

India in a Digital Age: A Human Rights Perspective

Dr.D.R. Satish Babu

Assistant Professor,
Dept of Political Science & Public Administration,
Yogi Vemana University,
Kadapa, AP.

Abstract

India in the modern age has cultivated a new political education and organized through agitation towards awakening of nationalism since 1857 to attain independence and freedom against colonial rule. Later in the post-colonial enlightenment (includes globalization, liberalisation and privatization) or information age, India has been transforming towards new digital nation embedded for the achievement of composite nationalism based on inclusion for its own people. This article attempts, to integrate social, economical, political and digital rights through distributive justice among all sections of the communities and societies.

The aim of the article is to understand and conceptualize the digital world in sharing and shaping of technology, welfare, happiness and peace to all its citizens and secondly to promote fair socio, economic, political and digital justice through securing human rights for attainment of new phenomena called inclusive Digital-Nation (DN). Understanding human right helps to build strong D-Nation for all sections of societies along with transparency and accountability. However the article tries to understand human rights as an ideology of inclusive D- Nation within the guidelines of Indian constitutional frameworks towards casteless and classless societies.

Keywords: Digital Nation, Inclusive Nation, Democracy, Data Rights, Human Rights, Cyber Security, Happiness.

Introduction

Human rights in digital age, the basic sustainable resources for individuals helps to make decision making process and helps to shape sustainable social justice or social behaviour as part of E- Behaviourism (Electronic Behaviourism). In the present information age, digitalization has become a part and parcel in rebuilding the three formal structures of national organisations namely E- Legislative, E-Executive and E-Judiciary including civil engagements which creates and produces qualitative socio-economic inclusion. However the right to internet access would also further provision given under Article 38(2) and 39 of the Indian constitution.

The purpose of human rights is an expansion of the digital well-being of certain individuals and the proper functioning of a democratic society under the rule of law. According to Richard Falk rights suggest that are a 'new type of rights' achieving prominence as a result of the adoption of the international dharma or Universal Declaration of Human Rights or, by the United Nations in 1948. The different perspective could find reference to

similar principles concerning mass education, self-fulfillment, respect for others, and the quest to contribute to others well-Being in Confucian, Hindu, or Buddhist traditions. Religious texts such as the Bible and the Koran can be read as creating not only duties but also rights. Recognition of the need to protect human freedom and human dignity is alluded to in some of the earliest codes, from Hammurabi's Code in ancient Babylon (around 1780 BCE) right through to the natural law traditions of the West, which built on the Greek Stoics and the Roman law notions (law for all peoples). (Andrew Clapham:2007:3).

The purpose of human relations according to Jean-Jacques Rousseau in his The Social Contract of developed to obey the general will shall be compelled to it by the whole body, this in fact only forces him to be free. For Rousseau: 'Man loses by the social contract his / natural liberty, and an unlimited right to all which tempts him, and which he can obtain. In return he acquires civil liberty, and proprietorship of all he possess.' to articulate the rights of the governors and the governed. For Paine's in his Rights of Man, my country is the world, and my religion is to do good '. Paine held

that the 'power produced from the aggregate of natural rights cannot be applied to invade the natural rights which are retained in the individual. Men are born and remain free and equal in rights' as a modern concept and that 'the aim of every political association is the preservation of the natural and inalienable rights of man, namely liberty, property, security, and resistance to oppression.

In the 19th century, natural rights, or the 'rights of man' according to Bentham real rights were legal rights, and it was the role of law makers, and not natural rights advocates, to generate rights and determine their limits. However two of the political thinkers of 19th century, John Stuart Mill and Karl Marx had understood that the "automation and technology advancement as a chance to liberate humanity from drudgery" and Marx called the "real of necessity". (Marx (1894:441).

According to Jurgen Habermas ,human rights had the greater force or a powerful alternative in the era of post modern rationalization initiatives like globalization, privatization ,and liberalization to integrate and economic and political spheres of society(called the system) through instrumental – strategic action at one level and latter integrate social, cultural, personal dimensions of society(called the life world) through communicative action,(Pavithran.K.S:2019:19) and John Rawl's distributive justice s are more relevant in understanding human rights in the awaking of globalization, privatization, liberalization, digitalization, development, assistance, projects, evaluating lending conditions and project designs of the international financial institutions like IMF, world Bank, World Trade Organization, facilitating transitions from communist to market economies, rebuilding war-torn societies, and combating poverty.

