HUMAN RIGHTS: NEED FOR POLITICAL THEORIES

Mintu Mondal
Assistant Professor of Political Science,
Panchthupi Haripada Gouribala College
University of Kalyani, West Bengal

Abstract

Human and rights are the two words conjointly makes a concern about the fate of human civilisation because we always breaks the basic rights of mankind in the name of conventional legislations framed by the statecraft. However, American Declaration of Independence invokes, all men are created equal, that they are endowed by their creator with certain unalienable rights, which among these are life, liberty, and the pursuit of happiness. Through which we can define the term human rights in terms of moral rights. Despite the abstract ideas of human rights we face the struggling against fear and oppression. We think the political theory helps to articulate analytically human rights as the basic concern of our present and future life. So, in that circumstance the paper has observed the essentiality of the political theories of human rights in favour of poor realm of humanity and the paper has been prepared by qualitative research methods.

Human rights are the basic rights of all mankind of the world. It was the time for the classical phase of human civilisation in Greek City States enjoyed such rights as *Isogoria* (equal freedom of speech) and *Isonomia* (equality before the law) which are prominent among the rights claimed in the modern world. Emperor Ashoka had taken care of his subjects in terms of rights to all in ancient India was another testimony of the human rights. In modern days everyone has human rights and responsibilities to respect and protect these rights may, in principle, extend across political and social boundaries. It does not matter what a person's spatial location might be or which political subdivision or social group the person might belong to[1]. Human rights have become "a fact of the world" with a reach and influence that would astonish the framers of the international human rights project[2]. Today, if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights. So, the main objective of the study is to address the human rights with the political theories for our better understanding. The endeavour will make as a research article with the qualitative and quantitative research methods.

Two observations on Human Rights: The doctrine of human rights is the articulation in the public morality of world politics of the idea that each person is a subject of global concern. There are two important and inspiring observations on human rights as follows: The first observation is that human rights have become an elaborate international practice. Since the end of World War II, this practice has developed on several fronts: in international law, in global and regional institutions, in the foreign policies of (mostly liberal democratic) states and in the activities of a diverse and growing array of nongovernmental organizations (NGOs) and networks. The practice has become more conspicuous politically since the end of the Cold War as the scope of human rights doctrine has expanded and the human, political and material resources devoted to the protection and advancement of human rights have multiplied. The other observation is that the discourse and practice of human rights

can also evoke a disabling scepticism, even among those who admire its motivating ideas. It does not mean the radical scepticism reflected in a wholesale rejection of morality or the more limited scepticism underlying a refusal to accept what we ordinarily regard as moral considerations as reasons for action in global political life. Its mean a scepticism about human rights that might be embraced in one or another form even by those who are not alienated from morality in general or global political morality in particular.

Observation on Scepticism: Scepticism about human rights comes in many forms. Some philosophers believe it is part of the idea of a right that there should be some mechanism in place for its effective enforcement. But international human rights practice notoriously lacks a standing capacity to enforce many of the rights listed in the major treaties and even when an enforcement capacity exists, it usually applies selectively and often only at the severance of those states against which it might be used. To make matters worse, it is not even clear how we should conceive of enforcement in relation to some of the requirements of human rights doctrine. What, for example, would it mean to enforce the right to an adequate standard of living?[3] It is possible, of course, to imagine policy measures that would ensure the satisfaction of this right, but it is unclear that the enjoyment of the right can sensibly be enforced in the same way as the enjoyment of more familiar rights. If one thinks that genuine rights must be effectively enforceable, then one might be encouraged to believe, as Raymond Geuss suggests, that the idea of a human right is an inherently vacuous concept[4].

