
Multiculturalism: Through the Prism of Human Rights

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ABSTRACT

The issue of human rights has forever been in trend be it the global platform or any domestic forum in India whereas the concept of multiculturalism is a much newer phenomenon. There has already been several debates as how human rights and multiculturalism can co-exist or will either of them just perish. This paper includes a comparative analysis of a specific set of right guaranteed under first, second and third generation of human rights. The first generation rights has always held in high esteem the right to live with dignity and therefore faces status quo conflict of the LGBT community. The second generation right sees the conflict with diverse language culture while the third generation rights mainly see a stiff opposition with respect to the indigenous groups. The third generation of human right which clashes with multiculturalism deal with group rights. This paper carries a detailed analysis as to whether this form of multiculturalism is opposed to the human rights standards or it complements the human rights laws or whether it has ushered in new human rights measures.

Keywords: Multiculturalism, Human Rights, third-generation, language, LGBT

INTRODUCTION

In Indian context, the word multiculturalism prompts an image of the different festivals, the cultural diversity, food, clothing, the scenic beauty and a plethora of other exotic experiences. However, the word multiculturalism for itself holds much more gravity rather than adding to the majestic charm that India holds.

Multiculturalism has been described as a “movement...whose goal is to elevate and celebrate diverse ethnic backgrounds”.¹ The term ‘multiculturalism’, however, has not been used only to describe a culturally diverse society, but also to refer to a kind of policy that aims at protecting cultural diversity. Although multiculturalism is a phenomenon with a long history and there have been countries historically that did adopt multicultural policies, like the Ottoman Empire, the systematic study of multiculturalism in philosophy has only flourished in the late twentieth century, when it began to receive special attention, especially from liberal philosophers. The philosophers who initially dedicated more time to the topic were mainly Canadian, but in the 21st century it is a widespread topic in contemporary political philosophy.²

While multiculturalism has been used as an umbrella term to characterize the moral and political claims of a wide range of disadvantaged groups, including African Americans, women, gays and lesbians, and the disabled, most theorists of multiculturalism tend to focus their arguments on immigrants who are ethnic and religious minorities (e.g. Latinos in the U.S., Muslims in Western Europe), minority nations (e.g. Catalans, Basque, Welsh, Québécois), and indigenous peoples (e.g. Native peoples in North America, Maori in New Zealand).³

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¹ Human Rights Practise update, May 2005, Leticia Díaz, MS, Senior Policy Advisor, LeticiaDiaz@naswdc.org

² Multiculturalism, <http://www.iep.utm.edu/multicul/>, last accessed on: 28.12.2015

³ Multiculturalism, First published Fri Sep 24, 2010, <http://plato.stanford.edu/entries/multiculturalism/>, last accessed on: 28.12.2015

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It is argued that at the heart of the resolution of many ethnic conflicts in India lies a set of multicultural state policies. The Indian Constitution as the source of these policies can be said to be a basic multicultural document, in the sense of providing for political and institutional measures for the recognition and accommodation of the country's diversity.⁴

But when the society is multi-lingual, multi-cultural, multi-ethnic and multi-national, it poses difficulties in the process of nation building.⁵ Two major communities that are caught in the cross-fire in this multicultural issues are the Hindus and the Muslims and the trivial but perpetual conflicts amongst them takes India back a thousand paces despite the steady development maintained by her in several fields. Another conflict of culture amongst North and South Indians also is a raising concern and a hindrance in the field of the development.

It is tough to modify cultures but impossible to unmake them. It is indeed a surprise that India, the biggest multicultural society in the world, has not mastered the approach of perfect balance amongst the diversities that distinguish her. For that to happen, there must be an impartial view of Indian history — both good and bad — which has unfortunately been bequeathed to us by the British.⁶

The decade of the 1990s witnessed a major transformation in the political and social realm of the Indian society. The Indian state changed its strategy. It took steps towards a more liberal state. Now India is a market-oriented society. The market system is more open in comparison with the earlier period. New social groups are making their present felt. This is a harbinger of future political and social base in Indian society.⁷

