

Human Rights : Retrospect and Prospect

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Introduction

The debate on the definitions of human rights has highlighted the inherent difficulty in defining these rights. Hence it is all the more remarkable that these rights, which often seem nebulous and unrealistic, have become one of the dominant issues of the post-war age.

History has given mankind very few freedoms and liberties. What has definitely been on the rise is the awareness of the threats to these fragile freedoms. The circulation of a confused notion of human rights is meanwhile aggravated by the broadening of the concept from individual to collective rights, from negative to positive rights.¹

Evolution of Human Rights

The impetus for the transformation of the traditional expression of 'natural rights' into a whole new consciousness of human rights is to be sought in history - in Nazism and Fascism, both of which threatened the very notions of civilization and human worth.

When the United Nations was set up by the victorious powers after the Second World War, one of the foremost tasks assigned to it was what Winston Churchill described as the 'enthronement of human rights'.²

This apparently Eurocentric origin of these rights has presented the toughest obstacle to the universalism of these rights. The Third World in many instances, not unjustifiably, sees the emphasis on human rights as high-handedness on the part of the West - a manifestation of cultural imperialism. This is compounded by the West's incomprehension of cultures where collectivist ideas can be as strong as individualist ones.

Universalism

The singular aspect of human rights is its claim to universalism which continues to remain an elusive and contested concept to the lay, uncomplicated mind. The propounding of the universal attributes of humans by J. Glenn Gay as memory, imagination and consciousness³ would be simple truisms rather than the thesis of any anthropological study.

Rights of action or ideals?

The 1948 Universal Declaration of Human Rights clearly articulates two kinds of rights.

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1. Dilys. M. Hill ed., *Human Rights and Foreign Policy*, (London: Macmillan Press, 1989) 5.
2. Maurice Cranston, "Human Rights, Real and Supposed" in D. D. Raphael (ed.), *Political Theory and the Rights of Man* (London: Macmillan, 1967) 45.
3. Moorhead Wright 'How Problematical are the Moral Foundations of Human Rights?' in Dilys M. Hill, *Human Rights and Foreign Policy*, (London : Macmillan Press, 1989) 48.

The first 20 Articles spell out the rights of man as expressed in classical statements - the right to life, liberty, equality, the pursuit of happiness and so on. These traditional civil and political rights may be easily laid down in domestic legislations for it requires in essence, restraint on the government's own executive arm. The situation differs, when we observe the next 10 Articles which embody the so-called social and economic rights. These require the government to do more than just enact legislations. There are not many states in the world that can command the resources to ensure to all their subjects the kind of social security and services that say, Art. 25 of the declaration embodies.⁴

An attempt to demarcate rights from a 'common standard of achievement'⁵ has, in no small terms contributed to the confused notion of human rights, as Maurice Cranston aptly states. An ideal is something one can aim at, but cannot by definition immediately realise. A right on the contrary, is something that can, and from a moral point of view, must be respected here and now.

The devaluation of human rights

Fears have been expressed at what is perceived as a devaluation of these rights, as the peripheral issues take precedence over the crucial. These fears seem to be justified with the proliferation of 'human needs' into human rights. It would not do to confuse rights against the state with claims to be satisfied by the state - claims which are but distant dreams of prosperity for many third world nations.

It would also be imprudent to allow states to pass over questions of brutal torture and repressions at home and allow them to pay pious lip service to human rights at international fora, on the basis of satisfying certain social security criteria. On the other hand, it is to be appreciated that an impassioned plea for absolute freedom of conscience and fair trials would not go very far with a labourer who does not know where his next meal is going to come from. Thus, there is need for both the activist and the policy maker to distinguish between what are essentially social claims from the imperatives of political and civil liberties.

International Perspectives

Today there is an inescapable tension between human rights and relations between states. A considerable part of the problem arises out of the shortcomings and failings of states in promoting these rights and in the undermining by them of these rights. In an international system based on the sovereignty of individual states, no nation can sit in judgement on another nation. When foreign policy begins to be influenced by a relative comparison of the human rights score card of different states, somewhere along the line the credibility of human rights as a universal concept is crippled. For the nations, it leads to pragmatic, if not moral dilemmas and it is not surprising to see double standards at work when human rights are on the agenda of foreign policies.

4. Art. 25, clause (1) states that, 'Everyone has the right to a standard of living adequate for health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'.

