

HUMAN RIGHTS: ECONOMIC, SOCIAL AND CULTURAL AN STUDY

***Dr. T. Balasubramanian, **K. Ayyanar, ***Dr. N. Dhanalakshmi**

*Teaching Assistant, Department of History, Alagappa University, Karaikudi,
Tamil Nadu, India.

**Research Scholar Department of Library Science, Alagappa University, Karaikudi, Tamil
Nadu, India.

*** Associate Professor, & Director i/c School of History and Tourism Studies,
Tamilnadu Open University Chennai, India.

ABSTRACT

Meaningful and intellectual modern thinking regard any system, which rests on unity of diverse views to be better and progressive as compared to a single-track system. Democracy is based on accommodating and giving free play to diverse values at any time. Earlier in nineteenth century Darwin and Spencer had enunciated the principle of progress by emphasizing that greater is the differentiation and greater the integration, greater is the progress attained by a society; more the number of self-propelling components better is the functional capacity of the system. Ancient Indian and Greek thinking believed that no one could reach absolute value and be good for all times. Cultures and civilizations have evolved developed, prospered, declined, sidelined or have withered away with passage of time. New cultures may be as good or bad as old ones, or the cultures or civilizations of East may be as good or as bad as those of West. Believing this, in the contemporary times, since the inception of the United Nations as a civilizational force, the reigning view is that no culture is inherently superior or inferior, therefore the new world order should allow the diverse cultures the freedom to develop or parish by natural processes. Culture means the aggregate of social, religious or behavioral norms, independently of political forces, developed by a community for survival as well as for prosperity at a time or place.

History of Article

Received 26th December, 2020, Received in revised form 15.02.2021

Accepted 22.02.2021, Published on 25.02.2021

Keywords: Democracy- differentiation- developed- prospered- United Nations- contemporary
Corresponding Author : K. Ayyanar
Email :

Introduction

West, that is, Asia and Africa, was regarded as barbaric, primitive or endowed with inferior intelligence, and which needed to be civilized and made cultured. However, the events of the Napoleonic wars, the Crimean war, the First World War and the Second World

War, gradually made the West realize that European imperialist culture had inner contradictions. That the democracy, autocracy, theocracy, capitalism, Marxism, socialism, materialism, women exploitation, Negro and white slavery, imperialism, nuclear bombs, total wars and Hi technology of

the West could not create an absolute, perfect and final human civilization. The concepts that go with the phrase “white-man’s burden” were finally shaken away after the Second World War leading to respect for different human cultures.

The United Nations Organization does not propose to create world-wide social, cultural, economic or political homogeneity for the member States. In the Charter, the UNO has resolved to employ international machinery for promotion of the equal promotion of the social and economic advancement of all the peoples of the world.

In the scheme of things adopted by the United Nations, every socio-cultural group having a national identity but without self-rule was a non-self-governing territory and on the principle of self-determination such groups were defined to be qualified to be independent States. Economic, social and cultural rights are socio-economic human rights, such as the right to education, right to housing, right to an adequate standard of living, right to health, victims' rights and the right to science and culture. Economic, social and cultural rights are recognised and protected in international and regional human rights instruments. Member states have a legal obligation to respect, protect and fulfil economic, social and cultural rights and are expected to take "progressive action" towards their fulfillment

Identity of Socio-cultural Values

Evaluation of as to what constitutes a society and its culture are normal subject of sociology and of anthropology. It is a basic fact of human evolution that society came first and polity came next. One can imagine that societies get broken as migration of its members to other lands for better pastures and prospects enlarges them or when overtaken by natural calamities. Each

breakaway part of society in time and space develops its own social and cultural identity. Irrespective of present day technological innovations, all the societies of the past have had same common problems, viz., finding food, shelter, instruments of defence against wild creatures or hostile men or societies, ideas about unseen and unpredictable supra-natural disturbing forces, means of travel or language for communication. In this process religion represented how people interpreted natural forces and developed their social way of life and culture the distinctive pattern of societies distanced from each other. Culture and religion ultimately represent the behavior pattern between the members of a society, leading to an identity different from that of others. Then there have been patterns of social behavior, which evolved, differently in different social groups. Beyond their basic human needs, the difference between the societies was marked by their environmental and need based disparities. To the present day anthropologists and sociologists, the culture identifies and singles out a society. Culture in a way represents the developed intelligence of the society: as explained by Swami Vivekanand, every evolution is preceded by an involution, for example a tree must be present in the seed, its cause. The seed is the compound or intelligence of the tree and is the result of involution.

