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AN ASSESSMENT OF HUMAN RIGHTS: A RELATIVE TERM, NOT UNIVERSAL TO DIFFERENT SOCIETIES OR LOCATIONS

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Introduction

Human rights resound everywhere: Underpinning a quasi-universal secular morality. They function as a 'bench mark' for political decision-making procedures (*discursive legitimacy*), for the aims and boundaries of political actions (*outcome legitimacy*), and finally for the overall evaluation of political systems as such (*governmental legitimacy*). A "last utopia" for the time being, human rights seem to outshine all rival visions for a better world and give a name to the age in which we live, the "age of rights". Evidence of the increasing significance of human rights (at least in theoretical terms)

Abstract

Human Rights are generally perceived as moral rights that every human has simply because he is human without necessarily being in some sort of relationship to others. These rights are considered to be individual entitlements for the protection against a standard set of threats. However such rights are relative; they vary according to ideology and religious beliefs across the globe. Moreover, such rights are not universal. This is because human rights are obviously historical products and that the only sense we can give to the idea of their universality is that they apply to all human beings in the present era, not to past ages. Thus, human rights is constantly evolving or changing and the realization and

Implementing of a better human rights protection is closely linked to the development of human society.

Keywords: Human Right, Universality, Ideology, Belief, Religious.

Can also be found in the discursive ‘explosion’ on the matter filling a vast global human rights library. What does their non-finalized stipulation, rendering human rights a medium of continuous intercultural encounters between scholars, policy makers, and activists, tell us about their nature or their future? Are human rights really a suitable normative guiding idea for humankind that, on their road to unification and understanding, faces equally strong tendencies of cultural/regional differentiation and identifying demarcation? Can human rights ever be the ‘moral lingua franca’ for eight billion people on five continents?

Human rights can find a home in the hearts and minds of people beyond the Western tradition. Here again the differentiation between human rights and the idea, of human rights can provide some guidance. In vague contours the idea of human rights flashes up whenever moral systems (in history) break up the in-group/out-group dichotomy or also attach (some) importance on individual choices in life, for example in terms of religious salvation. Human rights could be if we assume that their universalization or global accommodation is in the making but not yet granted. This ambivalent diagnosis serving as a starting point can be understood better if we look at what the globalization (of ideas) almost always amounts to: On the one side, human rights have started to grow roots in various regional and even local contexts and it is commonly held that their future is decisively dependent upon such processes of enculturation. On the other side, such developments of ‘globalization’ (Robertson 1995 cited in Robertson 2004) ensure that human rights do not remain what they ‘originally’ might have been: “When ideas or institutions expand from their place of origin to other regions, they inevitably transform their original nature or characteristic features in order to be accepted by the inhabitants of the regions to which they spread”

Human rights standards are evident in large parts of the global South and North (Frick 2013 cited in Frick 2019). A pragmatic stance is preferable when faced with the choice of either imposing a traditional Western notion of

human rights that obviously does not resonate in all human societies to the same degree, and therefore fails to achieve true universality, or giving in to unchecked relativism. The other way amounts to opening up structured spaces for deliberation on what human rights should look like in the twenty-first century and aspiring for a relative universality instead.

The objective of the paper is to determine the extent to which Human Right is been considered in different communities, States or countries and also analyse the extent to which religion and ideological beliefs influence Human Right laws and Universality.

Method: The study employed secondary source of data, relevant literature and content analysis is used.

THE PHILOSOPHICAL ROOTS OF HUMAN RIGHTS

Most people associate justice with rights. The concept of justice as a right is a notion of entitlement: justice is a personal prerogative, a moral objective that is to be enforced. Rights are legal boundaries. From a philosophical standpoint, ones wellbeing is no more important than the happiness of another just because it is one's own wellbeing. The secular philosophical tradition also speaks of inalienable rights and inalienable dignity. Neither intelligence nor reasonableness can provide a basis for evaluating wellbeing differently from one person to another. Critics have argued that the wellbeing of a child or of a loved one can, however, have more value to an individual than the well-being of a complete stranger. Yet this claim can be refuted: "We almost all accept that human life is sacred. For some of us, the sacredness of human life is a matter of religious faith; for others, of secular but deep philosophical belief." The sacredness of human life and human dignity is rooted in the fact that the human being is the highest product of natural selection. Furthermore, the human being is the product of the "deliberative human creative force, which we honor." Every human being has inherent dignity, even if the universe has no ultimate meaning, because it's a creative masterpiece of natural and human creation. The fundamental wrong of a human rights violation is therefore that the order of the normative world is transgressed. Human rights are to be understood as those moral rights every human has simply because he is human, without necessarily being in some sort of relationship to others. The human quality of an individual cannot be denied to him, even with good reasons. Accepting the individual as an

autonomous member of the human community is the first principle and basis for the derivation of a whole catalogue of specific human rights. These rights are considered to be individual entitlements for the protection against a standard set of threats.

