

Origin and Evaluation of Human Rights: A Study in Historical Perspective

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Abstract

A new world order began after the World War II in 1945, giving primary concern for human beings. The Universal Declaration of Human Rights, proclaimed in 1948, provided a framework for a series of international human right conventions. In today's world almost all the national and international legislations are influenced by these conventions. It is universally recognized that Human Rights and Fundamental Freedoms are the birth right of all Human being. The main objective of the study is to investigate the historical development of Human Rights and analyze the philosophical thinking. For conducting this study data was collected from several articles, books and related documents regarding Human Rights as a qualitative paper.

Keywords: Human Rights, Fundamental Rights, Historical Perspective, Conventions

Introduction

After the World War II the leaders of the world started thing of banishing war and resorting sustainable peace. The united nation started working for the promotion of Universal respect for, and observance of, human rights and fundamental freedoms for everyone without distinction as to race, sex, language or religion as one of the means for that end. On the 10th December, 1948, the U.N. General Assembly adopted and proclaimed the Universal Declaration of Human Rights. "For the first time this declaration was generated for all peoples and all nations without any discrimination." (Gautam, 23) Human Rights are mostly inherent and natural rights, the execution, preservation or enjoyment of Human Rights is simply impossible. This is the fact that without Human Rights one cannot think of the development of life. In this regard every nation follows the international instrument of Human Rights. In this sense, in 2009 a National Human Rights Commission is established in Bangladesh to protect the human rights of its citizens.

Concepts of Human Rights

It is natural for people to look for the Rights because without it there is no chance of development. Rights are those basic standards without which people cannot live in dignity. Thomas Paine, a French first used the term 'Human Rights' While translating the French Declaration of Rights of Man and the Citizen from French to English, But unfortunately he was detained. Human Rights are those basic standards without which people cannot live in dignity. The basic rights and freedoms, to which all humans are entitled, often held to include the right to life and liberty, freedom of thought and expression, and equality before the law. To violate someone's human right is to treat that person as though she or he were not a human being. These are basically few natural rights which cannot be denied, but at the same time not guaranteed by Statutory Law. It is the obligation of the state to promote and protect human rights (Rahaman, 132)].

The New Lexicon Webster's Dictionary of the English language describes the "Human Rights" expression as under, "The right to be free from Governmental violations of the integrity of the persons".

“Human Rights means Right to life, Right to liberty, Right to equality and Right to dignity of a person guaranteed by the constitution of the People’s Republic of Bangladesh and such other Human Rights documents and ratified by the People’s Republic of Bangladesh and enforceable by the existing laws of the Bangladesh” (National Human Rights Commission Act, 2009 Section-2(f)).

Historical Perspective

The Europeans faced several wars during 13th century. The wars of religions and the civil wars gave birth to the philosophy of liberalism and belief in human rights became a central concern of European intellectual culture. The idea of human rights lay at the core of the American and French revolutions which inaugurated an era of democratic revolution throughout the nineteenth century paving the way for the advent of universal suffrage. The world wars of the twentieth century led to the Universal Declaration of Human Rights. The post-war era saw human rights movements for special interest groups such as feminism and the civil rights of African-Americans. The human rights of members of the Soviet bloc emerged in the 1970s along with workers' rights in the West. The movement quickly jelled as social activism and political rhetoric in many nations put it high on the world agenda. (Moyn 22) By the 21st century, Moyn has argued, the human rights movement expanded beyond its original antitotalitarianism to include numerous cases involving humanitarianism and social and economic development in the Developing World (Scott, 23) Human Rights apparently seem to be a concept of modern age. But the origin of the concept takes us to the remote past. So it can be stated that Human Rights have acquired the sophisticated legal and well arranged present from by wandering a long way. The chronological history of Human Rights can be looked at from three phases according to the development and recognition. These are

