



The Rationale of Human Rights Protection: A Regulatory Imperative on Human Dignity

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Abstract:

Human Rights are commonly understood as being those rights to which a human being is entitled naturally simply because of being a human. They are inalienable, immutable, sacrosanct and indivisible rights. This article tries to evaluate and exemplify the importance of human rights compatible with the dignity and worth of human beings and finally highlights the impact of globalization on human rights regime which intends to have an impact on the world as a whole, irrespective of the various multifaceted barriers. These rights being visceral rights it must be understood that a formal definition of human rights has not been universally made or accepted by jurists or social scientists in this regard.

Keywords: *Agreement, Conventions, Human Rights, Universal Declaration of Human Rights, United Nations*

1. Introduction

Human rights are a multi-faceted global phenomenon and the modern day human rights as the United Nations imperative is a post world war product which originated from the United Nations Charter, (United Nations, 1945) the Universal declaration of human rights, the first generation of human rights like civil and political rights including right to life and liberty (Agarwal, H.O., 2011) as well as second generation of human rights like the economic, social and cultural rights e.g., a right to food, shelter, health care and healthy working conditions (Nirmal, C.J. 1999). The third, generation of human rights comprises of environmental, cultural and developmental rights. (Dr. J. Yoav Tenenbaum, 2009).

As many of these rights are attached to individuals, some of them are frequently referred to as “collective rights” such as the right to self-determination which belongs to the people collectively, or to a group for example right to self-determination (Dr. J. Yoav Tenenbaum, 2009). These rights are increasingly culminating in the expansion of a worldwide system of international human rights law. The fourth generation of rights designed to identify and protect the human rights of fourth generation include the communication rights.

2. The United Nations Imperative

The United Nations reflects its prime concern of the rights of women and minorities through various treaties such as the Convention on the Elimination of All forms of Racial Discrimination which was adopted in 1965 and came into force on January 4, 1969, the Convention on the Elimination of All forms of Discrimination Against women (CEDAW) which was adopted in 1979 and which came into force in 1981 (Ritchie, Natural rights, 1898). A Convention against, cruel, Inhuman or Degrading Treatment or Punishment was adopted by the United Nations on December 10, 1984 which came into force on June 26, 1987. Convention on the Rights of the Children was adopted in 1989, which entered into force on September 2, 1990. Thus, given the universality of human rights as the cornerstone of international human rights law and the

growing and emerging dimensions of human rights in a globalized world, the development of human rights law in response to globalization is not new, and there is nothing that would prevent further progressive and protective measures safeguarding the human rights. The concept of the equality of rights for marginalised, disadvantaged or vulnerable groups has been a great concern of the international human rights law.

Human rights are seen as visceral because of being universal and are more commonly understood as being those rights to which a human being is entitled naturally (Anandarajakumar P., 2004) simply because of being a human. They are inalienable, immutable, sacrosanct and indivisible rights. The concept of human rights is based on the belief that every human being is entitled to enjoy his or her rights without any discrimination and equally.

If these instruments are ratified by the States party they become legally bound to respect the obligations laid down therein. The two important Covenants and three Optional Protocols together with the Universal Declaration of Human rights is said to constitute the International Bill of Human Rights. The first Optional Protocol to the International Covenant on Civil and Political Rights came into force on March 23, 1976 and the second Optional Protocol came into force on July 11, 1991. The General Assembly of the United Nations in 2008 adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. These human rights standards and instruments have laid the bedrock from which other treaties and covenants have flowed and these human rights are viewed as a pre-condition for a dignified human existence, as they serve sometimes as a touchstone for national legislations and sometimes push the international norms directly in the States Parties.

3. Regional Conventions

Existing framework, regionally speaking thence the human rights treaties adopted in the aftermath of the Second World War and in the post League of Nations scenario are the European Convention on Human Rights, adopted in 1950, the American Convention on Human Rights, adopted in 1969, the 'Banjul charter', adopted in 1981, and the Arab Charter on Human Rights, adopted in 1994.

The International human rights treaties and conventions postulate and outline a catena of rights particularly for the promotion of rights of women (Waldron, Jeremi, 1984), children, and marginalised, disadvantaged and vulnerable groups since human rights are characterised as indivisible. The legal authority^{ix} of the Universal Declaration of human rights and related instruments continues to grow, however violations of human rights by States continues to provoke revulsions and dissent.

4. Indian Position

The Constitution of India carries important provisions and measures of protective discrimination of State towards women and children under Article 15 (3) which authorizes the State for making any special provision in favour of women and children. The extended framework of the meaning of right to life and personal liberty by the Supreme Court of India protects a large number of unremunerated fundamental rights and human freedoms (Jain, M.P., 2010) under article 21 of the Indian Constitution particularly from the 1978 from the *Maneka Gandhi's Case*. (Ram Nath v. Salig Ram Sharma A.I.R, 1967) It is no part of the duty of a police officer to assault a witness or an accused in order to obtain a statement from him. It is equally no part of a police officer's duty to put a person under unlawful restraint in order to extort a confession from him. None of these acts could be said to have any connection with the official duty of the officer (Supra vi). There is no reason why these international conventions and norms cannot, therefore, be used for construing the fundamental rights expressly guaranteed in the Constitution of India which

embody the basic concept of gender equality in all spheres of human activity. Chandra, U., and Mitakshar, K.,(2010).

5. Conclusion

Thus, the right to freedom from discrimination prominently figures in the UN Charter and the Universal Declaration of Human Rights and the additional protocols and covenants and the dignity of the human beings forms the hallmark of this exemplar. The commitment of the SAARC bloc addresses the problem through the various conventions including the Convention on the Prevention and Combating Trafficking in Women and Children for Prostitution which provides that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and worth of human beings and is a violation of basic human rights of women and children. The facet of globalization involves a broad and pervasive role of rapid transboundary exchanges due to developments in technology, communications, and media. Transfer of technology, services and interactions occur at all levels of governance creating a more interdependent world with many free trade agreements, exclusive economic zones and common markets.

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Further Readings

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