They would not exist if one were not to understand human beings, as bearers of these rights, to have the right to demand justification for their limitation. They are objectively a precautionary measure of protection against violence in human coexistence and a measure of conflict prevention. The idea of the existence of human rights is the moral insight into the equal worth and equal importance of all human beings. This understanding can then be used to maintain, protect and increase human interests. This is why it is of fundamental importance to understand the content of these rights and their enforcement mechanisms to raise the moral consciousness of society.(Wetzel,2015 p.75 &76).

Concepts in human rights

Indivisibility and categorization of rights: The most common categorization of human rights is to split them into civil and political rights, and economic, social and cultural rights. Civil and political rights are enshrined in articles 3 to 21 of the Universal Declaration of Human Rights and in the ICCPR. Economic, social and cultural rights are enshrined in articles 22 to 28 of the Universal Declaration of Human Rights and in the ICESCR. The UDHR included both economic, social and cultural rights and civil and political rights because it was based on the principle that the different rights could only successfully exist in combination: The ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his social, economic and cultural rights (ICESCR, 1966)

According to [Alston](#) P. (2005), Held to be true because without civil and political rights the public cannot assert their economic, social and cultural rights. Similarly, without livelihoods and a working society, the public cannot assert or make use of civil or political rights. Although accepted by the signatories to the UDHR, most of them do not in practice give equal weight to the different types of rights. Western cultures have often given priority to civil and political rights, sometimes at the expense of economic and social rights such as the right to work, to education, health and housing. For example, in

the United States there is no universal access to [healthcare](#) free at the point of use. That is not to say that Western cultures have overlooked these rights entirely (the welfare states that exist in Western Europe are evidence of this). Similarly the ex Soviet bloc countries and Asian countries have tended to give priority to economic, social and cultural rights, but have often failed to provide civil and political rights. Another categorization, offered by [Karel Vasak](#), is that there are [three generations of human rights](#): first-generation civil and political rights (right to life and political participation), second-generation economic, social and cultural rights (right to subsistence) and third-generation solidarity rights (right to peace, right to clean environment). Out of these generations, the third generation is the most debated and lacks both legal and political recognition. This categorisation is at odds with the indivisibility of rights, as it implicitly states that some rights can exist without others. Prioritisation of rights for pragmatic reasons is however a widely accepted necessity. Human rights expert argues: If every possible human rights element is deemed to be essential or necessary, then nothing will be treated as though it is truly important.

Universal Declaration of Human Rights, human beings are held to have rights because they are reasoning creatures and are endowed with conscience, and a similar reasoning is common to most theories of rights. Another strand of thinking comes from the social-contract tradition, in which men and women are imagined to live a perfectly free life in a stateless society which, for reasons of convenience, they transform by free choice into a governed state. In such a system the state could have only those powers which the original citizens had granted it, and could act only for purposes legitimated by their reason for creating it. Thus human rights come from an initial condition of freedom to do anything. Those opposed to the idea of animal rights might wish to argue that the language is purely evocative, as neither of these models can apply directly to animals Universal Declaration of Human Rights. The African charter is one of a series of regional human rights documents encouraged by the UN as part of a general strategy for enforcing human rights world-wide. (UNGA, 1948)

European Convention on Human Rights. Although the very universality of the original UN Charter implies that human rights are generally valid, there is an acceptance that regional world cultures may evaluate, and even partially define, such rights in different ways. The specific thrust of the Charter of the

OAU was to bring its commitment to 'eradicate all forms of colonialism from Africa' to bear on the definition and support for human rights. Thus the enumeration of rights, though not very different in detail from what one would find in any classic listing, was set against a background which recognized two points missing in, for example, the European Convention. First, some tension seemed to be recognized, though it was posited to be a fruitful tension, between people's rights and individual human rights. The Preamble recognized that: 'fundamental human rights stem from the attributes of human beings, which justified their international protection and on the other hand, that the reality and respect of peoples' rights should necessarily guarantee human rights...', and: '...that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights...

