

Editorial

Thursday, June 7, 2018

How safe are our women?

Breaking the gloomy and dark atmosphere of increasing crimes against women hovering over our society, a bright silver lining has appeared with the concerns shown by every stakeholders committed for the rights of the women. Even new legislations passed in the last few years definitely deter the perpetrators and make life safer for women.

However, the question remains about the fate of those unfortunate victims who had been offended against before these laws became stringent? Were the accused and perpetrators of those crimes to be tried under the lax laws of those times? Why shouldn't the cases which are still in progress, irrespective of the period in which they were committed be tried under the new law? And why was the document provided by the high school of the minor accused in the Delhi rape case that triggered the chain of reactions and agitations which ultimately led to the amendments of the existing rape laws in the country, given preference over a medical test as a proof of his age?

Questions that still needs answered in clear and concise terms- a habit alien to those responsible who are used to stressing inane and incoherent aural mutterings as responses to issues they are incapable of or are unwilling to deal with. There was no dearth of laws to deal with any form of crime or offence in the country to begin with. Judges have been empowered to exercise their judicial knowledge in awarding penalties and sentences within the limits laid down for each section for which the crimes are tried for. They are at liberty to award the harshest punishment permissible for crimes against women - and had they done so consistently , the collective outburst the nation demanded for a change in the laws would have rather been for the speedy and fair implementation and delivery of justice instead, which will be the focus the society and the nation needs to turn on because, after the laws have been amended to everyone's satisfaction, as if that is possible and done, what of the other arms of the law that is to ensure it's execution and upkeep? Is a very strict law the only criteria required for a safer society?

One hope not- the mind performs through the arms- the judiciary and the executive powers bestowed on the courts of law, the police and the army are to be exercised in the right manner and with due diligence in order for the laws to benefit the general public for which they are framed. Only a well co-ordinated and concerted legal system could ensure a free and ideal society.

Legal Clinic

What is Article 48a of the Indian Constitution?

Article 48(A) Protection and improvement of environment and safeguarding of forests and wildlife.

"State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."

Article 48A was added by the Constitution (42nd Amendment) Act, 1976.

This article have to be considered in the light of Article 21 which secures right to life and personal liberty.

The Environment (Protection) Act, 1986, and the Wildlife (Protection) Act, 1972, as amended by the Act of 1986, are among the steps taken to give effect to the mandate contained in Article 48A. To enable effective steps being taken for the purpose , by both Centre and State Governments 'Wildlife' and 'forests' have now been placed in the Concurrent List of the Seventh Schedule by the Constitution (42nd Amendment) Act, 1976.

CASE LAWS

1. Animal and Environment legal Defence Fund v. Union of India
2. Pradeep Krishan v. Union of India
3. Sansar Chand v. State of Rajasthan.

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Women's Struggles in Self-Determination Movements

With June 10, 2018 just 3 days left Imphal Times is reproducing the series of lectures delivered by different eminent personalities on the Arambam Somorendra Memorial Lecture on the day every year organised by the Arambam Somorendra Memorial Trust . The write up re-produced here was delivered by Anna Rosario Dejarlo Malindog in 2013

"To live is to be among men, and to be among men is to struggle, a struggle not only with them, but with oneself with passions, but also with one's own"

-Dr. Jose Rizal

Mr. President, Prof. W. Nabakumar, Chairman of the Arambam Somorendra Trust, Dr. Lokendra Arambam, scholars, academics, comrades, friends and colleagues, ladies and gentlemen, a pleasant day to everyone.

It is indeed my pleasure and gratitude to be invited here and to be with you all to commemorate the memory of heroism, courage and compassion of a man that had served his motherland. To be honest with you, I don't know much about Somorendra Arambam, the man we are honoring today. I also confess that I know little about this land, which faces challenges in its fight for freedom, justice and self-determination. But I do know one thing for sure: that, many nations, races, and peoples who are passionately and sternly fighting for the same ideals share the long struggle of the people of Manipur. For instance, the ethnic nationalities of Burma/Myanmar represent one concrete example of nations and peoples who are still fighting and struggling for their claims towards peace and justice, self-determination and independence. Despite the so-called "democratization process" that, according to many, Burma/Myanmar is going through nowadays, the peoples of Burma/Myanmar, the ethnic nationalities to be more specific, are still asserting and fighting for their claim to self-determination, and this is why civil wars are still devastating Burma/Myanmar.

