

Civil Society: An Identity for Elevated Democracy and Fair Adult Suffrage

Tapasa Kumar Ghosh^{1*}, Anil Kumar¹

¹Institute of Law, Shri Jagdishprasad Jhabarmal Tibrewala University, Jhunjhunu, India

Abstract: Democracy is a form of government where peoples' active participation is essential. Due to vastness of population direct democracy has ceased to exist though this is possible at the grass root level while working through various local self-governments. But hegemony of the rulers prevents participation of common people in the process even at the grass-root level. Absence of plurality invites despotism in governance of the administration and democracy is eclipsed due to executive exuberance of the executives and parliamentary dictatorship. Civil Society from age of Aristotle (384–322 BCE) played an important role in elevation of democracy and restoring liberty of people against the despotic rulers. Role of such Civil Society has become a sine qua non in the present day for free and fair adult suffrage in a democratic situation. Election violence, economic repression as well as social aggression by the rulers have vitiated the process of democratic administration and muting voice of even the civil society through bounties and favours.

Keywords: Civil Society, Social aggression, Party society, Eclipsed democracy, Economic repression.

1. Introduction

Democracy is caged in free and fair participation of people in governance of state affairs. Direct democracy being a utopia now a days due to population explosion and vastness of a country, representative democracy is practiced in the present-day world with multi political party participation in election. Election is vermillion on the forehead and identifying mark of a democratic country. Democracy is a culture and not an incident and needs to pervade in every sphere of the society. In democracy, people and government are two important ingredients. But from time immemorial a third factor existed in the society for protecting human rights and raise protest against political despotism and repression. Third factor identified as a door-bell for infringement of human rights. The enlightened members of the society rose to the occasion to raise voice against atrocities of the rulers. Identity of civil society was found to exist from age of Aristotle (384-322 BCE) till present day world to raise voice against hegemony of the despotic government. Lack of pluralism and absoluteness in governance of the state invite political dictatorship where role of civil society appears to be an antidote of the critical illness. Survival of democracy depends on the activism of the civil-society to lift the country from darkness of monopolistic social condition. Government often found to vitiate even the judiciary with

bounties and different superannuation asylum and the common people with intimidation, coercion, economic repression and bounties for creating a political coterie to insulate the government from public wrath and involvement in abysmal corruption. The robotic supporters assume the role of 'social care takers' in the mercantile democracy where the supporters of the ruling party control all economic activities at the local level at the cost of the local people and repair their fortune with reciprocal arrangements with the administration and hero worship of the Party Supremo. Party leaders are worshipped with blind faith rather than logic and democracy leads towards embryonic fascism having latent dictatorship. Enlightened civil society work as a shield to protect democracy and human rights enshrined in the Constitution of any country. Despotic rulers start polluting the members of the civil society to shield their sinister motives and manipulate the public opinion through trusted comrades of the civil society.

2. Origin and History of Civil Society

Origin of the concept of civil society dates back to the era of Aristotle (384-322 BCE). Aristotle described the civil society as a political community for achieving good life for its citizens ensuring civic virtues and collective well-being. Cicero (106-43 BCE) described civil society equivalent of 'res publica' as an assembly of person in large numbers associated voluntarily in an agreement with respect to justice and partnership for common good. Thomas Hobbes (1588 -1679) underlined the Theory of Social Contract through which a single, civil and political society was created under an Absolute (Leviathan) to escape from the 'horrible state of Nature'. John Locke (1632-1704) viewed that individuals formed a government voluntarily to protect their natural rights of life, property as well as liberty. These theories cast much light on the formation of state rather than civil society as we find in the present day. Hegel (1770 – 1831) viewed civil society having different sphere of interest, structured system of economic activities and as a distinct sphere between family and government. Antonio Gramsci (1891-1937) opined civil society as an aggregate of individuals outside states' direct power as a battle ground for different ideas and hegemony where working class resist the capitalistic dominance. Rousseau described the society as a public sphere that cares about the common good and has capacity to operate