Reason to take up the Political Theory of Human Rights: One important and stimulant reason to take up the political theory of human rights is to see how successfully this kind of scepticism can be resisted. Even when regarded sympathetically, the practice of human rights is bound to seem puzzling. It is unclear, for example, whether the objects called human rights within this practice are in any familiar sense rights and why certain standards but not others should count as human rights. It is not clear what responsibilities attach to human rights, on which agents these responsibilities fall and what kinds of reasons should motivate these agents to care about them. It is not clear why a practice that aims to protect individual persons against various threats should assign responsibilities primarily to states rather than to other kinds of agents. It is not even clear why one should regard human rights as grounds of international action at all: one might, instead, regard them as standards whose security within a society is the exclusive responsibility of that society's government. The more clearly we appreciate the substantive scope of international human rights doctrine and the variety of practical. In this backdrop the paper will observes as to how the political theories have played important role in the realm of human rights. It is to be also noted that the paper has observed on the basis of the book 'The Idea of Human Rights' written by the Charles R. Beitz which was published in 2009.

Research Design

Here quantitative research techniques and qualitative narratives have conjointly been used. The qualitative research methods will go through some techniques: these are a) Narrative or Grand Narrative, b) Phenomenology, c) Grounded theory and d) Case Study[5]. Basically it refers to storytelling technique which is qualified in scientific manner but it is greatly subjective and based on inductive logic. But, on the contrary

quantitative methods emphasize objective measurements and the statistical, mathematical, or numerical analysis of data collected through polls, questionnaires, and surveys, or by manipulating pre-existing statistical data using computational techniques. Quantitative research focuses on gathering numerical data and generalizing it across groups of people or to explain a particular phenomenon[6]. It draws an image of the particular phenomena in objective manner which is based on deductive logic. So, our article has been drawn a narrative scientifically on the need for political theories to better understanding human rights.

The Political Theories: We consider two theoretical propositions that present themselves as replies to the nature of human rights. We shall call these theoretical propositions are naturalistic and agreement views. Both seek to understand international human rights as expressions of one or another more abstract idea already on hand. Each has been thought by many to express the intuitive core of the idea of a human right, but we shall argue that both views distort our perception of the human rights of international doctrine. We do better to approach human rights practically, not as the application of an independent philosophical idea to the international realm, but as a political doctrine constructed to play a certain role in global political life.

Naturalistic Theories: Naturalistic views conceive of human rights as objects that inherit their main features from the natural rights found in occidental political and legal thought in the early modern period[7]. This idea is open to several interpretations. These have at least two elements in common: a) human rights are distinct from positive rights that are, rights actually recognized in a society, or anyway enacted in law; b) human rights belong to human beings simply in virtue of their humanity. This means, at a minimum, that all human beings are entitled to claim human rights. Natural rights are those rights that can be possessed by persons in a state of nature and it will have the properties of universality, independence, naturalness, inalienability and non-forfeit ability. Only so understood will an account of human rights capture the central idea of rights that can always be claimed by any human being[8].

Human rights are indeed the legacies of natural rights. The four features are as follows: a) natural rights are requirements whose force does not depend on the moral conventions and positive laws of their society. They are critical standards for a society's conventional and legal rules; b) natural rights are pre-institutional in a logical rather than a historical sense: their content is conceivable independently of any reference to the structural features of institutions. Thus we might say that natural rights are the rights or a subset of the rights that exist in a pre-political state of nature; c) natural rights are possessed by persons at all times and in all places, regardless of the stage of development of a society and its productive forces, the details of its political structure, or the content of its religious traditions and political culture. This is one way in which natural rights might be said to be universal; and finally, human rights belong to persons as such or, in the customary phrase used by Simmons, simply in virtue of their humanity. Human rights are grounded in considerations that apply to all human beings, regardless of their spatial locations or social relationships. This is another and a distinct sense in which natural rights might be described as universal[9].

Naturalistic views can yield sceptical conclusions about the scope and content of international doctrine. For example, Maurice Cranston, who held such a view, argued that many of the human rights recognized in international doctrine in particular,

economic and social rights are improperly considered as human rights because they cannot be construed as having the attributes of natural rights. They should be seen, instead, as elements of a political ideal without either the universality or the pre-emptory force of genuine human rights[10]. Cranston wrote during the Cold War when it was sometimes thought that economic and social rights had been included in international doctrine in order to secure the support of the Communist countries. But it would be a mistake to disregard his scepticism as an artefact of the time; it could be a temptation for anyone who interprets international doctrine as an attempt to embody in international law a deeper and independently distinguishable order of values modelled on the natural rights of the tradition. From this perspective, the international human rights enterprise might seem to have expanded beyond the boundaries of its motivating idea. The point of potential disagreement among naturalistic theorists is where the boundary between genuine human rights and other values that pretend to this status is properly drawn[11].

