VIOLATION OF HUMAN RIGHTS OF INDIGENOUS PEOPLES DUE TO TOURISM ACROSS THE GLOBE

Pearl Yadav[1]

Abstract

This research paper has been written with the aim to highlight the human rights violations faced by indigenous peoples caused by increasing tourist activities in indigenous settlements across the world. The violations are highly profound but, oft-times go unnoticed or actively ignored by the concerned authorities. Over the years the tourism industry has expanded into different forms of tourism resulting in the infringement of basic human rights of such populations. These people have faced systematic marginalization over the years and tourism is an emerging problem that is adding to the hardships faced by them. Tourism is an industry which is highly lucrative to the state and the later settlers, however, the indigenous peoples, or the original settlers, are negatively affected. More often than not they are excluded from the resulting economic gains. The continuous growth of the tourism industry and the expansion of settlements of later settlers around them have snatched from them the land they live and grow their food on. They are showcased as caged animals in a zoo, thus, invading their privacy. These are only a few listed tribulations faced by them. Their very livelihood can be considered at risk in addition to their existence which is endangered as well. The gross violations of their rights have gone unnoticed and overshadowed by the world community for a long time. Tourism reduces such people to the status of objects and their basic rights are ignored leaving them to suffer. They are taken unfair advantage of and their cultural rights disrespected. The indigenous peoples have been reduced to inconsequential specks in the world population.

This paper will be looking at such instances of violations of human rights of indigenous groups of people across the globe and will also focus on international and municipal legislations in place

[1] Symbiosis International University (Symbiosis Law School, Pune).

to tackle these issues. Along with that, the shortcomings of these legislations will be discussed with emphasis on lack of enforcement of such laws and treaties at both international and domestic levels. The paper will then go on to explore the various suggestions and possibilities that may be of help to the indigenous peoples. It will look at solutions that involve the stakeholders to ensure that the rights of these people are not encroached and, also to secure accountability on the part of the authorities.

Introduction

Over the years the importance of human rights has increased with focus on people's individuality and their rights of existence. Human rights are different from civic rights, they exist simply because we are humans and as humans we deserve to be treated in a specific manner. This right has evolved as a natural right that each human being has. When a person's human rights are violated it equates to violation of their rights of existence. The Universal Declaration of Human Rights[2] is a revolutionary document, one of the first of its kind, to universally protect human rights. This document has helped in mitigation of several human rights issues being faced by groups of people across the world. Along with mitigation, it also helped in bringing to justice the perpetrators of human rights violations. However, it still has not successfully put an end to infringement of human rights all over the world. Many groups of people face infringement of basic human rights. In this paper we focus specifically focus on one such group, indigenous peoples.

The term 'indigenous peoples' does not have a single definition. DE Sanders in Indigenous Peoples: Issues of Definition[3] discusses how there is not just a single definition that encompasses the heterogeneity in their culture. However, for the purpose of this paper the definition of indigenous peoples is, "peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment

[2] Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948)
[3] Douglas E. Sanders, Indigenous peoples: issues of definition, 8 IJCP 4 (1999)

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of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions"[4].

This paper attempts to examine the situation the indigenous peoples have been put in due to the spread of tourism. The relation between human rights with reference to tourism has often been ignored but, it has gained relevance with time. The indigenous peoples are often left out from the benefits that are reaped from this profitable industry. They are marginalized and their basic rights are infringed due to tourist activities and the movement of the later settlers into their settlements. A lot of basic necessities in such areas have been stopped completely or restricted by governments for the sake of development.

Instances of Violations of Human Rights of Indigenous Peoples

Boutros Boutros Ghali said "We have seen how a culture that is marginalized eventually disappears, and we know that when a community is left out of the mainstream of international life, it is very difficult for its members to preserve even the most elementary human rights"[5].

This captures the essence of the problem that this paper discusses. History is a witness that the indigenous peoples have suffered across time and states. This has made them one of the most poverty-stricken groups all over the world. Several indigenous populations across the world are exposed to extremely vulnerable situations because of the neglect they are facing by the domestic governments due to tourism. Tourism is one of the most lucrative industries that bring in foreign exchange and the settlements of indigenous peoples have become more and more desirable. This has resulted in the governments realizing the profit-making potency of indigenous settlements. However, this tends to turn into them being treated as consumer products[6] and not fellow human beings resulting rights violation. Some such instances have been discussed below.