*Corresponding author: tapasghsh@yahoo.com

democratically. Different other philosophers described civil society as separate domain between private sphere of family and public sphere of the state. Civil Society is regarded as a third domain which is composed of voluntarily with rationality for people's good and securing justice through social interaction and cooperation. Scanning the views of the philosophers of different ages it is revealed that civil society is an organization of individuals, outside the scope or dominance of the government for protecting human rights, freedom of expression and maintenance of rule of law. Such assembly of individuals raises protests against social or political evils affecting human rights. Such society may be organized like association or a spontaneous group for varied purposes but without partisanship.

3. Areas of Activities of Civil Society

Civil Society Organisation (CSO) is a voluntary and unorganized association of citizens. Normally, it has no registered office or permanent address to connect but originates sporadic out of emergent needs to raise protest against administrative or other socio-economic irregularities. In general, the democratically aware citizens rise to the occasion to raise protest against various irregularities of the society, normally without political agenda, but issue-wise. The participants or activists of the CSO are identified as radical and enlightened section of the society but not the revolutionaries. Obviously, the activists may have a political view for their individual identity but the assembly is rather apolitical. As a result, the assembly of persons raise voice against odds of the society or repression of the administration to save fundamental as well as human rights and liberty of the people. Protests against war at Palestine or Ukraine, Chipko Movement in the country, massacre at Park Street, Kolkata or abrupt corruptions of the executives of the state such as Anna Hazare's movement are the areas of concern of the CSO as human rights are infringed thereat. These movements may be rights-based or policy-based movement like electoral reforms, custodial deaths, social audits and anti-corruptions movements, good governance of the state for transparency in state policies etc. Programme on awareness on digital arena, movement on climate change and afforestation are the areas of activities of the CSOs. Agitation of the CSO against alleged forcible land acquisition at Nandigram, West Bengal for setting up of a Chemical Hub and repression thereafter was an example of activities of the CSO as human rights were infringed severely due to high handedness of local political leaders. Civil society is destined to raise voice against social or political repression of the concerned parties to protect human rights and creation of civil space for registering protests against executive and legislative atrocities.

4. Instruments of Government for Eclipse of Democracy

Democracy is a form of government where people's choice prevails. Democracy is identified by adult franchise where the citizenry can exercise their choice in selection of government from multi-party election process. Different political parties with different political and economic ideologies participate to

form and run government as per principles of the party. People cast their votes, ideally, being apprised of their ideologies and way of administration. Economic policies followed by the socialist party and a capitalist party, whether liberal or extreme, differ as per principles followed and manifesto declared by them. But basic aim of every government is to achieve peoples' good and economic growth with elevation of different socio-political-economic indicators like Gross Domestic Product (GDP), Net National Product, (NNP) Per Capita Income, Human Development Index, (HDI), Corruption Perception Index, (CPI), Democracy Perception Index (DPI) etc. Conduct of election is a way for forming government in a democratic way and not the end purpose of democracy. Where win in election becomes the ultimate aim of the political parties democracy is strangled brutally through vote buying, repression, violence, coercion, instigated hate speeches to manipulate opinion poll and also through distribution of bounties and participation in social activities by the government even in a secular country through social aggression. Social aggression is a new weapon of the ruling party for vote buying and creation of coterie for insulating the political party for 'sure win' even uncontested win of the candidates. Grabbing the electorate paves the way for violence in election process. Role of the CSO lies in creating a social awareness and consciousness for individual rights. Mute civil society or morphined civil society for economic gain are as fatal as electoral dictatorship in an eclipsed democratic country.

