INTRODUCTION

VASUDHAIVA KUTUMBAKAM, this world is one family, is an ancient and core part of Indian philosophy. Strange, that globalization is often portrayed as a recent western imposition on India and the world. Goods and people have moved across the globe for centuries, in fact, far more easily than now. Neither passports nor visas were required, and traders, pilgrims and adventurers moved around without let or hindrance.

The word ‘globalization’ is now used widely to sum up today’s world order. It means the world is increasingly integrated into one capitalist political economy operating under a neo-liberal free market ideology. Economic globalization as witnessed in the world today is not a new phenomenon. It has been evolving for the past several years and gaining momentum day by day. The trend, at present, is a shift from a world economy based on national market economies to a borderless global market economy increasingly governed by one set of rules. In this context, globalization means global economic liberalization, developing a global financial system and a transnational production system which is based on a homogenized worldwide law of value.\(^1\) The demise of the Cold War helped the emergence of a new aggressive competitive global economic order. This was possible mainly due to the integration of the newly industrialized countries and much of the developing nations. Although globalization and market liberalization have made some progress in terms of economic growth in certain countries, it has also had many negative impacts in developing societies.

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\(^1\) Mohameden Ould-Mey, Global Adjustment: Implications for Peripheral States, Third World Quarterly, 15:2, 1994
Regional trading blocs such as the European Union and the North American Free Trade Agreement (NAFTA) and the Asia Pacific Economic Co-operation (APEC) promote trade liberalization. The establishment of the World Trade Organization enhancing and supporting the General Agreement on Tariffs and Trade (GATT) and also other agreements adopted at the conclusion of the Uruguay Round has also contributed to the trade liberalization. Going beyond the liberalization of trade in goods, the Uruguay Round added issues of agriculture and intellectual property to the more traditional GATT concerns.

If globalization is conceived as turning the whole world into one global village in which all peoples are increasingly interconnected and all the fences or barriers are removed, so that the world witnesses a new state of fast and free flow of people, capital, goods and ideas then the world would be witnessing unprecedented enjoyment of human rights everywhere because globalization is bringing prosperity to all the corners of the globe together with the spread of the highly cherished values of democracy, freedom and justice.² On the other hand if globalization is conceived as turning the world into a global market for goods and services dominated and steered by the powerful gigantic transnational corporations and governed by the rule of profit then all the human rights of the people in the world, particularly in the southern part of the world would seriously be threatened.³

So, what is it which is affecting the lives of all – without any discrimination of caste, creed, colour, sex, race, religion, language, or economic status?⁴ Globalization including its various dimensions – from political to economic, social, cultural, and technological – is defined in varied ways. Giddens states globalization as something

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³ Paul L. S.J., Education for Globalization, America Press 2002
http://www.americapress.org/articles/locatelli.htm

where ‘local happenings are shaped by events occurring many miles away’. Dunning explains globalization as ‘connectivity of individuals and institutions across the globe’. The central tenet of globalization is about movement across the natural and/or (mostly) man-made borders/barriers in a speedy, efficient way and with minimum restrictions. This movement is ensured through the 4-Ds: deregulation, denationalization, disinvestment and digitalization.

GLOBALIZATION, DEVELOPMENT AND HUMAN RIGHTS

The relation between globalization, development and human rights raises policy and legal questions. One such question is whether globalization of market-oriented economic system is essential for development and protection of human rights? While searching for an answer to this question we should analyze how we perceive the concept of development and human rights, especially in the context of developing countries. Human rights have become an integral part of the process of globalization in many ways. The Western countries are increasingly using their view of human rights concept as a yardstick to judge developing countries and to deal with economic and trade relations to extend development assistance. At the same time globalization intensifies impoverishment by increasing the poverty, insecurity, fragmentation of society and thus violates human rights and human dignity of millions of people.

Development or economic development is widely perceived as a historical process that takes place in almost all societies characterized by economic growth and increased production and consumption of goods and services. Development is also often used in a normative sense as a multi-valued social goal covering such diverse spheres as better material well-being, living standards, education, health care, wider opportunities for work and leisure, and in essence the whole range of desirable social and material

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7 Supra note 4, at p. 240
welfare. But, in today’s globalization, the concept of development itself is interpreted differently and the concept of right to development is not taken seriously.