In the sub Saharan country of Kenya, the national game parks have played an important role in preserving and protecting the flora and fauna. It has also made tourism the main industry that brings about stability. But, it has resulted in the indigenous peoples to feel increasingly

[4] International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169
[5] Stamatopoulou, E., 1994. Indigenous Peoples and the United Nations: Human Rights as a Developing Dynamic. *Human Rights Quarterly*, 16(1), p.58.
[6] UN Permanent Forum on Indigenous Issues (UNPFII), *State of the World's Indigenous Peoples*, 14 January 2010, ST/ESA/328

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alienated[7]. The alienation of the indigenous peoples led to criminal activities by the members of these populations. Along with that trough the years their living conditions have progressively worsened. There is unemployment in large scales and malnutrition. These populations are living in state of extreme impoverishment.

The Israeli government promotes tourism on their west bank where they have established settler communities to look after the tourist attraction. They fail to mention that some of these sites have been occupied from Palestinian indigenous peoples settled there. The illegal occupation for tourism purposes has led to Palestinians being left homeless and unable to gain access to their lands for agriculture and other purposes. These settlement projects are clear violations of human rights of the indigenous settlers. Israel and third states signatories to international human rights treaties have obligations to regulate these activities but, nothing has been done. Amnesty International in their report[8] give a view of the current state of five such indigenous settlements and how the original settlers are affected. A Bedouin village near the Kfar Adumin settlement in Israel is close to several tourist areas. Israel has been trying to get the indigenous peoples who have lived in the area for years to move out with the intention to expand the settlement. They have taken steps that can be categorized as 'push factors'[9]. The push factors constitute human rights violations. The settlement has interfered with their land use for grazing animals and agricultural purposes. They have been forced to endure a life full of hardships. The Israeli government has passed orders of demolition and forcing the residents of the village to transfer. Such orders, if implemented, amount to war crimes as well as human rights violation. These are the findings of one of the five case studies conducted by Amnesty International on human rights violations of Palestinian indigenous peoples due to the establishment of Israeli settlements. These settlements were set up to reap the benefits of the locale through tourism. However, due to this the indigenous peoples have suffered gross violations of human rights and have been excluded from the economic gains of tourist activities being carried out at their expense.

The Garifuna peoples faced expulsion from their ancestral lands in the Honduras. Situated in the Caribbean's, it is a prime location for tourism. This community of indigenous peoples faced state

[7] Phyllis B. Jackson, *National Parks and Indigenous Peoples*, 4 Colo. J. Int'l Envtl. L. & Pol'y 502 (1993)
[8] Amnesty International, *Destination: Occupation, Digital Tourism And Israel's Illegal Settlements In The Occupied Palestinian Territories*, 2019
[9] Amnesty International, *Destination: Occupation, Digital Tourism And Israel's Illegal Settlements In The Occupied Palestinian Territories*, 2019

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sponsored extermination from their ancestral lands. This property is sold to developers for various tourist projects. The use of police and military force to evict the Garifuna peoples from their lands[10] brings to light the open violation of human rights of these people. In 2003 the Inter-American Commission of Human Rights received a petition by the Garifuna community on the violation of their rights[11]. The petitioner in this case contended that their rights under Articles 8, 21 and 25 of the American Convention of Human Rights[12] and, Covenant 169 of the International Labour Organization[13] have been violated. The state of Honduras responded by saying that the petition was inadmissible before the Court as the domestic remedies provided by law have not yet been exhausted. The Court passed a decree in the favour of the petitioner finding the Honduran state guilty of violating property rights of the land belonging to the Garífuna Community of Triunfo de la Cruz[14].

The above instances are only a glimpse into the community of indigenous peoples across the world. The situation of many indigenous peoples, however, is the same. They are treated with disrespect and live in abject poverty stricken conditions. In some places they are exotified and treated as show animals. They are not profit making mechanisms but, human beings and deserve to be treated as such. There are legislations and treaties in place to protect their rights and interests discussed in the next section.

International Legislations

Indigenous peoples are a group of people protected by legislations at domestic as well as international level. These legislations are often incapable of protecting their rights and interests. This group of peoples is one of the most persecuted groups across the globe. Their predicaments are often discounted and they are left in a state of neglect by their own countries, and the world at large. This can be blamed on the persuasive nature of international law. There is a need to

[10] Jovanna Garcia Soto, *Honduran Garifuna Communities Evicted by Tourism Interests*, Grassroots International, 9 October 2014
[11] Garifuna Community of Triunfo de la Cruz v. Honduras, Petition 906.03, Inter-Am. C.H.R., Report No. 29/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
[12] Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969
[13] International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169
[14] Carlos E. Agudelo (2019), The Garífuna community of Triunfo de la Cruz versus the State of Honduras: territory and the possibilities and limits of the Inter-American Court of human rights verdict, Latin American and Caribbean Ethnic Studies, 14:3, 318-333, DOI: 10.1080/17442222.2019.1673069

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make the states accountable for their treatment of indigenous communities. Below are some legislations specifically made for the protection of indigenous groups.