The basic idea of the nation has a complex meanings embedded in its spectrum of human goals of social, economic and political equality, to the ending of all exploitation of nation by nation, and class by class, caste by caste or sub caste by sub caste. It must promotes openness, liberty, unity, freedom, fraternity, unified, together, collection, group, set, identity etc in order to build strong nation. In India after Buddha, for example there are countless philosophers of social economical and

political reformers, Saints in Bhakti movement, Joythirao Phule, Pariyar's self respect movement, IyotheeThass and Dr.B.R.Ambedkar the drafting chairman of the constitution of India etc had believed in one humanity. It can be describes equivalent as casteless society or society of only one caste what is called as manusha jati as stated by Narayana Guru. In the Advaitic philosophy of shankara narrated the true reality is oneness and difference is only an illusion. However the idea of the nation lies in its quality of unity (liberation or freedom) and not the measure in its quantity as the central goal of human life. In this context, Dr.B.R.Ambedkar in his books Annihilation of caste and Buddha and Dhamma, indebted, to the Philosophy of Equity. He was a liberal humanist also endeavoured to meet the central challenge unequal belief. He formulated a cult of Humanity and progress derived from an interpretation of Buddha. Since 21st century Indian nation has been transforming towards digital nation and cyberspace focuses mainly on sharing and shaping of qualitative constitutional frameworks. For instance, conceptualizing the concepts such as pluralism, inclusiveness, fraternity, equality, and affirmative action are seen as terms defining the practicing politics (values) of the nation has been explored in a systematic and philosophical manner called epistemology in the digital age. The data pertaining to this article was purely analyzed on the basis of secondary data.

The article was divided into three main sections namely conceptual frame work of digital nation, secondly human right perspective and thirdly about understanding the data rights, global cyber security and lastly about digital divide as conclusion.

Conceptual Framework Of Digital Nation

The new conceptual framework of this article on India's digital nation is an attempt to integrate the digital technologies in order to address longstanding engagements of civic and economic rights regarding education and data privacy, digital infrastructure etc. The digital age had brought a new contract between public, private and technology to reconstruct nation towards non-discriminatory accessibility of constitutional values or rights or

resources and cultivate towards post-enlightenment nation .The goal of the concept is to transform towards inclusive and qualitative digital nation building in its qualitative outcome which empowering to all societies for its well-being. The conceptual frame work explicit three levels of components 1.Firstly the concept of digital nation should be understood in the post enlighten era govern mentality which includes Globalization ,Privatization, Liberalization by both national agencies and international agencies. .These reforms are accountable to the guidelines of the good governance simple, moral, .rule of law, accountable, responsible and transparent . Apart from the civil socio, political, economic and cultural right, we are entitled to attain the digital rights .These digital rights are examined in the perspective of human rights in the name of inclusive digital nation are right to accessibility, efficiency, effectiveness, connectivity, affordability, acceptability, time and cost saving on one hand and which includes the 2. Its vision is to build inclusive digital nation. 3. Finally at the operational level of the outcomes is to establish E-social democracy for all communities and societies.

The objective of building digital nation is based on the centralisation of information and knowledge for individuals, institutions, and society. This process is not just enlightens the collection of facts but a lifetime struggle in understanding new social knowledge, contract, relations and freedom and also tries to address long standing divides, ills, inequalities and discrimination in the nation.. The digital state is an outcome of state and the civic engagements of production, processing and transmission of big data about all sorts of matters regarding individual and national, social and commercial, economic and military.

In input-output terms, literature background on digital socio economy describes changes undergoing new kinds of, systems functions and policies of political economy associated with four new social relations or new social waves or needs like 1.Technological(information society),Evans,(1979), Martin ,(1978),Alvin Toffler(1980),Landes(1969),Hall and Preston (1988), Freeman. (1987), Negropronte,(1995), Gates (1995), Dertouzos(1997), Connors (1993),

JohnNabisbitt (1984), Dickson (1984), 2.Economic (information goods and service producers) Herbert Schiller, Golding and Murdock (1991), Johnser (1999), Mark Porat (1978), Monk (1989), 3.Occupational (information workers) Daniel Bell (1973),(1979),Charles Leadbeater(1999), Coyne (1997),Dertouzos(1997),Manuel Castalls (1996,1998), Harold Perkin(1989).4.Spatial(wired society), Barron and Curnow (1979),Urry (2000), Castells(1996),Mulgan(1991), and 5.Cultural(Post-Modernity or Information in social circulation)(Frank Webster:2002:9) Mark poster (1990) and information etc can be called as electronic political economy (e-political economy)(Frank Webster: 2002).