Agreement Theories: Doctrine of agreement conceptualize human rights as standards that are or might be objects of agreement among members of cultures whose moral and political values are in various respects dissimilar. The idea of human rights as objects of an intercultural agreement may seem to be a close cousin of naturalistic conceptions. In one formulation, they are the expression of a set of important overlapping moral expectations to which divergent cultures hold themselves and others accountable[12]. In another, they are commonalities among the ideals of all cultures[13].

Common Core, Overlapping Consensus and Progressive Convergence: The notion that human rights express an intercultural agreement might be understood in several ways. We shall distinguish three of these here, which is referring to as the common core, overlapping consensus and progressive convergence ideas. Our aim is to describe these ideas and to inspect the reasons why people have been attracted to them as a basis for conceiving of human rights. R. J. Vincent writes, on such a view human rights would constitute a core of basic rights that is common to all cultures despite their apparently divergent theories. They would be a lowest common denominator[14]. The metaphor of a common core is usually presented as an account of the nature of human rights, but it has obvious implications for the normative questions of their content and scope. For example, rights requiring democratic political forms, religious toleration, and legal equality for women and free choice of a marriage partner would be excluded because, as an empirical matter, these protections are not found in all of the world's main moral systems. Other rights might be excluded if they were understood to generate certain kinds of duties; if, for example, the right to a high standard of physical and mental health were thought to imply that every society has an obligation to ensure the accessibility of health care for all, then the existence of disagreement about the extent of distributive responsibilities outside of families or local communities might exclude this right as well. Adopting a common core idea of human rights would have the normative consequence of excluding a substantial part of the content of contemporary human rights doctrine[15].

One might therefore be encouraged to think that this interpretation of agreement relies excessively on the metaphor of a core of rights which are common to the world's main conventional moralities. Perhaps this is too restrictive after all, the idea of a right is itself culturally specific. So one might shift to a more elaborate conception

which sees human rights as falling within an overlapping consensus of political moralities. Such a view would have two essential elements. The first is a distinction between human rights, conceived as a set of common global norms adopted for certain political purposes, and the diverse array of moral, philosophical, and religious doctrines or outlooks found among the world's cultures. The second is the hypothesis that, given an understanding of the purposes of the global norms, it would be reasonable for adherents of any culture to accept these norms on the basis of their own moral, philosophical, and religious doctrines. On such a view, we need not conceive of "universal" human rights as part of a common core in the sense of being actually recognized by or contained in all conventional moralities; we think of them, instead, as norms for global political life reachable from a variety of possibly incompatible foundational positions[16].

How should we understand the idea of progressive convergence? The aspiration is to demonstrate how elements of the doctrine of human rights could bear what I shall call a justificatory relationship to an array of philosophical, moral, and spiritual worldviews actually found in the world. This relationship, however, is distinct from the relationships of containment within and infer ability from that characterize the common core and overlapping consensus conceptions of agreement. Perhaps the most accurate metaphor is "reachability from:" human rights should be "reachable from" each worldview even if, as these are presently understood by (at least some of) their adherents, it could not be said that human rights are "contained within" or "inferable from" them.

An initial question is whether it can make any sense to hold that human rights might be "reachable from" a worldview if they are not either explicit in it or consequences of it as the worldview is presently understood by those whose worldview it is. To make clear why the question is difficult, we must say more about how the idea of "reachability from" divers from that of an overlapping consensus. We should recall that those who hold that human rights fall within an "overlapping consensus "of some set of worldviews need not be understood to assert that all the worldviews in the set actually contain human rights. They need not even hold that these worldviews all contain the idea of a human right. All they need to claim is that reasonable persons who adhere to these various worldviews would each have reasons, rooted in their own worldview as they understand it, to accept the same doctrine of human rights. Now of course this is not to say that reasonable persons who adhere to various worldviews do, in fact, accept the same doctrine of human rights, or even that they are committed to do so, on pain of logical error, given all their other beliefs. Someone who, as a result of accepting a false empirical belief, declines to accept a doctrine of human rights that they would have reason to accept if they had only true empirical beliefs, still has a reason to accept it. An analogy from the realm of practical reasoning is Bernard Williams's thought that one has a bonafide reason to act only if the reason can be reached by a "sound deliberative route" from one's actual motivational set[17]. We might say that the doctrine of human rights falls within an overlapping consensus of some set of worldviews if a reasonable person who accepted any of these worldviews could arrive at reasons to accept the doctrine by a "sound deliberative route" from the authoritative normative propositions of that worldview.

