HUMAN RIGHTS : THE CONCEPT AND PERSPECTIVES : A THIRD WORLD VIEW

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ABSTRACT

The present essay is an attempt at examining the concept and perspectives of human rights since the inception. An attempt will be made to trace the philosophical foundation of human rights since the days of Plato to the present and provide a perspective for the twenty-first century in the light of Third World experience. Therefore, the second section will deal with the history of human rights thinking. This will provide us with the insight about how human rights have been akin to the inherent desire for a dignified existence of human beings in the society. The third section will deal with human rights and democracy. In this section we will examine how. Over the centuries, the quest for dignified living has led to the evolution of a system called democracy that can enable every body to live equitably and with dignity. The fourth section will deal with the problem of enforcing human rights in the context of third world societies. The final section will provide some concluding remarks. The essay, however, will be impressionistic in analysis.

Introduction

Since the dawn of civilization there has been some concerted effort to protect human beings from exploitation. Philosophers have attempted to articulate these protection mechanisms in the light of their ideas. In fact, the whole intent and purpose of human thinking is to provide protection to individuals from the rapacity of human beings. The middle of twentieth century, however, has witnessed a momentous change in the development of protection of individual in various shapes and shades.[1] The present century has further vindicated the need to strengthen such protection due to the massive development in the realm of science and technology that emaciates common people and makes power wielders more powerful.[2] In this context, the growth of the concept of Human Rights provides a fundamental basis for the sustenance of a harmonious living of individuals in the society.[3] This has come to occupy a preeminent place not only in the social science literature but also in the society in general. Of late, the study of Human Rights has come to reckon itself as a separate discipline in Social Sciences.[4]

One element that is central to the concept of protection of individuals is the extent of state activity vis-a-vis individual. The relationship between state and individual provides the key basis for the protection of individuals and their rights.[5] The growth of social science, ever since the days of Sophocles (495-406 B.C.), has been focused on finding some balance between the state and individual. Successive Junkers have tried in their own ways to ensure protection to individuals from the exploitation by the ruler, notwithstanding whatsoever power they might entrust to the ruler for ensuring stability and security. This century, however, has reached the

culminating point where democracy is the bye-word and human rights have become synonym of democracy.

The present essay is an attempt at examining the concept and perspectives of human rights since the inception. An attempt will be made to trace the philosophical foundation of human rights since the days of Plato to the present and provide a perspective for the twenty-first century in the light of Third World experience. Therefore, the second section will deal with the history of human rights thinking. This will provide us with the insight about how human rights have been akin to the inherent desire for a dignified existence of human beings in the society. The third section will deal with human rights and democracy. In this section we will examine how, over the centuries, the quest for dignified living has led to the evolution of a system called democracy that can enable every body to live equitably and with dignity. The fourth section will deal with the problem of enforcing human rights in the context of third world societies. The final section will provide some concluding remarks. The essay, however, will be impressionistic in analysis.

II. History of Human Rights Thinking[6]

Although the concept of human rights gained currency in the 20th century, it owes its origin to the ancient texts and classical writings.[7] Ancient Indian thinkers like Manu, Parasar and Kautilya had tried meticulously to protect the rights and dignity of individuals from the rapacity of the rulers. These Indian thinkers prescribed many duties fo the rulers to protect the dignity of the citizens. Traces of thinking about human rights could be found in the writings of ancient and classical scholars though; it was Plato (427-406 BC) among the Western thinkers, who first made a systematic attempt to protect the citizens and non-citizens of ancient Greece in his grand scheme of justice. His student Aristotle (384-322 BC) too followed his teacher and discussed virtue, justice and rights for individuals in the contemporary Greek society. It was, Cicero (106-43 BC), however, who "provided the philosophical foundations for later theories of natural law..." (Byrne, 2004: 28). Later, religious unversalists like Thomas Aquinas (1225-1274) and others based their religious arguments on the fundamental value of human dignity and universality of natural law. These writings, however, had oblique reference to human rights thinking rather than the one we find in the subsequent contributions.