Culture is a term adopted by modern intelligentsia to accept that it is an abstraction of social identity, and the culture is to be perceived as an integrated whole, composed of the technology for dealing with necessities of life and survival, economic organization, social relationships, political or group unity form, spiritual or cosmic or unknown forces feared by the

community, political power adjustment methodology, the arts, music and dances, folk life, and lastly but not the least, the language and the literature. In Asia or Last, the oriental cultures of India, China, Mongolia, Japan, Tibet or Nepal have much in common, yet these are distinguishable from each other because of their different cultural evolution. On European mainland, the English, French, Spanish, German, Czech, Polish, Italian, Serbian or Greek are different for their cultures variations. In the Middle East, the Turks, Arabs, Persians, Baluchi, Pathan, Uzbek or Kazakh are different culture forms. On African land, the Khoisan, Bantu, Berger, Bedouin or Kabyle cultures have made their homes. and cultures of East Pakistan and West Pakistan, could not exist for long notwithstanding a common religion, and eventu broke into two States. Similarly, the composite State Soviet Russia could not be kept united by communist political philosophy and withered into several States in 1990s, on the basis of different cultures.

Earlier in the nineteenth century, Europe witnessed the Czehnationalism against Austria and France, the Swedish and Polish nationalism against Russia and Prussia, Italian nationalism against Austria and France, or Bulgarian, Serbian and Greek nationalism against Turks. The whole of Europe was in turmoil on the issues of nationalism; and only the Treaty of Versailles of 1919 and several Treaties of Peace could settle this after the end of Second World War in 1945, by redrafting the map of Europe on the basis of the principle of self-determination. Further the breakup of Soviet Russia peacefully in 1990s and of Yugoslavia in 1992-94, symbolized the final political shape of Europe based on

the application of the principle of self-determination.

Internationalization of Self-determination: Till the beginning of the Second World War, the principle of self-determination was prompted mainly by the considerations and needs or imperatives of European politics and diplomacy. it was not an integral part of international law. Then the step came when the 'Declaration of Atlantic Charter made by US president Roosevelt and the British Prime Minister Churchill in 1941, emphasized on the principle of self-determination as being one which was abused by the Axis powers during the war. It was visualized in the context of Nazi doctrine of Hitler for greater boundaries for Germany in Europe for the proposed Deutschlaflld. In pursuance of this policy, Germany had by 1941 occupied much of the territories earmarked by it for Deutschland. As the Second World War came to a close by 1945, the principle of self-determination had become a synonym in Europe for anti-imperialism. The principle was accepted by the Allied Powers for the new world order by the Charter of the United Nations. The Charter refers to the principle of self-determination in Preamble, Article 1, Chapters XI and XII and Article 76(b) thereby making it an integral part of the new international law.

Cultural identity

Cultural identity is the identity or feeling of belonging to a group. It is part of a person's self-conception and self-perception and is related to nationality, ethnicity, religion, social class, generation, locality or any kind of social group that has its own distinct culture. In this way, cultural identity is both characteristic of the individual but also of the culturally identical group of

members sharing the same cultural identity or upbringing.

Cultural identity can be expressed through certain styles of clothing or other aesthetic markers

Cultural (and Ethnic) Identity is a subset of the communication theory of identity that establishes four "frames of identity" that allow us to view how we build identity. These frames include the personal frame, enactment of communication frame, relationship frame, and communal frame. The communal frame refers to the cultural constraints or the sense of "right" that people live by (which varies by cultural group). Therefore, Cultural (and Ethnic) Identity become central to a person's identity, how they see themselves, and how they relate to the world.