Humanrights Perspective

Keeping information age in mind the famous Declaration of Independence of Cyberspace in 1996 designed by J.P. Barlow summarizes about internet and data which became a central to new social and economic institutions. It is the law that provides people's various protections and ensures justice for the weaker sections, in a digital society and to organize all aspects of the rule of law .The role of the state in the digital age is primarily concern about right to privacy, right to internet accessibility, digital literacy, digital infrastructure and it is the state's responsibility to protect our personal data. But it can mostly do so only if the data are within its reach. There are also great dangers regarding privacy from state agencies themselves. Such privacy can only be ensured by invoking and strengthening the protective and corrective powers of the state, including the judiciary and new data protection-related institution(s). It will be useful for the new data protection authority proposed by the Sri Krishna Committee to actually be a constitutional authority

. Countries are therefore developing regulations for storage, processing and cross-border flow of data are needed for policymaking and governance. Global social, cultural, economic and political integration must be promoted, but without sacrificing the effectiveness of nationally organized 'rule of law'. Free flow should be the norm for general information and knowledge with minimal conditions. But data today cover far more areas. Treaties should be explored so that data can flow

between consenting jurisdictions with guarantees for application of corresponding laws of the country of origin, as the European Union (EU) has done with its digital single market.

Necessary provisions and exceptions need to be shaped India's data security for social good within India produced by NITI Aayog's AI strategies, with the support of few global digital corporations such as Google, Facebook, Amazon and Uber which is basis for digital economy. By default, digital societies and economies get ruled globally by the most powerful corporations and governments, which work in a mutually reinforcing manner. However, the data localization attempts to bring back the rule of law to our digital and 'datafied' existence.

Recently the Supreme Court of India had nominated the nine-judge bench of unanimously stated that Indians have a constitutionally protected fundamental right to privacy. Previously the privacy is a natural right that inheres in all natural persons, and that the right may be restricted only by state action that passes each of the three tests namely 1. State action must have a legislative mandate 2. State action for legitimacy 3. State action must be proportionate in a democratic society and the action ought to be the least intrusive of the available alternatives to accomplish the ends. It also designed a transformative, rights-oriented data protection law that held all powerful entities that deal with citizens' personal data (data controllers), including the state is accountable.

However the data protection law embodied the principle that the state must be a model data controller and prescribed a higher standard of observance for the state. The law also recognized and proscribed the practice of making access to essential services contingent on the citizen parting with irrelevant personal information. This law established an effective privacy commission that is tasked with enforcing, protecting and fulfilling the fundamental right to privacy implemented through the specific rights under the legislation. In support of this provision, the data protection laws in India has authorized 10 Central agencies to "intercept, monitor and decrypt any information generated, transmitted, received or stored in any computer in the country" and revolutionized the technology sector landscape

in the country, paving way for innovative privacy-aware and privacy-preserving technical solution. (The Hindu: 26-08-2019).

Understanding Data Rights

In a digital age, data is a central source considered as the nation's new wealth and its values for sharing and shaping of nation's rank in the emerging new global geo-economic and geo-political hierarchies. The rights-oriented approach by the government in the collection, storage and processing of personal data and has stuck to its 'public good' and 'data is the new oil' discourse. In other words, personal data in the custody of the state is for the state to use, monetise and exploit in any manner it desires so long as it guards against security incidents such as breaches and unauthorised access - i.e. unauthorised by the government. This convenient of the idea of privacy to mere information security appears to inform all its politics. The Justice Sri Krishna committee which has published the draft Personal Data Protection Bill uses a similar language of 'free and fair digital economy', with the digital economy being the ends and the notion of privacy merely being a shaper of the means. (The Hindu: 03-08-2019).