5. Role of Civil Society as Vanguard of Democracy

Participation of the citizenry in conduct of state affairs and political consciousness are the sine qua non for a pure democracy. A civil society may be defined as a voluntary assembly of enlightened people of the society who work for protecting human rights without biasness and favouritism outside the control and influence of government without profit and partisanship. In present day multi-party parliamentary democracy the executives as well as the legislature behave monopolistic especially where the party in power enjoys absolute majority in the legislature. Rule of law often is infringed by the rulers as opponents are microscopic in the legislature. Rule of the rulers become the rule of law and judiciary is often confronted with various protests against its judgments. The advocates also lean toward the ruling party for favour of fortune. In the criminal cases where submission of evidence matter much under 'presumption of innocence' and the executives often have been alleged to destroy the evidences from police custody to manipulate the judgment, justice cannot be delivered judiciously. Some of the Senior Advocates have been found to plead as a protector of the rulers despite apparent guilt even found by the common people. Incident happened in a rape cum murder case of a junior doctor of R. G. Kar Hospital in Kolkata and the corruptions in case of appointment of school teachers are the classic examples of destruction of evidences to manipulate the case. Civil society played a role in the matter. Incident at Nandigram during 2007 for acquisition of about 10,000 acres of land by the then government for setting up of a Chemical Hub and farmers' protest under leadership of

“*Bhoomi Uchchhed Pratirodh Committee (BUPC)*” followed by firing on the 14th March 2007 raised huge protests by the civil Society activists of Kolkata and ultimately lead to fall of 34- years old left front government. But most interestingly role of the same activists during R. G. Kar Issue was not visible by the citizens. Role of the civil society emerge in such cases to fight against despotism of the rulers. Role of civil society is also called for in case of ethnic riots or against religious fundamentalism in the society. Role of such a society has been elaborated by Alexis De Tocqueville (1805-1840) where he apprehended a real danger in the modern society where new despotism of all pervasive state administration with monopoly of education, health care is more acute rather than class struggle as was conceived earlier. In fact, role of CSO is a watchdog function and also community mobilization.

Roles of Civil Society may be elaborated as under:

Protector of Human Rights: Where human rights are infringed the victim may proceed to the judiciary under Art 32 and Art 226 of the Constitution. Judiciary has a right to protect the citizens in such situation to ensure freedom of speech, privacy, life etc under various articles of the Constitution. Civil Society also raised its wings against government despotism and repression in such cases to restore democracy. Though the term civil society has not been incorporated in the Constitution inclusion of right to speech under Art 19 provides scope for the Civil Society Organizations (CSO) to play its role for public good. Organising Programme for rights of the Sex workers under leadership of ‘Durbar Mahila Samanwaya Committee (DMSC) in Kolkata is an example of role of CSO.

Awareness Programmes: CSOs are not a political entity but exist for spreading political and environmental awareness in the society. Narmada Bachao Movement and Chipco Movement are examples of activism of CSOs. CSOs often organize programmes for discussion of modern topics of interest to aware the citizenry of the recent incidents of the city/town.

Protest Rally: CSOs exist to raise a voice against executive exuberance and inaction of the government in power to veil massacres and corruptions. Often opponent political party fail to wage struggle against the government for ruthless repression and hooliganism of the local care takers. CSOs plunge under such circumstances to convey public protest against the government despotism. Examples of such mass protests against ‘Park Street’ issue in Kolkata for abduction, rape and murder of Ms. Suzette Jordan in 2012 (6th February 2012) and silence of the police authority raised huge protest from the CSO with ‘Candle Protest’ against government inaction. Similar protest was organized in Kolkata against barbaric incident happened in R G. Kar Medical College where a junior doctor was gangraped and brutally murdered. Inaction of the Principal of the Medical College and nexus between administration and local hooligans raised huge hue and cry also internally and people en masse political affiliation except the supporters of the ruling party, organized mass movement on the 14th August 2024 night (Programme on ‘Reclaim the Night’). In fact, government failed to fathom the wrath and hatred of the masses on the despotic government in the matter. Most interestingly the Supreme Court suo moto handled the case but the result was

none-too- happy.