Right to Social Equality: Protection of National and International Minorities

The denial of social equality within States may be a political act sponsored by State or it may be a class struggle Within society: property, profession, language, traditions or religion based. But this evil is present in all States in one form or other. The USA abolished slavery but the attitude of whites towards Negro has left a social or racial discrimination mark for the present generations to bear. In Europe, the frequent changes in the political map of the Continent by creation of new States or conquests of the territories with people living thereon after wars led to the problem not only of accommodation but also of social toleration and acceptance of such people, generally called minorities. Most of such resulting minorities, though Christian, were based either on language, nationality or on difference in living traditions. After the Turkish Ottoman Empire was liquidated after the First World War, Muslims as minorities appeared in Eastern Europe.

After the German Empire was dissolved (1919) Germans became minority community in Poland and Czechoslovakia. Italians became a minority community in Albania (1919). When British India was partitioned (1947) problem of religion based accommodation and absorption of minorities arose both in Pakistan and in India. It happened when Palestine was divided into several States (1947-48). All such political events have led to longtime persisting sociocultural recriminations or internecine conflicts.

Social Equality under the Charter The Charter of United Nations from the outset proceeded to make independent all non-self-governing territories. The Charter also prescribed the kind of social policy that all the States of the world were to achieve for their people. The new States often became aggregates of varying groups of tribes, sociocultural identity or religions. This required knowledge of political and economic organization but along with the democratic virtue of the toleration of the views of others. To achieve order in such kind of political cauldron the Peace Treaties after the Second World War, with Italy, Hungary, Rumania, Bulgaria and Finland, the former Axis Powers, stipulated that these Treaty States -shall ensure the enjoyment of human rights and fundamental freedoms to all persons living under their jurisdiction. No machinery was provided for direct supervision of treaty obligations by the Treaty-States. However, the United Nations has by its Charter directly and through various Conventions and Treaties induced equal treatment to the ethnic, religious, racial or national minorities; standing Committees have been formed or provided therein to monitor compliance of obligations by signatory States. Simultaneously, the UN

Economic and Social Council have through Human Rights Commission monitored the status and observance of human rights by the States of the world. In this process the Commission on Human Rights is the main policy-making body on behalf of the United Nations. It prepares studies, formulates the draft of international human rights Declarations and Conventions. It also deals with human rights issues or allegations of human rights violations brought to it by States. In turn, the UN Commission on Human Rights has established. Rights of minorities.

Rights of minorities

1. The Universal Declaration of Human Rights 1948 and its two International Covenants of 1966 declare that “all human beings are equal in dignity and rights” and prohibit all kinds of discrimination – racial, religious, etc. The UN Declaration against All Forms of Religious Discrimination and Intolerance 1981 outlaws all kinds of religion-based discrimination. The UN Declaration on the Rights of Minorities 1992 enjoins the states to protect the existence and identity of minorities within their respective territories and encourage conditions for promotion of that identity; ensure that persons belonging to minorities fully and effectively exercise human rights and fundamental freedoms with full equality and without any discrimination; create favourable conditions to enable minorities to express their characteristics and develop their culture, language, religion, traditions and customs; plan and implement national policy and programmes with due regard to the legitimate interests of minorities; etc. 2.

In India, Articles 15 and 16 of the Constitution prohibit the state from making any discrimination on the grounds only of religion, race, caste, sex,

descent, place of birth, residence or any of them either generally i.e. every kind of state action in relation to citizens (Article 15) or in matters relating to employment or appointment to any office under the state (Article 16). However, the provisions of these two articles do take adequate cognisance of the fact that there had been a wide disparity in the social and educational status of different sections of a largely caste-based, tradition-bound society with large-scale poverty and illiteracy. Obviously, an absolute equality among all sections of the people regardless of specific handicaps would have resulted in perpetuation of those handicaps. There can be equality only among equals. Equality means relative equality and not absolute equality. Therefore the Constitution permits positive discrimination in favour of the weak, the disadvantaged and the backward. It admits discrimination with reasons but prohibits discrimination without reason. Discrimination with reasons entails rational classification having nexus with constitutionally permissible objects. Article 15 permits the state to make “any special provisions” for women, children, “any socially and educationally backward class of citizens” and scheduled castes and scheduled tribes. Article 15 has recently been amended by the Constitution (93rd Amendment) Act 2005 to empower the state to make special provisions, by law, for admission of socially and educationally backward classes of citizens or scheduled castes/tribes to educational institutions, including private educational institutions, whether aided or unaided by the state, other than minority educational institutions. Article 16 too has an enabling provision that permits the state for making provisions for the reservation in appointments of posts in favour of

“any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state”. Notably, while Article 15 speaks of “any socially and educationally backward class of citizens” and the scheduled castes and scheduled tribes without qualifying backwardness with social and educational attributes and without a special reference to scheduled castes/scheduled tribes, Article 16 speaks of “any backward class of citizens”.

