

EXPLORING THE DEVELOPMENT OF HUMAN RIGHTS AND THE ROLE AND SUCCESS OF THE UNITED NATIONS IN UPHOLDING THEM

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ABSTRACT

This paper explores the debate over fundamental rights and human rights, their genesis, development, and status. It does this through an exploration of numerous examples through world history, with inquiry into the Nuremberg trials and their role in the development of human rights nomenclature. There is further exploration into the role and nature of the institutional bodies governing the implementation of the human rights framework, in particular the United Nations and its Declaration of Human Rights. The endeavor of this paper is also to understand the relevance of the human rights framework in the face of gross violations world over and the relevance thus of implementing bodies like the United Nations.

Keywords: Human Rights, Natural Rights Debate, Declaration of Human Rights, United Nations, Crimes Against Humanity, Nuremberg Trials.

Introduction

On 10 December 1948, the United Nations adopted the Declaration of Human Rights. The declaration states certain fundamental rights that are intrinsic to each and every human being, irrespective of citizenship, race, sex, religion and other identity markers. These rights include the right to life, liberty, freedom of movement, ownership of property, recognition everywhere as a person before the law, just to name a few. There are 30 articles summarizing the rights and describing them in detail, for their further protection by member states of the United Nations.

The journey of human rights goes as far as the Middle Ages when the term ‘natural right’ appeared. Although it has its roots deep in Greek and Roman antiquity, the most influential

statement about the doctrine of natural law was stated by Thomas Aquinas. His reference to 'right' was not about the entitlement that a person has, it was about property of state. The percept of following practical rationality lacked moral content and so later, a question was raised, whether God was necessary to identify the natural law. And to answer it, Francisco Suarez gave a reason for it. This led to the development of a secular theory of natural law founded by Hugo Grotius, arguing that God is not incumbent to explain the obligatoriness of the law. He thought that for the establishment of natural laws, we must act rationally. Similar to Grotius, Samuel Pufendorf thought that to know the natural law, power of reason can be a tool that is a substitute to divine revelation. With these steps we arrived at the Enlightenment.

Enlightenment was not just about secularization but included a further categorization of natural and human rights. In England, the Magna Carta (1215) was concerned with only the rights of certain social classes and offered protection from arbitrary prosecution. The evolution of concepts in Magna Carta, is shown by the English Bill of Rights (1688), which was concerned with justifying ancient rights of commoners and temporal and spiritual lords.

The idea of human rights, surfaced by the end of Enlightenment, is the notion we have today. This concept of natural rights was secularized by the French through a change in its nomenclature to 'Human rights'.

Background

Before getting recognized as Human Rights, many other laws, bills and movements took place. One of them before the 'Enlightenment' was John Locke's primary interest in the 'Two treaties. He focused on an individual's liberty, life and property which were often exploited by the monarchs. He also gave a central place in his notion, that natural rights were derived from the natural law. The development of natural rights also saw a backlash and was weakened in the seventeenth century and eighteenth century. It became more like 'natural justice'. However, the eighteenth century ended with a comprehensive list of basic human rights viz, the French Declaration of the Rights of Man and of the Citizen (1789) and the United States Bill of Rights (1791).

As stated by James Griffin, the author of the book, 'On Human Rights', the human rights movement was set back by the Depression, then revitalized by the onset of World War II, as it was believed that the war might have been avoided if there had been effective mechanisms to identify violations of human rights in Nazi Germany. It was in 1945 when the fifty founding members of the UN were determined to save upcoming generations from the afflict of war. The League of Nations developed systems of Human rights with the help of treaties. The United

Nation too created a list of human rights through the Universal Declaration. The “Statement of Essential Human Rights” in 1944 by the American Law Institute served as another source for the Universal Declaration. Various references to human rights were added to the United Nations Charter late in the drafting procedure. However, these provisions did not provide for the steps to be taken in the case of abuse. So, a political commission was set up to advance the goals and three years later, Eleanor Roosevelt’s guidance to the commission led to the drafting of the thirty articles that now constitute the Universal Declaration of Human Rights.

