



SIGNIFICANCE OF BIODIVERSITY ACT-2002 AND FOREST RIGHT ACT-2006 IN THE SOCIAL WORK EDUCATION

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Abstract:

It is observed that the focus of social legislation curricula in many educational institutions in India is mainly on individuals dealing with personal difficulties. However, Community Development is also an equally important aspect of social work practices. Those practices also need to be focused, and it is essential to incorporate more community-based legislation in the social work education curriculum. It also needs to be based on rural and tribal community development as well as urban development in this regards. It is notable that very few laws are included in social work education related to the communities.

In the perspective of Biodiversity Conservation and Protection as well as to recognize the historical injustice with forest communities two historical Acts were passed unanimously in the parliament of India: 1: The Biodiversity Act 2002 and 2. The Forest Right Act 2006. Both these acts are very significant in the development of the community and protection of ecological balance. Therefore, it is essential to incorporate these two acts into the curriculum of social work in order to focus social work practices towards the protection of forest and ecological balance. This paper focuses on the significance of the Bio-diversity Act-2002 and the Forest Right Act-2006 in social work education.

Key Words: Social work, legislation, Biodiversity, Forest Right Act.

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Introduction:

Change is the only constant entity in this world. Everything is constantly under the flux and transformation. However, in this constantly changing world, some customs and traditions grab their roots in society and do not tend to allow a change in the course of time; they demand a transforming scenario. Under the grab of certain aspects of human society, the change is resisted time and again. In such circumstances, certain visionaries, influential leaders, and revolutionaries create societal awareness to initiate change. But strong reluctance under the threat of some elements resists this change. In such demanding situations, it has been proved that social legislation

initiates the momentum for such essential change, and society starts to accept it. There are many examples in human history of rules, regulations, laws, and various legislations that have accelerated a necessary impulse for the progress of human society and civilization.

Therefore, this paper suggests the inclusion of such social legislation in the curricula of social work education. After reviewing crucial social legislations, this paper contemplates the significance of the Biodiversity Act 2002 and the Forest Rights Act 2006.

Social Legislation in Social Work Education:

Generally, the laws and acts that seek to promote the common good by protecting and assisting the weaker sections of society are considered as social legislation.

Social legislation is a tool for social reforms, welfare, community development, and the transformation of society upside down. Learning, understanding, and applying social legislation in social work education is necessary, especially while working with urban, rural, and tribal communities. The social worker must be adequately capable of dealing with and working with this legislation's knowledge, process, and procedure.

Dr. R.N. Saxena, in his book Indian Penal Code (2017), defines social legislation as “any act passed by the legislature or a decree issued by the government to remove certain social evils, or for the improvement of social conditions, or to bring about social reform.” According to the Dictionary of Sociology by Fairchild, "Social legislation means laws designed to improve and protect the economic and social position of those groups in society which because of age, sex, race, Physical or mental defect or lack of economic power cannot achieve health and decent living standards for themselves."

After extensive campaign and movement for social reforms by Rajaram Mohan Roy (1772 - 1833), Maharshi Dayanand Saraswati (1824 - 1883), Pandit Ishwar Chandra Vidyasagar (1820 - 1891), Mahatma Jyotiba Phule (1827 - 1890), Swami Vivekananda (1863 - 1902), Dr. Babasaheb Ambedkar (1891 - 1956), and other social reformers in India the social legislation started taking shape during the British era at the beginning of the 19th century. Social reformers used social legislation as a tool for social advocacy, justice for fundamental human rights, dignity, and a conducive social environment. Social legislation supported the movement of social reforms to a great extent. Needless to say, the process of social reforms and social transformation continued widely through social legislation after India's independence. In this context, seminal legislation has been resolved in post-independent India. Following are some crucial legislations initiating social reforms, to mention a few.

1. Legislation Related to Women:

1. Immoral Traffic Prevention Act, 1956
2. Dowry Prohibition Act, 1961
3. Indecent Representation of Women Act, 1990
4. National Commission for Women Act, 1990
5. Protection of Women from Domestic Violence Act, 2005
6. Protection of women against sexual harassment at Workplace Act, 2013

2. Legislation Related to Children:

1. Juvenile Justice Act, 2000
2. The Child Labor Prohibition and Regulation Act, 1986
3. The Infant Milk Substitutes, Feeding Bottles and Infant Foods Regulation, supply, and Distribution Act, 1992
4. The Commissions for Protection of Child Rights Act, 2005
5. The prohibition of child marriage act of 2007
6. The Right of Children to Free and Compulsory Education Act, 2009
7. Protect Children from sexual offenses Act, 2012
8. Pre-natal Diagnostic Techniques Regulation and Prevention of Misuse Act, 1994

