
Rights in an Economically Globalizing World

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Abstract

Human rights and globalization are a universal concept. Human rights are rights inherent to all human beings irrespective of their religion, colour, ethnic origin, etc. We all are equally entitled to our human rights. These rights are all interrelated, interdependent and indivisible. These rights are often guaranteed by law in the form of treaties, international laws etc. These laws laid down internationally guide the government to act in a certain way. This helps in protecting the human rights of an individual.

Globalisation means the world is increasingly integrated into one capitalist political economy operating under a neo-liberal free market ideology. It has created a borderless global market. This has led to competitive nature not just amongst companies but also amongst the nations. This competitiveness is based on the comparative advantage between countries.

In this paper we study the growth of human rights universally and the relationship between human rights and globalization. We focus on the negative relationship between the two and a step by step growth of human right from human rights to human rights law.

JEL Classification: F66, F60.

Objective

The objective of this paper is to study the growth of human rights and relationship between human right and globalization.

Introduction

Human right as a concept has evolved a lot. It started as an idea and slowly was framed into a law. The origin of “human rights” has been influenced by the nature of human beings at a particular time period. “Human rights law” on the other hand is a more recent phenomenon which rose with the rise of liberal democratic states. It has been seen in the past that majoritarianism legitimizes legislation. The increases in the power of bureaucrats also seem to benefit the ones in power. In such situation the minority in any form for example caste, religion etc get ignored and they are exploited the most. To avoid such extreme situation State has taken steps by introducing laws which tries to safeguard the minority or the non beneficiary groups from such exploitations.

There are three generations of development of international human rights law. Human rights activism is a struggle which has wit time tried to bridge the gap between human rights and human rights law. As history tells us that these laws were not easily accept by the government but were brought about into the system with successful challenges to the absolute authority. The three generation of human rights are: 1. Liberte (freedom, “civil or political” or first generation) 2. Egalite (equality, “socio-economic or second generation) and 3. Fraternite (solidarity, “collective” or third generation). We will discuss these generations in detail in the later part of the paper. Legal human rights depend, first and foremost, on an empowered legal process: courts' diligence; claimants' access to justice, to information and evidence; a compliant general attitude.

The second important concept related to human rights is globalization. Globalization refers to an international network belonging to an economical and social system. Globalization has affected human rights in both positive and negative manner. Globalization has opened the gates to trade of goods and services and creating an open economy at an international level. It has integrated small markets into a one large platform. This has generated competition not just among multinational companies but also countries. Only the competitive survive. This race for grabbing opportunities and lower cost methods for production and sale are used just to capture the market's share. In this process the firms in power with the help of bureaucrats may end up harming the minorities or lower classes. This is where human rights come into picture and a relationship is formed between the two.

In this paper we will study the relationship between human rights and globalization.

Origin of human rights

Human rights are rights inherent to all human beings irrespective of their religion, colour, ethnic origin, etc. We all are equally entitled to our human rights. These rights are all interrelated, interdependent and indivisible. These rights are often guaranteed by law in the form of treaties, international laws etc. These laws laid down internationally guide the government to act in a certain way. This helps in protecting the human rights of an individual.

In the eighteenth and the nineteenth centuries internationally it was seen that the struggle was from authoritative oppression. It was a struggle for free speech, association, religion and right to vote. Later on, during the period of industrialization there was a change in the view of the State. With growing inequalities the idea of second generation human rights grew. The second generation as we know is the socio economic equality. With time the second generation human rights started evolving and finally lead to the third generation. It is collective development. For example environmental protection, healthy environment, etc. This change was seen due to the development of understanding the overlapping global concerns.

First generation rights were prioritized during the period of cold war. Second generation rights faced a lot of hurdle because they were considered socialist notions. The other idea behind a large acceptance towards first generation rights were that they were considered immediate goals and second generation was considered to be a long term goal. It was also seen that the first generation rights put a negative light on the state but second generation rights showed a positive effect on the state. These were the few differences between these two generations which were faced in the past and lead to the development of international human rights law.

All rights are interdependent and indivisible whether they are civil and political or collective. Improvement of one right leads to advancement of the other. Equality and non discrimination is the base principle of international human rights law. State also follows the obligation of the treaties to maintain these laws.

