
Human Rights Ideology

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The term Human Rights is comparatively recent in origin but the idea of human right is as old as the history of human civilization. It can be said that human rights is a twentieth century name for what has been traditionally known as natural rights or in a more exhilarating phrase the 'Rights of Man'. The deontological theory of natural rights explains that every man has moral rights not because he is a member of any moral or legal order but simply because he is a man. I mean to say that human rights are the minimal rights that every individual must have by virtue of his being a 'member of human family' irrespective of any other consideration. They are based on mankind's demand for a life in which the inherent dignity of a human being will receive respect and protection.

They are natural in the sense that they are even prior to any institution or agreements and are based on natural law which is sustained either on divine will or some metaphysical considerations. I will like to quote **Emanuel Kant** who is of the view that 'rights do not depend upon any state of nature or human nature or general welfare, but upon the idea that every man is an end in himself and never the means for ends of others'. Every man is an autonomous rational being knowing his own interest as he does. So Kant therefore favours maximum equal liberty to each individual. This Kantian theory has a tremendous influence in the 20th century and also had its impact on the great philosopher John Rawls. Rawls goes back to the contracture approach and speaks of justice as fairness. The principle of justice in the original position has two principles-

- (1) Every individual has equal claim to the basic rights and liberties to be guaranteed by the social political basic structures. If liberties are uncontrolled they collide with each other and where controls are necessary they are to be only for the sake of liberty.
- (2) There are two parts of the second principle-

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- (a) The difference principle which says that certain social and economic inequalities do exist, yet they are to be arranged to the benefit of the least advantaged members of society.
- (b) The quality of opportunity principle which states that the position and offices are open to all under conditions of fair equality of opportunity.

The basic structure would thus be agreeable to all i.e. the better offs and the least advantaged in the society. In his theory of justice, Rawls includes the views of early liberals and removes the pitfalls faced by them to provide for social justice. Since even the better offs are likely to be worst off at some point of time, they will agree to some minimum economic liberties for the worst off.

The framework of Rawls' theory is a seminal contribution to the ideology of human right the respect for which is obligatory condition of a political regime which may be democratic or dictatorial. This ideology of rights does not depend on any comprehensive moral doctrine; that is to say that man is moral person and has equal worth and so possess the right and so on. Moral duties and obligations in fact arise from a common good conception of justice. The concept of positive and legal rights that a citizen enjoys as such is rejected by Rawls. It is not the state or the constitution that gives rights. The constitution may not include all human rights and the state may deny these rights by force illegimately. Human rights are different from constitutional rights even if they include these rights. It is necessary condition to all political regimes to these rights for their own legitimacy. If these rights are not fulfilled there can be justified intervention by other people laying sanction or even using force. The sovereignty of state is thus limited. Human rights are above any positive law or the sovereignty of state.

This humanistic libertarian foundation of human rights of western scholars apart, Indian scholars too uphold the sanctify of inalienable rights. In the Rigveda, references occur to the three civil liberties of Tana (body), Skridhi (Deweling Rouse), Jipasi (Life). The Mahabharata has described the civil liberties in a state. The concept dharma has all parading which includes duties as well as rights. King was required to take a vow not to act arbitrarily

but according to dharma not theology. **Kautilya** in **Arthashastra** elaborated the civil and legal rights first formulated by Manu and also added a number of economic rights. He ordains that, "The kind shall provide the orphan, the aged, the infirm, the afflicted and helpless with maintenance, he shall also provide subsistence to the helpless expectant mothers and also to the children they give birth too." There was no property right in the form of land which could be confiscated from those who did not cultivate it and given to others.

Even in modern times, the demands for civil and political rights were made continuously in our struggle for freedom. As early in 1895, the common wealth of India demanded certain basic human rights like freedom of expression, inevitability equality before law etc. Such demands were repeated in the delegations to the Montford reform, Resolutions of the congress, the Nehru report, Karachi resolution of 1931 and so on. There were demands also for minority rights. The Karachi Resolution demanded apart from fundamental rights, the fundamental duties to be incorporated in the constitution.

In laid stress on economic rights, The right to property had not been mentioned, but right to form unions, living Wage and conditions of work for labour, primary education, certain welfare rights as protection against old age, sickness, unemployment etc, found place there in. The ideology of human rights is thus not an alien idea, it is as much an Indian, it cuts across all civilisations and cultures with varying forms.

The democratic politics in India has undergone change first as in impact of socialistic ideology. The excesses of emergency during 1975-77 brought to the fore importance of civil liberties that freedom of expression and of association must be maintained at any costs with the struggles of the deprived people like the Dalits, tribals, peasants and landless labour it was realised the democratic rights are also important and that civil liberties were distinct from democratic rights various local level movements for democratic rights started influencing electoral politics. The human rights concept which so far meant only abstract respect for human being had now a new meaning in India. The various struggles of dalist, tribals, other backward classes, peasants and women have widened the meaning of human rights which have concretized in political demands. It is this challenge that has forced the state to acknowledge human rights in the mainstream of political. The commission for women was

established in 1975 and certain changes in the acts were brought out, though the women's reservation bill is yet to become a law. Various schemes were started for the amelioration of the conditions of the dalits and as well as the landless labourers. The mandal commission recommendations have now become a plank of all political parties. The national human rights commission (NHRC) and the state level commission in some states have been established. Though (The NI-IRC) has neither tooth to bite nor nails to scratch on but on many occasions it has embarrassed the rules by exposing the rights violations. Police excesses, fake encounters, inhuman treatment to the jail inhabitants, child labour employed in hazardous factories, ill treatment to women etc, are some of the areas of its attentions. The judiciary has also enhanced human rights by what is called judicial activism. Article 21 of the Indian constitution which merely speaks of right to life and personal liberty has been so amplified by adding the term dignity by interpretation that the large numbers of rights as enumerated in the directive principles have become fundamental.

Having thus reviewed the ideology of human rights and its march in India, a caution is necessary. The ideology should not be allowed to capture political power as the champions of rights themselves fall in the trap as exploiters. If it has to control power and enhance rights has to remain outside the area of political conflicts. Human rights movement has faced a dilemma as to whether it should remain a distant observer of the struggles of peasants or cooperate and interact with them. This dilemma over the years has been resolved in favour of linkage, but it invites criticism of partisanship and lack of objectivity. Many a time in such democratic struggles the rights and interests of other group are also at stake, But in situations where blatant violations of human rights are observed, this movement cannot afford to be Neutral. The movement may have linkages with other democratic movements but it has to maintain its autonomy and resist from being an agency of any other movement, interest group or political party.

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