The Preamble of the Declaration of the Right to Development, adopted by the UN General Assembly in 1986, describes “development as a comprehensive economic, social, cultural and political process that aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of resulting benefits”. The 1990 UN Global Consultation on the Right to Development as a Human Right, stated that the right to development is an inalienable human right with the human being as the central subject to the right and that all the aspects of the right to development set forth in the Declaration of the Right to Development are indivisible and interdependent, and these include civil, political, economic, social, and cultural rights. It was further maintained that the right to development is the right of individuals, groups and peoples to participate in, contribute to, and enjoy continuous economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. A development strategy that disregards or interferes with human rights is the very negation of development.

The aims and objectives of the so-called development models promoted by different governments or international development agencies are not compatible with human rights standards. A new model of development ideology is being promoted that is based on the market and its logic. Several decades of discussion on alternative development model is withering away and a dominant model of market-oriented development taking roots in that place. As a result of the globalization process, more negative effects are visible now.

DEVELOPMENT AID AND HUMAN RIGHTS

It has long been accepted by the United Nations and in most international forums that “developed” countries should provide aid in the form of grants and loans to the
developing countries. The General Assembly has, by consensus resolutions, called for such development aid to reach 0.7 per cent of the GNP of developed countries. Actually less than half of that target has been attained. For example, the United States gives only less than 0.2 per cent, instead of 0.7 per cent.

Overseas Development Aid (ODA) presents debatable issues from the perspective of human rights. For example, it raises the question whether aid should be directed mainly to reducing poverty and providing social services to the needy or whether priority should be given to economic growth and strengthening infrastructure. Another key question of a legal political characteristic is whether the recipient government or the donor state should have a decisive voice. The developing states emphasize their primary responsibility for development of the country and their right to self-determination in respect of the economy and resources. Donor countries tend to emphasize their narrow concepts of human rights as a prerequisite to sanction development assistance. They also emphasize the pragmatic political fact that aid is not likely to be provided if the beneficiary states violated basic human rights. According to Nikhil Aziz, human rights have become another arsenal of Western countries in their bid to bring recalcitrant Third World nations to heel in their New World Order.

TRADE AND HUMAN RIGHTS

Global trade is being liberalized and opened up in this era of globalization. A set of new rules and regulations have been promoted through international firms like WTO and new initiatives have been taken through the formation of regional economic trading blocs.

At the same time several developed countries in the world have been trying to inter-relate trade policy with human rights policy. Under mounting pressure from the business lobby in the irrespective countries, several Western governments have altered

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their policies depending up on their business interests. Under the Generalized System of Preferences (GSP) which provides for trade benefits for developing countries, the USA has withdrawn or threatened to withdraw preferences from some countries that violate human rights. The case of China has been controversial, with opinion in the United States sharply divided on the desirability of conditioning trade preferences on compliance with specified human rights. There has been strong pressure from US business lobby against use of the Jackson-Vanik Trade Act of 1974 for denying MFN status to China. It held that talking about “political freedom is not a sound argument for attempting to use the blunt instrument of trade sanctions to win democratic rule for China. Keeping millions of Chinese in poverty by restricting their right to trade, in the hope of promoting human rights, is neither logical nor moral. Likewise, depriving Americans of the freedom to trade and invest in China violates their rights to liberty and property”\(^9\). This is a case of shift in policy based on convenience rather than on ideological convictions or moral principles. On the other hand, some developed countries are pressing for trade sanctions against states found to violate human rights, especially human rights standards that are generally based on the Conventions and Recommendations of the International Labour Organization. They have tended on the whole to oppose trade liberalization treaties such as NAFTA and currently WTO. The developing countries have generally objected to such measures since they would reduce their comparative advantage through cheap labour and constitute a major barrier to their industrialization. From their point of view, workers rights enforced by trade barriers would contribute to greater poverty in their countries.