3. Legislation Related to Health:

1. Drugs and Magic Objectionable Advertisement Act, 1954.
2. The Medical Termination of Pregnancy Act, 1971
3. Narcotic Drugs and Psychotropic Substances Act, 1985
4. The Mental Health Act, 1987
5. The Pre-conception and pre-natal Diagnostic Techniques Act, 1994

4. Legislation related to Weaker Sections and minorities:

1. The Protection of Civil Rights Act, 1955
2. The Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989

3. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

5. Legislation Related to Correctional Services:

1. The Probation of Offenders Act, 1958
2. The Juvenile Justice Care and Protection of Children Act, 2000
3. Prison Act, 1894
4. Bombay Jail Manual- parole, furlough, leave, 1959
5. Criminal penal code, 1973; replaced as Bharatiya Nyay Samhita, 2023

6. Legislation Related to Senior Citizens and Disabled:

Legislation related to senior citizens:

1. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Legislation related to Persons with Disabilities:

2. Persons with disabilities. Equal Opportunities, protection of Rights, and Full Participation Act, 1995
3. The National trust for the welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities act in 1999

7. Some other essential Legislations:

1. Related to Human rights: The Protection of Human Rights Act, 1993
2. Related to Environment: The Environment Protection Act, 1986
3. Related to Good Governance: The Right to Information Act, 2005
4. Related to Employment Security: The MNREG Act, 2005
5. Related to Food Security, the National Food Security Act, 2013

It is noticed that the focus of social legislation curricula in many educational institutions in India is mainly on individuals dealing with personal difficulties. However, Community Development is also an equally important aspect of social work practices. Those

practices also need to be focused, and it is essential to incorporate more community-based legislation in the social work education curriculum. It also needs to be based on rural and tribal community development as well as urban development. It is notable that very few laws are legislated in social work education related to the communities.

Maharashtra Panchayat Raj (Panchayat Samiti and Zilla Parishad Act, 1961) is the best example of this kind of legislation. In this connection, the 73rd and 74th Constitutional Amendment Act of 1992 has a significant impact. The 74th amendment brought the Panchayat Raj system to rural India, and the 74th amendment brought the municipal system to urban India. Both the amendments in Indian Constitution are significant to introduce a huge transformation in urban and the rural governance as well.

Needless to say that several community issues could be resolved through legislation and its effective implementation supported by people's movement and community participation. Environmental issue is one such important problem, which needs to be addressed urgently.

Environmental problems are seriously endangering global human community. Several environmental activists, environmental summits, thinkers, and writers are alarming red every now and then. If this issue could not be taken up seriously future sapient generations will not forgive us. Futuristic historian Yuval Noah Harari on the cover flap of one of his book '21 Lessons for the 21st century' from his famous trilogy interrogates 'How can we protect ourselves from ...ecological cataclism...?'

In one of his article in TIME magazine he extends his worries

"As the climate crisis worsens, too many people are swinging from denial straight to despair.

Despair is as dangerous as denial. And it is equally false. Humanity has enormous resources under its

command, and by applying them wisely, we can still prevent ecological cataclysm.

But exactly how much would it cost to stop the apocalypse?"

(time.com/6132395/two-percent-climate-solution)

Intergovernmental Panel on Climate Change, in its landmark

'[2018 report](https://time.com/5418134/ipcc-climate-change-report-2030-crisis/)' (<https://time.com/5418134/ipcc-climate-change-report-2030-crisis/>) stated that in order to limit climate change to 1.5°C, annual investments in clean energy needed to increase to around 3% of global GDP. This ofcourse suggests a global legislation to be seriously implemented by all nations and countries.

The parliament of India has already taken an initiative by legislating two important acts to safeguard biodiversity and forests in India. This can certainly contribute to some extent to resolve global ecological crisis and global warming. These two historical Acts were passed unanimously in the parliament of India: 1: the Biodiversity Act 2002 and 2. The Forest Right Act 2006. Both these acts are very significant in the development of the community. Therefore, it is essential to incorporate these two acts into the curriculum of social work.

Bio-diversity Act-2002

The term biodiversity (from "biological diversity") refers to the variety of life on Earth at all levels, from genes to ecosystems, and can encompass the evolutionary, ecological, and cultural processes that sustain life. Biodiversity includes species we consider rare, threatened, or endangered and every living thing, from humans to organisms we know very little about, such as microbes, fungi, and invertebrates. As India is one of the 12 mega biodiversity countries in the world, this Act must be studied by social work students.

The Convention on Biological Diversity has defined the variability among living organisms from all sources, including, among other things, terrestrial,

marine, and different aquatic ecosystems and the ecological complexes of which they are part and parcel, including diversity within the species, between the species, and the ecosystems.

