

Human Rights: Liberal and Communitarian Perspectives

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ABSTRACT

The issues of human rights, their essence and implementation, take a great part in the contemporary social and political discourse. Basically, human right refers to those rights which belong to the person equally for being a human. Its purpose is to establish international moral values and legal norms which make all the people of the world politically, socially, economically and legally strong and capable. Universal Declaration of Human Rights is the greatest achievement of human history in 20th century. Both liberals and communitarians propagates the idea of human rights, but the difference lies in there conception of human rights. According to liberal tradition human rights are universal. On the contrary, according to communitarian philosophers human rights are not universal. In every culture and society, there are different sets of rights. This view believes that human beings are different in many ways. For example – man is different from women. Therefore there cannot be equal set of rights for them. This article will consider some of these theoretical problems.

Keywords: Human rights, liberalism, communitarianism, cultural diversity, community rights.

Introduction

The main basis of human rights is to establish the ideals for providing equality, independence, social, economic, political justice, and rights of equal citizenship to each person. The idea of human rights are considered as supreme moral rights; they are conditions of human good and without these rights existence with human dignity is not possible. It refers to those rights which belong to the person equally for being a human. They are universal in nature because they are available to all human being irrespective of their religion, race, caste, gender, peace of birth etc. They are absolute as they cannot be separated from individual. To separate human right from individual is to separate of his being human. Human rights are the secular version of natural rights. Like natural right, they are held by individual by birth. They are fundamental and universal, but they are different from natural right because their source is neither nature nor god. They held by being virtue of human being. James Nickel writes that: "Human rights are political norms dealing mainly with how people should be treated by their governments and institutions. *They are not ordinary moral norms applying mainly to interpersonal conduct* (such as prohibitions of lying and violence) [1]." Similarly, Thomas Pogge argues that "human-rights violations, to count as such, must be in some sense official...human rights thus protect persons only against violations from certain sources [2]." Thus, it can be broadly said that human rights establish equality, non-discrimination, and equal social significance of the individual, which is

essential for the overall development and happiness of a person.

Generally, the concept of rights defines the relations between individuals and the mutual relations of individual and political power. Various philosophers define the right in different ways. Broadly, the meaning of right is the circumstances granted by the state, to the person, in which he gets an opportunity for his development. So the right is the name of freedom to do some tasks. Rights are very important for giving shape to the hidden possibilities of the person, for living a respectful life and systematic operation of the society.

In 1215, the concept of human rights first came into existence, when the rebellion of feudal barons against King John of England brought about the Proclamation of "Magna Carta", which even today remains the innermost part of the constitution of Britain [3]. It included such rights as church is free from government influences, free citizens including widows can own and inherit property, equality before law, prohibition of bribery, etc. In the course of time and historical developments those rights developed as human rights.

After the II World War, United Nations General Assembly adopted the Universal Declaration of Human Rights on December 10, 1948 to establish international peace in the world and to protect the individual's natural rights. This declaration is the greatest achievement of human history in 20th century. According to the

Declaration of Human Rights, all human beings are born with equal rights and these rights are equally granted to the citizens of all the countries of the world. This is the idea that underpins Article 1 and 2 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. . . . Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status [4]."

In this declaration, social and economic rights were also implied for the first time along with the civil and political rights. UNO has also recognized other specific human rights from time to time to protect specific classes.

For the philosophical interpretation, we can trace the idea of human rights in the philosophy of Immanuel Kant. Kant is a great supporter of the right of individual. He supports liberty, but suggests that human dignity cannot be sacrificed. His famous statement is *no one ought to be treated as a means of ends of the other. Each man is an end in itself* [5]. On this thought, is based the theory of human rights. It suggests that irrespective of caste, color, creed, sex or any other identity all human beings are supposed to enjoy certain human rights. Human right is a necessary or essential idea of human dignity. The theory of human rights suggests that if society does not allow a person to live with dignity, it is the responsibility of the state to ensure it. If state fails to protect human dignity or fulfill its primary obligation, then international committee has the responsibility to protect.