3. The words ‘class’ and ‘caste’ are not synonymous expressions and do not carry the same meaning. While Articles 15 and 16 empower the state to make special provisions for backward “classes”, they prohibit discrimination only on the ground of ‘caste’ or ‘religion’. In other words, positive discrimination on the ground of caste or religion coupled with other grounds such as social and educational backwardness is constitutionally permissible and therefore, under a given circumstance, it may be possible to treat a caste or religious group as a “class”. Therefore even though Article 15 does not mention minorities in specific terms, minorities who are socially and educationally backward are clearly within the ambit of the term “any socially and educationally backward classes” in Article 15 and “any backward class” in Article 16. Indeed the central government and state governments have included sections of religious minorities in the list of Backward Classes and have provided for reservation for them. The Supreme Court, in *Indira Sawhney & Ors vs Union of India*, has held that an entire community can be treated as a ‘class’ based on its social and educational backwardness. The court noted that the

government of Karnataka, based on an extensive survey conducted by them, had identified the entire Muslim community inhabiting that state as a backward class and have provided for reservations for them. The expression ‘backward classes’ is religion-neutral and not linked with caste and may well include any caste or religious community which as a class suffered from social and educational backwardness.

4. Though economic backwardness is one of the most important – or perhaps the single most important – reasons responsible for social and educational backwardness alone of a class, the Constitution does not specifically refer to it in Articles 15 and 16. In the *Indira Sawhney* case, the Supreme Court had observed: “It is therefore clear that economic criterion by itself will not identify the backward classes under Article 16(4). The economic backwardness of the backward classes under Article 16(4) has to be on account of their social and educational backwardness. Hence no reservation of posts in services under the state, based exclusively on economic criterion, would be valid under clause (1) of Article 16 of the Constitution.”

The Universal Declaration of Human Rights 1948 and its two International Covenants of 1966 declare that “all human beings are equal in dignity and rights” and prohibit all kinds of discrimination – racial, religious, etc

5. It is however notable that in the chapter of the Constitution relating to Directive Principles of State Policy, Article 46 mandates the state to “promote with special care the educational and economic interests of the weaker sections of the people... and... protect them from social injustice and all forms of exploitation.” This article refers to scheduled

castes/scheduled tribes “in particular” but does not restrict to them the scope of “weaker sections of the society”.

6. Article 340 of the Constitution empowered the president to appoint a commission “to investigate the conditions of socially and educationally backward classes” but did not make it mandatory

Racism: Anti-Racial Equality and Harmony International Convention

The situation is now covered by prohibitions under the International Covenant on Civil and Political Rights, 1966. However, when the State does not recognize racial discrimination but the people or the society denies fellow feelings to a section of population on the ground of their belonging to a particular, race and shun them, this is a civil rights or social problem.

International Covenant in Economic, Social and Cultural Rights, 1966

6.20 After a long drawn efforts beginning with the University Declaration of Human Rights and Genocide Convention of 1948, the UN Economic and Social Council aided by Human Rights Commission, produced two composite international agreements in 1966, viz., International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights. These two documents complete or provide a composite charter of human rights both by defining the basic freedoms for the people and by creating obligations on States to grant these to the people. There is also a self-contained machinery in each of them, which is to monitor the working of the stipulated rights and obligations within the territories of State Parties to the Covenants.

Religious Freedom of Ethnic or Sociocultural Groups

The socio-culture in turn is the reservoir of the inner strength of a particular community. Fidelity of the individual to his community and of the community or tribe to its culture has historically proved to be basic for the identity of individual as well as for continued or sustained survival of the particular community. It is now advised even by the UNO, that a cultural history and background are necessary part of a State; and maintenance of cultural background is part of the good governance of that country. However, in the globalization process the plurality and co-existence of several socio-cultures in every State is also an accepted phenomenon.