The most systematic thinking about human rights could be found in the writings of the social contract tradition- Hobbes, Locke and Rousseau- who made a determined effort to protect individuals from the state abuse. The divine right of kings that swayed the middle-ages came to be questioned. The organization of the state centered on regulating the pre-social human nature in the civil society after there was a contract of sorts between individuals and the state. The ruler no longer could claim the monopoly of control over the life of human beings that was earlier allegedly preordained by divine fiat. The three distinguished philosophers of the social contract tradition had three different interpretations of human nature in the state of nature though; one thing that ran common among them was that they agreed

to accept the inherent capacity of the state to protect individuals from the exploitation of the ruler. There are varying degrees of authority entrusted to the ruler by these three philosophers. Hobbes wanted to make the Leviathan all powerful to protect individuals from the anarchical state of nature through contract. For, he believed that human beings were basically greedy and violent creatures who lived in anarchy in their natural state. He was, however, conscious of the need to ensure the right to security to the individuals to thwart the exploitation by the rulers; and state came into being because of the recognition of this basic need. The individuals in the civil society acquired certain rights which are inalienable and inviolable that the ruler has to protect those rights. In case the ruler does not perform the task of protecting those rights he has to go. This is the essence of Hobbes contribution in empowering individuals against the Leviathan who might be all powerful.

Although Locke adopted Hobbes's methodology to discuss the state of nature in his *Second Treatise on Government (1690)*, his interpretation of human nature is totally different from that of the former. Fie believed that in the state of nature humans were basically good, peaceful and mercantile. He felt that the need for the protection of right to life and property necessitated the creation of a state. He insisted on having a ruler who might act as an arbiter to settle dispute that might arise over trade and property. In fact, Locke was celebrating the Bill of Rights while at the same time highlighting the Judea-Christian tradition. Therefore, Locke's ideas formed the key foundation for the subsequent thinking on human rights.

Although the social contract theorists and the French Enlightenment tradition laid the philosophical foundations of human rights philosophy, the real groundwork for the modern human rights as we understand today was done by the German philosopher, Immanuel Kant (1724- 1804).[8] s In fact, "Kant provides a useful and important break with Lockean abstraction by outlining a manifesto for practical and moral action, based the qualitative recognition of a fundamental dignity, which has subsequently found its way into the core of human nyhts discourse"(Byrne, 2004: 31). Kant believed in the autonomy of the individual wherein rights follow to choose one's end. The state is meant to promote conditions that will guarantee "the free and harmonious unfolding of individuality." Kant made human rights distinct from other rights like civil rights, international rights, and cosmopolitan rights. He believed in the oneness of human race. To quote him :

"... the right to resort, for all men are entitled to present themselves in the society of others by virtue of their right to communal possession of the earth 's surface. Since the earth is a globe, they cannot disperse over an infinite area, but must necessarily tolerate one another's company.[9]

Thomas Paine (1737-1809), who followed the liberal tradition of the Rights of Man, celebrated the French and American revolutions (Paine, 1992; Johari, 1996: 20-31). He believed in the sovereignty of individual and argued for the minimal

interference of the state. Like Locke he was deeply committed to the inalienable rights of man- rights of mind and rights of happiness and freedom. Following Pain's line of argument Mary Wollstonecraft wrote A Vindication of the Rights of Women which later became one of the important works in the women's rights movement. Giuseppe Mazzini (1805-1872), who was considered to be an ardent republican too followed Pain's path in locating individual's duties within the nation state. The state, Mazzini contended, was meant to unite individuals with diversified interests under one banner so as enable the individuals to perform their duties to the nation.

The contributions of philosophers like Locke and Kant or even that of Pain may have strengthened the evolution of human rights thinking to a great extent. They were certainly not free from challenge. The challenges came from the utilitarian and radical schools represented by Jeremy Bentham and Karl Marx respectively. According to Bentham, goodness or badness could be judged only in a specific context. His famous line that 'Pushpin is as good as poetry' is based on the rational choice of man. Thus human rights are not rooted in the pre-social natural law rather than in rational decision-making by individuals. He was even critical of Rousseau who believed in the dictum of men being free individuals in the state of nature. In fact, Bentham's felicific calculus provides the basis for the creation of human rights as inventions made out of necessity. To the Utilitarian, justice and rights are nothing but derivatives of interests and desires. Even though these rights may be considered to be superior needs for liberty, they are to be given the context to decide what is necessary to realize the maximum satisfaction (Mill, 1928).

