

Human Rights is a Western construct

The rights of individual to mitigate the power of the state have a long history dating back to (539 BC) and Cyrus the Great, the first king of ancient Persia. Cyrus freed the slaves, declared that all people had the right to choose their own religion, and established racial equality.

However, most studies of human rights trace the origins of the concept of human rights to ancient Greece and Rome, where it was closely tied to the doctrines of the Stoics.

Stoicism holds that human conduct should be judged according to, and brought into harmony with, the law of nature.

Stoicism played a key role in its formation and spread, Roman law similarly allowed for the existence of a natural law and with it—pursuant to the *jus gentium* (“law of nations”)—certain universal rights that extended beyond the rights of citizenship. According to the Roman jurist Ulpian, for example, natural law was that which nature, not the state, assures to all human beings, Roman citizens or not.

In Greco-Roman and medieval times, doctrines of natural law concerned mainly the duties, rather than the rights, of “Man.”

It was not until after the Middle Ages that natural law became associated with natural rights. However, as evidenced in the writings of Aristotle and St. Thomas Aquinas, these doctrines recognized the legitimacy of slavery and serfdom and, in so doing, excluded perhaps the most important ideas of human rights as they are understood today - freedom (or liberty) and equality.

The conception of human rights as natural rights (as opposed to a classical natural order of obligation) was made possible by certain basic societal changes, which took place gradually beginning with the decline of European feudalism from about the 13th century and continuing through the Renaissance to the Peace of Westphalia (1648). During this period, resistance to religious intolerance and political and economic bondage; the evident failure of rulers to meet their obligations under natural law; and the unprecedented commitment to individual expression and worldly experience that was characteristic of the Renaissance all combined to shift the conception of natural law from duties to rights. The teachings of Aquinas and Hugo Grotius on the European continent, the Magna Carta (1215) and its companion Charter of the Forests (1217), the Petition of Right (1628), and the English Bill of Rights (1689) in England were signs of this change. The US Constitution (1787), the French Declaration of the Rights of Man and of the Citizen (1789), and the US Bill of Rights (1791) can be seen as the written precursors to today’s Declaration of Human Rights documents.

Each testified to the increasingly popular view that human beings are endowed with certain eternal and inalienable rights that never were renounced when humankind “contracted” to enter the social order from the natural order and never were diminished by the claim of the “divine right of kings.”

Like all normative traditions, the human rights tradition is a product of its time. Therefore, to understand better the debate over the content and legitimate scope of human rights and the priorities claimed among them, it is useful to note the dominant schools of thought and action that have informed the human rights tradition since the beginning of modern times.

They include the materialism of Hobbes, the rationalism of Descartes and Leibniz, the pantheism of Spinoza (pantheism = monists – God and all that exists is one), and the empiricism of Bacon and Locke. They encouraged a distinctly modern belief in natural law and universal order and, during the 18th century—the so-called Age of Enlightenment, inspired by a growing confidence in human reason and in the perfectibility of human affairs—led to the more comprehensive expression of this belief.

Particularly helpful in this regard is the notion of three “generations” of human rights advanced by the French jurist Karel Vasak. Inspired by the three themes of the French Revolution, they are:

- The first generation, composed of civil and political rights (liberté);
- The second generation of economic, social, and cultural rights (égalité);
- The third generation of solidarity or group rights (fraternité).

The French model moves the focus from church and religion to a secular state, where religious freedom is constrained by citizens' rights. Vasak's model is, of course, a simplified expression of an extremely complex historical record, and it is not intended to suggest a linear process in which each generation gives birth to the next and then dies away. Nor is it to imply that one generation is more important than another, or that the generations (and their categories of rights) are ultimately separable. The three generations are understood to be cumulative, overlapping, and, it is important to emphasize, interdependent and interpenetrating.

Modern construct of Human Rights produced under auspices of the UN General Assembly by a committee:

- Chaired by - Anna Eleanor Roosevelt
- Authored by - John Peters Humphrey - the first draft of the Universal Declaration of Human Rights (Canadian).
- Co-authored by - René Samuel Cassin (French) jurist responsible for the first full draft. For this work he would receive the Nobel Peace Prize in 1968. The draft was based on The Napoleonic Code, which was based on Roman law.

The Declaration was a response to the atrocities of the two World Wars and their aim was encapsulated in the preamble of the United Nations Charter *“We the peoples of the United Nations are determined - to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”*.

The Council of Europe, established in 1949, drawing on the inspiration of the UDHR set up the European Convention on Human Rights, which came into force on 3rd September 1953. The result was the Charter of Fundamental Rights of the European Union³ and the European Court of Human Rights to enforce the Charter. The Charter consists of 54 articles. The preamble to the charter states *“Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of*

human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice". Also "Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations".

The European Union statement points to a spiritual and moral heritage and introduces the citizenship of the Union to gain protection Under European Convention on Human Rights. The rights are, also, contingent on individual's duties to other persons' the community and future generations.

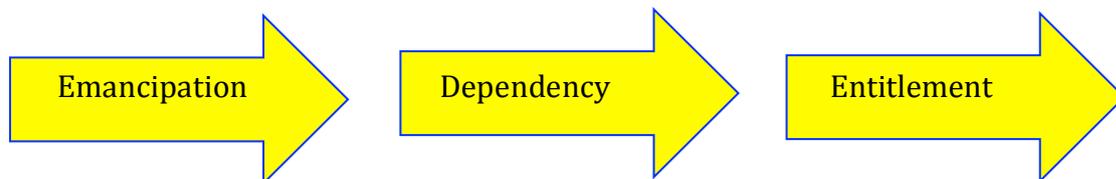
Nine Founder Nations has expanded over the years to 47 Nation members by 2007.

The UK introduced The Human Rights Act in 1998⁴. The Act came into full force in October 2000 with guidance that fairness is contingent on some limitations to everyone's rights, stating *"Most of the rights in the Human Rights Act have some boundaries to prevent them unfairly affecting the rights of others - or overriding the rights of the wider community. In a democratic society everyone has rights. Your rights come first, but so do everyone else's. So we all have to accept some limits on our rights in order to make sure others are treated fairly."*

The emancipation of the citizens with Civil Rights combined personal rights with personal duties.

Social support for some promoted a culture of dependency.

For many Human Rights has promoted a perception of personal entitlement while negating their personal responsibility.



Joe Cannavina

New topics

Epistemology – the study of human knowledge:

- nature,
- origin
- limits.

Justice

Every 4th Monday