

HUMAN RIGHTS: AN ACHIEVEMENTS OR A STUMBLING BLOCK?

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Abstract

This article is intended to provide a critical analysis of whether human rights, which are considered one of mankind's greatest achievements, are becoming an obstacle in modern global governance. In this context, it is discussed how human rights have evolved from legal documents such as the Magna Carta to modern-day international law called as the Universal Declaration of Human Rights. In addition, this study discusses the key challenges for human rights, like its overreaching nature, ambiguity due to cultural conflicts, challenges to national sovereignty, and selective enforcement by powerful states. In this context, some case studies are discussed. These case studies include humanitarian interventions, migration policies, free speech/hate speech, and other such challenges. The paper concludes that while implementation challenges and inconsistencies persist, there is a need for contextual interpretation rather than undermining human rights framework, ensuring a balanced approach between protection of human rights and national realities.

Key Words: Human Rights, Global Governance, National Sovereignty, Cultural Relativism, International Law, Human Rights Criticism, Freedom of Expression, Migration Policy, Social Justice, Accountability

Introduction:

The recognition of Human rights is one of the greatest accomplishments of modern world. The idea of human rights, emerged with a legitimate purpose and with an intention to protect and safeguard humans from any kind of oppression and discrimination. This noble concept has gradually developed an international framework that seeks to foster the basic freedom for all. However, over the past few decades, these rights are increasingly criticised for causing

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unintended consequences which result into contradiction and undermining the very purpose of their development. The conflict caused by these rights is the central discussion, and the impact of the same on social solidarity, economic growth, and national sovereignty.

The fundamental purpose of developing human rights is to establish a universal framework lending qualities from diverse societies around the world to build a uniformly recognised geographical, social, and political communication to protect mankind. Treaties like the Universal Declaration of Human Rights were agreed on to set the minimum requirements of international protection of the individual and the rights of vulnerable groups. Nevertheless, the growth of human rights often has included the situation where the rights of people clash with one another and the creation of a back-to-back compromise for the law and policy makers. These rights are mainly broad to embrace all possible situations, but some critics argues by stating these rights as over-restrictions on states, businesses. Others argues how the implementation of a set of general principles may cause problems, especially in areas where there are cultural diversities and economic instability.

Background

Fundamental human rights are meant to respect human dignity, justice and equality. This concept is founded on deepest conviction to protect individuals from discrimination, mistreatment or violence, this concept has turned into a universal instrument that protects freedom of people. The question is whether human rights progressivism has gone too far by impeding economic growth or by undermining a nation's sovereignty. Whether it has created a fragmented society.

The universal human rights are meant to transcend cultural, social and political barriers. For example, the Universal Declaration of Human Rights managed to establish a minimum level of respect for every individual. But in majority of instances the proliferation of human rights is in conflict with one another and places an onerous responsibility on policymakers and the judiciary.

Historical Perspective on Human Rights

The concept of human rights has come from centuries of intellectual, political and legal work focused on the acknowledgement

and safeguarding of individual liberties. Originating with early documents such as the Magna Carta of 1215, which had as its objective to limiting the monarchy powers in England, laid an early foundation for holding authorities accountable for unjust practices that became a protection of human rights. For it was a manifesto that even the rulers were to be subject to the law. Subsequently, it helped to shape rights-based systems of governance across Europe. Even though its provisions were designed more to serve the interests of the nobility rather than ordinary citizens, it marked an important turning point in limiting authoritarian rule and establishing the principle that people indeed have certain inalienable rights under the law².

This idea was promoted by Enlightenment-era philosophers such as John Locke and Jean-Jacques Rousseau in the 17th and 18th centuries, who explicitly declared that humans, simply by being human, have 'natural rights'. Of the thinkers mentioned above, Locke would prove most articulate and clearest in his assertion that the purpose of government lies in the protection of rights to life, liberty, and property, even going as far as to suggest that any government unable or unwilling to do so forfeits its legitimacy³. These concepts resonated profoundly in the revolutionary texts, including the Declaration of Independence, 1776, of the United States of America, and the Declaration of the Rights of Man and of the Citizen, 1789, of France. Both were very firm in their insistence that governments have a responsibility to secure individual liberties and to realise equality point⁴.

