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**Democracy, Human Rights and Its Implementation****Prof. Divya Chansoria***Dean, Faculty of Law, RDVV Jabalpur (M.P.), India***Mr. Umakant Gajbir***Research Scholar Faculty of Law, RDVV Jabalpur (M.P.), India***Abstract**

This paper attempts to point out and analyze the political, social, and cultural reasons present in the upto date world and that provide the grounds on which ordinary prisoners are subject to severe imprisonment conditions. It also tries to understand how democratic regimes accept the serious violations of human rights that are practiced and that hurt human pride on a daily basis in such places. It also tries to promote a reflexion on that issue of deep social inequalities in these new democracies that promote disrespect to basic requirements for a dignified life for all citizens, and how such inequalities are related to mass imprisonment. And last but not least, considering the scope of values, perceptions, and sensitivities, it tries to understand how feelings of intolerance and of retribution grow against these offender, feelings that are translated into severe life conditions in prisons, into long periods of imprisonment, into harsher disciplinary regimes, just like the support to overvalued punishment methods, death penalties, and public exposure of sentenced prisoners.

**Keywords:** Human Rights, retribution, punishment, public

**Introduction**

India is unique among post-Colonial states in successfully building a vibrant democracy that has withstood the test of time. It is not only the largest among world democracies – close to 600 million people go to polls since the 1990s – but also a very diverse one with deep-seated differences of religion, ethnicity and regional identities. The rapid and sustained growth of the Indian economy during the last two decades has made the Indian experiment even more significant for the international community there is two main pillars to support the situation of imprisonment contrary to the respect to human rights in the contemporary world. And strict 13 consensuses was formed around those penal measures that can be perceived by the public as harsh, flexible, and appropriate”

**Democracy and the New Penal Policies in India**

Democracy means a society of citizens as individuals that bear rights (Bobbio, 1992). Rights that have been defined and formalized in historical contexts characterized by political struggles that redefined the condition of the individuals from subjects that pledged allegiance to a sovereign to citizens bearers of a Rule of Law through which they could be promoted and should be protected. While democracies in Europe and in the US were basically formed in this process of acquisition of individuals and social groups fighting despotic governments, democracy arrived in Latin America just like capitalism did, as an “external” structure, “from outside to inside”, without the political, social, and local economic components to guarantee a basis for the process of political organization

or even of corresponding economic dynamics.

#### **Why Do Normative Constructions Matter?**

The exercising of soft power requires an agreement among a significant number of powerful states on the larger frame of collective norms. Normative orders provide the grand narrative to explain the past and legitimize the future. The grand narrative of nineteenth century Europe was premised on the “balance of power,” which was believed to preserve peace by deterring overly ambitious European states from taking aggressive action. Between the two world wars, President Woodrow Wilson sought to create a peaceful and just order based on norms of self-determination and democracy. It gave the victors in the First World War the power to redraw the map of Europe. The narrative of historic contradiction between socialism and capitalism shaped the Cold War and legitimized the bipolar world.

As the leaders of the two rival camps, the United States and the Soviet Union competed for influence but observed tacit rules of conduct that avoided mutual destruction. History then tells us that any state (or group of states) that can build a widely accepted normative frame for collective policies and root these in a set of institutionalized relationships is likely to wield power over future developments. Grand narratives strengthen proponents to structure inter-state relations and justify actions to punish and isolate, or do its opposite, reward and befriend those excluded from the core cluster of sponsors.

#### **Balance of Security and Democracy in South and Southeast Asia: the Indian Perspective**

While security has trumped democracy in India’s foreign policy perspective, democracy has become increasingly important as an underpinning for an Asian security architecture that could be in India’s interest. India’s security pivots around two objectives: to make India an influential Asian power and to protect India’s strategic autonomy. India’s international perspective is intensely geopolitical and breaks down into series of concentric circles defined by influence, immediacy, and reach. The first order of concern is the region of South Asia; the second tier includes Central and Southwest Asian states such as Saudi Arabia and Iran and Southeast Asian states such as Myanmar, Thailand, Malaysia, and Indonesia. India’s ability to ward off adverse developments in the first and second tier states are shaped by the United States, China, Pakistan, and Russia, whose interests cut through the tiers important to India. For instance, China and Pakistan have border disputes with India while India is vulnerable to separatist ethnic communities that spill over across the borders into Pakistan, Myanmar, and Nepal. Close strategic ties between China and Pakistan compound the problem of India’s territorial defense. Differences also exist between India and the United States over Iran, Pakistan, and Myanmar despite a mutual interest in building a strategic relationship and concluding an agreement over India’s nuclear program. The United States supports Pakistan with weapons and economic assistance to secure its cooperation in prosecuting the war on terrorism, eliminating I-Qaeda and obtaining a pro-American, stable Southwest Asia. But a

militarily strong Pakistan undermines India's strategic security. India's Asian Initiatives India's "Look East" policy is an important counterthrust to break through what it considers to be Chinese encirclement. Accordingly, India has reversed its policy in Myanmar and tilted in favor of the military junta, taken a proactive role in Nepal, opened talks with Pakistan over Kashmir, expanded economic ties with Central Asian states and strengthened its border defense. India has sought entry into the Shanghai Cooperation Organization and Asian economic and security forums. Additionally, it has augmented its naval reach and power with a view to participating in the collective security of the Indian Ocean and the international waters extending from the Strait of Malacca to the Arabian Sea.

