

Can Human Rights be Universal Rights?

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Do human rights matter where basic necessities are lacking? Views of South and South-East Asian leaders and what human rights activists say.

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10.Can rights be applied selectively? The answer is No-on the moral, human, legal, social and even spiritual levels, human rights have a value in themselves.

A Human being is born with certain natural rights. Those rights basic to humanity are termed as 'Human Rights'. Broadly speaking, they may include right to life, liberty, shelter and security of an individual. Social scientists from time immemorial have argued in favour of giving these rights to human beings.

It was, however, quite recently that a universal recognition of human rights was articulated and adopted. Atrocities by the Nazis and misgovernance by Fascists in the 1940s which resulted in the suppression of people led to the Universal Declaration of Human Rights in an attempt to prevent such atrocities in the future. There was broad-based international support for the declaration when it was adopted. The declaration was drafted by a committee of the UN Commission on Human rights set up in 1946, and 58 member-states of the UN General Assembly adopted the declaration on December 10, 1948. India was also a signatory. The Universal Declaration of Human rights has served as a Magna Carta for all Humanity.

The declaration recognizes that the "inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world", and is linked to the recognition of fundamental rights which every human being aspires to –the right to life, liberty and security of person; the rights to an adequate

standard of life, liberty and security of person; the right to an adequate standard of living; the right to seek and to enjoy in other countries asylum from persecution; the right to own property; the right to freedom of opinion and expression; the right to education; freedom from torture and degrading treatment among others. These rights are to be enjoyed by all human beings of the global village-men, women and children, as well as by any group of society, disadvantaged or not; they are not gifts to be withdrawn withheld or granted at someone's whims and fancies.

These rights have been reiterated and adopted in various UN conventions. The Convention on Elimination of Racial Discrimination was adopted in 1965. Similarly, in 1966 the International Covenant on Economic, Social and Cultural rights and the International Covenant on Civil and Political Rights were adopted. Likewise, the Convention on the Elimination of All Forms of Discrimination against Women (1981), Convention Against Torture and other Convention on Rights of the Child (1990), etc. have been adopted. Most countries of the world are members of UN General Assembly which has adopted these convention and therefore these are universally applicable, though in different degrees in various parts of the world.

In addition to these conventions; the UN has been actively monitoring human rights violation in various parts of the world. Terrorism and denial of basic rights to individuals now pose a big challenge to the UN. The problems of ethnic violence, increasing exploitation of women and children and the issues of hunger, illiteracy, disuse, poverty, and unemployment are also to be seen in the context of human rights are often violated by the practice of racial discrimination.

India is not immune to these problems. Terrorism has resulted in the denial of several basic rights to the people of Kashmir and the North-East, Casteist violence in states like Bihar, Uttar Pradesh and Andhra Pradesh has also terrorized the people of these states. The minorities and even other individuals often become victims of Hindu/Muslim fundamentalists. Child labour and child marriage are very much a part of our society. Atrocities on women, such as assault, rape, forced prostitution and domestic violence, flourish in India. India has a large number of illiterates. India has established a National Human Rights Commission. The people have been guaranteed human rights under various provisions of the Constitution like the Fundamental Rights and Directive Principle. India is also a signatory to the UN declaration and has been active in the human rights activities of the UN. What is lacking and what is required, therefore, is political will to provide people with their basic rights. The UN secretary-General, Mr. Kofi Annan, has said; "rights have been asserted where

regimes once ruled; justice has been delivered where impunity once reigned; and memory has been honored where the powerful once enjoyed immunity. If only every fear were to offer such hope, and prove to all that human rights cannot be denied where human beings live and breathe. But that is our challenge. To make it . to make every day matter in the fight to broaden the horizon of human rights until that day when no man is tortured, no woman is abused and no child is denied his dignity- when all human beings enjoy their human rights.” That is the ideal; the reality on the ground however, is more complicated.

There is a North-South divide in world economy; now there seems to be an East-West divide in the matter of human rights. As western are stepping up their campaign against human rights violations, certain Asian countries like Malaysia have asked for a review of the Declaration of Human Rights. In fact, it is believed by many analysts that the recent East Asian economic crisis, which has adversely affected other Asian and some Latin American economies, has led to an increase in human rights violations.

“When millions are thrown out of jobs and people go without food because of the currency depreciation and inflation, there are socio-political problems on hand. If the government and its agencies crack down on dissent and protests, we have large-scale violation of human rights,” says a member of Indonesia’s National Human Rights Commission. In Indonesia, ethnic conflict has grown with Chinese settlers, and churches and shops owned by minorities have borne the brunt of violence.

Myanmar has always been on the ‘black list’ of countries on the human rights issue. A military regime that assumed power in 1998 cracked down heavily on opponents, students and human rights activists. The human rights violations have become a stinking point in Yangon’s relations with the West and are hindering the ASEAN (Association of South-East Asian Nations) cooperation of forced labour in rural areas, curtailment of the freedom of speech and movement and intolerance of political dissent have been leveled against the junta. But the generals brush these charges aside and try to constitutionalism their hold on power.

In Malaysia, the Anwar campaign for ‘Reformasi’ gave rise to complaints of a crackdown on loyalists of the former deputy prime minister. The Anwar trial was the focus of international attention because it was seen as ‘political persecution’ of a dissident who challenged the prime minister.