Similarly, the struggle of the Moros of Mindanao in my beloved country, the Philippines, is another embodiment of the quest for these nationalities to gain their independence and political autonomy from the Philippine central government. Despite having lately signed the "Bangsamoro Agreement" with the Philippine government, the Moros of Mindanao are still are not very sure if, indeed, their long-fought for relative political autonomy, that to a great extent embodies their claim to independence and self-determination, will indeed be realized, and be given to them without fighting another civil war. Another case study we can look at the moment is the struggle of the people of Aceh to be a separate and independent nation state inspired by the successful liberation movement and the victory of the East Timorese people which gained independence from Indonesia and became a nation state.

Liberation movements similar to that being waged by the peoples in Aceh, Moro, Burma/Myanmar abound in Southeast Asia and beyond in contemporary times. And they remain steadfast and strong in their fight for freedom, justice and independence, no matter what the costs.

The importance of Self-Determination

The issues of self-determination and independence have always confronted peoples and nations of Southeast Asia and beyond since time immemorial. Since the time of colonization and imperialism until today, the age of globalization and modernization, nations and races of Southeast Asia and beyond are still struggling and fighting for their independence and self-determination. These struggles have produced various movements that became the catalysts behind the quest for self-determination and independence of nations. And one of the various movements that have

played quite a critical and significant role in these struggles of nations and peoples toward freedom and independence is the women's movement.

But before I proceed further, let me share my thoughts about what self-determination and independence mean to me, not necessarily as a human rights and political activist, and not even as an academic, but just from a perspective of one who has witnessed the struggles of peoples in their tussle for nationhood and identity.

For me self-determination is the embodiment of independence and freedom of people to define who they are as a nation and what constitutes their identity as a collective. It is the imperative of a nation to define the tone and tenor of its destiny as a people in consonance with their beliefs, traditions, customs and their culture in general, without being suppressed and being constrained or dictated by any external forces, or governments, or by another state. This is for me the simple definition and true essence of self-determination as a right and as an ideal.

The right to self-determination of peoples and nations is given prior attention and importance by the United Nations, as it is recognized and built into two of the most prominent and well-recognized UN international instruments namely, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These UN instruments have recognized and asserted the right of peoples to self-determination in a holistic and inclusive manner which, substantially, means that self-determination is the fundamental right of peoples and nations to define their political status and identity as a collective, and their place in the global society of peoples and nations, based on the principle of equal rights, manifested by the liberation of peoples from foreign subjugation and colonization, or any external aggressions. This very recognition being espoused by the United Nations on the importance of self-determination as a fundamental right of peoples and nations, is already a signification that, indeed, the struggles and fights for this ideal is a legitimate cause that should be respected and honoured both by states and governments alike.

Liberation Movements

Almost all countries in Southeast Asia, in one way or the other, have produced liberation movements for various reasons and causes. My country, the Philippines, is one of those countries in Southeast Asia which has had the dubious distinction of being colonized by a number of countries. First, it was the Spain which colonized Philippines. Later, the American colonization and Japanese occupation followed it successively. We have had our own home-grown Marcos dictatorship. From colonial times until not very long ago, Philippines have produced numerous liberation and underground movements that are continuously fighting for the freedom, justice, independence, and the right to self-determination of Filipinos in general, of our Muslim brothers and sisters in Mindanao, and the indigenous communities of my country, who are fighting for self-determination against successive waves of colonialists and, in contemporary times, over their ancestral lands being taken away from them drastically by corporatist institutions. Some of the most famous and very historic liberation groups of my country during the time of the