- I). The Ancient Age
- II). The Medieval Age
- III). The Modern Age

The Ancient Age

The ancient age can be said to be around 500 years before A.D. to in 4th Century. During this time slavery was practiced as legal custom. They were bought and sold. The slaves were treated worse than the animals. In this context, the philosophy devoted to humanism and equality came to the surface of human thought in Greece and got momentum. The ancient age can be stigmatized as the ‘blooming stage; of concern and thought related to Human Rights (Rokeya, 46). The earliest legal code known as (c. 2350 BC) Urukagina of Lagash, have addressed the concept of rights. The oldest legal codex extant today is the Neo-Sumerian Code of UrNammu (2050 BC). In Mesopotamia several other sets of laws introduced, including the Code of Hammurabi (1780 BC), one of the most famous examples of this type of document. It shows rules and punishments if those rules are broken, on a variety of matters, including women's rights, men's rights, children's rights and slave rights. Some historians suggest that the Achaemenid Persian Empire of ancient Iran established unprecedented principles of human rights in the 6th century BC under Cyrus the Great. After his conquest of Babylon in 539 BC, the king issued the Cyrus cylinder, discovered in 1879 and seen by some today as the first human rights document. The cylinder has been linked by some commentators to the decrees of Cyrus recorded in the Books of Chronicles, Nehemiah, and Ezra, which state that Cyrus allowed (at least some of) the Jews to return to their homeland from their "Babylonian Captivity. The German historian Josef Wiesehöfer argues that the image of "Cyrus as a champion of the UN human rights policy ... is just as much a phantom as the humane and enlightened Shah of Persia.", while historian Elton L. Daniel has described such an

interpretation as "rather anachronistic" and tendentious. The cylinder now lies in the British Museum, and a replica is kept at the United Nations Headquarters.

The Medieval Age

From 5th to the 15th century is estimated as medieval age. There is no much development as the Human Right is concerned. Only Christianity had brought the concept of "All men are equal to God", "Everyone should be obedient towards the legal Government" etc. were founded by Christianity which successfully brought equality. Barkey Says, "Christianity was the only agent of unity and community" (Barkey,142).

Magna Carta

During the middle age the one important event happened that is the arrival of 'Magna Carta'. It was the most famous written document of Human Rights in the middle age. It was a constitutional charter adopted by the King John in 1215 A.D. and was reaffirmed by King Edward III. Magna Carta required the King to renounce certain rights, respect certain legal procedures and accept that the will of the King could be bound by the law (Chodhry,42). There are 63 Articles including Preamble, out of which Article 39 and 40 is very important. Article 39: No freeman shall be arrested or imprisoned or outlawed or exiled or in any way harmed. Nor will we proceed against him, or send others to do so, except according to the lawful sentence of his peers or according to the Common Law. Article 40: To none will we sell, to none will we refuse of delay right or justice. Magna Carta had to play a great role in making of the rules for the country. It influenced many common law and other documents, such as the United States Constitution and Bill of Rights, and is considered one of the most important legal documents in the history of democracy. Almost every fundamental principles of the English Constitution could be test to Magna Carta. According to Coke, "It was declaratory of the principal ground of the fundamental laws of England." and Hallam characterized it as the 'key stone of English liberty' (Rahaman,32)

The Modern Age

At the beginning stage of modern age, the practice of Human Rights had been developed in England. After 'Magna Carta' an important step was taken by the parliament through adopting 'Petition of Right'

Petition of Right

The petition of Right began in England. This sets out with some special liberties of the subject that the king is prohibited from infringing. Passed on 7 June 1628, the Petition contains restrictions on non-Parliamentary taxation, forced billeting of soldiers, imprisonment without cause, and restricts the use of martial law. Following disputes between Parliament and King Charles I over the execution of the Thirty Years' War, Parliament refused to grant subsidies to support the war effort, leading to Charles gathering "forced loans" without Parliamentary approval and arbitrarily imprisoning those who refused to pay. Moreover, the war footing of the nation led to the forced billeting of soldiers within the homes of private citizens, and the declaration of martial law over large swathes of the country. There are as many as 4 Articles in Petition of Right as follows: Article 1: No Person should be required to pay a tax or benevolent without parliament approval.

Bill of Rights

The Bill of Rights was passed by Parliament on 16 December 1689. It was a restatement in statutory form of the Declaration of Right presented by the Convention Parliament to William and Mary in March 1689, inviting them to become joint sovereigns of England. It lays down limits on the powers of sovereign and sets out the rights of Parliament and rules for freedom of speech in Parliament, the

requirement to regular elections to Parliament and the right to petition the monarch without fear of retribution. It reestablished the liberty of Protestants to have arms for their defense within the rule of law, and condemned James II of England for "causing several good subjects being Protestants to be disarmed at the same time when papists were both armed and employed contrary to law".