When we come to suppression of one religion or culture by others, we sadly note that the world history is partly history of conflicts between ambitious kings or States and is partly a record of conflicts between different civilizations based on religion. The religions have had ready acceptance by the people in the sense that humans before the advent of scientific era, everywhere feared those not-understood or unexplained catastrophic natural happenings, which they had ultimately attributed to superhuman Gods. Historically, in God everyone or every religion believes, but religions differ in the form, capabilities and qualities of their particular God along with his incidence on his followers. Also, there have been preferred Gods and God-forms: but atheist is exception in this line. Most of religions have God-forms and they stick to them. Buddhist, Jain and Islam do not have God-forms. All have their beliefs, rituals and prayers praising their faith or God, seeking blessings and protection from unknown evils. Some religions

believe in defining rules of behaviour and conduct within the cult and some leave religion at the point of man's relationship with God at personal level. Freedom of religion has meant unrestricted exercise of the faiths in all of the above-mentioned elements and of propagating them. With the turn in the concepts of culture and civilization, the human sacrifices, extermination of other religions, forcible conversion persecution of others to another faith, and the like activities have been prohibited and are no longer part of religious freedom. This change has been brought about by the growth.

United Nations System and Religious Freedom

The entry of United Nations in the field of religious freedom has been indirect, that is, preventing various causes that led to the ferocious wars, such as the First and Second World Wars. In 1981, the UN General Assembly²⁶ adopted a "Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981". The Declaration proceeds on the recognition that one of the basic principles of the Charter of the United Nations is that "the dignity and equality are inherent in all human beings", and that all Member States have pledged to take joint and separate action "to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion". It took into account that "the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief". The General Assembly felt that "the disregard and infringement of human

rights and fundamental freedoms, in particular of the right to freedom of thought, Conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the Internal affairs of other States and amount to kindling hatred between peoples and nations.

World Conference Against Racism, 2001

World Conference against Racism, Racial Discrimination Xenophobia and Related Intolerance, 2001: Though the high technology of late twentieth century brings the peoples of the world closer together and political barriers are vanishing yet racial discrimination, xenophobia and other forms of intolerance of other races continue to ravage human societies. Horrors such as "ethnic cleansing" in Africa or territories of former Yugoslavia have re-emerged in recent years. Media is now organized globally and inverse ideas of racial identity or superiority of one race over other have spread, like on the Internet or television.

declarations adopted by the General Assembly.³³ The said World Conference was held in Durban, South Africa. It was endeavour of international community in the struggle for worldwide eradication of all forms of racism. The discussions at the Conference were held around projected themes, mutually decided upon at successive Preparatory Meetings, viz.,:

- (1) Forms of contemporary manifestations of racism, racial discrimination and race related intolerance;
- (2) The victims of racism, racial discrimination;
- (3) Measures of prevention and protection aimed at the eradication of racism, racial discrimination and related intolerance;

(4) Provision for effective remedies, recourses, compensatory redress, and other measures at the national, regional and international levels; (5) Strategies to be adopted in order to achieve full and effective equality in national and international societies, including international cooperation and other mechanisms in combating racism, racial discrimination and xenophobia. The World Conference had discussed these Themes by making review of the achievements and failures of various Declarations and Conventions on the subject.³⁵ It drew inspirations from “from the heroic struggle of the people of South Africa against the institutionalized system of apartheid, as well as for equality and justice under democracy, development, the rule of law and respect for human rights, recalling in this context the important contribution to that struggle of the international community and, in particular, the pivotal role of the people and Governments of Africa, and noting the important role that different actors of civil society, including non-governmental organizations, played in that struggle and in ongoing efforts to combat racism, racial discrimination, xenophobia and related intolerance”. The Conference acknowledged “that no derogation from the prohibition of racial discrimination, genocide, the

Human Rights: Freedom from Poverty, Economic Dependence and Exploitation

Human rights very much revolve around poverty, exploitation of poor and economic freedom of individuals as well as that of nations. Poverty leads to lack of education, drag on exercise of mind freely and lack of good health. Poor nations in the past had been militarily weak and became pray to aggressive States and soon these lost their independence. The whole fabric of

human rights regime rests on the shoulders of capable man or capable nation, involving economic and material stability. The Charter of the United Nations and the developments that have taken place in world polity, have proceeded on this understanding. There is a correlation between human rights and economic policies of a State, bringing in State preferences for capitalism, socialism, Marxism or global free economy. Economy and policies of Soviet Russia and China on the other. West has valued human rights, at the same time it has believed in competitive free economy both for the individual and society.