In relatively multiple spheres, the human rights have been regarded as a gift of the "West to the rest"⁸ and so is multiculturalism. A question that has been raised innumerable times is "To what extent are human rights with their liberal pedigree applicable to non-western contexts?" In answer to that the general retort is that 'Asian values do not regard freedom to be important in the way that it is regarded in the west. This difference of opinion was again thrown into light at the Vienna World Conference on Human Rights in 1993 where the Singaporean Foreign minister has stated that "universal recognition of the ideal of human rights can be harmful if universalism is used to deny or mask the reality of diversity."⁹

Multiculturalism and its enforcement reflects the real spirit of human rights. However, when there is acute struggle for enforcement of the first generation of human rights in several countries, to usher in a respect and acceptance for multiculturalism remains a far cry.

The International human rights framework on cultural diversity has increasingly become more detailed, clear and strong in articulating the reality of the contemporary world and endorsing multiculturalism to respond to cultural, linguistic and ethnic diversity. The starting point for this development is the notion of equality and non-discrimination contained in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Convention defines racial discrimination as: Any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.¹⁰

⁴ Multiculturalism in Contemporary India, Bhattacharyya, Harihar, 2003, vol. 5, no.2, pp. 148-161. UNESCO.

⁵ MULTICULTURALISM AND COALITION POLITICS: THE INDIAN EXPERIENCE, Tuesday 2 June 2009, by Indrajeet Singh, <http://www.mainstreamweekly.net/article1394.html>, Mainstream, Vol XLVII No 24, May 30, 2009, last accessed on: 28.12.2015

⁶ Culture and history, august 3, 2015, <http://www.thehindu.com/opinion/letters/culture-and-history/article7493066.ece>, last accessed on: 28.12.2015

⁷ MULTICULTURALISM AND COALITION POLITICS: THE INDIAN EXPERIENCE, Tuesday 2 June 2009, by Indrajeet Singh Mainstream, Vol XLVII No 24, May 30, 2009, last accessed on: 28.12.2015

⁸ The future of human rights, 3rd edition, Upendra Baxi, Ch. 2, Two notions of human rights 'modern' and 'contemporary'

⁹ Human Rights and Humanitarian law, Developments in Indian and International law, SAHRDC, ch 1, pg 5

¹⁰ Human Rights, Multiculturalism and Indigenous Rights, Speech by Mr Tom Calma, The National Race Commissioner, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, Multicultural Development Association, Reconciliation Strategy Launch, Wednesday 30th July 2008, from 10.30am- 12.00pm, Multicultural Development Association 512 Stanley St, South Brisbane

When, in 1935, the Permanent Court of International Justice was requested by the Council of the League of Nations to provide an advisory opinion on the Minority Schools in Albania, it emphasized that "the application of the same regime to a majority as to a minority, whose needs are quite different, would only create an apparent equality.

The reaction meted out to multiculturalism stretches from suspicion owing to its origin and the effects it might have on the society to outright rejection and at times extreme ridicule. At the same times, its contributions to the development of the society and its acceptance as a part and parcel of the society is also seen in some instances. The cause of the rise of multiculturalism is the trending globalisation and also creation of super-powers. In some cases where the underdeveloped countries are unable to sustain themselves smoothly, there is a trend of emigration in bulk numbers. This creates a diversity in the culture and not always approved by the natives of the developed countries.

Heinous acts of genocide in Rwanda and Bosnia also left a bitter experience in the international community as to the consequences in case there is clash amongst varied cultures. Closer home doom struck in the form of Godhra riot, Babri masjid demolition which soured the relation between the two most predominant communities in India. Social conservatives have criticized the movement as a devaluation of what they regard as an essential core of standards and wisdom traced to Western white civilization. Concerns have been raised that the movement will lead to societal chaos and loss of control as well as provide more options for aberrant behaviour and non-conformity. Other critics are concerned that the movement diminishes patriotism, inhibits national identity, corrupts the country's language base, and undermines the moral standards that regulate behaviour.¹¹

It is, under factual circumstances, a futile attempt to draw parallels or comparisons to other cultures and societies or for that matter, even countries when it comes to human rights. It is, till now, a right that is largely enforced by the states and are regulated in accordance with the sovereignty principle. Multiculturalism too, is diverse concept. There cannot be any universal standard for concepts such as Human rights or Multiculturalism. To draw an example, prostitution, which is considered as an illegal offence and a violation of Human rights till date in India, is already legalised in several states. The fact that it is recognised in other countries is a reflection of the multicultural diasporas. At the same time, India's attempts to legalise it also is a feeble step towards the acceptance and adoption of the multiculturalism fever. However, it must be kept in mind that making space for the new changes and modifications do not force a drastic change in the fundamental feature of the Human rights that has, forever been the backbone of the Indian culture and society.