The first and foremost document is the United Nations Universal Declaration of Human Rights[15]. This document was seen as a historic move to ensure human rights to one and all. This was the first move in the arena of international law to ensure and enshrine human rights. The uniqueness of this document lies in the diversity that has gone into its making. Nearly all members of the United Nations have ratified this declaration.

International Covenant on Economic, Social and Cultural Rights[16] furthers the scope of human rights enshrined under the Universal Declaration of Human Rights. Its specific focus on economic, social and cultural rights is a major step forward in protecting the indigenous peoples from exploitation caused not just by tourism but otherwise as well.

One of the most important conventions is the Indigenous and Tribal Peoples Convention[17], 1989, by the International Labour Organization. This was an important achievement in international law, solely focusing on indigenous peoples. This convention was a first of its kind that centred the indigenous populations. This convention replaced the ILO C107[18] as Convention 107 had become outdated in protection of indigenous rights.

Specifically focusing on the western hemisphere is the American Convention of Human Rights[19]. This particular document of human rights facilitates the protection of indigenous groups under social and cultural rights. This is a useful tool for indigenous peoples belonging to the Americas.

The most important document safeguarding the rights and interests of indigenous communities across the world is the United Nations Declaration on the Rights of Indigenous Peoples[20]. To this day this is the most extensive document on the rights of the indigenous peoples. It set forth a global framework preserving and protecting the population of indigenous peoples across nations.

[15] UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III)
[16] UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3
[17] International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention, C169*, 27 June 1989, C169
[18]International Labour Organization (ILO), Indigenous and Tribal Populations Convention, C107, 26 June 1957, C107
[19] Organization of American States (OAS), *American Convention on Human Rights, "Pact of San Jose", Costa Rica*, 22 November 1969
[20] UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295

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All of these documents facilitate the protection of such groups of people indirectly. Some were written with these groups specifically in mind. To a certain extent they have been successful in achieving their purposes. Yet, almost all of them fall short when it comes to tackling the effects of globalization of economies. Tourism is a result of globalization and it has become yet another way of exploiting the rights of indigenous groups. To establish accountability and to offer all round protection to these groups there is a need to make international treaties more enforceable and, also for municipal laws to be more inclusive of indigenous rights.

Plausible solutions

Tourism is a very lucrative industry in the present scenario. Several different types of tourism have come into existence with more information being available to the person which has made them curious about different cultures. Indigenous peoples have rich cultures which are of interest to tourists. So, tourism has to be more sustainable and indigenous peoples friendly. They should not be treated as show animals. They often experience increased marginalization, deprivation and exclusion from economic profits as a result of the tourism industry. They are treated as products and live exhibits of an anthropological museum. Present day tourism in an area that customarily belong to Indigenous peoples and where they live, even restricted areas, for example, national parks or natural reserves, inevitably continues the tradition of exotifying Indigenous peoples and their ways of life. This tradition has been continued since the mid-centuries when there were exhibitions held displaying indigenous peoples. This is a highly degrading practice that needs to be stopped immediately. The first step to ensure basic human rights to indigenous groups would be to treat them as humans.

Making the indigenous peoples need to be made a participant in such form of tourism so that they can be equal beneficiary in the process of profit making and not a product. Furthermore there is a need that there are stringent laws in place that hold the state and the human rights violators accountable for their actions. Also, required is a global attention to their issues so that they can be addressed as well as resolved. The governments of nations with these populations should formulate specific legislations that focus and lay down rules on interaction amongst the tourism industry, tourists and the indigenous peoples. At the international level, just one declaration ensuring indigenous rights does not suffice the need of the hour. To prevent

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violations of their human rights there need to be more international legislations that focus on tourism exploiting the rights of indigenous peoples.

Conclusion

The readings for this paper revealed a significant point; exploitation of indigenous peoples due to tourism is prevalent in emerging and developing economies. This issue is not as problematic in developed economies. The major problem faced by indigenous peoples of countries like USA, Canada, Australia and New Zealand is assimilation. Studies have shown that they accept and actively take part in the tourism industry and hold an important place in the industry as stakeholders. Exploitation of rights of indigenous peoples due to tourism is correlates to the economic status of the nation they belong to. Nations that are on the threshold of economic development solely focus on the profit-making aspect and ignore the needs of their own citizens. This goes to show the capitalist nature of the present times. More importance needs to be given to preserving the rights of indigenous groups of peoples and not be as business minded. This will help in not just preserving these groups of people and their livelihoods but, also their cultures which are considered the selling point. Treating indigenous peoples as human beings should come as a natural instinct as they carry a whole millennia of cultural tradition with themselves.

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