In its report Justice Sri Krishna Committee accompanying the draft Personal Data Protection Bill released on July 27 notes that eight of the top 10 most accessed websites in India are owned by U.S. entities. For instance Police officials are forced to rely on a long and arduous bilateral process with the U.S. government to obtain electronic evidence from U.S. communication providers. The Bill calls for a copy of user data to be mandatorily localized in India, believing that it will "boost" law enforcement efforts to access data necessary for investigation and prosecution of crimes. If passed in this form, however, the law will be counterproductive, hurting law enforcement efforts and undermining user rights in the process. The last few months have witnessed an-amplification in data localization demands, with the Reserve Bank of India, to take one example, calling for local storage of financial data.

A fundamental error that the Sri Krishna Committee seems to have made is in its belief that the location of data should determine who has access to it. The reason that Indian law enforcement relies on an outdated Mutual Legal Assistance Treaty

(MLAT) process to obtain data stored by U.S. companies is because the U.S. law effectively bars these companies from disclosing user data to foreign law enforcement authorities. Technology companies are allowed to share data such as content of an email or message only upon receiving a federal warrant from U.S. authorities. This scenario will not change even after technology companies relocate Indian data to India.

India's non-compliance with IMF standards is a recent phenomenon the graphic lists such instances since 2006 independent data experts have raised concerns about the delays by the National Statistical Commission, PC. Mohanan, former acting chairman said that India's deviations are a "result of inadequate care paid to (data) dissemination related issues which leads to a lack of openness and transparency." He said metadata and reference links given in the NSDP "have not been updated for quite some time". He said data collection efforts were more towards large schemes such as Economic Census and not towards improving the data quality. Mr. Mohanan cited another part of the same, IMF report to prove this point. "Information provided under the Data Quality Assurance Framework (DQAF) under various heads is also very patchy and poorly edited. For example, the link to the employment data refers to the 68th round of NSS (2011-12) with all the survey instructions." (The Hindu: 26-08-2019).

In India, policy interventions like Digital India (2015), the current government envisions a digital society in which a cashless economy will feature prominently, made possible by mobile banking and digital payments. It has also proposed financial penalties for data processor for violations of the data protection law. According to the sources, provided by the Reserve Bank of India, a total of 1191,1372,2059 and 921 cases of frauds involving ATM/Debit cards, credit cards and internet banking frauds (amount involving one lakh and above) were reported during the years 2015-16, 2016-17, 2017-18 and 2018-19 respectively. (The Hindu: 5-01-19). However, the challenges associated with implementing technology-based policy intervention among a diverse population have sparked a renewed

debate on their efficacy in addressing social problems.

Conclusion

In order to achieve the digital nation the historic discriminations, social exclusion and education differentiation, widespread inequalities in this market context should be reduced. The state should understand digital divides of information inequalities, information deficit, literacy, connectivity, affordability, access to the technology and institutional absences. However in the digital age 60 percent of the world's population are still offline and can't participate in economy in any meaningful way. Second, and more important, the benefits of digital technologies can be offset by growing risks. The state should formulate digital development strategies that are much broader than current information and communication technology (ICT) strategies. It should create a policy and institutional environment for technology that fosters the greatest benefits. In short, it needs to build a strong analog foundation to deliver digital dividends to everyone, everywhere. numeracy, and higher-order cognitive skills (for example, reasoning and creative thinking) including raw problem-solving ability versus knowledge to solve problems related to verbal ability, numeracy, problem solving, memory, and mental speed, Socio emotional skills and personality traits Openness to experience, conscientiousness, extraversion, agreeability, and emotional stability Self-regulation, grit, mind-set, decision making, and interpersonal skills Technical Manual dexterity and the use of methods, materials, tools, and instruments.

The economic growth experience in India in recent decades has shown that growth has had an adverse impact on all these developmental goals. To start with, Credit Suisse, for example, has shown recently that 1% of the wealthiest in India increased their share in wealth from 40% in 2010 to more than 60% in the last five years, and the richest 10% in India own more than four times wealth than the remaining 90%. That is, if we proceed on the same growth path, a large part of the increase in wealth and GDP will be claimed by the top 10% richest population in India. In other words, the top 10% will take away the lion's share of the \$5-trillion incomes

if and when we reach the target of \$5-trillion economy.

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