The fact that traditional and cultural values are always preferred in any form of society rather than making way for path-breaking and liberating human right values can under no circumstances be denied. Anything that is a class apart from what is traditional is bound to question our subconscious thereby leading to misgivings. Multiculturalism, being the new-born child of globalization is one of the victims of such compunction.

One thing that is to be acknowledged before multiculturalism is vetoed for being an intrinsic part of human rights is that, multiculturalism is a departure from the traditional ideas and beliefs that we have garnered for so long. It is something that is unique and fits into the 21st century and the other generations to come. It is still a herculean task to accommodate these practises into our society. The notion or conviction won't change overnight. A society that has not accepted these practises cannot be forced to accept them one fine morning with the flicker of a wand!

The religious undertone that underlies our culture is more difficult to do away with. The sentimental values of the people is quite a tender issue not only in India but in the entire global scenario. A small moderation or suggestion of change is enough to filibuster a large scale riot or holocaust.

There are instances where eminent scholars have argued that "culturalism is tempting as it simplifies, and makes complexity easier to handle."¹² It is a general tendency that humans love to co-exist in peace and harmony while introduction of new cultural norms and practises would only lead to situations that demand special attention and rigorous dialogue.

¹¹ Human Rights Practise update, May 2005, Leticia Díaz, MS, Senior Policy Advisor, LeticiaDiaz@naswdc.org

¹² South African Journal of Education, Vol.30, 2010 at pg17, Human rights values or cultural values? Pursuing values to maintain positive discipline in multicultural schools by Petro du Preez and Cornelia Roux

All these debates lead us to one question- What is more important Human Rights or Culture?

There might be equal supporters of both. While some favour the culture, there is bound to be a strata of the society that will turn towards human rights. It requires that people transcend their comfort zones and enter into negotiations about values.¹³ India, which expressly commits to democracy often suffers from bouts of insecurities caused by new types of democratic policies which try to give recognition to such diversities.

MULTICULTURALISM IN TERMS OF LANGUAGE

In the turmoil of the First World War, Max Weber has pointed out that "today, in the age of language conflicts, a shared common language is pre-eminently considered the normal basis of nationality."¹⁴ It is regarded as a medium of communication and the way of retaining one's individual identity. It helps break barriers and helps people from different societies to come together, communicate and co-exist. Social process of reaching understanding, the co-ordination of action, and the socialization of individuals have been identified as core functions of language.¹⁵ The concept of monolingualism is an attempt by several states to do away with trivial ambiguities related to linguistic barriers. Countries such as France has achieved considerable success in the implementation of the same by way of homogenizing policies i.e. through administrative centralization and a uniform education.¹⁶ At the same time, the regional linguistic minorities have withdrawn into oblivion. Furthermore, in the processes of post-colonial state-formation, for instance in Africa, India and the Pacific Rim, national borders were drawn without taking into account the presence or absence of social cohesion in the respective territory. It should be obvious, that each attempt at monolingual language policies in these states, which are characterized by a complex arrangement of mother tongues, languages of inter-ethnic communication and international languages, would produce conflict between linguistic groups.¹⁷