African Charter on Human and People's Rights

The Charter was issued by the Organization of African Unity (OAU—now the African Union) in 1981, and entered into force in 1986. It took its emphases from the OAU's own Charter, the United Nations (UN) Charter and the UN Universal Declaration of Human Rights. The African charter is one of a series of regional human rights documents encouraged by the UN as part of a general strategy for enforcing human rights world-wide. Authors were not constrained by the policy problems of including positive rights as well as negative rights, and on the Rights that includes both the usual listing of freedom of expression, religious freedom, liberty of the person, rights to property and so on, and an impressive list of basic entitlements to education, health care and social security.

Human rights law can positively be derived from a vast array of theories regarding the human nature and the notion of a transcendental standard of justice by which particular acts of the state can be judged. International human rights law is therefore essentially rooted in the liberal commitment to the equal moral worth of each individual, regardless of their utility and human rights themselves embody the minimum standards of treatment necessary in view of this moral worth. The Human Rights Model of human

nature and human dignity is preoccupied with ends, with the status of the human person as an end in and as themselves. What is important about a human being is their dignity, not as a matter of personal preference or utility, but rather as a matter of moral duty and principle. (Wetzel, 2015 p.3)

American Convention on Human Rights in 1969 was there a potentially binding human rights code covering the whole of the Americas. The Declaration has many of the hallmarks of its US intellectual ancestors, and the very language is redolent of the 18th-century rationalism of the US founding fathers in the Declaration of Independence. The Preamble opens with the words: 'All men are born free and equal in dignity and in rights, and being endowed by nature with reason and conscience they should conduct themselves as brothers to one another.' The document is also influenced by the European, and especially Roman Catholic, cultural inheritance of the region, with a much greater concern for moral and spiritual growth than is typical in traditional rights codes. The Preamble further declares: 'while rights exalt individual liberty, duties express the dignity of that liberty'; 'duties of a juridical nature presuppose others of a moral nature'; 'spiritual development is the supreme end of human existence'; and 'since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect'. Thus the Preamble, which runs to only 200 words in total, has a very distinctive intellectual and political flavour, which is echoed in the more technically-juridical, as well as legally-binding, Convention of over 20 years later.

Amnesty International

Amnesty International, the London-based voluntary human rights organization, was founded in 1961 by a British barrister, Peter Benenson, as a result of his experiences as a civil rights advocate. It campaigns for the release of 'prisoners of conscience', effectively those imprisoned solely for their beliefs, colour, sex, ethnic origin, language or religion, but only where the victims have neither used nor advocated violence. It works for fair and prompt trials for all political prisoners, and opposes the use of torture, the death penalty and the degrading punishment of prisoners, and seeks an end to extrajudicial executions and 'disappearances'. Although most of its cases involve human rights violations carried out directly or indirectly by the

authorities, it also tries to help and support the families of victims. (Robertson, 2004 p.12)

To date, corporations operate in a vacuum of ineffective national laws and unenforceable international standards. As victims of corporate human rights violations are often unable to obtain justice in their home state, the appeal of human rights litigation in the USA as a vehicle for the implementation of international human rights law is undeniable. (Wetzel 2015 p.3)

The Proliferation of Culture in International Human Rights Law

Talk of culture in human rights and diplomatic circles emerged phoenix-like at the beginning of the 1990s in reaction to three rather different events: the ethnic revivals in post-communist politics with

their corollary demands for national independence and self-determination, the partial success of indigenous people in establishing their own distinct human rights agenda, as well as the criticism of the claim about the universal validity of human rights advanced by the 'Asian Tigers' in the World

Conference on Human Rights in Vienna in 1993 and reflected—at least to some extent—in its concluding document. Their criticisms found partial support in the proclaimed need to consider difference in cultural heritage once in the business of implementing human rights and advocated by the preparatory meetings in Africa, Latin America and the Caribbean, Asia, and Islamic countries.

While these events evidently boosted a sense of urgency to give culture a firm place in human rights research, it must be noted that the issue of culture was not novel, but had surfaced already at the time of the adoption of the Universal Declaration of Human Rights in 1948.⁸ At that time, however, the cultural critique came from academic circles and was most forcefully expressed in the 'American Anthropological Statement' submitted to the drafters of the Declaration. The American anthropologists regarded it as imperative that the following principles would be taken into account:

- the individual realises his personality through his culture, hence respect for individual differences entails a respect for cultural differences;
- respect for differences between cultures is validated by the scientific fact that no technique of qualitatively evaluating cultures has been discovered; and

- standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole.

