Joan Maloney Case Study on Indigenous Discrimination

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Executive Summary

Equal opportunities among different strata of society guarantee the establishment of socioeconomic equality and the well-being of the people. At the same time, such disparity on a racial and ethnic basis leads to complex multidimensional problems like social norms, power structure, economic processes, legitimacy, education, demography, morality, etc. The primary purpose of this report is to address such problems by providing alternate solutions and recommendations by adopting appropriate methodologies. The case of Joan Maloney depicts the multidimensional, complex life problems of Aboriginal and Islander people in Australia. It proved that even the legislature and judicial system of a developed state like Australia could not facilitate equality among the masses under the same federation. This racial discrimination has created numerous problems, having roots in the colonial paradigm. Various reasons on the part of invaders and native inhabitants have flamed the issue, which resultantly demolished the fundamental rights of aboriginals and natives.

However, the Critical System Thinking (CST) methodology provides a solution to such a complex social problem. Mature legislation, implementation of laws, awareness campaigns, modern values adopted by Aboriginals, well-developed economic opportunities, and education facilities are recommended to eradicate this evil. The intermixing of multiple communities while respecting each other's cultures, norms, traditions, and religions is fruitful for a better future.

Introduction & Statement of Problems

The Maloney case study has a central connection with the historical background of respective islands and their inhabitants. Without having a deep look at this, it is impossible to realize and present the actual situation of the case and the factual problems that are aligned herewith. The interconnected and inter-effected problems in this context need a thorough understanding of the historical background and the case and respective ruling for proper solutions.

Historical background of Islands & Aboriginals in Australia:

In this regard, it is noteworthy that the Manbarra people are traditional inhabitants of Palm Island.

There are about sixteen islands along the coast of Queensland in Australia, among which the said island is one. Gelder & Weaver (2019) concluded that with the invasion and finally the settlement of Britain in the late eighteenth and the following century, the native people of the Australian peninsula were gathered here and called Aborigines. However, various legislation statutes were formulated from time to time, which were used to segregate the aborigines from British citizens along with their loss of citizenship in early phases of White dominance, and the natives were declared as wards of the state. Racial discrimination in this regard paved the way towards discriminatory legislation for various actions and processes among different communities under the same federation.

Hence, one such legal statute was passed as the Community Services Act 1984, which prohibited alcohol sales to the people of these islands. Meanwhile, alcohol consumption was also restricted for inhabitants of these islands compared to other citizens of Australia under the Liquor Act 1992. The conflict regarding equal rights for Aboriginals is expressed from the fact of said restriction as well. Lam et al. (2017) reported that it is also notable that Alcohol is considered part of the social norm in Australia and has become a drinking habit with the invasion of British people on this land.

Meanwhile, the Racial Discrimination Act (RDA) ensures equality among citizens irrespective of race, creed, and religion in the federation. Section 10 of the said act ensures the equality of human rights across the board for all citizens, while on the other hand, section 8 of the Racial Discrimination Act (RDA) excludes some communities and localities from said surety and restricts some actions to ensure peace and survival of the said individuals. The restriction of alcohol consumption is one such restriction under section 8 of the said act, and Joan Maloney challenged this discrimination in the High Court in her case.

The Case & Ruling:

One of the native individuals of Australian palm islands, Joan Maloney, was charged on May 31, 2008, for possession of more liquor quantity than allowed. She was fined $150 after being convicted by the magistrate court in the respective district. She appealed against the said decision of the lower court, and her appeal was dismissed in 2010. In the following year, in July, she appealed in the Supreme Court and again faced dismissal of appeal by the court in Brisbane. She went to the High Court, where her appeal was dismissed, and the decision of the court left a lasting impression regarding racial discrimination. The dismissal of the appeal took the dimension of racial discrimination versus the equal rights of citizens, as well as the violence triggered in the native area community.