Political Awareness Programme: Organising political awareness programme say against War is an area of activities of the CSOs. War creates disharmony as well as causes famine and poverty for the distressed. Anti War Rally organized by the CSOs are an important are of raising protest against the War-Traders. One important role of the CSOs lie in organizing programmes conduct of free and fair election through casting of votes by the citizens personally. Mass rigging and false voting by the rulers and intimidation as well as coercion exerted by the local “Vote Managers” of the ruling parties needs to be protested by the citizens only. Neither judiciary nor police administration can work as a ‘Robinhood’ for fair election. Strong protests of the local voters can reverse the trend of political monopoly of the rulers. In any democracy obtaining 99% of votes cast signifies lacunae in the system and can never be presented before the court with evidence. Democracy must fail for want of evidence as happening in many states of the country. Despite “NOTA’ button how uncontested win take place is beyond imagination of common people. Obviously, someone is apparently involved in the process through intimidation and bribing of the political opposition. Winning of 34% of uncontested seats in Gram Panchayat Election is a cancer of democracy. How 65 lakhs of ghost voters having proper identity cards exist in the election process, as revealed in the SIR report of Bihar is a matter of concern. Role of CSO to save democracy and maintain sanctity of election process need to surface here. Heralding a sense of consciousness amongst the electorate for collective protest against rowdism of the rulers through inspiration and knowledge sharing is required.

Maintaining ethnic solidarity: CSOs must be apolitical and an instrument for upholding democracy as well as secularism. Role of religious fundamentalists and alike political parties is to create diversities in the name of religion as happens everywhere. India is also not an exception. Despite existence of Muslim community since 10th Century (presently having 14% of total population) the Hindu (78% of the population) fundamentalists are opposing each other. Role of CSOs should surface to maintain unity in diversity.

Peace March of CSO for fair election: A unique role of the radical CSO is to organize human rights awareness camps to enlighten the society and elevate the quality of democracy. Hand raising citizens or robo- followers are cancers for deliberative democracy and human progress. It creates totalitarianism in the political architecture of the country. It is followed by parliamentary dictatorship and despotic governance of state. Organising peace march before election for exercise of right to free vote is a deterrent against election violence as well as to the despotic government regarding awareness of citizens. Executives are afraid of peoples’ consciousness rather than protests of the political parties. Mute citizenry is an asset for despotic government and radical think tanks loom large before the monolithic government. Election violence in India especially in West Bengal is a long-term issue. As the state is highly politicalised and carried on the wings of the concept of ‘party society’, political violence is of high

degree in the state. All the political parties are contributors to the phenomenon. Political debates amongst the followers result in blood shed. Pluralism does not exist in the society even amongst the political leaders. Hate speeches are frequent even at the personal level. The state can hardly boast of concept of democracy in practice. CSO has an effective role to play in the matter in raising political consciousness and patience amongst the citizens.

6. Effect of Civil Society on Judiciary

Concept of civil society has not been acknowledged in the Constitution of India for the obvious reason that CSO is not a part of state organism -- neither a part of legislature nor executive or judiciary. It does not come within the purview of fundamental rights nor directive principles of state policies. But role of civil society can effect and influence running of state and human rights where democracy is dwarfed. CSO is the catalytic agent for regeneration of consciousness amongst the people as a whistle blower against wrong-doing of the government or society. Sexual harassment of women workers in work place was protested by the CSO which led to formulation of women rights in the wake of Visakha's Case¹. In the case Naina Kapur and her organization Sakshi filed a PIL petition against the state of Rajasthan and the Government of India to enforce fundamental rights of working women under Art 14, 19 and 21 of the Constitution of India. In the case of Hussanara Khatoon Vs State of Bihar² where PIL was filed for protection of under trial prisoners under Art 21 for fair and speedy trial in the light of extended meaning of right to life and personal liberty and for providing free legal aid to poor people under Art 39 A of the Constitution of India. CSO also raised protests against ethnic riot and probe through a SIT under supervision of the apex court. The independent People's Tribunal on the ethnic conflict in Manipur also led by former SC judge Kurien Joseph also recommended for executive action against the hate propaganda and unwanted speeches for escalation of incitement at Manipur. Verdict in the case of Assn for Democratic Reforms Vs Union of India³ (popularly known as Election Bond Case) is also to protect transparency of electoral system in democracy and to unearth use of black money to arrest crony capitalism as well as criminalization in politics. The apex court declared the Election Bond Scheme (2018) as unconstitutional. The verdict also necessitated changes in the R P Act 1951 and the Companies Act 2013. Verdict of the apex court in the case of Association for Democratic Reforms Vs Union of India⁴ under Art 19(1) (a) and 21 of the Constitution highlighted on the criminalization of politics and R P Act was amended to exclude the candidate against whom criminal charges have been framed.