Considering the immediate purpose of the Declaration to condemn, once and for all, the outrageous atrocities that took place during the Second World War, the somewhat abstract and lofty propositions about the tie between individual human beings and particular cultures listed in the anthropologists' statement did not receive much attention. The final inclusion of a provision on culture was motivated by a proclaimed importance of individual participation in the cultural life of the community (Article 17(1)).¹⁰ Since the adoption of the Universal Declaration of Human Rights, a number of culture-related interests and concerns have been introduced and incorporated into the fabric of international human rights law. There is no international legal (or quasi-legal) instrument devoted to culture alone. Instead, the term 'culture' crops up in a broad range of international documents (conventions, declarations, reports, etc) indicating the potentially far-reaching significance of culture in different fields of human rights, including cultural rights, self-determination rights, and the right to development as well as the rights of women, children, national minorities, indigenous peoples, and migrants.(Almqvist, 2005 p.6,7 & 8)

CRITICAL ANALYSIS

Justifying the universality of human rights

Many human rights activists regard the universality of human rights as self evident, and the deduction of a specific list of rights from the 'equal dignity' of all human beings as unproblematic. Once this self-evidence is questioned, however, and the claim to universality is challenged, the agenda and practice of human rights stand in need of a principled justification, and an elaborated philosophical grounding. This is particularly necessary in order to identify what precisely is being challenged by the critics or skeptics, and to assess how serious such challenges might be. Human rights are a manifestly historical product, and the only sense we can give to the idea of their universality is that they apply to all human beings in the present era, not to past ages. Indeed,

part of the challenge to their justification is to show how they can be both universal and the subject of historical evolution at the same time or to express the paradox even more forcefully, it is to show how the idea of human rights and their universality could not have been entertained without the experience of profound social and historical changes. Indeed, it is precisely to express their evolutionary character that we now use the language of 'human' rather than 'natural' rights. Recent work in moral philosophy has done much to expose the complex structure involved in the idea of claiming or having a right; and this structure will provide a useful framework for exploring the basis of human rights justifications. Three different components to the idea can be distinguished:

- A right is an entitlement due to a person by virtue of some relevant qualification, characteristic or status, such that there is an integral link between the content of the entitlement and the possession of the appropriate characteristic. Human rights are entitlements due to people simply by virtue of their being human. We therefore need an account of what the relevant characteristics are that they all share, and how these relate to the content of the entitlements claimed on their behalf.
- Asserting a right, or according someone right, is necessary because of the need for protection in the face of some vulnerability, or some threat to the exercise of a valued capacity or the possession of a needful resource. Without the existence of vulnerability, and the need for protection against threats, the assertion of a right is meaningless. In the case of human rights, we require an account of the recurrent threats and generalized vulnerabilities to which everyone is acknowledged to be potentially subject.
- Rights claims are vacuous without the recognition of a corresponding duty on the part of a responsible agent or institution to act, or refrain from acting, in a way that makes the rights effective. The obligation recognized may be either a moral or a legal one, or both, though typically in the modern world a framework of legal enforcement is required to make duties, and hence rights, effective. Human rights presuppose generally acknowledged moral obligations which can be realistically given legal enforcement; and the justification for human

rights requires an account of what these obligations are, and how they might realistically be enforced.

Common humanity

The basis for the claim that there are entitlements due to all human beings, and for the specific content of these entitlements, lies in a set of common human characteristics which all share, despite differences of culture, social position and circumstance. Most obvious are the shared human needs for subsistence, security and respect, which underpin much of the human rights agenda – economic, social and cultural, as well as civil and political. Equally important are the shared capacities, which help define what gives human beings their distinctive value, and which also underpin the so-called freedom rights – to free movement, expression, association, choice of livelihood, and so on. These capacities can be variously described, but all involve some conception of distinctive human agency, such as the capacity for reflective moral judgment, for determining the good for one’s life, both individually and in association with others, for choosing goals or projects and seeking to realize them, and so on. These can be summed up in a concept such as ‘reflective moral and purposive agency’. Why do we need an account of human capacities as well as needs? This is essential for the distinction we make between humans and other animals, on the one hand, and between adults and children, on the other, and the respective rights that are appropriate to each. All are entitled to welfare rights, by virtue of their distinctive needs. But freedom is only of value, and its protection a corresponding right, to the extent that its agents have the capacity for self-determination; for identifying and understanding their own interests, and for making reflective choices in matters of importance to their lives, both individually and collectively.