The initial stride to control violations of human rights should be to prescribe international human rights standards, particularly labour standards, in a statutory form and should directly be imposed on private companies engaged in transnational activity. Guidelines for Multinational Enterprises adopted by the Organization of Economically Developed Countries in 1976 provided for observance of standards of labour relations by transnational companies. A UN Commission on Transnational Corporations devoted about 15 years of study and negotiation on a draft Code of Conduct for Transnational

Corporations that included a general provision requiring transnational corporations to respect human rights and fundamental freedoms in the countries where they operate and more detailed provisions on observance of laws on labour relations and involvement of trade unions. Multi-corporations which have gained strength in the post-globalization era are the main actors in several developed countries in formulating new foreign policies to shape a new global order. This trend is prevalent in the emerging global order which is spearheaded by a few hundred corporate giants, many of them bigger than most sovereign nations. By acquiring earth-spanning technologies, by developing products that can be produced anywhere and sold everywhere, by spreading credit around the world, and by connecting global channels of communication that can penetrate any village or neighborhood, these institutions we normally think of as economic rather than political, private rather than public, are becoming the world empires of the twenty-first century.

The impact of these global giant’s operations have negative impact on human rights. Virtually all developing countries in contemporary time seek private foreign investment for development. Such investment now greatly exceeds loans or grants from official sources. New technologies have transformed the nature of production and facilitated re-location of firms. Nationalization, once the centre of debate, has now virtually disappeared from the agenda of developing countries. The human rights implications of these trends are outlined by an economist, David Korten in the following terms:

“Today the most intense competition in the globally integrated market is not between the gigantic Transnational Corporations, but it is between governments that find themselves competing with one another for investors by offering the cheapest and most compliant labour; the weakest environmental, health, and safety standards, the lowest taxes; and the most fully developed infrastructure. Often governments must borrow to finance the social and physical infrastructure needed to attract private investors. Having pushed almost the entire social and environmental costs of production onto the community, many firms are able to turn a handsome profit. Having bargained away their tax base and accepted low wages for their labour, many communities reap relatively few
benefits from the foreign investment, however, and are left with no evident way to repay
the loans contracted on the firms behalf” 10.

IMPACT OF GLOBALIZATION ON HUMAN RIGHTS

Human rights have been on the international schema of things since the end of the
World War II, certainly since 1948, but their violation as consequence of globalization
has not been adequately scrutinized. The “international bill of human rights” holds states
accountable for realization of human rights. But in the contemporary era it is the private
global players that are frequently the most egregious violators of rights, and as far as
there accountability is concerned they are accountable to none. Strikes and
demonstrations protesting worsening labour conditions have become widespread,
including in communally based societies where individual political action has been rare.
Political authorities often react to this strife by increasing restrictions on civil and
political rights and, at times, grossly violating basic rights, such as the right to life, in an
effort to control the labour force. Human rights NGOs have extensively documented the
increase in labour activism, particularly in such low-wage areas as Malaysia, Indonesia,
and even China, and the concomitant increase in state repression.11

In addition to labour strife, globalization has resulted in the intensification of
ethnic and religious conflict and violence. Globalization with its attendant social change
has precipitated fragmentation at the local level. On the one hand, the resurgence of
ethnic and religious strife can be understood as an effort to assert identities and to
ascribe meaning in the face of global forces over which one has no control. However
there is another dimension to ethnic/religious strife that needs to be scrutinized. What is
a particular ethnicity's class position both within the state and globally? It may be that
ethnic/religious and class categories overlap. It is well known, for example, that in

that as a result of the economic decline in Malaysia, the state deported more than 30,000 migrant workers,
many of whom experienced police brutality when they were detained. In the same report Human Rights
Watch notes that the Chinese government, concerned about increased worker unrest, took measures
including detentions and imprisonment, to stop activities in support of labour rights.
Indonesia, where ethnic strife has erupted, the majority of merchants and retailers are Chinese. In such cases, a critical issue is raised as to whether, analytically, ethnic/religious clashes or class conflict is the decisive factor in increased violence.