The horrors of the Second World War accelerated the emergence of the modern human rights movement. The incredible violence, genocide and displacement demanded a global effort to prevent such abuses at all costs. Consequently "The United Nations" was formed in 1945 as one of the outcomes of these efforts. The mandate of UN is peace, security and protection of human rights. It was succeeded in 1948 by the Universal Declaration of Human Rights, which was meant to be even more inclusive and prophylactic against oppression. Speakers from various cultural and legal backgrounds then drew up a

² Magna Carta, "The Magna Carta of 1215," British Library, accessed October 26, 2024, <https://www.bl.uk/magna-carta/articles/magna-carta-an-introduction>.

³ John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 285-289.

⁴ "Declaration of Independence," U.S. National Archives, accessed October 26, 2024, <https://www.archives.gov/founding-docs/declaration-transcript>; "Declaration of the Rights of Man and of the Citizen," French National Assembly, accessed October 26, 2024, <https://www.assemblee-nationale.fr/histoire/dudh/1789.asp>.

declaration in the hope of reaching a universal set of rights, that is not tied to either nationality or cultural affinity, affirming that 'all human beings are born free and equal in dignity and rights'⁵.

Despite the lofty goals it had espoused, the UDHR had few ways to enforce it at first. With its adoption, it was followed worldwide; among them were the ICCPR and the ICESCR, both in 1966, upon adoption from the UN General Assembly⁶. These documents are often described as the "International Bill of Human Rights," setting out a universal standard for the promotion and protection of fundamental freedoms.

These human rights, in turn, grew in scope to address new social, economic and political challenges that mirror an ever more complex world society. While the early focus of human rights framework was protection of the individual against state abuses, there was a gradual broadening of the scope to include issues like social equity, economic opportunity, and environmental protection⁷. This expansion brought with it new challenges because, quite often, the single universal standard implemented in culturally diverse societies led to tensions. Faced with the challenge of reconciling noble ideals with the realities of governance, economics and cultural values, the world community pressed to extend the canopy of human rights to a wider and wider range of issues. The stage was, therefore, set for debates on whether human rights have now become a stumbling block.

Challenges and Criticisms of Human Rights Framework

1. Overreach and Ambiguity

After all, one of the most powerful critiques of modern human rights is that they are too vague, and applied too broadly. In truth, it has broadened the human rights agenda to include a wide range of social, economic and cultural concerns. It has also contributed to circumstances in which the exercise of certain rights clashes with others, or whose meaning varies from culture to culture. For example, the right to free speech does clash with laws that shield individuals from hate speech; and this, in turn, generates debate about how far

⁵ United Nations, Universal Declaration of Human Rights, 1948, UN General Assembly Resolution 217 A.

⁶ United Nations, "International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)," UN Treaty Collection, accessed October 26, 2024, <https://treaties.un.org/>.

⁷ Amartya Sen, *Development as Freedom* (New York: Anchor Books, 1999), 54-62.

each right should go⁸. Even more importantly, the absence of any ranking within the system of rights itself makes equal application in their exercise quite impossible, since, in practice, governments and international organisations do indeed have contextual reasons that need to place one right above another.

This fuzziness also complicates how human rights might be established across cultures with traditions often at odds with global norms. The introduction of certain standards of human rights into conservative societies has, for example, been criticised as the imposition of foreign values. Similar dynamics have been observed in gender rights and LGBT rights, where Western values of freedom and equality clash with cultural and religious belief walls from countries all over Africa, the Middle East and parts of Asia⁹. For, according to these critics, this very broadness of human rights is destined to cause greater conflict than universal norms.

2. National Sovereignty and State Autonomy

Human rights treaties and international interventions also tend to challenge the principle of national sovereignty, so that they are, to some extent, unwelcoming to nation-states as considered alleged incursions. The majority of states would argue that these international institutions don't have the cultural or political sensitivity to a state's framework to make authoritative decisions about domestic policy. When the ICC issued an arrest warrant against the Sudanese president Omar al-Bashir in 2009, for example, Sudanese officials (backed by many member states of the African Union) claimed that the warrant was an affront to Sudanese sovereignty and a form of neo-colonial meddling. This case highlights that implication of human rights need to be weighed against the State's governance of its internal affairs, to assess the extent to which international scrutiny may apply.