UN charter accepted five types of human rights – Social rights, Economic rights, Political rights, Cultural right, and Legal rights [6]. Human rights according to some evolve in three generations.

In the 1st generation of human rights they develop in form of civil and political rights —

- (i) Right to speech and expression,
- (ii) Right to have family,
- (iii) Right to conscious,
- (iv) Right to vote,
- (v) Right to contest election.

In the 1st generation, the nature of rights was negative. Rights were considered as claims of individual against state and society. Individual was considered as 'atomized individual' which had a free existence from society and state was

considered as 'limited state'. In the first generation, the emphasis was on liberty.

In the 2nd generation, human rights developed in form of socio-economic rights – (i) Right to employment (ii) Right to leisure/conditions of work. In the second generation, the emphasis was on equality. Socialism played important role in the development of rights. Now the nature of rights considered as positive. Interest of the individual and society considered complimentary to each other. Rights of individual were considered within society and not against state/society. 'Welfare state' role was emphasized than limited state.

In the 3rd generation of human rights emphasis was on some new rights which were essential for human survival as well as quality life. Various rights like— Environmental rights, Right to peace. In the third generation, right of those groups has also been highlighted who were/has traditionally neglected (ignored sections). Cultural rights, Minority rights, Gay/lesbian rights have been considered as human rights

In 1st generation and 2nd generation human rights were associated only with 'individual' but in 3rd generation they are also connected to individual as well as society hence they are also called 'collective rights'.

Liberal and Communitarian Perspectives of Human Rights

According to liberal tradition human rights are universal and available to every individual irrespective of caste, religion, sex, etc. Since, 'human Rights' by definition are those rights which are available to every individual by virtue of human being, therefore they are universal. On the contrary, according to communitarian philosophers human rights are not universal. In every culture and society, there are different sets of rights. Therefore rights are also culture bound. This view believes that human beings are different in many ways. For example – man is different from women. Therefore there cannot be equal set of rights for them. Women may have maternity right, which is not held by men. If human rights are universal then special minority rights would not be considered as human rights which are wrong. "The communitarian approach claims that the respect for Universal Human Rights such as freedom of speech needs to be balances with other values [7]."

Supporter of universal human rights believes that human rights are absolute since they are available to individual by virtue of being human.

Therefore if they are limited that means our existence as a human being is limited. Since these rights are not given by state, therefore state should not put limitation on these rights. According to second view if human rights are not limited then right of one will violate the other. For example – right to self defense and right to life in some conditions may conflict with each other. Rights are also limited by duties. Without duty, right cannot be exercised. For example – Right to privacy is meaningless, without being respected by others i.e. duty of others not to disturb. All human rights are not considered equally important. Some are more and some are less important. This clearly shows there is hierarchy of rights and some rights are less important. In other words, they can be limited.

Communitarians have logic that the individual is not an abstract category; rather individual freedom and welfare are possible only in community. So, community and cultural diversities should be taken seriously in relation to human rights. Communitarians believe that the logic associated with the universality of human rights is not realistic but merely formal. In order to attain equality in reality, it is necessary to take into consideration the social and cultural environment of different communities instead of the same conduct.

Liberalism gives rights to an individual to fulfill his self-interest. Liberals maintains that rights are inherent in an individual. Communitarians have criticised the liberal concepts of rights on the basis that they consider individuals as unit for the distribution of resources. Every individual is deeply embedded in his own culture. Therefore, the attention should be paid to his identity connected to community, despite paying attention to individual.

According to communitarians, this is not the problem of liberalism that it lays emphasis to justice and universalism, whereas its problem is that it lays more emphasis to individualism. Theories of liberals are based on the individual rights and concepts of freedom. But it is neglected that individual freedom and welfare are possible only in community. If we give importance to the dependence of human beings on society, our responsibility to establish the common good of society becomes stronger like our right and individual freedom. The main argument of Michael Sandel's book, *Liberalism and the Limits of Justice* is that: "Liberalism rests on a series of mistaken metaphysical and meta-ethical views, for example,

that claims of justice are absolute and universal: that we cannot know each other well enough to share common ends, and that we define our personal identity independently of socially given ends [8]." Therefore, communitarians give this logic that it is rather required to accept the 'politics of common good' than 'politics of right'.