Spaniards were the KKK or Kataas-taasang, Kagalang-galang, Katipunan ng mga Anak ng Bayan/ The Highest, the Most Respected Collective of the Sons and Daughters of the Nation. This movement was responsible for ushering in the 1896 Revolution waged by Filipinos against the Spaniards. During the Japanese colonization, we had the revolutionary group named the Huk-Balahap or Hukbo ng Bayan Laban sa mga Hapon/The Forces of the Nation against the Japanese, which spearheaded the Philippine war for independence against the Japanese occupation. During the Marcos dictatorial regime, the CPP-NDF-NPA or the Communist Party of the Philippines, National Democratic Front, and the New People's Army led the underground and leftist liberation and revolutionary groups of my country fighting against the Marcos dictatorship alongside the Filipino masses together with different the sectoral activist groups. Though liberation groups existed at different times in our history as a nation, there are two commonalities among them. First and foremost is their steadfast adherence and commitment of these collectivities to ideals of freedom, justice, and independence of our nation from external aggression and foreign and oppressive forces. Second, ordinary men and women committed and passionate in standing and fighting for the freedom and independence of my country from all these oppressive forces have been the base of these liberation movements. The same is true in the case of Burma/Myanmar, a homeland that has been sick and wounded for a long time. It is a home to men and women who are scattered, desolate and uncertain wanderers parched by the various toxics of social unrests, economic hardships, a long standing civil wars between the ethnic revolutionary groups and the Burmese military regime.

This is indeed the very image of Burma/Myanmar, figuratively speaking, wherein many Burmese as well as their ethnic nationalities counterparts like the Shans, the Kachins, the Karens, the Mons, the Rakhines, the Karenni have felt compelled to form liberation and revolutionary groups to fight for their freedom and independence from the military regime. However, the ethnic nationalities of Burma alongside the struggle against the Burmese army, has one important aspiration that has been a consistent pre-occupation of these peoples, and until now, they are still struggling with, and that's their fight to become independent nation-states. This very ideal is one of the sustaining aspirations that revolutionary groups like the Karen National Liberation Army or the Karen National Union, the Kachin Independent Organization or the Kachin Independent Army. On another plane, national movements like the National League for Democracy (NLD), which is the political party of the democratic icon of Burma, Aung San Suu Kyi, is spearheading the struggle for national self-determination.

Moreover, in this whole gamut of liberation movements that I have been discussing, I guess one critical aspect that is worthy of close examination is the role that women have played in the various struggles for peace and freedom, independence and self-determination in various contexts and situations.

The Role of the Women

One of the many forces and strengths of liberation movements that have been more often than not underrated is the role of women and women's movements. However, if

one looks closely at the liberation movements across regions and continents, one will become aware that the role of women in these liberation movements has either been obfuscated in most cases or pushed to the peripheries.

This is indeed a sad picture since women, just like their men counterparts, have been equal partners in such endeavors and have contributed equally to the success of any liberation movement. In the experience of my country the Philippines, for example, I can attest to the active role that women played in liberating my country from external aggressors during the colonization period as also now in fashioning appropriate responses to the new challenges that my country faces in its existence in this contemporary globalized and modernized world. Furthermore, the experience of women in Burma as the people struggle for freedom and self-determination for at least the last 60 years is indeed a manifestation as well of the important role that women play in freedom and independence movements.

On the other hand, if one will venture outside the region of Southeast Asia, and take a look at the context of African States, one will see that the role of women in national liberation movements and calls for independence have been crucial all across Africa. In the struggle against external aggressions since the time of colonization, women in Africa had played various roles that supported the liberation movements. Their roles ranged from being the nurturing women who usually tended to the wounded, keeping the camps of their male counterparts in order, cooking and seeing to it that their male counterparts in the liberation movements are well fed and healthy, to being women who joined the ranks of their male counterparts in the arms struggle, and fighting together with their male comrades in marching and protesting against various oppressions, aggressions, injustices, and unjustifiable alien subjugations of their motherlands. For instance, in Algeria during the Algerian War for Independence, there were 10 000 women fighters in the National Liberation Front (FLN). Algerian women fought side by side with their men counterparts. They served as combatants, spies, fundraisers, couriers, and nurses in their movement for independence and liberation. As people fought for their independence in Ghana in 1951, women were tasked to be propagandist secretaries who traveled across Ghana staging political and educational meetings and recruiting people into their political party. After the independence of Ghana, women played a crucial role as organizers, politicians and journalists in the transitional government of Ghana in 1957. And in the 1960s, women's organization was consolidated into one big umbrella organization and that was the National Council of Ghana Women.

In the case of Namibia, its women were very much involved in the guerrilla and liberation war of the country. The involvement of the women in Namibia in the resistance movements dates back from the time that this country was colonized by foreign invaders like the Germans and the South Africans. One of the phenomenal advocacies of women in Namibia during the time of the German colonization was the launching of "sexual intercourse strike" to pressure their men to fight and end the German occupation of their country. They also vowed not to bear children until the time that Namibia will be free from German subjugation.

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