

ASIA'S CULTURAL VALUES AND HUMAN RIGHTS

Sri Lanka's Experience

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The purpose of the study of culture in relation to human rights education and implementation is not "to legitimize such values on the basis of cultural continuity from the past as a part of the way of life or culture."¹ To regard such a study of culture as purely an exercise of legitimization is to reduce it to a selection exercise, i.e. selecting quotes from important texts regarded as basic sources of a particular religion or any other cultural source. This may be extended to selections from favourable episodes from history. Such an exercise belongs mostly to the propaganda sphere. Implementation policies related to the promotion and protection of human rights requires much more than propaganda.²

Legal formulations of human rights (international as well as local) are only an initial stage in the achievement of these rights. The gap between law and its implementation needs to be bridged if human rights formulations are to remain more than mere illusions. Bridging this gap is an exercise in social transformation³ and such a transformation can only take place within a living cultural context, which needs to be addressed.⁴ The essence of the pursuit of human rights is to establish the dignity of the human person as the most central concern of society. This end cannot be pursued without making efforts to understand the indignities that are meted out to the human person in that society and the cultural forms by which such indignities are constantly reinforced.⁵

For such a purpose what is required is not the selective use of quotes from religious texts or other sources of culture. For example, to select quotes from Buddhist texts which are supportive of freedom of thought and expression, or on the rights of women, may be an interesting exercise but hardly enough to meet the needs for achieving a proper implementation of these rights. An example of the study of culture from a human rights perspective is the work of Dr. B. R. Ambedkar on the issue of untouchability and his promotion of the notions of equality and fraternity in the cultural context of Hindu India.

The fear that cultural studies may lead to complications is hardly a serious objection. All attempts to move from ignorance to understanding create complications and this is especially so in issues such as the implementation of human rights norms and standards. The search for uncomplicated means of modernization is not a new one. It is shared by leaders representing differing political perspectives. Pol believed in wiping out the past as a fundamental tenet of his modernization philosophy and ruthlessly experimented with it the four years he was in power.⁶ This was his way of doing away with the complications involved in dealing with local culture. A less sincere attempt in this direction was the Cultural Revolution of chairman Mao.⁷

The political perspective of avoiding cultural complications has been articulated most clearly in Singapore by Lee Kuan Yew and in Malaysia by Mahathir. It was particularly stressed that possible ethnic confrontations need to be avoided to achieve rapid modernization. The end result was either to restrict freedom of expression and human rights altogether, as in the case of Singapore, or to a very great degree as in the case of Malaysia. It is quite natural, for a country like Sri Lanka which is bedevilled by ethnic violence, to admire a seemingly less complicated model of development. What is implied by such a proposition, however, is that it is necessary to accept an authoritarian model of development as a way out of ethnic conflict. In fact, minority parties and many liberal intellectuals preferred a strong head of state capable of settling ethnic issues, as against a democratic government which was perceived as being too weak to deal with the views of the majority on the ethnic issue.

Limited Authoritarianism?

In fact, authoritarianism of some sort was seen in Sri Lanka from the late sixties, as a short cut to modernization. "The limited dictatorship", as advocated by Felix Dias Bandaranaike, is well known. J.R. Jayewardene and Ranasinghe Premadasa, the first and second executive Presidents of Sri Lanka, attempted full authoritarianism. Such authoritarianism was seen as an imperative for economic modernization of the country and received support from the powerful economic lobbies in the country and outside. Many intellectuals gave theoretical and moral support to this political venture. This authoritarian model was less complicated in that it believed in the use of violence against dissenters and was expected to be able to carry out modernization rapidly.⁸ The resulting displacement of democracy is well documented. The ethnic issue grew into civil war and the country, instead of achieving modernization, descended into unprecedented chaos. This very chaos in turn can create a desire for simple methods of resolving such chaos and achieving some form of prosperity like some countries in South East Asia. However, the experience of the last two decades has distanced most people from the belief that such a result could be achieved through authoritarianism.

