

The Evolution and Impact of Human Rights: From Ancient Origins to Modern Challenges

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Abstract: *This comprehensive article traces the historical trajectory of human rights, from their ancient origins in the Hammurabi Code and Cyrus the Great's Charter to their modern manifestations. It explores the philosophical foundations provided by Greek philosophers and the development of human rights instruments such as the Magna Carta, the English Bill of Rights, and the American Declaration of Independence. The article also delves into the institutional developments that led to the establishment of human rights norms within the United Nations system. Furthermore, it discusses the challenges posed by technological advancements and globalization to the protection of human rights. Ultimately, the article emphasizes the importance of upholding human rights as a fundamental aspect of global stability and development.*

Keywords: Human Rights, Evolution of Human Rights, Human Rights Instruments, Magna Carta, United Nations, Challenges

1. Introduction

“Human Rights do not really resolve the tension between competing interests and various visions of how the world should be, rather human rights ideas provide a vocabulary for arguing about which interests should prevail and how to create conditions for constraining attacks on liberty.” [1] Human Rights have a pedigree of distinguished struggle against oppression and the promise of a fair future. This paper considers the trajectory of the idea of human rights and the role they have played in the world.

The Language of Human Rights is employed to criticize, defend and reform all sorts of behaviour. [2] The History of rights can be traced from early religious and philosophical writings, and Western philosophical and political principles. Some of the earliest contributions came from King Hammurabi of Babylon. In 1780 BC he instituted the code of Hammurabi. The oldest organised Legal code to survive to the present time [3], the Hammurabi refers to the need to protect human dignity and freedom. It highlighted an important principle that some laws are so fundamental that they apply to everyone including even the king. Hammurabi called upon the oppressed to come to him to seek justice and claim certain important rights of freedom of speech and particular kind of protections for the weak, the women and the slaves. [4]

In 539 BC Cyrus the Great, the Founder of Persian empire promulgated the famous charter of Cyrus. The text is written in Cuneiform script on a clay cylinder and is often described as the first “Charter of Human Rights” because the word “rights” appears explicitly on it. [5] Rights proclaimed on the cylinder include religious freedom, freedom from slavery, Right against oppression and freedom to live and work wherever the people wanted. [6]

Origins in Ancient Greece and Rome

The Historical roots of Human Rights are derived from Western Natural Law traditions. The famous Greek Philosophers Socrates, Plato and Aristotle devoted their attention to the concept of natural Justice, Equality and non-arbitrariness. The Philosophy of Stoics also played an

important role in the evolution of Human Rights. Stoics held that human conduct should be judged according to and brought in tune with the law of nature. [7]

Sophocles’ Play Antigone is the classic example of this. In the play Oedipus the King of Thebes dies as predicted by Gods. Both his sons Polynices and Eteocles end up in violent contention for the royal throne of Thebes. Creon the King at that time and also the uncle of both the brothers prohibits the burial of Polynices because he initiated the fight. Eteocles however was to be given a state burial. Antigone their sister however disobeys the injunction of the King and goes ahead with the burial of her brother. [8] Antigone’s dilemma manifests itself in the form of confrontation between the right to burial and the domestic law of Thebes. [9] Antigone vociferously denies the validity of Creon’s Edict as being incongruent with an a priori higher Law of nature and emanative of Jus naturale. In the explication of her legally proscribed behaviour Antigone has articulated the very essence of Human Rights. [10] The play is often interpreted as representing the clash between morality and state Law, justice and order, individual freedom and state authority. [11] Antigone appeals to an eternal, natural and divine law which may be used against the dictates of the state, the sovereign and human Law. [12]

The Roman conception of Jus Civile and Jus Gentium reflects the earliest understanding of Human Rights by them. They developed a body of Law, Jus Civile for the Roman Citizens and Jus Gentium for all the other people coming to Rome. Jus Gentium was drawn from the Natural Law or Jus Naturale. It was a set of universal, common principles and practices that extended to all human beings as members of the world community as a whole. [13] Bauman is of the view that Jus Gentium in Roman Law was virtually synonymous with natural law, the latter in turn embraced human rights.