More significantly, the insistence on imposing the code of human rights on all countries will further inflame political tensions between the strongest and the less politically consequential states. For the US, or the European Union, to apply human rights sanctions, has also drawn criticism as being extremely selective and politically motivated. There are debates among scholars that such conduct mostly hits the weaker countries or the weaker political alliances, whereas violations

⁸ // www.unesco.org/hate-speech.

⁹ Lydia Smith, 'Cultural Conflict and LGBTQ+ Rights in a Global Context', *Global Policy Journal*, April 2022, pp87-91.

in economically and strategically strong States are simply overlooked. Therefore, the human rights struggle is sometimes seen as a tool for internationally and politically powerful States to impose their influence rather than a sincere, impartial effort to uphold justice.

3. Selective Application and Hypocrisy

A more explicit criticism of the idea of human rights is the (rather plaintive) observation that they appear to be used and deployed by the more powerful countries in a highly selective fashion, as a means of political bullying. As academics and diplomats have pointed out, all too frequently, the Western powers invoke human rights in order to mount a case against countries that stand in opposition to their political agenda, while turning a blind eye to violations of the same statutes in friendly states¹⁰. None of these selective uses of the law do anything to guarantee the legitimacy of human rights but just fuel cynicism among the state, which sees such policies as de facto double standards.

For instance, criticism against the United States arose regarding perceived inconsistency between condemning human rights abuses in North Korea and Iran while continuing to have close alliances with other questionable countries on human rights policies such as Saudi Arabia and Egypt¹¹. This double standard thus suggests that human rights are sometimes deployed only as diplomatic weapons and not as universal principles to be applied equally. Thus, critics argue, the kind of selective application drains the legitimacy of the human rights framework and bolsters the sense that such aspirational ideals are tools of the powerful.

4. International Intervention in Conflict Zones

Protection of human rights in these areas, most of the time, raises the spectre of sovereignty and political pretext, so that the question arises whether such interventions are ultimately more harmful than helpful. The NATO intervention in Libya in 2011, for example, initiated in response to appeals to protect civilians from state-sponsored violence, has since become widely criticised because of the kind of consequences that resulted. While the intervention was justified under the principle of the Responsibility to Protect (R2P) in order to prevent mass atrocities, it created a power vacuum that led to the

¹⁰ Amartya Sen, *Development as Freedom* (New York: Anchor Books 1999)104-110

¹¹ Yash Ghai, 'China's Position on Human Rights Treaties', *Journal of Asian Studies*, September 2018, pp12-14.

destabilization of the country and the continued civil conflict and humanitarian crisis¹². The antagonists also believe that this humanitarian intervention has in fact opened up a blind alley and lacks any regard for the future it has brought to the society of Libya or how it is further exacerbating the situation for its civilian population.

The same applies to interventions made into other theatres of conflict, like Syria, where the international community's efforts at human rights and opposition to autocracy are being bogged down by geopolitical goals and the potential for greater violence. With dozens of nations lined up in protest of the Syrian government, the world struggled to devise a response that both honoured human rights and maintained regional stability. In instances like this, frameworks based on human rights can paradoxically undermine peace efforts; policies that fuel external interference may further deteriorate the conflict from being resolved¹³.

5. Policies of Migration and Security Concerns

Migration has also been another battleground in which the human rights apparatus has, at times, collided with national security interests, creating for national governments some of the direst dilemmas in trying to reconcile humanitarian concerns with domestic security. Refugees from conflict zones in Syria and Afghanistan, for instance, in Europe alone, have put the EU's human-rights commitments to the real test. Although the ECHR does offer protection from refoulement to dangerous places, this has resulted in a lack of resources and security for the member states¹⁴. For example, Germany and Sweden have been hosting large number of refugees earlier but later felt social unease and political disputes over the policy sustainability regarding public security.