Karl Marx, who was considered to be the prophet of 20th century, was highly critical of the natural rights of individuals. He argued that these rights were idealistic and a historical. To him, in the society where the means of production and distribution are monopolized by the capitalist, ideas like individual rights are illusory. These rights are meant to cater to the interest of the ruling bourgeois class only. The proletariats would have nothing but their chains. Although Marxism is now considered to be dead by the liberals, it did hold sway in the 20th century on more than half of the globe. In fact, the Marxist paradigm is still considered to be one of the most formidable theoretical tools to analyze the human rights abuses in the developing societies of the third world.

Contemporary Thinking: The most important contribution to the contemporary thinking on human rights is that of John Rawls' *A Theory of Justice* (Rawls, 1971). His work is so influential that "no theory of human rights for domestic or international order in modern society can be advanced today without considering Rawls's thesis".

Rawls's idea of justice consists of two principles: The First Principle is that "each person is to have an equal right to the most extensive total system of equal basic liberties compatible with similar system of liberty for all" This implies equality of political rights to all citizens in a democratic country. These rights are

necessary for the development of individual liberty. Rawls may not have enumerated the basic liberties in detail though, by and large, they include political liberty, freedom of speech and assembly and liberty of conscience and thought, freedom of the person and freedom from arbitrary arrest and seizure.

The Second Principle of Rawls' justice deals with distributive justice. According to this, "Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged, consistent with a just saving principle and (b) attached to positions and offices open to all under condition of fair equality of opportunity" (Rawls, 1971: 11-12). Rawls has identified 'primary goods' which include rights, liberties, power, wealth, opportunities and self-respect. In just society these goods are distributed equitably among its citizens (Rawls, 1971: 62).

Rawls' theory of justice has been criticized by many on the ground that this is "highly abstract philosophy and not easily digested. When one tries to apply Rawls' principles to the metaphorical world, some difficult empirical questions arise" (Shestack, 2002:49). Nevertheless, one thing that can be said in favor of Rawls is that his theory of justice is designed to sustain the institutions of modern democracy.

Another important author of the neo-Kantian tradition is Jurgen Habermas who located the universal principles in the practice of day-to-day communication.[10] By doing so, Habermas-using the Rawlsian argument- suggests that there is a need of a consensus which will achieve truth. This truth will lead to the defence of justice against injustice, equality against inequality, and freedom from oppression. In order to reach consensus and achieve truth, according, to Habermas, an utterance must be comprehensible (the hearer must be able to understand it); it must be rightful (the speaker must be in an appropriate position to make it); it must be truthful (the speaker must be speaking with honesty); and it must be right (the utterance must be factually correct) (Byrne, 2004: 40).

Both Rawls and Habermas have made attempts to separate the idea of universality from that of natural law. They have adopted a pragmatic approach though Both, however, sought to bridge the gap between the umversalists and relativists from within the universalist camp. According to Habermas, modernity based on Weberian rationality can not be discounted, yet there is a competing modernity located in the social and cultural 'lifeworld' of human thought and action, driven by logic of 'true' rationality, self awareness and human emancipation. For Habermas, thus, the development of theory of human rights forms clearly an integral part of the (post-) modern project.