Language has always occupied a higher pedestal with respect to the Indian context. The variety of languages of this country has drawn the attention of the international community and a world-wide initiative to protect and promote them. In such an instance, an attempt to promote one language in the entire nation would draw the ire of not only the Indians but the international community as well. However, policy-wise, it is extremely essential that a single language be recognised for the smooth conductance of the governance of the country. The framers of the constitution were well aware of such jeopardy which could upset the administrative machinery. Therefore, the constitution has omitted to mention any language as the sole medium. At the same time a foreign language that had strengthened its foothold in the Indian soil owing to historical reasons was promoted to the status of being the official language. It did not solve the dispute in its entirety either. State to state immigration also results in a lot of dilemma. The state of UP had to face the wrath of the Urdu speaking community as well. Taking the case of a lawyer intending to practise law in a separate state requires him to have knowledge of the language of that state. Even schools require the Children to study the language native to that particular state. This common concept of 3rd language has been in practised since long back and is an example of how the language disparity continues to exist. Yet the non-regard of the constitution towards a national language is an approval of the multicultural concept in the form of abstinence.

Such language disputes causing death, riots and violence is a common phenomena in the Southern parts of India. These states are particularly averse to Hindi and also carry a grudge against themselves owing to the kannada, Tamil, Telegu speaking population that are sporadically distributed across the landmass. The problem turns more acute when there is trouble amongst the different languages prevalent in South India.

¹³ Ibid

¹⁴ Management of Social Transformations "MOST" Discussion Paper Series - No.30 Democratic governance in multicultural societies Social conditions for the implementation of international human rights through multicultural policies by Matthias Koenig Institute for Sociology University of Marburg Germany. at pg 6

¹⁵ Ibid at pg 3

¹⁶ Ibid at pg 6

¹⁷ Ibid at pg 8

As because the language rights can become a window to call for political unrest, it is a topic which the government treats with care and exercises utmost lax it can manage.

Linguistic Human Rights is now considered to be a fast growing area of research and interest which combines principles of national and international law keeping in centre, the study of language as a pivotal dimension of ethnicity. These principles are aimed to ensure that no state or society violates these basic rights.¹⁸

The question that arises is that what should be the minimum standards of legal frame work that should be laid down for the survival of the languages of India? If reference is made to art 29 of the constitution which talks about preserving the rights of the minorities in terms of language and other essential rights should be upheld above other prevailing legislations. Moreover article 30 also provides for education in mother tongue. In the next instance only article 120, 210,343 expressly mention Hindi to be of utmost importance barring a few exceptions. To what extend the concept of conservation is extended is the main issue in this situation. Is having one's distinct language established in the state equivalent to conservation? Another issue that follows suit is how to determine minorities when there is almost a distinct language for every second state? How to enforce the standards where a state has two different languages?

In one instance where the UNESCO is supporting books and textbooks in local languages to support education in mother tongues¹⁹, how can one condemn the policy of the Indian states looking for providing job opportunities to people speaking a particular language? Article 2 of the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) has express mention of the word language in their texts which condemns discrimination. If reference is made to the international level, the European Charter for Regional or Minority Languages of 1992 is one of the main instruments covering the European Union. In international plane, such charter is aimed to protect and promote continent-wide democratic space. If the same principle be applied in India, it would create hurdles in administration and further complexities.

This is an unique situation faced by India due to its extreme diversities. An instance where multiculturalism has been widely accepted in the international diasporas, India is facing acute crisis in promoting the same. Human rights, though have a strong support in promotion of multicultural values and is accepted by citizens as well, its implementation is an utopian concept which the Indian government is yet to frame.

MULTICULTURALISM AND LGBT RIGHTS

First generation of Human rights in its essence guarantees the right to live. Our culture in India, though considered to be the most varied. Here the Hindus, the Muslims, Christians and followers of other religion coexist peacefully. There are tales where the Females are worshipped along with the males. Children are also considered a form of God. However, this country is still lagging behind when it comes to awarding the rights to the "other" category. People who are generally labelled as Gay or Lesbian are denied of their right to live. Here the right to live cannot be interpreted on its face-value; it means the right to live with full freedom and devoid of any scorn or embarrassment. Several scholars restrict multiculturalism only to aspects of race, ethnicity and other social aspect. However, several documents such as U.S Declaration of Independence, constitution of South Africa and the United States, and the Universal Declaration of Human Rights adopted by the United Nations consider the philosophy of multiculturalism to be built on the mantle of freedom, human dignity, justice, equality and equity, and hence the inclusion of these practises into multiculturalism.²⁰ LGBT forms a part of multiculturalism in a unique way. Mostly the Judeo-Christian community, Islamic and other religions have condemned this gay culture and thereby resulted in its expulsion from the mainstream culture. If we trace history, these people have formed their own group and sometimes