Pitfalls of the Civil Societies:

Civil society stands for the truth and not for power and commercial gain. Most important feature of the CSOs is unbiased and uncompromising attitude towards the truth through in-house participative democracy. Dogmatism or

absoluteness of the leaders and regimentation of thought are pitfalls of the CSOs. It is a voluntary collective efforts and not political agenda. Often it is found that the members of the Civil Society have been exposed to political vendetta and caught in the grip of power and gain. The forward players of Nandigram Massacre were not found during R.G. Kar murder case due to political veil. Most of the stalwarts of the movement were awarded with prestigious posts and glamour of favour which degenerated the identity of the warriors. Certainly, it would be the role of the executives to pollute and create differences among the 'protestants' but the level of solidarity and consciousness of the intellectuals matter much for filtration of democracy. Polarisation of CSOs are more dangerous than a dictator ruler.

7. Conclusion

Indian democracy is unique in nature as the country have gained enormous experience under colonial rule as well as restricted participation in administration under The India Act 1935. Social protests for freedom movement and movement for liberty of people was ingrained in the Indian society for a long time. Movement against partition of Bengal in 1905 and protest against Jalli Wana Bagh massacre by the British rulers in 1919 were examples of activism of Civil Society about 150 years back. Agitation of Raja Ram Mohon Roy against Sati ritual in 1829 was also heralded a new horizon towards achievement of human rights and protest against crime on women. Enlightened society members in the country rose to occasion for protection of human rights and against brutal atrocities and repression inflicted on the citizenry to suffocate democracy. But greatest enemy of civilization of greed and thirst for power. It has been found to be mirrored in the present-day socio-political scenario. Balance of axis of power of the so-called civil society activists have been found to lean towards power block for glamour and executive recognition but people hatred. This trend is very unworthy of a viable democracy where dictatorship lies in embryo.

References

- [1] L. Diamond, "What civil society can do to develop democracy," speech delivered at Convention Centre, Baghdad, Stanford University, Feb. 10, 2004.
- [2] S. R. Jama, "The essence of civil society in democracy," *Jurnal Etika Demokrasi (JED)*, vol. 6, no. 1, pp. 1–14, Jan. 2021.
- [3] M. Godbole, "The Indian judiciary and civil society," *Indian Public Policy Review*, vol. 3, no. 1, pp. 72–83, Jan. 2022.
- [4] I. Jaising, "Civil society and its engagement with the Constitution," *Verfassungsblog*, Apr. 6, 2024. [Online]. Available: <https://verfassungsblog.de/civil-society-and-its-engagement-with-the-constitution/>.
- [5] O. Śniadach *et al.*, "The role of civil society in protecting judicial independence in times of rule of law backsliding in Poland," *Utrecht Law Review*, vol. 17, no. 2, pp. 56–69, 2021.
- [6] J. Sorabji, "Legitimacy of the judiciary and communication with society," in *Comparative Procedural Law and Justice*, Part II, Chapter 4. Luxembourg: University of Luxembourg, Feb. 2025.

¹ Visakha Vs State of Rajasthan, (1997), AIR 1997 SC 3011

² Hussanaira Khatoon Vs State of Bihar, (1979), WP 57 of 1979

³ Association for Democratic Reforms Vs Union of India, (2024) INSC 113

⁴ Association for Democratic Reforms Vs Union of India, (2002), 5 SCC 294