5. Preamble of the Universal Declaration of Human Rights, 1948.

For example, while Western nations often advocate that those third world states receiving refugees should have liberal asylum policies, they are not so enthusiastic in matters of resettlement of refugees on their own territory.

This is not to deride or brand as irrelevant the momentousness of the international protection of human rights.

Relevance to the Third World

The past couple of decades have seen a rise in the international community of third generation rights advanced by third world countries previously not articulated in either the Universal Declaration or in the two international Covenants - on Civil and Political rights or on Social, Economic and Political rights. This is perceived as an attempt to render the contents of the declarations of human rights more relevant to the third world, and also as a definite move towards giving 'human needs' the elevated status of fundamental human rights.

The human person (as per the Vienna Declaration, June 1993) being made the central subject of these 'new rights' like the Right to Development, the Right to Food and the Right to Peace appears to demand a restructuring of the world patterns of development and economic endeavours. This would appear to be a demand by the Third World for compensation for past colonial exploitation.

The rise of these 'demands' are a step in the right direction in view of the fact that ideological concern for promotion of human rights very often get tangled in issues of economic aid.

Liberation Vs. Terrorism

Nothing illustrates the uncertainty of human rights as the nebulous distinction between terrorism and liberation movements. The ambiguity between the 'freedom fighter' and 'the terrorist' brings forth a grim dilemma for the human rights activist. Is the terrorist to be treated just as a glorified murderer or as the liberator promising self determination to a people?

And when support is lent by foreign nations for the creation of new states by force by minority groups, it strikes yet again at the credibility of human rights. The issue is so politically charged that even genuine advocates and upholders of human rights are mistrusted and their bonafides in doubt.

Subversion by States

While recognizing that the Universal Declaration of Rights is a fertile source of Constitutions and Declarations of Rights, it would not do to delude oneself that countries with written constitutional guarantees provide better protection of human rights than those without. In Sri Lanka constitutional guarantees have been negated by that country's Prevention of Terrorism Act.⁶

6. Vitit Muntarbloon 'Count Challenges of Human Rights in Asia', in Dilys M. Hill (ed.) *Human Rights & Foreign Policy*; (London: Macmillan Press, 1989)181.

The message that comes across is loud and clear. While there are undeniable merits of express constitutional provisions on human rights, it is imperative that we be wary of manipulations, overt or covert.

The future

The Individualistic approach to human rights of the West signified in rights like freedom of expression, access of courts, fair trial, a freedom of conscience is often in conflict with the 'social' approach dominant in the East - the perennial dilemma of the 'I' vs. the 'us'. In recent years, collective rights have gained an increasing amount of acceptance despite protests in certain quarters that it may lead to further fragmentation of the world order.

It is difficult to contemplate the continued existence of a community where liberty is compartmentalized - granted to some and denied to others. Apart from the moral reprehensibility of it, there is also the danger of these fragile freedoms being devoured by the same forces that deny it to some. Any systematic denial of human rights, whether such denial takes the form of ill-treatment in prisons or restriction on trade unions, leads to a systematic denial of liberty for all.

In the post Cold War era, the United Nations has seen increasing confrontations between the so called North and South. One believes in the Statecentric approach, the necessity of economic development through trade and industrialization, and tends to look upon social development as the mantra of the losers of economically competent societies. The other asserts the need for participatory social development and questions the very model of economic development put forward by the forces of hegemony.

The declarations and conventions say little of the obligations of individuals and the role of private efforts in implementing the various rights declared. But in a number of ways, both domestic and international, direct and indirect, it is the activity at the grassroots, the NGO's and the concerned men and women who have kept up the pressure on their governments.

A human rights activist sustains a human consciousness that took over 2000 years of pain and suffering to develop. The problems are many, the rewards few and far apart. But silence and passivity can only breed oppression and brutality.

Human rights will become ineffectual if the stress is on the curative rather on the preventive. There is a need to inculcate in everyone an effective and operational understanding of human rights, and this calls for specific education and awareness building. In this exciting endeavour, it is local groups and community leaders who can play the role of catalysts. Likewise there is untapped potential in youth and youth groups, not only as recipients of human rights education, but also as a source of human rights information.

No doubt the observance and realisation of human rights presents formidable challenges, but if respected it promises mankind the end of mere existence and the start of a new living.