¹⁸Language: A Right and a Resource , Approaches to Linguistic Human Rights, <http://www.ceupress.com/books/html/Language:ARightAndResource.html>, last accessed on: 28.12.2015

¹⁹Protection of minority languages is a human rights obligation, UN expert says, <http://www.un.org/apps/news/story.asp?NewsID=44352#.VgCBNd-qqko>, last accessed on: 28.12.2015

²⁰ Blumenfeld, W. J.(2010), How comprehensive is multicultural education? : A case for LGBT inclusion, *Journal of Multiculturalism in Education*, 5(2)

underground, perhaps fearing rejection, outcast and in extreme cases; extermination. The controversial reception of this population in several countries despite several awareness and acceptance procedure all across the world compels its categorization in the multicultural aspect away from the mainstream.

Article 2 of the UN declaration of Human Rights and the charter of the United Nations also refer to *rights and freedoms..... without distinction* which should be forwarded to these section as well. So, a scenario where discrimination is meted out to them, calls for intervention. The UN Secretary General Ban-ki-moon is an avid supporter of LGBT rights who on several occasion have invited support and condemned those systems which have treated sexual orientation with cruelty. However, in the absence of a census, this community remains a minority and atrocities, discriminations carried out against them have not yet, unfortunately gained international attention. The security council's first meeting on LGBT rights is a first step to mitigate that concern and is an ice-breaker since it is the first event in 70 years after the establishment of the UN which held talks over forwarding protection to the minority community.²¹

It is evidential that gay rights are coming of age now in India. People are opening up to more and more concepts of norms, beliefs, life-styles and practises. One must realise that being a member-state of the UN human rights declaration, India has to slowly work its way towards realising the ideals of human rights and render these small masses their right to live life freely. They must be provided with basic amenities and opportunities to make themselves a part of the society. The recent inclusion of the "other" category in various application forms for services, cards, examination is a step ahead in this direction.²² Also at the same time the judgment rendered by the supreme court on July 2nd 2015 decriminalising non-heterosexual sex between consenting adults is a historic moment on the history of Human rights in India. The eloquent judgment which states that the only constitutional tenant that is considered to be the underlying theme is inclusiveness. Here inclusiveness is the kind of society where there is a role for everyone and those perceived by the majority as 'deviants' or 'different' are not excluded or ostracised.²³ This shows that our country has come a long way from the despicable situation where an eunuch had immolated herself owing to the lackadaisical attitude of the administration as well as lack of awareness of the plight and conditions of these minimal community. Ironically, the same was overturned by the apex court in its judgment of 11.12.2013. 1991 witnessed a historic publication, *Less Than Gay—A Citizens' Report on the Status of Homosexuality in India*. It was a publication of ABVA (AIDS Anti-Discrimination Movement of India). It was the first form public report on this issue which the magazine, *Sunday*, had initially branded as pornographic literature. The ABVA approached the Press Council of India (PCI) to adjudicate on the same. Justice Sarkaria, the then Chairman of the PCI, finally ruled in negative.²⁴ A country that had in the 90's recognised such rights and given them their due recognition had to backtrack and eat its words when the other nations are coming out with laws and rules for these people. The so rendered "stone wall" had crumbled again.

In the world scenario where Barak Obama can openly select the US Army secretary, Iowa women can gain their rights to marry within them, people of kenya can have the temerity to celebrate the gay community, Greece can declare laws providing civil union rights to same-sex couples India needs to bring about new laws which would relax its staunch approach towards this community.