In 1965 the General Assembly established the United Nations Development Programme (UNDP) designated to provide technical assistance to States (a) at the pre-investment stage under the limits of earlier UN ECOSOC resolution⁴⁷ and (b) in order to receive financial assistance for ‘projects designed to explore the need for and to plan the use of capital investment from the Special Fund created by the General Assembly’⁴⁸ earlier in 1958. The General Assembly further established in 1967 another organ, the United Nations Industrial Development Organization (UNIDO) for promoting integrated programmes for the industrial growth, development and for so-coordinating the work of different UN Agencies functioning for industrialization and for raising of the economy of undeveloped States.

In its continuing efforts to alleviate poverty, the UN General Assembly in 1971 by the ‘Declaration on Principles International Law concerning Friendly Relations among States’ had proclaimed that no State was to use or encourage the use of economic, political or any other type of measure coerce another State, in

order to put restraint on it or to obtain from it subordination in the matter of exercise of sovereign rights.

Further, the General Assembly had in 1986 adopted⁵³ 'Declaration on the Rights to Development'. This Declaration has recognized that human development is one of the functions of United Nations, whereby it was reiterated that the principles and purposes of the Charter relate to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature. The international co-operation also relates to the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The Declaration recognized that 'development' is a comprehensive term, which incorporates economic, social, cultural and political processes that in their turn aim at the constant improvement of the well-being of the entire population of a nation or the world. The Declaration attempts to achieve the well-being of people on the basis of their active, free and meaningful participation in their corporate life for development along with a fair distribution of the benefits resulting there from. At the same time, the Declaration coupled the obligation of all the States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all, without distinction of any kind, such as, race, colour, sex, language, religion, political, national or social origin, property possession, birth, or status considerations.

Now since mid-1990s with the WTO in place, there is homogeneity in views

among States in favour of free global trade economy. There is no West and Marxist economy divide line now. The role of the United Nations and of its subsidiary Organs has been adjusted accordingly. It may be mentioned that the WTO is fully business oriented but it gives some leverages to the States in order to restrict imports in favour of some of its products and to prevent harm to its indigenous industries by dumping of goods by other States that may adversely effect local industrial development and employment. The Chapter on Intellectual Property Rights (IPR) in the WTO system helps intelligent among human beings of a State to make full use of their mind and safeguard this against theft of their inventive ideas through a system of patents and copyrights. It provides for a forum for periodic renovation of working-policy norms as well as for settlement of disputes among the States arising out of WTO mechanisms. Thus the 'human right of development' is a break from the past and a new phase in the worth of human rights. Reference Rehman, Javaid: The Weaknesses in the International Protection of Minority Rights. The Hague, The Netherlands: Kluwer Law International, 2000.


Conclusion

All above discussion with Human Rights: Economic, Social and Cultural an Study, Identity of Socio-cultural Values, Cultural identity, Right to Social Equality: Protection of National and International Minorities, Rights of minorities, Racism: Anti-Racial Equality and Harmony International Convention, International Covenant in Economic, Social and Culture Rights, 1966, Religious Freedom of Ethnic or

Sociocultural Groups, United Nations System and Religious Freedom, World Conference Against Racism 2001, Human Rights: Freedom from Poverty, Economic Dependence and Exploitation. New cultures may be as good or bad as old ones, or the cultures or civilizations of East may be as good or as bad as those of West. Believing this, in the contemporary times, since the inception of the United Nations as a civilizational force, the reigning view is that no culture is inherently superior or inferior, therefore the new world order should allow the diverse cultures the freedom to develop or parish by natural processes. Culture means the aggregate of social, religious or behavioral norms, independently of political forces, developed by a community for survival as well as for prosperity at a time or place.

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Publications Under UGC of India Care and SCOPUS Norms / Volume: 04 Issue No: 16 Dec-Feb 2021/32-43pp

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