Although Human Rights have been ratified with the United Nations Charter, the question that now arises is who has the power to admonish those to violate or exploit them? Since the time when the UN signed the UN Declaration, it has played a crucial role in helping people by resolving conflicts. Various mechanisms like treaty bodies, councils within the United Nations and the UN Declaration of Human Rights, have helped to maintain security. Not only this, but also the governments have a huge role to make people realize the violations of laws and rights.

However, we cannot establish the existence of a human right, just by declaring it to be one, as stated by James Griffin, the author of ‘On Human Rights’

Discussion

Nuremberg (Nurnberg) trials, series of 13 trials, were conducted to indict the Nazi war criminals by International Military tribunal, in Nuremberg, Germany following World War II. It was set out as “the greatest trial in history” by Sir Norman Birkett, a British judge present throughout the trials. The formal accusation was based on four criminal counts namely: Crimes against peace, crimes against humanity, war crimes and lastly, conspiracy or common plan. Out of 22 men tried by the tribunal, 19 were convicted. The definition of what makes a deed a war crime, is set out by Nuremberg principles, a document that came out of this trial.

Establishment of ‘Crimes Against Humanity’ saw its emergence after the second World War as a result of atrocities that the Nazi forces committed. These included various acts like murder, torture, sexual violence, forced disappearance, or committed as part of a widespread or systematic attack directed against any civilian population, according to ICC. The United Nations for the first time appeared in a legal form during London Agreement of 1945, which established International Military Tribunal for Nazi criminals and crimes against humanity were incorporated into the International Criminal Court (ICC).

With the help of the Nuremberg trials, all aspects of humanity were guarded by an internationally legalised shield and even the highest and most powerful authorities would be responsible and

punished for any criminal act. However, the awareness about the inadequacy of law implementation and enforcement was leaden footed. Failure in binding norms was portrayed by various UN committees in 1946. But this period was ephemeral. Now, the UN's potential power is massive. Propositions made by the UN security Council are the highest command of international law. They can do anything from maintaining international peace to initiating studies and recommending promoting development. Although the potential of the UN is massive, the actual reality is quite different. Various instances where the UN has failed to intervene and protect countries are out on the table. More recently, the UN failed to suppress the Syrian conflict and the retreat of the nuclear non-proliferation mandate. In recent years, the United Nations has remarkably declined in its significance. The UN's aim "to develop friendly relations between nations and encourage international cooperation" has not been fulfilled. Representation in many bodies has been dominated by powerful nations with the United States as its head. Several UN bodies are accused of being 'majority coalition' and regimes like South Africa and Chile have been targeted by the UN resolutions in the past. Also, 5 years ago, the NATO alliance bombed the former Yugoslavia in Kosovo, without approval and reference to the Security Council.

However, in the aftermath of the war, Kosovo's rehabilitation was taken up as a part of peace building arrangements by the UN. It has become a practice wherein war is rarely within the scope of the UN, it is either unable or unwilling to prevent it, however, it is seen to be an essential actor in ensuring peace. Iraq is not the first or only example of this dynamic. As many countries have suggested, veto power should be terminated, and the UN Security Council should have a better representation of member countries. There is a dire need to increase transparency and enhance information sharing, the lack of which resulted in COVID-19 pandemic.

In my opinion, the Nuremberg trials were part and parcel in the journey of creating laws for exploitation of human rights. Rights which are innate, when taken away, make their lives deplorable and to deny people their human rights is to challenge their very humanity, as quoted by Nelson Mandela.

Conclusion

Human Rights are innate in every individual irrespective of any identity characteristics, and the violation of these rights is often taken care of by the UN and the governments. The journey of human rights has come a long way, starting from the Middle Ages, progressing till date. One question that one must think of is, "Is there another institution that brings together all the countries of the world to work together for common objectives in all our collective interests"?

there clearly is no except the UN. To quote former Under-Secretary General of the UN, Dr. Shashi Tharoor, while the UN might not be perfect, it is a competent body and the only body capable of creating global impact. There is therefore the need to ensure its effectiveness and success by invigorating it with all we can.

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