Despite such set-backs, India's progress to usher in a new awakening by fits and starts is a promise that the "Stone-wall" will be built again and this time it will be more stronger and imperishable. The commendable attempts by the advertising community to raise awareness, the film fraternity along

²¹UN Security Council holds first meeting on LGBT rights, 24 Aug 2015, <http://www.aljazeera.com/news/2015/08/security-council-holds-meeting-lgbt-rights-150824201712751.html>, last accessed on: 28.12.2015

²² India recognises transgender people as third gender, <http://www.theguardian.com/world/2014/apr/15/india-recognises-transgender-people-third-gender>, last accessed on: 28.12.2015

²³ Historic Delhi High Court Judgement flows from Nehruvian Vision of 'Equality', *Mainstream*, Vol XLVII, No 30, July 11, 2009, available at: <http://www.mainstreamweekly.net/article1501.html>, Saturday 11 July 2009, by Shohini Ghosh, last accessed on: 28.12.2015

²⁴ An Open letter to Sonia Gandhi, Monday 3 March 2014, by SHOBHA AGGARWAL, *Mainstream*, VOL LII, No 10, March 1, 2014, available at: <http://www.mainstreamweekly.net/article4759.html>, last accessed on: 28.12.2015

with small-screen programmes have motivated the youth of the India to be more accommodating to these different masses. The recent vigil march has also seen support accumulating from various parts of the society and in near future it will grow manifold.

The drawback which is evident is that the Universal declaration of Human rights does not expressly mention sexual orientation or gender identity. However article 9 and article 20 can be given a broad interpretation to include the same. The article 16 also provides for the concept of marriage unequivocally rendering the right to all men and women.²⁵ The civil marriage norms in the states leads to the complexity of the situation.

Multiculturalism in this front, in the form of LGBT rights have already gained wide acceptance in the youth of India. However, it has become difficult to give recognition to LGBT rights as part of Human Rights. The express absence of any form of legislation advocating such rights is the main cause and the archaic legislation which bore certain restrictions have proved to be the major hurdle in adoption of laws that would render human rights to this community.

This is an aspect of the first generation rights where multiculturalism combined with human rights is attempting to clear the bottle-neck situation in India.

MULTICULTURALISM AND THE THIRD GENERATION RIGHTS

The third generation of human rights, though not widely recognised by the international community is a fast growing aspect of International Human rights. It mainly refers to those rights which are right of groups. This gives the individual the right to be part of a collective group.²⁶ Some scholars believe this right to be an outcome of the phenomenon of global interdependence. They further more stressed on the fact that these rights could be gained only by the combined effort of all social factors like state, individual, association along with contribution of the international community.²⁷

Owing to the both individual as well as collective nature of this right, the identification of the right-holder of the third generation of human rights is quite difficult. In the Indian scenario, this particular problem is very acute in the north eastern region.²⁸ The most recurrently faced problems are the maintenance of peace, the protection of environment, and the encouragement of development.²⁹

However, such movements which were not so much of a concern in that era has assumed a troublesome profile in the current times. The recurring death of the people hailing from north east justifies their anxiety to have group rights and these can be easily classified as their third generation rights.

It is an unfortunate scenario where it appears that India attained its freedom but these states continue to suffer under the tyranny and colonialism of the "mainland" Indians.

In the era of 1980s this aspect of human rights had already spread its roots deep into the Indian political scenario. The Naga people, the Mizos, Kashmiris and Punjabis had established their own human rights organisations focusing exclusively on the human rights violations taking place in the context of the local struggles. Would these steps be considered a move to accept the third generation of human rights? Whether recognised internationally or not the 20th century saw massive support of the Indian community toward this generation of Human rights. This movement can also be referred to as a move to promote and garner respect for multiculturalism. However, the struggle to enforce such individual rights had become so intense that India lost its focus on the human rights violation in unfair terms of trade as well as the third generation rights on the international plane.³⁰

²⁵ About LGBT Human Rights, <http://www.amnestyusa.org/our-work/issues/lgbt-rights/about-lgbt-human-rights>, last accessed on: 28.12.2015

²⁶ Available at: <https://www.ihrfg.org/human-rights-funding/faqs-about-human-rights>, last accessed on: 28.12.2015

²⁷ Rethinking "Third Generation" Human Rights, Bülent, Ankara Law Review Vol:1, No:1 (Summer: 2004), pp. 121-155 ALGAN, <http://auhf.ankara.edu.tr/journals/alr-archive/ALR-2004-01-01/ALR-2004-01-01-ALgan.pdf>,