At the global level for many centuries there was no provision to protect human rights. Therefore it led to crass situations like Atlantic slave trade and colonization. It was only in the nineteenth century that we adopted a treaty to abolish slavery. Later on in 1919 International Labour Organisation was founded as part of Peace Treaty of Versailles. ILO played an important role in protecting wage labourers and workers in industrializing economies. It till date is an effective Organisation. After the First World War under the League of Nations there was an attempt to maintain peace and order but it failed due to the Second World War. After facing Hitler's cruelty and trauma of the war that United Nation was established. The core of the human rights in UN was a dual basis which was stated in UN Chronicals as, 'the UN Charter, adopted in 1945, and a network of treaties subsequently adopted by UN members. The Charter-based system applies to all 192 UN Member States, while only those States that have ratified or acceded to particular treaties are bound to observe that part of the treaty-based (or conventional) system to which they have explicitly agreed.'

Charter and treaty based system and others

The Charter based system evolved under the UN Economic and Social Council, a commission was established for human rights under the article 68 of UN Charter. It constituted of 54 governmental representatives elected by the Council irrespective of their States action towards human rights. This lead to worst violators of the law being part of the commission but there was a small achievement in it too. The achievement was the elaboration and near universal acceptance of three important human rights instruments. They were: the Universal Declaration of Human Rights, adopted in 1948, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the latter two adopted in 1966. It was adopted as a mere declaration with no binding force it still paved the way for future developments in this field. In the year 2005, in his report In Larger Freedom: Towards Development, Security and Human Rights for All, the former UN Secretary-General, Koffi Annan, asked for the replacement of the Commission by a smaller, permanent and human rights-compliant Council, able to fill the credibility gap left by States that used their Commission membership "to protect themselves against criticism and to criticize others". The council enjoys a better status than the commission.

The treaty based system began in 1948 at the Convention on the Prevention and Punishment of the Crime of Genocide, which talked about the Nazi Holocaust. " In Britain the bastion of the unencoded individual rights led to the post second world war human rights movement. This led to the formation of the United Nations' Universal Declaration of Human Rights in 1948. After that the list of treaties kept on growing. In 1965 elimination of all forms of racial discrimination to protection of all persons from enforced disappearance in the year 2006.

After Second World War three regional norms and institutions are binding to the state. The best example of it will be European Council. In it 10 Western European States was established in 1949. The other two are: the Organisation of American States and the Organisation of African Unity. They are based on treaties which mainly include civil and political rights and right to property. The implementation of principle treaty differs in all the regions. It has grown since then. One of the major examples of the regional norms is the Tehran Conference in 1968. In this Conference Arabs talked about human rights and presented their case against Israel. This Conference was used to criticize the Israel's behavior towards inhabitants of Palestine. Due to many faults seen at the regional level, sub regional levels got introduced for e.g. Regional Economics Communities. Non Governmental Organisations have also started playing an important role in spreading awareness and other fields as well.

Human Rights and Globalisation

Human rights and globalization both are universal. They are interrelated and interdependent on each other. The analysis of these two has been a fraught of paradoxes from binarism and polarization. As Andrea Bianchi has argued in 'Globalization of Human Rights: The Role of Non-State Actors' (in Teubner (ed.,) above, at pp. 179 212), "true universalisation of legal human rights norms at the global level may likely result as 'the germ of the process of globalisation of human rights law via the dynamics of a transnational civil society'. Globalisation and human rights law respectively manifest an openness of content and of texture.

As we already know that Globalisation led to an open market. This world market provided high incentives to trade, which in turn led to the development of international trade. Ricardo and many other pointed out that international trade is beneficial only if a country trades in goods and services in which it has comparative advantage in. and trade should be free to achieve that level because trade barriers may lead to loss of those comparative advantages and other countries retaliating to the home countries barriers. Later on we saw the rise in regional trading blocs like European Union and NAFTA (North American Free Trade Agreement), etc. The establishment of World Trade Organisation started introducing agreements which pushed the economies towards free trade irrespective of the country's economic situation.