Human rights violations (whether of individual civil/political, economic/social, or minority rights) as a consequence of destructive social change resulting from globalization might result, at least in some instances, in radical shifts in a society's cultural values and norms that, in turn, may lead to a reconfiguration of the substance of traditional or historic notions of human rights. The outcome of this search for a revitalized identity and meaning is unpredictable. There may be a reinforcement of an exclusive communalism with little personal autonomy or there may be a loosening of communal ties and an expansion of individual demands based on class. The evidence points in both directions. Clearly globalization has had a deleterious effect on the entire complex of human rights, resulting in significant transformations in the behavior and values of masses of humanity across the globe.

The negative shock of globalization has, it should be noted, affected not only non-Western societies, but those of advanced, industrialized Western Europe, the United States, and Japan. The consequences of globalization for the poor and middle class in the United States are enormous. "The wealthiest and most productive country in the world has.....changed into the largest low-wage economy. In 1995 four-fifths of all male employees and workers in the United States earned 11 per cent less an hour in real terms than they did in 1973"12

Some of the benefits of globalization contribute to the enhancement of human rights. Increased trade often aids developing countries and thus contributes to the mitigation of poverty; increased communication permits countries to learn from each other. In the sphere of human rights, communication via email has permitted human

rights advocates in their locality and to communicate with other human rights advocates throughout the world.

However there are other less beneficent effects on human rights arising from globalization. The emphasis on competitiveness and economic development has had especially negative effects on such vulnerable groups as migrant workers, indigenous peoples and migrant women. Globalization has been cited as a contributing factor in violations of the right to life, the right to protection of health, the right to safe and healthy working conditions and freedom of association in many countries. 13

WORKERS’ RIGHTS AND GLOBALIZATION

The competitive pressures of the new international economy have had negative effects on the rights of workers. Low labour costs and low labour standards are important elements in the choice of location of branches or subsidiaries of transnational corporations or choice of suppliers for industrial development. Textiles and other goods produced more cheaply in developing countries are taking over markets in the developed world. Governments thus have little or no incentive to improve working conditions – on the contrary, their competitive advantage depends on these conditions. Developing countries oppose the linking of labour standards to trade issues, pointing out that such linkages would take away their competitive advantage through cheap labour and low labour standards. This argument is quiet understandable since it is essential to increase the trade of developing countries, however in such case, the cost falls on the most vulnerable elements in the developing countries: unskilled or semi skilled labourers whose rights to organize labour unions, to engage in colletive bargaining or to protest against unsafe working conditions are denied.

RIGHTS OF INDIGENOUS PEOPLE

The international community has become concerned over violations of the rights of indigenous peoples in recent years, after many years of neglect. The United Nations Working Group on Indigenous Peoples has drafted a declaration on the rights of indigenous peoples, which is being examined by a working group of the UN Commission on Human Rights and will eventually come before the General Assembly for adoption. The decade from 1994-2003 has been declared the UN Decade for Indigenous Peoples.

The violation of the rights of the indigenous has been taking place for centuries, the recent emphasis on economic development and international competitiveness has resulted in new onslaughts on their rights. The link between the rights of indigenous peoples and globalization was demonstrated by coming into effect of North American Free Trade Agreement of 1994, for the uprising by Indians in Chiapas, Mexico, drawing attention to the violation of their economic and social rights.

Oil, Uranium, minerals and timber are found throughout the world on indigenous lands, and prospectors and entrepreneurs have been permitted to encroach on them in the name of economic development. Indigenous lands in many parts of the world have been trespassed upon in pursuit of traditional medicines which are then brought in international pharmaceutical markets. Economic development has resulted in serious violations of the right to health, the right to healthy environment, the right to life and the cultural rights of the indigenous peoples.

**WOMEN WORKERS**

Although unskilled workers in general are victims of globalization, the situation of women workers deserves meticulous attention. On the one hand, globalization has increased opportunities for women. Women have entered the workforce through jobs in export processing zones or through becoming migrant domestic workers, jobs that are

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mostly produced by globalization. Their work has significantly contributed to family income and to sense of independence and freedom for women workers. But, these jobs have also led to social disruption of the family and expose women to exploitation, at times even to violence and sexual abuse. As a faction of society which lacks power and status in society, their human rights are frequently violated.

Women migrant workers are often drawn from the poorer segments of the society of their own communities and are thus already in a situation of vulnerability. Their vulnerability is increased during their stay at foreign places as they are regarded as a form of cheap and exploitable labour, their passports are sometimes confiscated and, alone in a foreign country whose laws and customs they do not know, they are unable to find recourse against abuses.