Communitarians claim that liberals misinterpret justice as an ahistorical and external criterion for criticizing the ways of life of every society [9]. The people of various ideologies (utilitarians, liberals, egalitarians, and libertarians) cannot be agreed at the content of justice, but all of them think that every society should accept theories presented by them. They do not attach more importance to this criticism that their theories can contradict with local recognitions. Liberals consider it as a point to comment of justice. Their theories on justice put questions to our beliefs and make it certain that these are not local prejudices. As Ronald Dworkin puts it, "...in the end political theory can make no contribution to how we govern ourselves except by struggling against all the impulses that drag us back into our own culture, towards generality and some reflective basis for deciding which of our traditional distinctions and discriminations are genuine and which are spurious [10]."

Michael Walzer has logic that this view of universal theories of rights is a delusive discovery. There is only one way to see in order to identify rights and necessities that how each distinguished community understands the value of social things. The shared understanding of members of any society is expressed by means of their special behaviours and institutions. If any society works according to this institution, this is just. It is more the problem of cultural explanation to determine the theories of right and justice inspite of philosophical interpretation.

Walzer speaks of "complex equality" in his concept. "This theory posits that inequalities in the several spheres of society should not invade one another [11]." In *Spheres of Justice*, Walzer defines this concept as follows: "In formal terms, complex equality means that no citizen's standing in one sphere or with regard to one social good can be undercut by his standing in some other sphere, with regard to some other good. Thus, citizen X may be chosen over citizen Y for political office, and then the two of them will be unequal in the sphere of politics. But they will not be unequal generally so long as X's office gives him no advantage over Y in any other sphere – superior

medical care, access to better schools for his children, entrepreneurial opportunities, and so on [12].”

It is a process of equality which gives more attention to the fact that the inequality of any one area does not affect the other area rather than the equal distribution of goods. But Walzer also acknowledges that most of the societies do not consider such a system of equality. Resultantly, the inequality in one area of these societies affects every area of the person. In such a situation, this inequality gradually becomes unlimited and spreads deep throughout the society.

In this way, if human rights are seen in the context of liberalism and communitarianism two major issues emerges- Are human rights universal? Or their nature and scope changes according to different cultures and societies? Human rights are also criticized primarily on the basis that they have been accepted universally, whereas the fact is not taken into account that human nature is different. The dispute related with universality and diversity of human rights was first created during the Vienna Declaration, in which the universalism of human rights was accepted. During this conference several human rights activists of Asia demanded human rights in the cultural context of Asia [13]. One side of human rights supporters believed that the human rights related to diversity are merely a way to promote authoritarian politics [14]. While the other side believed that cultural diversities should be taken seriously in relation to human rights [15].

Thus, a section was associated with liberal and democratic human rights; according to it all persons should be given equal dignity in the form of equal citizens. It is necessary for them to be given equality in the social, economic and political spheres of life. On the contrary, the second thought was associated with the concept of cultural diversities. It has criticized the concept of equality for all citizens as it did not accept the diversities between them. The concept of liberal human rights has been mainly challenged by communitarians and multiculturalists theorists. They believe that the logic associated with the universality of human rights is not realistic but merely formal. In order to attain equality in reality, it is necessary to take into consideration the social and cultural environment of different communities instead of the same conduct.

It can be said that, the concept of universality of human rights is not clear or beneficial for every society or country until it is implemented in conformity with the prevailing conditions in

different societies. For example, a law that has been made in accordance with the conditions of the developed countries, where mostly people are above the poverty line and are engaged in simplifying their life. Such laws do not have any value for non-developed countries, as about half of the population does not even get two-time food. These types of situations can be in the social, cultural and political sphere of life. So in such conditions the concept of human rights cannot be equally applicable for every society or country.