Even the right to asylum comes into conflict with the counter-terrorism agenda of some governments, with a growing concern that such open migration policies could be exploited by extremist organisations. For example, in the wake of terrorist attacks in Paris in 2015 and in Brussels in 2016, most European states took a look at their immigration and asylum laws, tightening controls on borders, and subjecting refugees to much closer scrutiny. Commentators pronounce

¹²Richard Falk, "Libya and the Responsibility to Protect" *Global Policy Journal*, March 2011

¹³ Charles Lister, "The Syrian Civil War and International Intervention" [//www.mei.edu](http://www.mei.edu).

¹⁴ Christiane Fröhlich, 'The European Refugee Crisis and the Role of Germany', *Journal of International Migration Studies*, October 2017, 88-91.

such reactions as abuses of the human rights of refugees, but they serve very well to demonstrate the difficulties, in practice, of enforcing human rights norms in a very particular security landscape¹⁵. This discovery also highlights how a rigid application of human rights imperatives can be a hindrance when sovereign states must protect public safety.

Existence of Conflicting Rights

1. Freedom of Expression versus Hate Speech Regulation

The conflict between freedom of speech and the regulation of hate speech is another illustration of how human rights norms can lead to practical and ethical quandaries. Freedom of expression is an unalienable right, enshrined in human rights instruments such as the International Covenant on Civil and Political Rights, or ICCPR. But free speech is a catalyst for violence or discrimination on occasion, which is why almost every country has enacted laws prohibiting hate speech. These laws, though intended to protect the rights of minorities, are often contentious as to where the line should be drawn.

The French idea of 'laïcité' - secularism - is one that reserves religious expression for the private sphere and is designed to achieve complete neutrality of the public realm. It has also borne the brunt of many criticisms inside and outside of government for alleged infringements of the rights of religious believers, particularly Muslims, to practise their religion. Matters surrounding Charlie Hebdo in 2015 have further polarised discussion on the question, with arguments for free speech being raised in defence of the publication of insulting images, while others believed it was provocative and an incitement of violence and divisive in society. What the current case has served to illuminate, though, is the tension between competing rights, since efforts to realise free speech can come at the cost of social cohesion and security.

2. Religious Rights vs. Secular Policies in Education

Many diverse societies create ongoing debates, where religious rights conflict with secular policies, especially in public institutions such as schools. Discussions in India, a largely Hindu but constitutionally secular nation, about the right to religious symbols in schools and

¹⁵ Ayesha Siddiqui, 'Migration Policy and Counter-Terrorism in Europe', European Policy Analysis Journal, March 2016, 105-7.

universities, also prompt a host of questions about religious freedom versus secularism. Then, in 2022, a controversy over whether the hijab is allowed for Muslim students in state-run schools in the state of Karnataka arose. Advocates have defended it as a freedom of religion right, and opponents as a subversion of secular principles, and possibly as a means to privilege one group over others¹⁶.

The case highlights the ongoing conflict between individual human rights, in particular freedom of religion, and the secular policy obligations required to maintain social harmony in multicultural societies. Those situations present a dilemma for policymakers, caught between the need to respect individual rights and the desire to preserve a neutral public realm. This case, as many others, shows how human rights discourses end up generating social conflict, especially in culturally heterogeneous societies.

3. Social and Economic Rights versus Developmental Constraints

In the developing world, economic and social rights often struggle to overcome limited financial resources and developmental agendas. Less affluent nations find it especially hard to realise the economic rights forbidden under the International Covenant on Economic, Social and Cultural Rights, such as the right to education, health and an adequate standard of living¹⁷. While most of these rights are meant to protect the vulnerable population, the financial costs associated with the implementation of very broad social welfare programs can be burdensome to the national budget, crowding out other important sectors.

It is typical, for instance, that governments in sub-Saharan Africa are pressured by the international community to raise expenditures on health and education. If not met with parallel growth in economic productivity, these increases can tie up financing that would otherwise have been available for infrastructural and industrial investments needed for productive economic growth. For instance, some critics say that doctrinaire human rights systems inhibit development in some instances because they impose burdensome obligations on poorer

¹⁶ Rohit De, 'Religious Freedom and Secularism in India's Education System', *South Asian Law Review*, April 2022, 35-38.

¹⁷ United Nations, *International Covenant on Economic, Social and Cultural Rights* (1966), UN Treaty Collection.

countries. A vicious circle then continues because a lack of development limits the achievement of human rights, whereas high demands for human rights truncate economic development.