In Vietnam, the crisis over the return of the boat people refuses to fade away. A centralised system tends to frown on dissent.

China has a special place in any discussing on human rights. Freedom of speech and expression are, of course , under curbs; more than that , the detention of political dissidents has drawn worldwide attention. Every now and then , apparently to satisfy a visiting foreign dignitary, a prominent dissident is released. The Tainan Square crackdown will remain a blot on the human rights records of China. And the future movers on the human rights front in china seem vague.

In South Asia, there are some “ conflict zones”, with terrorist organizations or secessionist groups fighting for ‘liberation’ and a free or open society. In contrast to South-East Asia, where society and national interest take precedence over individual fundamental rights first. Here , too there are problems because of the history of frequent military rule or coups as in Pakistan or Bangladesh ; a continuing civil war and ethnic strife in Sri Lanka and the terrorist battles in Kashmir and some north-eastern states of India. Under these conditions, the protection of human rights ceases to be the government’s priority.

Human rights organizations are convinced that a democratic and open society is the only answer to continued violation. “if a government becomes more accountable to Parliament and the people, it will obviously respect human and fundamental rights better,” they argue. The argument is that violation of human rights tends to increase under an authoritarian regime or under a despot who has seized power. Similarly, when one –party rule became an accepted practice, the ruling elite does not respect rights.

Human rights activists draw attention to a few basic Articles in the Universal Declaration – discriminations, arbitrary arrest or detentions, seeking political asylum, arbitrary deprivation of property and the right to freedom of peaceful assembly and association. Most of the problems in Asia centre on these provisions.

The West is also perceived as practicing double standards; Western countries are quite willing to blink at violation of human rights if the offending nation happens to be a lucrative market for them –witness how USA is willing to relate with China, Pakistan and several other countries ruled by dictators.

It may be recalled that in the 1980s, many nonaligned countries believed that the declaration was being abused to condemn poorer countries – many of them under dictatorial rules. These countries demanded new rights that would impose obligations on Western state also. In 1986, the declaration on the right to development was adopted requiring international disarmament and assistance

for developing countries, among other things. Islamic countries have of late called for a reformulation of the declaration which, says the Iranian government, for instance, is product of the Judaeo –Christian trading and cannot be implemented by Muslims. The Shari at, for these countries, come first.

In a bid to turn the tables on the West, the former Malaysian prime minister, Dr Mahathir Mohammad, launched a campaign for a review of the Universal Declaration on Human Rights. His argument was that if individual rights come first in the West, the interests of the nation and society take precedence in other parts of the world, at least in East Asia. Dr Mahathir drew attention to Bosnia m wondering if the US and the EU can turn a blind eye to the violation of the human rights of Bosnian Muslims and gloss over that “ethnic cleansing” in the region.

“European states stress individual rights and value while Asian countries esteem collective human rights and obligation to the family and society,” said Mr. Qain Qichen once the Chinese deputy prime minister. Using these citizens’ duties to back the national campaign against hunger, the government wants to legitimise anything to suppress unrest and prevent production bottlenecks.

Without defending the Asian governments or justifying their violations, many of the rights activist charge that “discrimination” on the basis of religion, colour, race and sex persist in the US and many European countries which see themselves as the “champions” of human rights. It is their contention that instead of “lecturing” of sermonizing or imposing” standards on Asia, the west will do well to address the causes of these problems. The sudden slide into poverty of millions of people may spark a spurt in the violations of human rights because of the social tensions. The terrorist or separatist groups tent to prosper in these circumstances, playing on the frustration and anger of the poor. Without harping on human rights issues, the West and organizations such as the UN could help these people by focusing on human issues and empowerment instead of browbeating their governments into accepting standards that they cannot implement.

Can rights, then, be selectively applied? If we consider the issue dispassionately, the answer is ‘No’. Human rights, howsoever one looks at it, belong to all human beings. The simple proposition that a person possesses rights because he or she is human cannot be empirically proved or tested against some concrete evidence. That people are entitled, because they are human, to assert their rights to something is a proposition, we are in effect choosing sides or announcing our stand – this is how human beings should be treated, below this we cannot allow ourselves to fall.

Then ,if rights accrue to human beings by virtue of their being human, then every human being entitled to assert his or her rights. Equality is built into the rights proposition and it is this property that makes rights such an attractive propositions.

Human rights set up a critical standard to gauge the legitimacy of particular laws or conventions. This implies that whereas conventional legal and contractual rights can vary from place to place , human rights are a constant and immutable as they supervene upon something we call human nature .

Rights provide protection against calculations based on some notion of social good or against utilitarian computations of what is beneficial to some sections of society. Correspondingly, rights as an integral part of political morality hold that individual entitlements are of such overriding importance that they eclipse all other considerations. Rights are non-instrumental and non-derivative part of morality.

Though it is true we cannot guarantee that individual rights will not be violated in given society , what we can do is to institute a norm that rights are of such primary importance that whosoever violates them should have good reasons for doing so. The onus of proof should be on those who violate rights.

Rights bestow status upon each human being irrespective of his or her talents or the lack of them. They imply that each human being counts purely by virtue of the fact that he or she is human and that he or she is entitled to be treated in a particular way.

In any society that values human beings as worthy of regard and respect, rights will be valued.