According to communitarians, the human rights cannot fully address the problems related to community rights. Minority communities suffer from discrimination of majorities even under the liberal societies and this discrimination is done without violating any human rights. Communitarians believe that liberalism should provide the importance and security to the cultural communities, which is the basis of the individual's decision. Under the liberal system, the constitution should promote intercultural discussions to deal with communities, in which the representatives of cultures can keep their viewpoints properly.

Conclusion

To sum up, it can be said that, human rights today has given voice to the traditionally neglected sections of society, whose rights were not protected by law. These rights are essential for dignity of humanity. Human rights act as shield or cover against dictatorship. In the contemporary time, when our identity, culture, and life is being shaped by market economy, new forms of production, and developments in information technology, the role of human rights become more important.

Community rights are essential to protect dignity of the person and are equivalent to human rights. In case of conflict between community rights and human rights, the later should be protected and preferred as no general theory has yet been framed for community rights. Therefore, community rights should be enforced with universal human rights. From this, the natural rights of the individual will be safeguarded in context to his cultural community. Community rights do not create any obstacles in implementation of human rights, rather support them. If human rights are framed keeping view of the local requirements then the chances of conflict between the two will end automatically. Thus community rights will be helpful in implementation of human rights, which will be beneficial for the entire society. Community rights

are for the benefit and advancement of a particular society, whereas human rights are the necessary conditions of life for each community. The actual purpose of human rights can be achieved only when all human beings are so capable that they can make proper and expected use of human

rights. Community rights are meaningful measures for the creation and development of this capability in a particular class of human beings. The base provided by the community rights will definitely be accessible to human rights.

References:

1. Dhiman, O.P. (2011). *Understanding Human Rights: An Overview*. Kalpaz Publication: Delhi.
2. Pogge, T. (2000). "The International Significance of Human Rights," *Journal of Ethics*, 4, 45-69.
3. Singh, R.P. (2006). "Human Rights in the Wake of Globalization: Kantian Perspective," *The Philosophical Heritage of Immanuel Kant*. Ed. R. P. Singh, 103-124.
4. <http://www.un.org/en/universaldeclaration-human-rights/index.html>, retrieved on 10/09/2104.
5. Kant, Immanuel. (1979). *Groundwork of the Metaphysics of Morals*. Ed. H. J. Paton. B. I. Publication: New Delhi.
6. *Human Rights Today – A United Nations Priority*. (1998). New York: Department of Public Information, UN.
7. Parekh, Bhikhu. (2002). "Dangers of Liberalism," *Multiculturalism Reconsidered: Culture and Equality and its Critics*. Ed. Paul Kelly. Polity Press: Cambridge.
8. Sandel, Michael. (1982). *Liberalism and the Limits of Justice*. Cambridge University Press: Cambridge.
9. Bhargava, Rajeev and Acharya, Ashok (eds.). (2009). *Political Theory: An Introduction*. Pearson Publication: India.
10. Dworkin, Ronald. (1985). *A Matter of Principle*. Harvard University Press: Cambridge, MA.
11. Axford, Barrie and Browning, Gary K. (1997). *Politics: An Introduction*. Routledge: London.
12. Walzer, Michael. (1983). *Spheres of Justice: A Defence of Pluralism and Equality*. Blackwell: Oxford.
13. Tang, J. T. H. (1995). "Human Rights in the Asia Pacific Region: Competing Perspectives, International Discord and the Way Ahead," *Human Rights and International Relations in the Asia Pacific*. Ed. J. T. H. Tang. Pinter: London, 1-19.
14. Christie, K. (1995). "Regime Security and Human Rights in Southern Asia," *Political Studies (Special Issue: Politics and Human Rights)*, Vol. 43, 204-218.
15. Baehr, P.R. (2001). *Human Rights: Universality in Practice*. Palgrave Macmillan: UK.