Moreover, the high court, as an apex court of the country, has jurisdiction to decide cases and appeals regarding the constitutional validity of laws. The dismissal of the appeal gave rise to the complex problem of equal rights among the citizens in the state. A significant issue arose regarding sections 8 & 10 of the Racial Discrimination Act (RDA). The court gave a ruling that the exclusion of several communities under section 8 is contradictory to section 10 of the said act, which ensures equality among citizens. But at the same time, section 8 of the said act is also valid to assure the

safety and life of the respective communities. The court declared the said restriction on alcohol consumption by various races compared to other citizens as racial discrimination and violation of human rights, but the appellant, Joan Maloney's individual action, does not fall under human rights violation; hence, the appeal was dismissed.

The dismissal of the said appeal by the high court and ruling regarding racial discrimination opens the door for a multidimensional problem. The problem breeds multiple problems in this regard. Thus, the case gave rise to wicked problems that need equality and fairness among the masses (Termeer et al., 2019).

Statement of Problems:

The case study of the said case, i.e., Joan Maloney case, indicates the complex problem of Aboriginal and other islander people mainly regarding the homogeneous and equality basis of public policy. This problem ultimately interconnects with multiple societal aspects and breeds various other problems relating to social, economic, legal, educational, social recognition, cultural harmony, and acceptance among various ethnic communities in the country. These inter-related problems, which are usually called wicked problems, create complexities regarding indigenous political and legislative issues and also take importance at the international level. Furthermore, these problems ultimately cease mutual understanding and interaction among communities and cause suppression of indigenous personnel. The said situation leads to the infringement of basic fundamental and human rights of the respective ethnic units, resulting in disparity and violence. The complexity of problems collectively imparts inequality among the masses and creates cleavage in all aspects of the lives of Aboriginals and native groups.

Causes of Problems & Analysis

However, these numerous and complex problems do not arise overnight; they have a bitter reality-based history behind them. The tackling and handling of such problems in Australia remained limited to only good intentions, faulty policies, non-implementation of decisions, dark hopes, and impractical assumptions. Besides this reality, Rigney (2020) argued that the main reason for these problems is the colonial period and British settlement in Australia. The autonomy of the Aboriginals was replaced with a colonial regime where they faced dependency and slavery instead of freedom. Such a status of native communities led to making them dependent minorities and snatched away all the relevant opportunities for development and welfare. In this way, the native communities even lost their political culture and political autonomy.

Another reason is the lack of formal recognition of these ethnic communities. They had never been given sovereignty as free public and even were excluded from British citizenship (Parbury, 2020). The values of self-respect and dignity were snatched, and in reward, they were physically tortured and

ignored by legislative aspects. These humiliating sufferings breed these complex problems with context to racial discrimination, ultimately producing a list of socio-economic and legal problems.

Meanwhile, the said discriminatory cleavage has roots in different viewpoints of traditional and Western individuals. For example, according to the traditional context of Aboriginals, the community has the highest preference, while in the Western perspective, the individuals have a preference for the community. Crawley (2018) claimed that the traditional world tries to understand the world mythically, while counterpart masses believe in the scientific method. For goal achievement, traditional values prefer patience, while the West believes in aggressive efforts. Probably, such type of huge differences created two separate worlds, leading to huge, complex problems of racial discrimination.

Moreover, the religious, cultural, and civilizational trench between the indigenous and invaders made the problems complex, and the solution became apartheid. The traditional ways and beliefs of welfare and development are far different from those of invaders. The traditional mood of a free-market economy was totally reversed by British economic models. Similarly, Goodall (2020) believed that the indigenous social structures, traditions, and laws were totally different from the laws and traditions of invaders. Other than the white colour of new settlers, the customary law was also a big hurdle in accepting the new law. The legislative setup of British invaders was to coup and control Aboriginals as slaves instead of giving them equal rights as citizens.

Likewise, one other factor that contributes to the complex problem is the rigidity and stagnation policy of Aboriginals. For example, the nuclear living system, where the elderly are decisive, leads to curbing new blood and talent wastage (Eades et al. 2020). Modern trends and approaches to collectivism are lacking on the part of the original inhabitants. The White policy of British invaders, which was based on white supremacy on the land, was antagonistic to the traditional policy of the original inhabitants. Meanwhile, the other immigrants are also facing racial discrimination in Australia, but the main victims are Indigenous persons and Aboriginals.