III. Human Rights and Democracy
The evolution of democracy and human rights has been in tandem though, the two seem to compete and compliment with each other in ensuring freedom to

individuals. The history of the evolution of human rights is the history of the growth of democracy in the world. While democracy has been the arrangement to enable individuals to enjoy human rights, lately human rights became a universal principle, notwithstanding whether it is a totalitarian or democratic society. Individuals have come to enjoy specific rights that are inalienable. The arrangement of democracy may strengthen these rights, but dictatorial regimes also have come to accept certain inalienable rights for their citizens that were nonexistent in the middle-ages. The later part of 20th century, however, witnessed a tremendous growth in the clamor for democracy and human rights. Following decolonization and the emergence of more number of nation states, democracy and human rights gained wider currency. In the colonial times and before, democracy was prevalent in the western societies. Human rights came into existence in its first generation as a result of the elimination of authoritarianism and adoption of democracy.[11] The present century, in fact, has to celebrate the demise of authoritarianism and the onward march of democracy and human rights.

Today human rights have crossed the frontiers of the nation state and have assumed international dimensions. With the increasing democratization of the international system and greater involvement of non-nation state actors, there is a greater credence to human rights. Nation states are forced to liberalize the economies and throw open for more social, cultural and political freedom to the citizens. There is forced liberalism of sorts.[12] The onslaught of the gigantic process of globalization has, of late, driven developing societies to go for providing greater freedom to their citizens. There are notable exceptions to such tendencies, though. China is the best example where liberal democracy is an anathema, yet economically its citizens are offered more opportunities and freedom.

The most important aspect of the 21st century democracy is that it is no longer restricted itself to the political aspect of the society. It has spawned into other areas with greater force, mainly economic and cultural aspects. With the erosion of nation states and rise of multinational institutions in the economic, social, cultural and security sphere, human rights have become key components for the sustenance of liberal democracy. The rights of individuals are ensured not only through nation states but due to the entrenchment of multilateral institutions in these societies. Here questions may be asked as to the universal character of human rights paradigm. Despite the contributions from all spectrums of humanity, there are still doubts about its acceptance by everybody, both from the western as well as eastern world. No matter whatever differing perspectives that might exist in the human rights paradigm there is a bottom-line, that need to accepted by all. Democracy has assumed a new dimension and so does human rights in its own way due to the differing perspectives.

The challenge of this century, however, is to make a balance between the movement for human rights and the rise of international terrorism (Prabha, 2000; Chitkara, 2001). It is more so in the newly emerging societies. The compromise

between providing security to the citizens and ensuring human rights has to be carefully guarded. The western societies have also witnessed the crisis of democracy and human rights in the context of the rising terrorism. Individual freedom is curtailed for the sake of state security. The measure of curtailment may not be antithetical to human rights paradigm, but there is greater degree of restriction today, than a few decades earlier. In this context, it is relevant that we discuss'l human rights in third world countries in the next section.

IV. Human Rights and the Third World

As the third world societies are embarking on the path of development, the process of democratization and economic growth seems to run counter to each other in most of the countries. There was a compromise of sorts in the beginning of decolonization though. With greater prosperity, however, there is an increasing clamor for more freedom and democracy. In the march towards development the biggest casualty is human rights. Despite the efforts by the international institutions and international community, there is a tardy growth in the advancement of human rights in these societies.

Further, the emergence of international terrorism as a weapon to gain political power by the disgruntled elements in the developing societies of the east as well west has threatened the prospects of human rights in these societies. There is also the increase in the demand for self-determination by many communities in many countries. These communities most often use violence to achieve their goals. There is a thin line of wedge, however, dividing terrorists and freedom fighters. In the case of the former the fear and violence caused do damage to the intent and purpose of the objective and ideology they pursue. In the later case too the method of violence for the sake of self-determination also does bring much harm to their goals and objective. This, in any case, brings a lot of damage. The regime in power takes the advantage and engages in human rights violations for protecting its loyal citizens.