Human right is a relative term, what is obtainable as human right in the western world it is not necessarily accepted as right in other part of the world especially in the Asia and middle east (e.g China, Russia, North Korea, Saudi Arabia and Iran e.t.c) These differences is as a result of religious and ideological beliefs.

The terms of the Convention are unusually specific. For example, in Article 4 the right to life is stated to extend ‘from the moment of conception’, and while this is not in itself surprising in a document drawn up inside a predominantly

Roman Catholic culture, its specific nature is unique among human rights codes.

Similarly, although Article 4 does not in itself outlaw the death penalty, it severely restricts it by banning the reintroduction of capital punishment where it has been abolished, forbidding its extension to any crimes for which it had not been the penalty when the member state signed the convention, and setting minimum and maximum age limits for its use.

Thus, human rights are the rights of people. But do all people have the same rights?

This depends on how you look at it. There are three points to keep in mind:

- Some rights are so basic that they cannot be dispensed with. A typical example is slavery.
- No nation anywhere in the world today can say, 'All right, let us have slavery';
- Countries may be bound to recognise some rights if they have agreed to do so by signing an international agreement called a treaty or a convention. If they have not done so, they may not be bound, and
- Human rights is not a static or fixed concept, it is constantly evolving or changing. It is like a seed, which, once planted, grows slowly and steadily, putting out roots, shoots, branches, leaves and fruits (Karnataka women Information Resource Centre, 2005 p.12)

The Legal Perception of Human Rights

Human rights are also rights of defense against the state: the state is to respect the sphere of human rights. The state cannot do as it pleases; rather it must abide by the substantial realm of freedom enshrined in human rights law, which can be restricted only under certain, clearly defined circumstances. Essentially, traditional human rights law means rights for the individual, abstinence for the state. Deontological moral reasoning determines the rightness or wrongness of an act by the nature of the act itself, specifically whether it is in accord with certain moral principles, and regardless of the personally favorable consequences of the act itself. Rights are things that are valued in themselves and not for their consequences. To cite an example, the international prohibition against torture is justified on the basis that torture is wrong because it is a direct violation of human

dignity, despite the fact that it might lead to information of value to the state and despite the fact that it may deter conduct that threatens the state. This is in direct contrast to the more consequential form of moral reasoning, which predominates in trade and in economics and which, in theory, could determine torture, slavery and other human rights violations to be economically advantageous or justifiable, and hence appropriate. As a result, human rights abuse claims should take precedent over others, i.e. economic claims, because the inherent value of human dignity trumps all other claims. Human rights exist because the law exists.

The Asian human rights understanding differs from the western interpretation, as it criticizes the western approach for allowing individuals to misbehave in society while at the same time still granting them rights: In the East, the main object is to have a well-ordered society so that everybody can have maximum enjoyment of their freedoms. This freedom only exists in an ordered state and not in a natural state of contention. However, it is exactly this cultural difference enabling the human rights dialogue: human rights are rights accorded to humans and raised as a protective shield. Human rights exist because they enable the human being to be human no matter what culture they are from. The state's duty, in turn, is to ensure that these rights are granted and enforced. Cultural difference is not a challenge to the understanding of human rights; rather it is a possibility and a necessity for the moral justification for human rights: The realization and implementation of a better human rights protection is closely linked to the development of human society. You cannot separate the two, for you risk failing to recognize the problem in its true magnitude. Those who consider human rights in an isolated fashion have already failed because you cannot abstract human rights from the other great problems of our time like war and poverty, and the overwhelming power of the minority and the boundless powerlessness of the majority of the population. It is only in the awareness of this interconnectedness that one can realistically approach the idea of human rights. (Wetzel 2015 p.77, 78 & 79)

CONCLUSION

The study explored how Human Right are generally perceived from one community to another, State or Country. It also made to understood that human right is a relative term which varies according to Ideology and

religious beliefs across the globe. The study also revealed that human right is not universal. Human rights are manifestly historical product and the only sense we can give to the idea of their universality that they apply to all human being in the present era, not to past ages. Indeed, part of the challenges to their justification is to show how they can be both universal and the subject of historical evolution at the same time or to express the paradox even more forcefully it is to show how the idea of human right and universally could not have entertained without the experience of profound social and historical changes.

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