The "Look East" policy suggests that New Delhi is actively globalizing its diplomatic leverage and deploying military power to buttress diplomacy. India is Asia's third largest economy after Japan and China and has entered into numerous free trade agreements<sup>35</sup> with East Asian economies, including a comprehensive economic cooperation agreement with Singapore and an early harvest scheme with Thailand. It is also negotiating similar agreements with Japan, South Korea, and ASEAN. In turn, Japan, South Korea, and Singapore have invested large amounts of funds into India's infrastructure development.<sup>28</sup>

### **What role can India's democratic credentials play in Asia's emerging security environment?**

While India is reluctant to promote democratic forces in Myanmar (for fear of losing advantage to China), it is willing to

participate in constructing a grand narrative that will secure its forward thrust in Southeast Asia. In his speech before a joint session of India's parliament in August 2007, Japanese Prime Minister Shinzo Abe talked about common interests of democratic states such as India, Japan and the US. He included India in a "broader Asia" that would span "the entirety of the Pacific Ocean, incorporating the United States and Australia." This was undoubtedly an invitation to India to participate in building a normative and security architecture for Asia but in its subtext it is also a subtle warning to Beijing that a China-centered Asia would not be countenanced by the "democratic" states in Asia. Abe noted that these states comprise as "Arc of Freedom and Prosperity" of "like-minded countries" that "share fundamental values such as freedom, democracy and respect for basic human rights as well as strategic interests." Shinto Abe is the third successive Japanese prime minister to visit India after Yoshiro Mori in 2000 and Koizumi in 2005. Minoan Singh's 2006 visit culminated in signing of the "joint statement Towards Japan-India strategic and Global Partnership."<sup>29</sup>

### **Conclusion**

Asia's political alignments are in flux, but at least three broad security futures can be envisaged. Democratic India can play an important part in each future although each will engage India differently and to a different degree. The first is a region divided along an opposite axis, a kind of Asian bipolar order in which the United States and China constitute the opposing poles. This future assumes hardened Westphalia inter-

state relations and a more blatant game of “real politick” in forging alignments. The second hypothetical future revolves around an entente of great powers, a group of leading states that strive to keep order and preserve peace by rewarding those who toe the line and punish those who deviate from it. Although the Concert of Europe (following the Congress in Vienna) comes to mind as a historic analogy, its applicability to contemporary Asia remains limited. The concert of Europe presumed an external state – England – could throw in its weight to restore balance and deter potential aggressors. No such power is on the horizon in Asia at least in the foreseeable future. Only the United States can balance a powerful China; and only China can challenge the United States in Asia. But both these states would also be the leaders of their respective clusters in the second scenario. The third future is akin to the order founded on the 1975 Helsinki agreement in Europe that established a normative consensus (claimed by 35 States in Europe as a universal guide to international relations).

### References

1. See Ashley Tellis, “China and India in Asia,” in Francine Frankel and Harry Harding (eds.) *The India-China Relationship: What the United States Needs to Know* (New York, Columbia University press, 2004) pp. 134-178.
2. Leading Asian companies – Daewoo, Hyundai, Samsung and LG and Posco – have significant presence in India. Japanese government is building the Metro system in New Delhi. There is also the proposed investment of \$100 billion in developing a Delhi-Mumbai freight and industrial corridor which is to begin construction this year.
3. Japan and India are discussing bilateral currency swap agreements.
4. Arc of Freedom and Prosperity, H.E. Mr. Taro Aso, Former Minister for Foreign Affairs On the Occasion of the Japan Institute of International Affairs Seminar “Arc of Freedom and Prosperity: Japan’s Expanding Diplomatic Horizons”
5. “PM’s Speech at India Today Conclave,” New Delhi, February 25, 2005, <http://www.pmindia.nic.in/speech/content.asp?id=78> (speech by Manmohan Singh).
6. Refer to SPF, “Part of the News of November 28th, 2008”. This progress was possible because of the standardization of the prison population in the federal system in the past few years.

The Helsinki consensus does not legitimize an uneven distribution of power or at least it is not meant to do so. Nor is it a front to secure hegemony of any single state. It is meant to be an open-ended order admitting revisions, inclusion, amendment, and extension based on democratic consensus. The steady incorporation of Eastern European states to the European Union underscores the flexibility of the otherwise “value-based” Helsinki consensus. In diplomatic parlance, this was a pointed reference to India as the alternative to China. As an authoritarian state, China could not become a core country in the proposed order for Asia. India’s preferred grand narrative is then distinctly different from the one China might construct. Indian leaders remain anxious not to get ahead of the current developments in this regard; they are keenly aware nevertheless of the advantages in establishing a loose alliance of democracies. What is more, their ability to back it up has expanded substantially with the rapid growth in India’s economic and military power.