Besides the slow pace of growth of democracy and human rights in the third world societies, there is the problem of interpretation of the universal nature of the western perspective of human rights.[13] Principally the problem emerges from the use of the bogey of human rights by the western powers to bully third world countries. It is often believed that the rich countries use the human rights violations as a pretext to further their economic ends. Still more interesting is that the western world is unmindful of human rights abuses in those countries that cater to then economic and security interests. There seems to be a double standard in the use of human rights as a weapon for furthering liberal democracy. There are questions regarding the rigid applicability of the high standards of human rights in the backward societies that are undergoing the transition from tradition to modernity. The problem is further compounded in the context of globalization where nation states of the third world are on the path of liberalizing their economies. The fear of sanctions looms large, in case these countries do not tow the line of the west. This

threat is rather dangerous from two angles. First, by imposing sanctions the western world violates human rights; as such sanctions lead to the increasing pauperization in the third world. Secondly, the objective of liberalizing the economy for ensuring growth in these societies will be blocked which indirectly works antithetical to the objective of globalization that the west intended to pursue.

The fundamental issue that bothers the third world societies is that given the structural difficulties, too rigid adherence to the western human rights programs would stifle the development process. Rigid adherence of human rights pursuit in the third world countries also opens the floodgate for numerous groups and communities to fight for separate political entities. In the name of self-determination there would be chaos of sorts in these societies. The writ of the centralized state apparatus will erode and progress may be thwarted. The ultimate objective of freedom from want and privation, which is the basic human rights concern, will be lost. This does not imply that the pursuit of human rights in the third world should be abandoned altogether. Issues such as environment and labor standard in the context of third world situations would deprive the majority of people of the basic needs of livelihood. Poverty and unemployment make it difficult to conform to these newly emerging issues of human rights discourse. A middle path has to be found in order to ensure the basic needs of livelihood and minimum human rights for the citizens in the third world societies.

Another important dimension of human rights pursuit in die third world societies is the need of the growth of institutions and structures. There are some countries where the mechanisms for governance are still to be evolved. There are also some societies where the writ of the government over the entire political system is yet to be felt. There are many less-developed countries where paucity of resources makes it difficult even to run the government, let alone enforcing human rights. These difficulties, however, do not make it an excuse for human rights violation nor do they entitle them to shy away from basic human rights obligations. Nevertheless, these are some of the issues that stand in the way of realizing the objective human rights paradigm in the third world societies.

V. Concluding Remarks

The discussions in the previous section drive home the need to have a new dimension to the discourse on human rights. There is no doubt that the foregoing sections highlight the growth and development of the concept of human rights since the ancient times till date. Theoretically, there is a formidable growth in the literature on human rights though. They are based on western institutions and structures. The perspective is also western oriented, although they seem to characterize universality. The fundamental problem with the so called universal nature of the human rights paradigm is that it is not sensitive to the third world issues. For the west, it is human rights per se that is inseparable from modern polity. For the third world, however, development is the main concern, although human rights constitute an important aspect of it. There are some compromises which need

to be reckoned when development is blended with human rights. Eradication of poverty and unemployment are the key elements of third world political process. For the sake of human rights people in the third world can not remain deprived of their basic needs, which, of course, is also one dimension of human rights.

The trajectory of the growth of the concept of human rights has been tardy in the third world. It took centuries for the west to evolve and execute the concept. The evolution of democracy and human rights in the west witnessed many revolutions. The third world societies may not have to undergo the same process to realize the goals of democracy. This does not, however, imply that there would be an outright imposition or adoption of these concepts and perspectives for the sake of having them. There is the need of building institutions and structures that can further the goals of democracy and human rights. These societies need time and resources to pursue them with efficiency and productively.

Further, the transition from tradition to modernity raises many fundamental questions about the retention of the cultural aspect of the third world societies. Consequent upon the rigid adoption of western oriented democracy and human rights, nation states in the third world face the so called crisis of cultural decadence. There is a fear in these countries of the swamping of the oriental culture by the western culture. This, however, does not mean that western institutions are lop-sided, only to suit to their needs. Rather, the universal nature of these concepts and institutions strengthen the objectives of realizing democracy and human rights in the third world. There is no denying that modernity renders harmonization of cultures. The challenge is, now, how to modernize the third world societies and at the same time retain the respective cultural aspects. This has a direct impact on the discourse on human rights. Thus, the human rights paradigm needs a shift in its thrust to accommodate the third world sensibilities. There is a need to recast the human rights paradigm to make it really universal in character.

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