Furthermore, the federation system in Australia also proved a challenge in the development of Aboriginal political culture, but in the late 60s, the culture evolved itself. The evolution of political culture is far less developed among islander people than among other nationals. The status quo maintaining the lust of invaders is also the reason for such a complex problem (Lipscombe et al., 2020). The moral clashes and concepts relating to spiritual norms between the original inhabitants and newcomers paved this decimation into a complex problem box. Bayly (2020) suggested that the separation between these two divisions in each and every aspect of life made a complex situation where the genocide of original inhabitants is unforgettable for islander people. In this way, the problems of these aboriginal communities are complex, interconnected, and wicked, where the attempt to solve one aspect of the problem gives rise to other problems. It has left a lasting effect on the socio-economic, moral, civil, spiritual, cultural, educational, self-recognition and developmental aspects of these indigenous communities.

Decision Criteria & Alternative Solutions

However, complex problems like racial discrimination, which breeds multiple problems, should be addressed as a priority. Jackson (2019) suggested various methodologies and practices to solve these complex problems. Critical System Thinking (CST) is a methodology developed to address complex social problems, especially related to societal discrimination. The main concern of the methodology is critical awareness and social awareness. Applying the said methodology has an equal impact on societal units, policymakers and decision-makers. However, the main disadvantage is the lack of time estimation for the completion of activities. The allocation of resources according to schedules becomes a problem, and in bigger projects, the networks regarding social awareness become more complicated.

Moreover, system thinkers supply the bigger picture and allow mature decision-makers to successfully intervene in complex problems in a coherent and transparent manner. The large-scale problems, uncertainty, imperfection and incompetence among stakeholders can easily be addressed through this methodology. So, the problem of racial discrimination can be solved by using an alternate philosophy and methodology.

Recommended Solution, Implementation and Justification

The complex, wicked problems in society cannot be eliminated at once, and it requires time to evolve and mature society in the right direction. The collective effort becomes a dire need over and over again for possible solutions by all stakeholders in compliance with all the active and effective institutions. Hence, multiple wicked problems in the Australian Federation in relation to racial discrimination need certain comprehensive solutions and recommendations. These are:

- Australian parliament should go for strict legislation and implementation of laws to eradicate racial discrimination. Racial offences should be treated firmly.
- Howard (2018) suggested that there must be a strong legal framework for protection against racial hatred and discrimination.
- Societal behaviour and attitude should be polished by anti-racism campaigns, conferences, and workshops.
- Complete elimination of colonial practices and brutalities from aboriginals and the issuance of a remedial system for affected ones (Pelak, 2019).
- To fight racism with the weapons of good governance, high-marked public administration, education, skill development and job opportunities, especially in the affected ethnicities.
- The aboriginals and islander communities should adopt modern ways to achieve development goals.
- Intermixing of multiple ethnic groups with affection and respect.

- All communities must respect the culture, religion, customs and traditions of other ethnicities.

Concluding Remarks

Hence, we can conclude that racial discrimination is a wicked problem in Australia, which has caused multiple problems in society. It has deep roots in the invasion of British and Irish settlers in the land. The original native people had to face huge barbarism as they had to lead third-class minority life, and still, these brutalities did not reach an end. The psychological and mental health of these communities lashes back to the inferiority complex of centuries. Their social, economic, cultural, religious, civil, educational and judicial rights have been demolished. Self-recognition in their own country is heart-rending for them. Even the discrimination in the eye of the law is hard to bear. Multiple solutions, recommendations and methodologies are available to bury this evil as soon as possible. It is the need of the hour that civil society, all societal units, aboriginal and islander communities, parliament and the respective authorities should devise such mechanisms and frameworks to eliminate this evil. So, with the eradication of racial discrimination among the masses, the end of interconnected complex problems and society can be harmonized as one unit nation to achieve welfare and prosperity.

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