IMPLEMENTATION OF HUMAN RIGHTS IN THE ERA OF GLOBALIZATION: LESSONS FROM INDIA

As far as implementation of human rights in India is concerned, the Indian Judiciary has been doing a commendable job from last three to four decades. In fact, it was the Supreme Court of India, well before the adoption of liberal economic policies of 1991, foreseen the impact of liberalization/privatization/globalization on fundamental rights guaranteed under the Constitution of India. The Judiciary was aware of, that, liberal economic policies could seriously affect the fundamental rights of the weaker sections of the society and they cannot survive under such economic policies. The Supreme Court of India, time and again, kept on redressing specific human rights violation, issues discussed were constitutionality of the policy of privatization, disinvestment, pollution of rivers, deaths due to starvation, right to strike and

15 M.C. Mehta v. Union of India AIR 1987 SC 1086
16 Delhi Science Forum v. Union of India (1996) 2 SCC 405
17 Balco Employees Union v. Union of India AIR 2001 SC 350
18 Almitra H.Patel v. Union of India AIR 2000 SC 1256
employment of children in hazardous industries, right to health and many more such issues which concerned or were directly or indirectly concerned to basic rights of an human being. And in majority of these cases, the Supreme has been able to secure justice victims of violations of human rights due to globalization. Besides, the Apex Court of India has tried to create a balance between the need for development and the protection of human rights.

Now coming to the role played by Legislature wing of the State, the Government of India framed major economic policies in 1991 to attract global corporate world to India. Since 1991, there have been discussions on not only constitutionality of such policies but also its consequences. It is to be believed that the policy of liberalization was a much needed one, but, it seems that the government could not ensure that realization of human rights, especially of the poor people, is to remain a cardinal factor at the time of law making or decision taking process. For instance, the government could not satisfactorily control the course of foreign investment and made some bad policy decisions in terms of investment prioritization. Like people in villages have access to soft drinks but not to clean drinking water, food, etc. Also, it seems that the amendments proposed by the government in laws related to foreign investment, trade union and contract labour beard a negative impact on human rights, especially of labourers and women workers.

On the other hand, government took some initiatives as well to protect human rights from being violated by framing some policies like, corporate social responsibility to protect environment, social security scheme for unorganized sector, minimum environment norms for large scale urban projects and various other schemes as well.

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20 CPM v. Bharat Kumar AIR 1998 SC 184
22 Parmanad Kataria v. Union of India AIR 1989 SC 2039
In all, it is submitted that all the wings of the State have done enough for their responsibility for protection and safeguarding of human rights against the global economic pace. But still, there is lot of gap that is to be filled up in absolute realization of human rights. The State, at times, has shown its greed for economic prosperity by contending that it will automatically lead to realization of human rights at all levels, but in this course they have been caught in the trap of global corporate giants. Therefore, India has to rethink about its economic policies in order to safeguard human rights from the negative impacts of globalization.

CONCLUSION

Globalization has its winners and losers. It creates both help and hindrance in realization of human rights. With the expansion of trade, market, foreign investment, developing countries have seen the gaps among themselves widen. The imperative to liberalize has demanded a shrinking of State involvement in national life, producing a wave of privatization, cutting jobs, slashing health, education and food subsidies, etc. affecting the poor people in society. In many cases, liberalization has been accompanied by greater inequality and people are left trapped in utter poverty. Meanwhile, in many industrialized countries unemployment has soared to levels not seen for many years and income disparity to levels not recorded since last century. The collapse of the economies of the Asian giants is an example of this. The Human Development Report of 1997 revealed that poor countries and poor people too often find their interests neglected as a result of globalization. Although globalization of the economy has been characterized as a locomotive for productivity, opportunity technological progress, and uniting the world, it ultimately causes increased impoverishment, social disparities and violations of human rights.

Globalization as a concept is neither pro human rights nor anti human rights, it could offer opportunities for promotion of human rights as well as abridgement of human
rights, at national and international scene. Now we are to decide that whether globalization should be boon for human rights or bane!