Modernization in the West was accompanied by a fundamental transformation of culture achieved through religious reformation. Perhaps this process contributed to the evolution of democracy and its accompanying modernization. Thus, modernization in the West included the replacement of the feudal culture with a democratic culture. Such transformation was not an automatic process following economic modernization but a conscious process achieved by the critical examination of the cultural foundations of the feudal society in different countries. The feudal lords as well as the feudal clerics came under scrutiny as a part of this transformation.

In a country like Sri Lanka, is it possible to protect and promote human rights without a thorough scrutiny of society and culture? If one answers this affirmatively then it is quite acceptable to divorce human rights issues from issues relating to culture. However, the experience in Sri Lanka shows that despite the increase in legal enactments of human rights and numerous programmes for education on such rights, the country's human rights problems are increasing. There have not been significant improvements either in the civil or the economic rights sphere. Any serious attempt towards promotion and protection of human rights must be accompanied by an effort to understand the root causes for the existence of such a situation.

Caste and Human Rights

A short examination of some of the basic human rights problems may be useful at this stage. Equality remains a basic issue that the Sri Lankan psyche does not easily take to, despite the Constitutional recognition of the concept as a fundamental aspect of the legal system. Sri Lanka has a very deeply rooted caste system both among the Sinhalese as well as among the Tamils. To regard the Sinhala Buddhists who constitute over 69.30% of the population as a homogenous community, is to overlook the deep-rooted caste system that exists among the Buddhists even more than in non-Buddhist Sinhala communities. In India, Buddhism rose as a social movement that radically rejected and replaced caste-entrenched Hinduism. The Buddha went so far as to exhort the rejection of Hindu sacred texts (*Shastras*) as a part of a radical rejection of caste.⁹ Centuries afterwards, it took a ruthless Hindu counter-revolution to oust Buddhism from India and to re-enforce the rigid caste system.

However, when Buddhism was introduced to Sri Lanka and was accepted by the royalty of the time, it incorporated the existing caste hierarchy of the country. Later, even the organization of *Sanga* assumed a caste character. This continues to the present. Thus in Sri Lanka, Buddhism—the world's most egalitarian philosophy, popularly regarded as a religion—lost its capacity to contain the concept of equality within its body of thought. The opposite of original teaching—the caste system—was accommodated into it. As a result, a deep religious barrier exists in the country reproducing discriminatory practices among the Sinhala Buddhists. In provinces such as Kandy, Ratnapura and Matara where the population is overwhelmingly Sinhala Buddhist, caste-based discrimination exists to an appalling degree.

It is the caste character of the Sinhalese that prevents the acceptance of the Tamils on an equal basis. A race that does not accept equality among its own is not likely to accept equality with other races. Buddhism, as it is practised in Sri Lanka, has been psychically transformed to accept and justify caste and is unable to generate adequate social energy to accept racial equality. While some intellectuals have tried to create the notion called Sinhala Buddhism¹⁰, as an important component in the contribution to anti-Tamil racism, they have failed to address the issue of caste which deeply divides the Sinhalese. The lack of familiarity with equality, as a human

experience among the majority community is more responsible for the present ethnic crisis than any other factor.

Caste discrimination exists in the Tamil community too. The caste system of Tamils in Sri Lanka is even more rigid than the Sinhala caste system. There have been many Tamil movements fighting for such rights as the right to attend *Kovils* (Hindu Temples). At the beginning of militant organizations of Tamils in the middle of this century, their violence was directed towards 'higher' caste Tamils. (This was so in rebellions of the South in 1971 and afterwards as well.) Perhaps, the continuing violence has levelled down caste barriers among the Tamils living in these areas.

The study of cultural factors relating to lack of familiarity of the concept of equality in Sri Lankan culture can contribute greatly to an understanding of the present situation in the country and will help towards finding ways to cultivate a culture of equality. A doctrinal basis for this exists in Buddhism as taught by the Buddha, though the Buddhism found in Sri Lanka has assimilated local caste prejudices.