The concern about toleration is important for its own reasons but it is orthogonal to the question we are considering here. We are in search of an answer to the question, "What are human rights?" The candidate answer under consideration holds that human rights are standards for institutions to which all can agree, where agreement is interpreted as falling within progressive convergence of worldviews. To avoid circularity, we must understand the process by which a progressive convergence might emerge to be driven by interests which are independent of the interest in defining or grounding human rights. Perhaps it is best to regard progressive convergence as a hypothesis about moral progress. We cannot know whether it will turn out true. The most we can do is to imagine as sympathetically as possible how various worldviews might evolve (or be "freshly elaborated") in response to the range of social forces we understand, roughly, as those of modernization, including those associated with the growth of a global economy and culture. If through such a process of sympathetic imagination we can see how a progressive convergence on human rights might emerge, we might acquire a reason to hope for the success of a global human rights regime[18]. But such a basis for hope would not satisfy the aspiration that motivated our initial interest in agreement conceptions, which was the thought that human rights should be recognizable as common concerns among all the world's cultures. The straightforward interpretation of that thought is one we might better simply give up.

Conclusion

Human rights are the constitutive norms of a global practice whose aim is to protect individuals against threats to their most important interests arising from the acts and omissions of their governments. Together with the legal prohibition of aggressive war and the establishment of an institutional framework for collective security, the articulation of a doctrine of international human rights is among the most ambitious elements of the settlement of World War II. This doctrine, progressively elaborated in a series of international covenants and conventions, supplies the norms of an increasingly elaborate global practice.

We have described the practice of human rights as part of the Global Normative Orders (GNO). The GNO is the body of norms that are more or less widely accepted as regulative standards for conduct in various parts of global political space. Some of the norms are law like for example, those established by treaty and those embodied in longstanding patterns of international customary practice. Others are better conceived as background norms or principles they are widely although not unanimously accepted as publicly available, critical practical standards to which agents can appeal in justifying and criticizing actions and policies proposed or carried out (or not) by governments.

Human rights operate at a middle level of practical reasoning, serving to consolidate and bring to bear several kinds of reasons for action. Their normative content is to some extent open ended and their application is frequently contested. If we understand human rights as the constitutive norms of an emergent global practice with its own characteristic purposes, neither fact should be surprising. These observations also explain why the aspirations of a theory of human rights should be in one way modest. To think of human rights as we have suggested is to accept that we should understand their nature and requirements as responses to contingent historical circumstances. So it is probably a mistake to expect to discover a basis for human rights in one or a few clear moral ideas, to formulate a canonical list of rights, or to

devise a single authoritative means for bringing them to bear on practical choices. What a theory of human rights might rather hope to accomplish is to clarify the uses to which they may be put in the discourse of global political life and to identify and give structure to the considerations it would be appropriate to take into account, in light of these uses, in deliberating about their content and application. It would seek to interpret the normative discipline implicit in the practice. Such a theory would not, so to speak, stand outside the practice; it would be continuous with it. We see human rights as abstract ethical concepts or dead words from the past. American Declaration of Independence states that all men are created equal, that they are endowed by their creator with certain unalienable rights, which among these are life, liberty and the pursuit of happiness but our basic concern is that as to how the mankind will liberate from the *Leviathan* like state machineries?

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The range of variation is wide. Compare, for example, Cranston's abstemious position in What Are Human Rights? The capacious view of human rights taken by James, G (2008).*On Human Rights*. Oxford: Oxford University Press.

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18. It would, that is, answer Cohen's question, from Kant: "What may I hope?" "Minimalism about Human Rights".