To achieve comparative advantage the world saw that multinational organizations started taking advantage of the lower class or the working class. This period saw a negative relation between globalization and human rights. With the growth in the economy developed countries started measuring developing countries on the basis of human rights. Development is a normative word therefore it does include other aspects such as HDI etc. A development strategy which disregards human rights is considered negative. There are a few negative effects of globalization discussed below:

1. The admission of countries that violate human rights in the WTO leads to extinguishing of punishments based on their violations.
2. Open trade leads production to areas where environmental standards are lax. This increases environmental degradation. Completion on the other hand leads to a negative effect on the labour legislatives, etc to achieve cost benefits. This ends up violating the human rights.
3. It ends up increasing income distribution inequality.

These methods end up violating some major human rights for example the enjoyment of fundamental aspects of the right to life; freedom from cruel, inhuman or degrading treatment; freedom from servitude; the right to equality and non-discrimination; the right to an adequate

standard of living (including the right to adequate food, clothing and housing); the right to maintain a high standard of physical and mental health; the right to work accompanied by the right to just and fair conditions of labour and freedom of association and assembly and the right to collective bargaining. The above provides us with the analysis that globalization does increase wealth of the nation but also widens the economic gap between the developing and the developed countries. Competitive pressure has led low paying workers' products from developing countries flooding the markets of developed countries causing fall in wages there as well and consistent demand of workers at low wages in the developing countries as well.

Economist, David Korten states, "Today the most intense competition in the globally integrated market is not between the gigantic Transnational Corporations, but it is between governments that find themselves competing with one another for investors by offering the cheapest and most compliant labour; the weakest environmental, health, and safety standards, the lowest taxes; and the most fully developed infrastructure. Often governments must borrow to finance the social and physical infrastructure needed to attract private investors. Having pushed almost the entire social and environmental costs of production onto the community, many firms are able to turn a handsome profit. Having bargained away their tax base and accepted low wages for their labour, many communities reap relatively few benefits from the foreign investment, however, and are left with no evident way to repay the loans contracted on the firms' behalf".

In addition to labour strife globalization has resulted in eruption of ethnic and religious issues. This can be seen in Indonesia, etc. Increase in such issues and loosening of communal ties due to globalization can lead to future changes in social structure of the world. The effects of negative shocks of globalization are not only seen in non western countries but also in the developed countries. US which was at the fore front of development has now become a low wage paying country to its middle and lower class.

Human rights in India

Indian judiciary has one a commendable job. The Supreme Court of India had foreseen the impact of liberalization/globalization/privatization even before implementing the economic policies of 1991. The judiciary was aware of the negative impact brought upon the weaker section due to introduction of liberalization. Therefore they kept redressing specific human rights violation, issues discussed were constitutionality of the policy of privatization, disinvestment, pollution of rivers, deaths due to starvation, right to strike, etc.

On the other hand government also took initiatives to protect human rights during the economic policies of 1991. It framed policies like corporate social responsibility to protect the environment, social security schemes for unorganized sectors, minimum environment norms in large scale urban projects, etc. All in all India has shown a positive reaction towards human rights during the course of globalization. State also at times got stuck in the trap of the giants therefore India has to be very cautious at framing its policies.

Suggestions

There are suggestions provided by different economists to improve the state of human rights. Some of the suggestions are keeping a stricter global watch to monitor any violation of human rights. Any violation of human rights should command stricter punishments at international as well as national forums. Requirements to be part of Free Trade Nations should be based on the human rights; any violator should not be made part of the FTA. Trade should be avoided with any violator of these rights. There are many more which should be collectively followed to maintain human rights and development.

Conclusion

We studied the relationship between human rights to globalization in this paper. Human rights and globalization are parallel ideas at the universal level. Globalization has its positive and negative effects on the nation. As we saw since globalization creates open market and is universal in nature it somehow also advances the collective need of human right with it at an universal level. Even though we saw that globalization increases competition not just amongst companies but amongst nations as well. This leads to violation of human rights for e.g. low wages, etc.

A few solutions were suggested to maintain human rights. These were requirements for the formation of FTA. A stricter watch dog to maintain global human right laws and punish when required. India on the other hand did well in the beginning but as we have seen our economy grow we have become greedy and at times did get stuck in giant traps. Therefore to maintain a positive balance we need to formulate our policies with more caution.

All in all following the universal human rights law will not just lead us to a better world but also will lead us to a path of complete development.

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