Tolerance of Violence

Another important human rights problem in the country is the general tolerance of violence. The use of torture by the police is endemic. Psychological forms of torture are so common that no one even cares to challenge them in a court of law. As far as law goes, the Constitution of Sri Lanka has incorporated the provisions of the Covenant of Civil and Political Rights against torture and cruel and inhuman punishment. The Supreme Court of Sri Lanka has given several laudable judgments to protect these rights as absolute rights which know no limit. However, torture and inhuman treatment remain quite an accepted cultural habit, so that anyone who has some connection with the police can obtain support to punish their less influential opponent. During the times of instability use of such violence reaches unimaginable proportions. In Sinhala society such occasions were the periods around 1971 and 1988-93. And in the Tamil areas it has continued from early 1980 up to date.

The extra-judicial killings have now become quite a part of what the Sri Lankan psyche has learned to tolerate. There was a considerable number of such deaths in 1971 in the South and between 1988-92 the conservative estimate of such deaths is 12,000 (NGOs have claimed the number to be 60,000). The bodies were exhibited by the roads and were thrown into rivers. The attempt to prosecute offenders is almost negligible. Even the horrific cases, such as the killing of over thirty school children, have not resulted in the prosecution of all the suspects. While there have been protests, these have not been in proportion to the massive violations. An old psychic habit has asserted itself and there has been the willingness to adjust to the situation, as if fearing that the pursuit of justice may lead to further trouble. Among the weaker sections of the population tolerance of such violence may be a way of expressing their weakness. Among the socially strong it can be a way of asserting power and authority. In either case, promotion and protection of human rights implies understanding of such human behaviour. Houtart analyzed the statistics of the participants in 1971 and claimed that there was a

clear indication of a link between heavily discriminated against castes and participation in rebellion.¹¹ After the rebellion, when thousands of youth surrendered, answering a call of the government for amnesty, interviews were conducted to find the extent of each person's involvement. One question was about the caste of these persons. Belonging to a particular caste was regarded as *prima facie* evidence of possible participation in the rebellion. In the suppression in 1988-93, some of the worst police violence was directed towards the 'low' castes.

Indifference to the Poor

A further important human rights issue is the apparent indifference towards the weakest in society. This is a very important aspect in a country where over 40% of the people live below the poverty line. (It must be noted that the category below poverty line in a third world country like Sri Lanka is very different to a similar category in the first world where it is implied that poverty is relative poverty. In a third world context this means lack of basic food, shelter and clothing.) Still, most businesses, including those who provide professional services, rely on the exploitation of the poorest. In the agricultural sphere which is the largest economic sphere, trade relies on the purchase of products below the cost price. Many attempts by the state and other agencies to regulate price mechanisms have not been resolute enough to be successful. Suicide among peasantry is high. In fact, the suicide rate in the country ranks among the highest in the world. Recent published statistics showed 70,000 suicides from 1983-97, a number higher than the accounted deaths in ethnic warfare during the same period. Vast numbers of these suicides have taken place among the poorest. Those who have died in the ethnic war on both sides, also for most part, belong to poorest sections of society. The professions have a long-standing cultural habit of exploiting the ignorance and backwardness of the poorest sections of society. A frank relationship where professionals inform their clients of what that have a right to know is not yet a part of the local culture. While there is some improvement in the public's right to getting information there is hardly any improvement in the area of scrutiny of professional behaviour.¹² Enforcement of the right to health care implies scrutiny of practices of the medical profession: due process rights require an examination of the legal profession. The poor can have the benefit of such scrutiny only if the guardians of rights, such as the press and the human rights community take their responsibility seriously.

The indifference to the poor is related to the caste-based character of society, where the 'lower castes' by definition were the socially weak. The social consciousness in Sri Lanka has been determined by the land distribution of the feudal society. The landless were dependent on the landowners, usually referred to as *Radalayas*. *Radalayas* were arrogant and trampled on the people with impunity. The impunity of the 'upper caste' and people who belonged to a higher status than those known as *Samanya Minissu* (ordinary people) is a deeply imbedded cultural concept. Recently (June 1997) a senior judge who had been presiding over some serious human rights cases said, "Independence of judiciary in this country is a myth, where even getting a warrant executed is impossible if the suspect does not happen to be a *Haramanis* [a small man]".¹³ While

