generated the process of localization. In other words, the human rights movement, which is global, has had varying local responses. Instead of ignoring such local discourses on human rights the same may be linked with the global discourses and strengthened in order to achieve greater success in ensuring human rights. This is also where the anthropologists might be able to play an important role and set the discipline rolling beyond the universalist/relativist discourse.

## Contextualising Human Rights Discourses

The international refugee regime is perceived by many as grossly ineffective in ensuring human rights for a vast number of refugees in the world today. This is precisely because of the fact that the United Nations Human Rights Commission and the High Commissioner for Refugees can do precious little without the consent and cooperation of the state concerned. But many countries are not only responsible for regularly creating refugees but are also reluctant to join hands with the international community trying to help the refugees resettle or repatriate. Repatriation has been only partially successful in most parts of the world not only because of the reluctance of the refugee community to be repatriated but also due to the reluctance of the home country to take them back. The instances of the Chakmas from the Chitta gong Hill Tracts and the Nepalis from Bhutan are live examples of this.

I would like to discuss the issues in the context of the Tibetan refugees. I would begin with the statement that those who have crossed the Tibetan border are in a sense luckier than those who could not but are suffering from similar fear of persecution on account of their religion or nationality in the hands of the Chinese. But the former category of Tibetans cannot claim any international legal attention. This is perhaps why the lay, as well as monk Tibetans, risk their lives while trying to cross the Himalayas. It is a common knowledge that the Tibetans continue to come to India directly or via Nepal and keep their counterparts in India informed of the latest developments taking place in Tibet itself. Most accounts of them speak very negatively about the Chinese activities in Tibet that include destruction of Buddhist institutions and settlement of Han Chinese in Tibetan Autonomous region. Obviously, there is a lot of grief among the Tibetans in India, which also indicates that there is more violation of their human rights in China than in India.

In the mountain regions of India and Nepal, where more than 90 per cent of the Tibetan refugees live, it is actually difficult to identify them due to their racial, linguistic religious and cultural similarities with other Himalayan people~s living there.<sup>14</sup> Even when someone is known to be a refugee, it is not something important to talk about and talk, if one must, is in a hush hush tone so that the person concerned may not hear and feel hurt.. Such a situation in Himalayas has both advantages and disadvantages for the Tibetans: while they can pass off as any local person they may also be persecuted by the state machinery thinking that they are locals, as it happened during the Gorkhaland movement. One of them was even shot dead by the Central Reserve Police Force personnel.. This would perhaps not have

happened if they were living in a separate colony and if they were clearly identifiable as a group.

Tibet had for long aroused a lot of curiosity among Europeans. So, when the Tibetan refugees came to India, European scholars took much interest in them and a large number of doctoral theses on the Tibetan refugees in India and Nepal were submitted to various universities in various European languages, some of which were not as enthusiastic. The reason for this is not clear. The Indian journalists have, however, shown some interest in reporting about them.

The body of literature that has been generated in the last four decades or so can be classified under the following heads: survival,, rehabilitation, economic opportunities, religion, adaptation, etc. Even the native scholars have written little whatsoever on the human rights violation on them and what little information we have related to Tibet, a lot of them are unconfirmed. It seems to indicate that human rights violations are there but in Tibet and not in India or elsewhere. The obsession with China is quite strong among the Tibetan scholars like Dawa Norbu and Yeshe Choeden. While I consider this to be necessary and contingent, I am afraid that a lot of human rights violations against the Tibetans refugees in India or elsewhere are getting ignored. Most writings on the Tibetans refugees, including my own, are full of success stories. Notwithstanding the trauma of flight, varying in duration depending primarily on how long they had to walk to cross the border, even the Tibetans themselves generally agree that their settlements have been successful.. Even the trauma does not seem to haunt them as much as it perhaps did in the 1950s. In fact, their economic adaptation in some parts of India has been so good that they have aroused jealousy among the local communities. Some of them have reportedly taken the benefit of the job reservation policy in India for scheduled castes and tribes by acquiring false scheduled tribe certificates. Even in the field of religion and culture the success of the refugees may be considered as tremendous. That is why Haimendorf has described the Tibetan situation as a 'renaissance' in his book titled *The Renaissance of a Tibetan Civilization*, published in 1990.<sup>15</sup> All this is making their relationship with local communities increasingly volatile. This is, however, underplayed by the Tibetan refugee scholars and journalist.. For instance, Dawa Norbu writes: "While actual cases of host-refugee conflict have been rare in India, several scholars have observed underlying tension between Tibetan refugees and host elite (s). It is a truism that the successful outsider is the object of animosity and jealousy; and Tibetan refugees who have done comparatively well in poor host areas, are no exception.<sup>16</sup> Citing the works of T.e., Palakshappa in south India and that of Girija Saklani in the north, Norbu argues that such tensions do not exist in the plain of India. It

should be remembered here that these works are quite old and reports of tensions between host societies and Tibetan refugees are quite recent and based more on journalistic reports than full-fledged studies.

There is no doubt about the fact that the Tibetan refugee story is one of the most successful refugee stories in South Asia. Does it mean that there are no human rights violations against them. If there are, then why are such violations not reported? Or are the human rights issues confined to the citizens only?