Background of the Biodiversity Act 2002:

The Convention on Biological Diversity (CBD) was negotiated and signed by nations at the UNCED (United Nations Conference on Environment and Development) Earth Summit in Rio de Janeiro (Brazil) in June 1992. The Convention came into force on December 29, 1993. India became a Party to the Convention in 1994. At present, there are 175 Parties in this Convention.

CBD is a legally binding multilateral environmental agreement that has 193 contracting Parties (Countries) as its members with three objectives –

1. Conservation of biological diversity,
2. Sustainable use of the diversity and
3. Ensuring fair and equitable sharing of benefits of such use.

The CBD provides sovereign rights over their biological resources and requests countries to facilitate access to the genetic resources by other parties subject to national legislation and on mutually agreed terms. The CBD also provides equitable sharing of benefits arising from using traditional knowledge and practices with holders of such knowledge. It has made it necessary for legislation to be put in place, laying down the framework for providing access, determining the terms of such access, and ensuring the equitable sharing of benefits.

Necessity of the Biodiversity Act in Indian Scenario:

India is known to the world for its diversified biological resources. India is one of the 12 mega biodiversity countries of the world, with only 2.4% of the land area; India already accounts for 7-8% of the recorded species of the world. Over 46,000 species of plants and 81,000 species of animals have been recorded in the country so far by the Botanical Survey of India and the Zoological

Survey of India, respectively. India is also an acknowledged center of crop diversity and harbors many wild relatives and breeds of domesticated animals and fishes, besides millions of microbial diversity, insects, and other species. India's ecosystem diversity is also unparalleled in comparison with other countries in the world. India is one of the countries that have formulated and implemented laws for conserving biodiversity.

Arising out of its obligations as a signatory to the United Nations Convention on Biological Diversity held at Rio de Janeiro in 1992, and "... to provide for the conservation of Biological Diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge," India enacted the Biological Diversity Act, 2002 to regulate access to, and use of, its biological resources. The scope of the Biological Diversity Act of 2002 extends to "biological resources" occurring in and obtained from India and knowledge associated with it. Section 2 (c) of this Act defines "biological resources" as plants, animals, and micro-organizations or parts thereof, their genetic material and by-products (excluding value-added products) with actual or potential use or value but not including human genetic material.

Declaration of the Biodiversity Heritage Site:

Biodiversity Heritage Site is a unique conservation approach recognized under Section 37 of the Biological Diversity Act, 2002. Biodiversity Heritage Sites have rich biodiversity with wild as well as domesticated species; high endemism; rare and threatened species, keystone species, species of evolutionary significance, wild ancestors of domestic/ cultivated species; fossil beds; cultural, ethical or aesthetic values for maintaining cultural diversity, with or without long human association with them.

The Biological Diversity (Amendment) Bill:

On July 25, 2023, the Lok Sabha approved a bill to

amend some provisions of the **Biological Diversity Act 2002**. The Biological Diversity (Amendment) Bill seeks to address the concerns of several central ministries, state governments, researchers, industry, and other stakeholders regarding implementing the 20-year-old law meant to preserve the country's biological diversity and ensure its sustainable use. It allows people practicing traditional Indian systems of medicine – *vaids*, *hakims*, registered AYUSH practitioners, and companies making medicinal products – to continue their business without permission from the National Biodiversity Authority (NBA) to use biological resources.

2. The Forest Rights Act 2006:

The enactment of the Forest Right Act (FRA) is a historical event since, for the first time, the state formally admitted that for a long, rights have been denied to forest dwellers. The new law attempts not only to correct the 'Historic Injustice' but also gives prime importance to the role of forest communities in forest governance and management.

The Ministry of the Tribal Affairs, Govt. of India stated the summary of the Act that: The Forest Rights Act (FRA), 2006 recognizes the rights of the forest-dwelling tribal communities and other traditional forest dwellers to forest resources, on which these communities are dependent for a variety of needs, including livelihood, habitation, and different socio-cultural needs. The forest management policies, including the Acts, Rules, and Forest Policies of Participatory Forest Management policies in both colonial and post-colonial India, did not, till the enactment of this Act, recognize the symbiotic relationship of the STs with the forests, reflected in their dependence on the forest as well as in their traditional wisdom regarding conservation of the forests.