Next came the challenge to the natural law philosophy from the positivists. The Source of Human Rights the Positivists approach says can be found in the enactments of a system of law with sanctions attached to it. This approach condemns the natural law approach which blurs the distinction between

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what law is and what it ought to be. Positivist Philosophy condemns the moral and philosophic basis of human rights.[14]

Important Human Rights Instruments

The Magna Carta 1215: The Magna Carta is a landmark and significant document in the evolution of Human Rights. The document laid important groundwork for Human Rights in England and subsequently in the world¹⁵. It came into effect to give liberty and Justice to every freeman in feudal England. At Runnymede in England in 1215 scores of people from English nobility forced King John to sign a document to end his abuses.[16] The nobility demanded peace and order without revenge. Instead of violent insurrection, the traditional processes of the past, they chose to reach mutual understandings about each other's needs in the peace treaty. [17] The King was coerced into signing the document by the nobles of England. It was intended to readjust the balance of power between the King and the barons. It was signed at the time when due to the power conflict between the King and the nobles, the English society was almost on the verge of a revolt. Heavy tax demands by the monarch to finance wars and crusades and struggle with the pope led to this confrontation between the two. [18] This political settlement not only brokered peace but also constituted the formal beginning of the modern concept of Human Rights and of the notion of constitutional monarchy.[19] The Entire document is a statement of the dignity of human person against the abuses of political authority. Although it was a very practical document, its list of demands to once again restore the dignity of the human person in the face of substantial mistreatment became an ideal and a symbol standing for the need for humane constitutions. It eventually became a bill of rights not only for the nobles but for everybody. [20]

Article 39 was the most important provision in the document. It provided that no free man could be taken or imprisoned or deprived of his personal liberty except through the rule of law or the due process of law.

The Petition of Rights 1628: The Petition was moved by Sir Edward Coke a former Judge turned politician in the British Parliament. It was an attack on the tax impositions of King Charles I which five knights refused to pay and assertion of the maxim No Taxation without Representation. King Charles I who acceded to the throne in 1625 imposed taxes by royal command without parliament's approval. The petition asserted that no person should be compelled to pay taxes without the authorization by an act of the Parliament. King's assent to the petition was received with a lot of joy in the parliament as well as on the streets of England. [21] The Petition therefore was an acknowledgement that unlawful imprisonment was an unfair practice against human dignity. Even though the English crown continued to yield tremendous power the common man of England could not be easily prosecuted and was given the rights of being heard on evidence. [22]

The English Bill of Rights 1689: After the Glorious Revolution in England in 1688 - 89 King James fled the country abdicating his throne. He was succeeded by his

daughter Mary and her husband William of Orange. Before their proclamation as King and Queen both had to accept the Bill of Rights to show that they were rulers who were bound by firm set of principled laws and not absolute monarchs. The Bill of rights declared that absolute monarchy was illegal and that there should be an elected parliament to advise the monarch. [23]

The Magna Carta, Petition of Rights, The English Bill of Rights are all declarations about the relationship between the Parliament and the Monarch. All of them emerged from the struggle between the King and a group of Lords and aristocrats. These paved the way for the development of modern concept of Human Rights. Particularly with regard to the checks and balances in place to check the ruling class. [24]

In America struggle against English Monarch led to **The Virginia Declaration (1776)**, which is an important document in US constitutional history. The declaration was adopted by the Virginia constitutional convention on June 12, 1776.

Its sixteen sections enumerate specific civil liberties which could not be legitimately taken away by the government. Declaration enumerates specific liberties including Freedom of Press, Free exercise of religion, Separation of power and free elections and trial by Jury. Thomas Jefferson used parts of it in the declaration of Independence and it later served as a model for the bill of rights that was added to the US constitution. The important contribution of the declaration of rights was its influence over the emerging national constitution or more precisely the Bill of rights.

The American Declaration of Independence: The American Declaration belongs to a large tradition of rights asserting documents that also includes the English Bill of Rights and The French Declaration of Rights of Men and Citizen 1789. All the three documents are responses to the Monarch's abuse of powers yet they differ significantly as each is a product of the circumstances of its creation. The American declaration is a bridge between the English Bill of Rights and The French Declaration of Rights of men and citizen [25]. The Declaration announced the secession of 13 North American Colonies from Great Britain. They followed Locke's direction and listed the abuses under the sovereignty of King George III. The Architect of the Declaration was Thomas Jefferson. The declaration employed Locke's conception of man as the bearer of Natural Rights as bestowed by his creator. Locke's central rights of Life, liberty and Property are modified to Life, Liberty and the Pursuit of happiness. Even the pursuit of happiness however is along the Lockean Lines i. e. within the boundaries of non - interference by the government, particularly in matters of property. The Scheme of government in the declaration also holds a lockean view Where government is viewed as under a contract with people, sovereignty rests with the people and the government which interferes with the natural rights of the people can be abolished. [26]

The American Bill of Rights 1791: The American Constitution as originally drafted did not contain any provision for rights. On the demand from several states for

greater constitutional protection for civil liberties James Madison drafted the Bill of Rights in the Form of Ten Amendments to the American Constitution. The Bill of Rights protects the freedom of speech, freedom of religion, the right to keep and bear arms, the freedom of assembly and the freedom to petition. It also prohibits unreasonable search and seizure, cruel and unusual punishment and compelled self - incrimination.