Universal Declaration of Human Rights

After the disastrous effect of the World War II The Universal Declaration of Human Rights (UDHR) is adopted by the United Nations General Assembly in 1948. The UDHR urges member nations to promote a number of human, civil, economic and social rights, asserting these rights are part of the "foundation of freedom, justice and peace in the world". The UDHR was framed by members of the Human Rights Commission, with Eleanor Roosevelt as Chair, who began to discuss an International Bill of Rights in 1947. The members of the Commission did not immediately agree on the form of such a bill of rights, and whether, or how, it should be enforced. The Commission proceeded to frame the UDHR and accompanying treaties, but the UDHR quickly became the priority. Canadian law professor John Humphrey and French lawyer Rene Cassin were responsible for much of the cross-national research and the structure of the document respectively, where the articles of the declaration were interpretative of the general principle of the preamble. Humphrey and Cassin intended the rights in the UDHR to be legally enforceable through some means, as is reflected in the third clause of the preamble. Some of the UDHR was researched and written by a committee of international experts on human rights, including representatives from all continents and all major religions, and drawing on consultation with leaders such as Mahatma Gandhi. The inclusion of both civil and political rights and economic, social and cultural rights was predicated on the assumption that basic human rights are indivisible and that the different types of rights listed are inextricably linked. Though this principle was not opposed by any member states at the time of adoption (the declaration was adopted unanimously, with the abstention of the Soviet bloc, Apartheid South Africa and Saudi Arabia), this principle was later subject to significant challenges. It is remarkable that UDHR is neither a convention, nor a treaty and is merely a declaration without any binding force. In spite of this after 1948, this declaration extended strong influence in adopting various international or regional conventions, covenants, promulgating constitution and laws. Thus the International Bill of human rights represents a milestone in the history of human rights, a veritable Magna Carta marking mankind's arrival at a vitally important phase, the conscious acquisition of Human dignity.

Between World War I and World War II

After the World War I The League of Nations was established in 1919 at the negotiations over the Treaty of Versailles. The League's goals included disarmament, preventing war through collective security, settling disputes between countries through negotiation, diplomacy and improving global welfare. Enshrined in its Charter was a mandate to promote many of the rights which were later included in the Universal Declaration of Human Rights. The League of Nations had mandates to support many of the former colonies of the Western European colonial powers during their transition from colony to independent state.

After World War II

Rights in War and the Geneva Conventions The Geneva Conventions came into being between 1864 and 1949 as a result of efforts by Henry Dunant, the founder of the International Committee of the Red Cross. The conventions safeguard the human rights of individuals involved in conflict, and follow on from the 1899 and 1907 Hague Conventions, the international community's first attempt to define laws

of war. Despite first being framed before World War II, the conventions were revised as a result of World War II and readopted by the international community in 1949. The Geneva Conventions are: First Geneva Convention “for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field”(first adopted in 1864, last revision in 1949) Second Geneva Convention “for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea”(first adopted in 1949, successor of the 1907 Hague Convention X) Third Geneva Convention "relative to the Treatment of Prisoners of War" (first adopted in 1929, last revision in 1949) Fourth Geneva Convention “relative to the Protection of Civilian Persons in Time of War”(first adopted in 1949, based on parts of the 1907 Hague Convention IV) In addition, there are three additional amendment protocols to the Geneva Convention: Protocol I (1977): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. As of 12 January 2007 it had been ratified by 167 countries. Protocol II (1977): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts. As of 12 January 2007 it had been ratified by 163 countries. Protocol III (2005): Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem. As of May 20, 2008, it had been ratified by 28 countries and signed but not yet ratified by an additional 59 countries All four conventions were last revised and ratified in 1949, based on previous revisions and partly on some of the 1907 Hague Conventions. Later conferences have added provisions prohibiting certain methods of warfare and addressing issues of civil wars. Nearly all 200 countries of the world are "signatory" nations, in that they have ratified these conventions. The International Committee of the Red Cross is the controlling body of the Geneva conventions.

Conclusion

The above discussion shows how that natural Human Rights had to pass a long way to obtain the legal and international recognition. So many bills and petitions had to pass to reach its destination. Universal Declaration of Human Rights created the stream of worldwide efforts and international co-operations for assuring human rights. Though Human Rights have a universal figure, it's scope and periphery differ because of different socio-economic and political structure of various countries. In a well developed social system of Europe or America, right to freedom of thought or freedom of opinion can be regarded as the most important human rights whereas relief from poverty or ignorance is the standard of rights in a poor, developing country of the Third world. However, Bangladesh has recognized UDHR and the components of basic human rights have been enshrined in the constitution. But the widespread poverty, illiteracy, malnutrition, want of social security and abuse of rights simply point out the fact that issues on human rights are confined still in the holy pages of the Constitution. The scenario in the arena of Human rights in other developing or underdeveloped countries is more or less identical to that of Bangladesh. It is therefore implied that the political leaders, thinkers, economists, scientists, social workers and philanthropist must do something meaningful to ensure human rights around the globe and in case of failure in this regard the world will never be a happy abode for human beings.

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