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²⁹ Human Rights in India By Asish Kumar Das, Prasant Kumar Mohanty, at pg: 8,

³⁰ Challenges before the Human Rights Movement, <http://www.mainstreamweekly.net/article1080.html>, Mainstream Vol XLVI, No 51, Friday 12 December 2008, by Nandita Haksar, last accessed on: 28.12.2015

The Neheruvian idea of India, "unity in diversity" still remains a long distance dream. The AFSPA continues to be in force in various parts of the north-eastern states. The rapid urbanisation, migration and the essence of globalisation sipping into the Indian heartland has had adverse effects on these eastern states. The eastern states have looked down upon such developments with disdain. The recent situation in the state of Assam where the people from the Bengali speaking community who have migrated after 1971 are forced to be send back is one such attempt to block the diversity culture.³¹ They can be classified as legitimate exercise of rights guaranteed under the third generation where economic development, prosperity, social harmony can be cited as plausible reasons for preventing the same. The fault lies on both sides, the aversion of the north-hailing people to accept the eastern people and their caustic attitude has resulted in these people to withdraw themselves. As a result they hinder any form of entry and abstain from allowing the main-Landers to indulge in these states in any form. This not only affects the administrative set-up but also hinders progress and growth.

To talk of the scenario in the so called main-land, the terms such as adivasis, scheduled tribes and scheduled casts have raised much awareness and have attained the status of being "indigenous" to a particular topography. Unfortunately, such development has mostly been restricted only in the central heart land and the extreme west. The north-eastern people who are distinct in ethnicity, culture and several other aspects still remain deprived of such status. Can mere rendering of a restricted reservation in some areas justify the same discriminatory approach? The use of the term adivasis on a large scale to label any form of indigenous settler in the north-east is also another drawback as the government of India needs to realise that not every indigenous settler is the same.

Such situation has escalated to drastic measures where the Indian government had to sign the Naga peace accord. Though these are ways that help recognition of the rights of the Naga people, any encroachment on the rights of other eastern states can lead to further crisis.³² It is not only the eastern part that had to bear the brunt of such an woeful situation but the under-current of antagonism amongst the north and south can hardly be missed. The distinction drawn on the basis of life-style, language, culture, food-habits creates scepticism and doubts on the much promised diversity of India. This is one arena where human rights has failed to promote multiculturalism as well as uphold the third-generation rights as well.

CONCLUSION

It is well known that the first generation and second generation rights have been well-promoted and protected by international as well as domestic treaties and laws respectively. However, the third generation rights are extremely nascent aspects and have not gained much recognition domestically or internationally. A specific guideline or strategy is amiss which creates further uncertainties.

However, as the jurisprudence of international law develops, these rights too shall gain recognition and perhaps this vulnerable situation will meet a well-deserved fate.

Traditionalism will always strive to preserve the age old faith and practises of the community. Their concept of human rights are not individual claims or a certain group claiming their rights against what is normal and customary in the society. The methodological practises now need to make way for the new practises and traditions, so the need for multiculturalism. Since Rome was not built in a day, neither can the faith of the people in multiculturalism be earned in a day. The process is further complicated when multiculturalism comes in direct conflict with human rights. But that does not mean that multiculturalism is a social evil. The human rights that have been developed keeping in mind the traditional society might not be well equipped to accommodate these rights. Multiculturalism has now evolved to occupy a pivotal position in the world community where denial of some multicultural rights might lead to denial of human rights. To accommodate the newer rights, there can be genuine clashes with the pre-existing rights and they need to be curtailed by a diplomatic and strategic approach.

³¹ Assam on the boil again, this time over hindu migrants from Bangladesh by sangeeta barooah pisharoty on 13/09/2015, <http://thewire.in/2015/09/13/assam-on-the-boil-again-this-time-over-hindu-migrants-from-bangladesh-10622/>, last accessed on: 28.12.2015

³² The Naga peace treaty: Why everyone is still keeping fingers crossed, <http://www.firstpost.com/india/the-naga-peace-treaty-why-everyone-is-still-keeping-fingers-crossed-2386020.html>, last accessed on: 28.12.2015

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