Among the legal protections it affords, the Bill of Rights prohibits Congress from making any law respecting establishment of religion and prohibits the federal government from depriving any person of life, liberty or property without due process of law. In federal criminal cases it requires indictment by a grand jury for any capital offense, or infamous crime, guarantees a speedy public trial with an impartial jury in the district in which the crime occurred, and prohibits double jeopardy.

Next fillip to the development of human rights happened in the French revolution of 1789 when the status of natural rights were elevated to legal rights. The people of France brought about the abolishment of absolute monarchy and set the stage for establishment of first French Republic.

Declaration of Rights of Men and Citizen 1789: This Declaration gave a new impetus to the development of Human Rights. It elevated the status of Natural rights to legal rights. Rousseau's famous words of Liberty, Equality and Fraternity which influenced the French Revolution. On August 26, 1789 French National Assembly declared That all men are born free and equal in Rights. . . ' and it is the bounden duty to preserve and protect natural rights of men and they are Liberty, Property, Security and Resistance to oppression. The declaration is a complete code of the principles of constitutional government and the rule of law. Broad Rights included in the declaration are (a) Life, Liberty and security (b) Resistance to oppression (c) Equality before law (d) Freedom from arbitrary arrest, expression and religion (e) Presumption of innocence (f) Freedom to do an act that did not harm others.

Further attempts in the Nineteenth century at abolition of slave trade and protection of rights of the workers evidenced a growing concern for human rights. Around 200 years back UK and USA began the end of slave trade by enacting various national legislations which prohibited trade in people. The British parliament abolished slave trade to foreign colonies in 1806 and that to its own colonies 1807 and slavery altogether in 1833. A Slavery commission was established under the League of Nations and a Slavery convention adopted in 1926.

Women's Rights: Efforts to abolish Slavery awoke concern for women's rights. In 1840 at an Anti - Slavery conference in London two prominent anti - slavery campaigners Elizabeth Cadey Stanton and Lucretia Mott were forced to remain behind closed curtains on a discussion on Slavery. They began the International struggle for Women's rights that led to the New York convention in 1848 and the formation of International Women Suffrage Alliance in 1904. The Alliance focused on trafficking of Women, education, Literacy and labour laws that were sensitive to

the needs of Women. [27]

Institutional Developments: The Human Rights machinery of today owes its origin to the League of Nations institutions that dealt with the minorities' rights and the mandated territories. The League was established after the First World War to provide a mechanism for ensuring world peace, International co - operation and security. Although the covenant of the league did not contain any Bill of Rights it made some provisions for humanitarian objectives such as humane working conditions and fair and just treatment for colonial natives and prohibited trafficking in Women and children.

The International Labour Organisation: The oldest specialized agency of the United Nations was created in 1919 and became a UN agency in 1946. It was created as a result of concerns for Social Justice the need for humane treatment for workers throughout the world. It was the beginning of a system to protect social, economic and cultural rights. The Organisation was set up to promote social justice for working people throughout the world. To ensure this it formulates programmes and policies for improving the working and living conditions for the workers of the world [28]. ILO has become a significant apparatus for the articulation of common labour standards specially it became affiliated with the UN in 1945.[29]

World War II and Human Rights: March towards modern human Rights began during World War II. The war marked the ultimate extension of the concept of state sovereignty. A concept which had dominated the International Relations for the last 3 centuries or so. The Nazis acting with unprecedented brutality showed that earlier efforts to protect individuals from the ravages of war were woefully inadequate. The War reflected that absolute state sovereignty could not exist without untold hardships. The Modern Human Rights movement was borne out of the trauma of the millions who were killed and injured during the World War II. Human Rights became a rallying cry of the allies struggling against the wartime brutality of Germany, Japan and Italy. [30]