4. Pakistan Context: Human Rights and Refugee Policies

Pakistan has hosted one of the largest number of refugees despite the fact that Pakistan is not signatory to the 1951 Refugee Convention, but its judiciary has engaged meaningfully with the international laws relating to refugees. For instance, in the case of *Rahil Azizi v The State*¹⁸, Pakistani court has relied on the principle of non-refoulement and Article 31 of the Refugee Convention, emphasizing nuanced application of domestic law to refugees' vulnerabilities. Another case of the Peshawar High Court where the issue related to non-refoulement was considered in several cases involving Afghan asylum seekers and where the Federal Government was directed to take a decision on non-refoulement principle before deporting Afghan artists, transgender persons and families. The above-mentioned cases are clear examples of the way how human rights may protect vulnerable groups while posing challenges to the policy of the state in resource-limited environment.

Alternative Voices: Do Human Rights Impede Progress?

In view of all these supposed limitations and critiques, many scholars and activists discoursed on human rights to provide useful direction in the struggle for justice, equality and social change. Human rights practice creates the most problems, but the principles are also, at the same time, invaluable tools with which to resist injustice, hold governments to account, and foster global solidarity. What follows is a consideration of some of the arguments that lay bare the humanitarian potential of human rights; that is, that these are, not in themselves, roadblocks but, rather, some of the features of an idea that is inherently reformable and adaptable as a means to secure greater effectiveness.

¹⁸ *Rahil Azizi v. The State* (PLD 2024 Islamabad 231), Writ Petition No. 1666 of 2023, decided on 19 June 2023.

Counter-Cartographies: Human Rights - Do They Get in the Way?

There are deep problems and criticisms levied against human rights, of course. However, in contrast with this rather bleak view, many scholars and activists see human rights as important mechanisms for the pursuit of justice, equality and social change. Human rights do pose snags in implementation, but concepts will continue to be essential weapons of resistance to injustice and of holding governments to account, and levers of international solidarity. Below is a try to analyse some of the arguments both for the salutary effects of human rights, and for the prospects of reforming and adapting them to have salutary effects even greater than before.

Human Rights as a Means to Justice and Accountability

Redress and accountability lie at the centre of human rights advocacy. There are many reasons on which abuse can be challenged and Sate stresses on the fact that human beings are respected, and human rights frameworks are one of them. Compliance monitoring and violations management procedures are also provided for in international conventions such as the Convention against Torture and the Convention on the Elimination of All Forms of Discrimination against Women. In both Conventions, accountability mechanism exists to ensuring that governments are accountable for their actions and that victims can get justice.

The creation of the International Criminal Court is one example, and the ICC has made considerable progress towards at least attempting to close the book on war crimes and crimes against humanity. The charge given to the court to try perpetrators for terrible human rights abuses prevents future atrocities, and gives victims a sense of justice. Despite the controversy surrounding the ICC, including allegations of bias and ineffectiveness, this is how human rights institutions can contribute to ensuring accountability in situations where domestic judicial processes have been found ineffective or compromised¹⁹. Advocacy for human rights brings about real reform and a culture of responsibility.

Social Movements: Human Rights as Drivers for Social Change

¹⁹ "The Role of the International Criminal Court in Human Rights," International Criminal Court, accessed October 26, 2024, <https://www.icc-cpi.int>.

Human rights frameworks have always been a powerful engine of social change in part because they provide means through which marginalised groups can assert their claims and challenge oppressive systems. Social movements focused on human rights have played a key role in the fight for civil rights, gender equality and lesbian, gay and bisexual (LGBTQ) rights. The civil rights movement in the United States during the 1960s borrowed much from the international norms of human rights, against racial segregation and discrimination, with resultant legal and social reforms²⁰.

Globally, if women's rights movement has used human rights arguments to advance its claims of gender equality and the struggle against discriminatory practices across the globe. Those issue-based campaigns capture the public attention and tend to focus on issues like reproductive rights, domestic violence and workplace discrimination, under the banner of human rights. The #MeToo movement - which has brought the ubiquity of sexual harassment and assault to make it the centre of general public attention is a classic example of how human rights frameworks are used for claims feasible at the level of individual activity, but also at the level of cultural change²¹. These cases are a testament to how human rights can serve as a catalyst for social movements, a motor of collective action, and advance in the name of equality and justice.