legally no one is immune from prosecution, in reality many are. Thus, medieval conceptions will continue in the practical application of laws. *Radalayas* treated *Samanya Minissu* with contempt, and use of violence against such people was a common practice. One example is a criminal, case which occurred in the seventies in a town in the south, Akurassa. One *Radalaya* family occupied positions in town such as posts in town council and the cooperatives. One young man, whose mother worked for this family, joined the local communist party, and at one co-operative meeting challenged the *Radalaya* master on some point. Such a question was too much for this man to bear. He stabbed the young man to death with a huge knife and surrendered to the police with the knife in his hand. According to a close relative, he never regretted this act.¹⁴

A farmer from Tabutthegama, Anuradhapura, summed up what human rights mean to poor people in the country-side: "When the officer-in-charge of the police station shoots our cow and takes it to a party at his home, my mother prepares chillie and sends it through my father to the police officer's house. This is the way my father tells the officer that he bears no grudge against the police officer killing his cow. If the officer feels that there is some ill-will, my father may face other problems."¹⁵

The cruelty that 'upper castes' have perpetrated in the past on the 'ordinary people' is immense. It may well be the psychic patterns of this behaviour that are repeated during times of disturbances in the form of crude killings, humiliating ways of the disposal of bodies, and other forms of violence. Is it not the same psychic pattern that creates in the victims inhuman and cruel forms of revenge? With more people from 'low castes' gaining access to free education, resentment grew in rural 'upper' castes and much violence developed due to this fact. In the promotion and protection of human rights it is very necessary to study and understand the patterns of violations in the country.

The Sinhala language in its grammatical form still retains a distinction of addressing people on the basis of status. In the colloquial form such distinctions are expressed in an even more harsh manner.

Another important area concerns rights to information and freedom of expression. Besides the limitations imposed by the state, there are limitations which are culturally imposed. These isn't a consistent scrutiny of corruption and patterns of violence. Even the pressure to expose the extra-judicial killings did not reach anywhere near that of similar investigations in Argentina. Brushing things under the carpet continues to be a cultural habit. The cultural habit is re-imposed by the use of violence against those who break the taboo. This violence is often initiated privately.

Creating a rights culture involves much more than a legalistic approach. As against the Indian Marxists of the pre-independence period who ignored social and cultural aspects, Dr. B. R. Ambedkar argued: "History bears out the proposition that political revolutions have always been preceded by social and religious revolutions".¹⁶ The sensitivity that the conservative elements show against examination of religion from a religious point of view was demonstrated by the ex-communication of Fr. Tissa Balasuriya, a Sri Lankan

priest, for his attempts to look into the rights of women from a theological point of view.¹⁷ The literature which came out of this debate is a rich source of opinions on the issue of Religion, Culture and Human Rights.

Conclusion

The implementation of human rights principles, norms and standards is the key concern of the human rights project. Such implementation can only take place in the living cultural context of any given society. The violation of rights in any society is supported by the elements of culture of that society. Thus, human rights violations are not purely acts of perverted individuals acting against their culture. The cultural foundations of human rights violations need to be scrutinized if the root causes of human rights violations are to be grasped. Without such a grasp no deep transformation is possible and any human rights project will remain a cosmetic exercise as it is often accused of being. If it is to become a dynamic movement capable of unleashing the inner energies of people to pursue its aims, the shadowy side of society and culture should come within the scrutiny of human rights practitioners. As no self-knowledge is possible without knowledge about one's shadow, it is also not possible to understand a culture without scrutiny of its negative aspects. It is this knowledge that unleashes the dynamism slumbering in the social psyche of which we are seldom aware. The social potentialities of great dynamism could erupt only when a society becomes capable of dealing with the shadow that is imbedded in its culture. Thus, the scrutiny of culture is an inescapable aspect of the protection and promotion of human rights. As there are endeavours to record the violation of rights, there needs to be recording and scrutiny of the cultural roots of such violations as well. All cultures have their positive sides when judged from a human rights standpoint. These often remain crushed under the shadow. The process of overcoming such suppression, therefore, requires dealing with the darker aspects of the cultures concerned.

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