In response to these atrocities, the world leaders spoke out in defense of protection of human rights. In his state of union address on January 1, 1941 President Roosevelt of the United States outlined his vision for future by outlining future based on four freedoms i. e freedom from speech and expression, freedom to worship, freedom from want and freedom from fear. This address highlighted the significance of human rights in the international community. Further on August 14, 1941 U. S President Roosevelt and U. K Prime Minister Churchill made a joint declaration in the form of Atlantic Charter. Although the charter is not a human rights instrument it represents the first common program of purposes and principles and it served as a spiritual influence in shaping the human rights agenda post 1945. Apart from the charters call for the destruction of Nazi tyranny and establishing a permanent system of general security for all the nations it included the foundation of civil political and social, economic and cultural rights in its third and fifth principles. [31]

The Charter was endorsed by most of the European powers and was followed by the declaration of the United Nation on January 1, 1942 in which twenty - six nations pledged alliance in the war against Germany, Italian, Japan Axis. After the war, political leaders and scholars continued to look to the protection of human Rights as both an end as a means to ensure international peace and security.[32]

The Nuremberg and Tokyo Tribunals: During the war and the immediate post - world war period most of the focus was on prosecution of perpetrators of wartime crimes. The Allied governments had vowed to bring the perpetrators of War crimes to book. Two International Military tribunals were set up one at Nuremberg and the other at Tokyo. Both tribunals served the immediate purpose of punishing the leading war crime criminals.

The United Nations System: The UN system is clearly the most important source of human Rights Law. Most of the treaties on human Rights are adopted under the auspices of this system. 1944 saw the meeting of Britain, US and the Soviet Union at Dumbarton Oaks in Washington DC to formulate a proposal for the setting up of a general International Organisation. Subsequently representatives of 50 countries participated in the San Francisco Conference and The Charter was opened for signature on 26 June 1945. The representatives of 50 countries signed on 26 June; Poland signed on 15 October 1945. In accordance with Article 110, the Charter entered into force on 24 October 1945, after ratification by the five permanent members of the Security Council and a majority of the other countries. Twenty - two countries subsequently deposited their instruments of ratification. United Nations Charter included promotion of respect for human rights and fundamental freedoms among the principal purposes of the organization. The UN moved quickly to formulate international human rights norms. In 1948 the Assembly adopted the Universal Declaration of Human Rights (UDHR).

The UDHR, commonly referred to as the international Magna Carta, extended the revolution in international law ushered in by the United Nations Charter – namely, that how a government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue.

Since the setting up of UN it has become an engine room for the proliferation of Human Rights and standard setting of rights.

2. Conclusion

Human rights are fundamental to the stability and development of countries all around the world. Great emphasis has been placed on international conventions and their implementation in order to ensure adherence to a universal standard of acceptability. With the advent of globalization and the introduction of new technology, these principles gain importance not only in protecting human beings from the ill - effects of change but also in ensuring that all are allowed a share of the benefits. The impact of several changes in the world today on human rights has been both negative and positive. In particular, the risks posed by

advancements in science and technology may severely hinder the implementation of human rights if not handled carefully. In the field of biotechnology and medicine especially there is strong need for human rights to be absorbed into ethical codes and for all professionals to ensure that basic human dignity is protected under all circumstances. For instance, with the possibility of transplanting organs from both the living and dead, a number of issues arise such as consent to donation, the definition of death to prevent premature harvesting, an equal chance at transplantation etc. Genetic engineering also brings with it the dangers of gene mutation and all the problems associated with cloning. In order to deal with these issues, the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application and Medicine puts the welfare of the human being above society or science.

However, the efficacy of the mechanisms in place today has been questioned in the light of blatant human rights violations and disregard for basic human dignity in nearly all countries in one or more forms. In many cases, those who are to blame cannot be brought to book because of political considerations, power equations etc. When such violations are allowed to go unchecked, they often increase in frequency and intensity usually because perpetrators feel that they enjoy immunity from punishment.

The human rights play a vital role in today's interconnected world. The technological and societal changes not only pose significant challenges but also underscore the necessity of incorporating human rights into legal codes as well as moral values for ensuring their protection. Further, there is a recognition and acknowledgement of the need for international mechanisms to hold violators accountable and prevent further human rights violations. This is truer in the current times where we find grave human rights transgressions in Ukraine and Gaza. Ultimately, human rights are a sine qua non for promoting and enduring global peace, stability, and human dignity.

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