1. Key Components of FRA:

- a. Individual forest rights (IFR): Under Section 3(1) (a) of the FRA, forest dwellers can claim the right to hold and live on the forest land under individual or joint occupation for habitation or self-cultivation purposes.
- b. Community Rights: Two crucial provisions in the Act recognize forest-dwelling communities' forest resource management rights. First, Section 3(1) (i) of the Act: "The forest-dwelling communities are entitled to protect, regenerate, conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use."
- Secondly, Section 5 of the Act states that "recognized forest-dwelling communities, gram sabhas, and village-level institutions are empowered to protect forest resources
- Diversion of forest land for local development rights approved by Gram Sabha.
- c. Declaration of Critical Wildlife Habitat to create untouched areas for wildlife conservation (Section 2(b) and 4 (1) & (2).
- The forest dwellers inhabiting and dependent on any forest land on or before December 13, 2005, can claim their rights over this forest land. Sections 3(1) and 3(2) of the FRA recognize all the customary and traditional rights of forest-dwelling communities over forest lands.

The Act encompasses Rights of Self-cultivation and Habitation, which are usually regarded as Individual rights, and Community Rights such as grazing, fishing, access to water bodies in forests, Traditional Seasonal Resource access of Nomadic and Pastoral communities, access to biodiversity, community rights to intellectual property and traditional knowledge, recognition of conventional customary rights and right to protect, regenerate or conserve or manage any community forest resource for sustainable use. It also

provides rights to the allocation of forest land for developmental purposes to fulfill the basic infrastructural needs of the community.

The key Challenges:

1. The Concentration only on individual forest rights (IFRs):

The critical challenge observed in the last 15 years all over India is a large-scale rejection of the individual claim. The Saxena Committee on FRA (2011) had also observed that the rejections are being done without assigning reasons, based on a wrong interpretation of the 'OTFD' (Other Forest Delivers) definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' etc.

Most states have concentrated only on implementing individual forest rights (IFRs) provisions. However, there are two key provisions in FRA: 1. the implementation of the Community Forest Right Act and 2. Providing the status of critical wildlife habitat to wildlife sanctuaries, tiger projects, and national parks for the conservation and protection of wildlife and biodiversity is far from being implemented everywhere. The overall FRA Implementation in every nook and corner of the country is very poor. Therefore, its potential to achieve livelihood security, changes in forest governance, and strengthening of forest conservation and bio-diversity have yet to be completed.

2. Community Forest Rights (CFR):

The progress of implementation of the Community Forest Rights (CFRt) under FRA is abysmally low; it should be much higher for the overall development of forest communities. There seems a great confusion between CFRt under Section 3(1), which includes the right to collect and dispose of NTFP, fuelwood, grazing, fishing, the right to manage and protect forests, etc., and development rights under Section 3(2), and almost no information



is available on the extent of the area over which CFRt have been claimed or vested.

3. Misuse and damage of biodiversity :

Over the last three decades, habitat fragmentation has been identified as the most significant threat to biodiversity. With fragmentation, forest edges come increasingly into contact with human activity, resulting in degradation. Conservationists and environmentalists have always expressed fear that the Forest Rights Act will damage the forest and its biodiversity. In some places, particularly in the Satpuda mountain ranges in the Khandesh forest area, this fear seems to have come into reality; people from the adjacent state of Madhya Pradesh have encroached into Yawal & Aner Wildlife Sanctuary and submitted the claim under FRA. The Saxena committee also drawn attention in this regard.

Mr. Praveen Bhargav (2011) has also pointed out in his article ' Some insight into Forest Rights Act(Conservation, India) ' that FRA aims to correct 'historical injustice,' which is truly admirable. However, the Act will adversely affect the country's natural ecosystems and wildlife. The FRA provides land grants to forest dwellers – in situ – to the extent of their present holding but not exceeding four hectares. Here lies the major problem with this legislation.

Environmental Groups like Wildlife First, along with the Nature Conservation Society and Tiger Research and Conservation Trust, have gone to the Supreme Court and submitted petitions against various issues related to the implementation process of FRA and deforestation. The hearing is still going on in the Supreme Court.

Methodology:

1. The data for the study was generated through interactions with various stakeholders like the government officials responsible for

implementation at the state level, including officials of the tribal welfare department, forest department, Revenue department, members of the autonomous district council, and the tribal council.

2. The data collected from different departmental agencies, ministerial data at the Center and the state level, published literature, newspaper articles, government and non-government reports, and stakeholder interactions.
3. Observation and Filed Visit at Yawal Wildlife Sanctuary, Yawal and Jalgaon Forest Division.

Conclusion:

As several social legislations have been proven to be fruitful in bringing about the change essential for the progress of human society in the history of human civilization and social work, concerning their impact on certain individuals and impact on the entire community, the Biodiversity Act - 2002, and Forest Right Act-2006 are also significant. Therefore, the effective inclusion of these two acts in the curriculum of Social Work Education is seminal at this juncture.

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