Reform and Adaptation Capability

Human rights frameworks do not come without their flaws, but their advocates point to their ability to be reformed and adapted to solve currently manifest problems. These calls for more effective regional human rights mechanisms have gained new momentum in recent years, owing to region-specific cultural and political factors. These kinds of mechanisms would make human rights protection more relevant, more effective, and more attuned to local concerns while still being bound by universal norms.

The arguments about the balance between rights and responsibilities, which are taking place continuously, are important so that fears of abuse or arbitrariness in applying them are acknowledged.

²⁰ Barbara Ransby, Ella Baker and the Black Freedom Movement: A Radical Democratic Vision (Chapel Hill: University of North Carolina Press, 2003), 120-125.

²¹ “#MeToo: A Global Movement Against Sexual Violence,” Amnesty International, accessed October 26, 2024, <https://www.amnesty.org>.

Indeed, such an approach - which is to promote discussion between governments, civil society and international organisations - enables the stakeholders to collaborate in developing frameworks in which human rights can be promoted with due regard to national and regional differences²². An approach of this kind will do much to both reinforce the value of human rights and to accommodate most of the sincere concerns that have been raised about their application

Human Rights as Global Solidarity

Human rights discourses also contribute to the building of global solidarity and interdependence among diverse communities. At the same time, universality inscripts into human rights the notion that every human being, irrespective of nationality, ethnicity or socioeconomic class, deserves protection and respect. This is a cardinal rule that drives towards mutual understanding and collaboration in the modern world.

Human rights frameworks also provide an overarching set of principles for humanitarian action in crisis situations, whether they are caused by natural disaster or pandemic. The COVID-19 pandemic put the role of human rights in the context of public health emergencies into sharp relief, with equitable access to medical care and non-discrimination becoming key. The world's pandemic response thus reinforced the imperative of solidarity - the concept that the health and wellbeing of one community is inseparable from those of others²³. Health as a human rights claim, in effect, indexes policy discussion in terms of access and equity, and thus supports a human rights-based understanding of collective well-being.

Social Movements: How Human Rights Can Win the Social War

There has never been any shortage of historical challenges to social evolution, and the human rights regime itself has proven to be a powerful force inasmuch as it creates spaces where the prepared voices of the marginalised can make their claims and challenge oppressive structures. Human rights, at the core of a struggle like Zimbabwe's social movement, have been critical to the fight for civil,

²² "Human Rights Mechanisms and Local Contexts," United Nations Development Programme, accessed October 26, 2024, <https://www.undp.org>.

²³ "Human Rights and the COVID-19 Pandemic," World Health Organization, accessed October 26, 2024, <https://www.who.int>.

gender and LGBTQ+ rights. In the US, the civil rights movement of the 1960s borrowed heavily from the norms of international human rights law prohibiting racist discrimination and segregation, and in doing so, helped usher in legal and social change.

First, the international women's rights movement Oyez started from the standpoint of gender equality by adopting international women's rights into its claim strategy to fight against discriminatory practices around the world. Such issue-based campaigns that court public outcry typically centre on areas of reproductive rights, domestic violence and work discrimination all placed on the human indigenous. It should also be viewed in a wider context of the #MeToo campaign that revealed the ubiquity of sexual harassment and assault, and that human rights categories as basic as agency can, when changed, trigger such cultural revolutions. This Witness in the Holroyd Centre, then, claims that these transformations are just some of the ways that human rights can open up new vistas for fighting such as so.

Conclusion:

The expanding scope of human rights has introduced complex legal, political, and social challenges in the presence of competing rights, national sovereignty, cultural diversity, and developmental priorities. The very concept of human rights is not open to dispute; rather, it is their inconsistent implementation, selective enforcement, and the difficulty of applying universal standards within diverse national contexts that give rise to concern. As balancing individual rights with collective interests remains one of the greatest challenges for policymakers and courts, human rights should not be viewed as an obstacle to governance or development. Instead, the focus should be on refining implementation mechanisms, strengthening institutional accountability, and promoting context-sensitive interpretation while preserving universal principles.