During the winter of 1999, after being myself sensitized about human rights at the Stockholm Conference mentioned above, I casually talked to some Tibetan refugees I personally knew in Kalimpong on the issue of human rights. I could see that the issue was not of concern to them. They knew that they had to work hard to earn enough for them and their children no matter where they lived. They would of course like to live in their own country with full dignity but according to them, living in Kalimpong (or in other hill areas) was not bad. They would not be stared at with inquisitive eyes or jeered at as it happens in some plain areas of India. They are in fact happy that their children have the opportunity to study in good schools, learn English and Science, and have enough opportunity for earning their bread. They said that it was bad for some years during the Gorkhaland movement but things are again normal. Yet nothing could be better than a free Ti-et and they hope to achieve it under the leadership of the Dalai Lama.

When asked about human rights violation in Tibet prior to its occupation by the Chinese in 1949, one of the respondents replied that there certainly was enough scope for the violation of human rights in Tibet then but that was violation of the rights of a section of people by another section and that was fine. What was not fine was violation of their rights by the Chinese who are different culturally, and religiously.<sup>17</sup>

This opens an important dimension of human rights that has not received much attention of the scholars. Should intra-cultural violations of human rights be ignored?

Are human rights violations to be taken only at the inter-cultural level? The popular Tibetan concept of human rights at least suggests so. Should such human rights notions receive the approval of the academia as cultural perceptions of human rights? I have no clear answer.

As I reflect on my encounter with the Tibetans I realize that (a) human rights are not an equally important issue for the different cultures of the world, and (b) that human rights are conceived at inter-cultural or state-culture relationship level. There is absolutely no reason why different cultures should have the same priorities even

if the conditions of life have been similar. While it is important to globalize the issue of human rights, empower those rights have been trampled, these must also relate to particular situations in order that global forces are more meaningfully harnessed to solve local problems.

### Conclusion

In conclusion it is pertinent to dwell briefly on how strong is the legal regime in India to protect the rights of the refugees who have come from all directions and settled in various parts of India during the past fifty years or so. The credentials of India in respect of refugee protection are often suspected due to the fact that it has not signed the 1951 Convention or the 1967 Protocol. In this regard, it is worthwhile to refer to the paper by Manoj Kumar Sinha in this volume. Sinha argues that despite the above fact the legal regime in India is powerful enough to take care of the interests of the refugees. He not only cites fundamental rights under Article 20 and 21 or the Directive Principles of State policy but also the creation of the National Human Rights Commission by an Act of Parliament. This Commission has already proven its credentials by taking timely and appropriate action in 1995 in the case of the Chakmas in Arunachal Pradesh.

It should be remembered here that India is a vast country with one billion population. It is obvious that all violations of human rights of all individuals or sections of people living in the length and breadth of such a vast country always be attended to without streamlining the existing legal system of the country. It is quite heartening to note that the intention of the Government of India is quite positive in this regard. But this should not be the cause for complacency. Continued efforts should be made to sensitize the citizens and refugees alike about human rights violation, and remind the state of its avowed duty towards the people living under its protection.

### NOTES

1. American Anthropological Association, 1947, Statement on Human Rights, *Am. Anthropol.*, 49(4): 539-43.
2. Fredrik Barth (1992), "Towards a greater naturalism in conceptualizing societies", in A. Kuper (ed) *Conceptualising Society*, London, Routledge.
3. Richard A. Wilson, (ed) (1997), *Human Rights, Culture and Context: Anthropological Perspectives*, London and Chicago: Pluto Press.
4. Ellen Messer (1993), Anthropology and Human Rights. *Ann. Rev. Anthropology*, 22:221-49.
5. A.D. Renteln (1988), "Relativism and the search for Human Rights", *Am. Anthropol.*, 90: 56-72.
6. *Ibid.*, p. 62,

7. Wilson, n. 3, p. 7.
8. Messer, op. cit.
9. Marie-Benedicte Dembour (1996), "Human rights talk and anthropological ambivalence: The particular contexts of universal claims", in Olivia Harris (ed) *Inside and Outside the Law*, Chapter 2, Routledge, London.
10. Ibid., p. 29.
11. See T.B. Subba (1992), *Ethnicity, State and Development: Case Study of Gorkhaland Movement in Darjeeling*, Vikas, New Delhi.
12. Dembour, op. cit.
13. Wilson, op. cit., p. 12.
14. For more details, see T.B. Subba (1990); *Flight and Adaptation: Tibetan Refugees in the Darjeeling-Sikkim Himalaya*, Chapter IV, Library of Tibetan Works & Archives, Dharmasala.
15. Furer-Haimendorf, Christoph von (1990), *The renaissance of Tibetan civilization*, Synergetic Press, Arizona.
16. Norbu, Dawa (1995), "Tibetan Refugees in South Asia: A Case of Peaceful Adjustment" in S.D. Muni and Lok Raj Baral (eds.), *Refugees and Regional Security in South Asia*, p. 88, Regional Centre for Strategic Studies, Colombo.
17. This is clear from the various accounts of human rights violation of Tibetan refugees, the most important being the publication titled *Tale of Terror, and Torture in Tibet* published by the Tibetan Centre for Human Rights and Democracy (TCHRD) in January 1999. The Tibetan sources often cite the violation of their human rights by the Chinese in Tibet as a reason for them to flee Tibet and come to India.