

# Analysing the universality of human rights philosophy essay



**ASSIGN  
BUSTER**

Abstract: This paper aims to critically study and assess the different perspectives on the universality of human rights, and locate the position of the perspectives according to Dembour's four schools of thoughts. The perspectives of human rights on cultural diversity and linguistic diversity have also been emphasized upon here.

## **Universality of Human Rights & its Different Perspectives**

Human Rights are rights that one is entitled to enjoy simply because of the fact that he is a human being. These are equal and inalienable for all, and cannot be denied to anyone human in nature and form. Thus they are Universal in nature, and function as a legitimate standard for a political system. This of course will lead to a discussion of being 'human' and enjoying the human rights (Donnelly 2003).

Being Human beings, everyone deserves to enjoy certain rights after fulfilling certain obligations to the society. These fulfillment of obligations are based on morality of the people as an individual and as a class, judged by the society at large and then being endowed with certain privileges to be enjoyed in the form of Political rights.

Rectitude and entitlement, the two aspects of a right, are directed towards a preset standard of conduct, which brings forth the duty and obligation that an individual is expected to perform, and calls for individual and universal attention towards righteousness. Performance of this duty entitles the individual to enjoy the set of privileges in the form of a 'right'. To have a right to something, makes one entitled to own the sole authority to enjoy it, denial or repression of which entitles one to have special claim for justice. Rights

enjoyed by one cannot be reduced because it clashes with correlative duties of another, neither can it be reduced for enjoying a benefit. Hence, rights give authority to its holders , and not just benefits( Donnelly 2003).

Rights are meant to be exercised, enjoyed, respected, and enforced. These are the four principle dimensions of a right. Respecting ones rights gives other the privelege of enjoying and asserting his own rights, otherwise it is liable to be questioned , threatened or denied. A violation of a right is an injustice doneto someone, and is subject to distinctive force and remedial logic(Donnelly 2003).

Ludwig Wittgenstein, the analytical philosopher propogated that a concept should not be defined by what one thinks it means , but by its meaning and practice in everyday life. One should rather analyse facts on the basis of observation, rather than thinking. This led to the introduction of his concept of Family Resemblance The concept of Human rights when approached through the family resemblance matrix, highlight the following factors:

Morality

Their existence disregarding social recognition

Possessed by every human being

Their arbitrariness

Emergence through political and social struggle

Their usage for political communication

Servitude to bourgeois

Basis on human nature

Bear a socio-legal consensus

Ability toget transformed into legal rights

( Dembour 2006).

Dembour argues that , although most people believe in the combination of the first three factors as the essential element of the concept of Human Rights, or that human rights exist irrespective of bein having social recognition as every man is deemed to enjoy it being human beings as the rights are framed on the basis of human nature, it should not be assumed that it rests on a socio- legal consensus, or bears arbitrariness in its state. He believes that Human Rights have come into existence as result of force of language use, and believes that they would cease to exist if conversation ordiscussions about them die down Different competing concepts of Human rights exist inthe society, and people fight to establish their own opinions disregarding others. Donelly’s concept og Human Rights though is encouraging for many, but highlight some political or intellectual inadequacies in termsof moral integrity in his book Universal Rights in Theory and Practice. Harsher’s Philosphy Of Human Rights points out that Human Rights demands that every single individual’s dignity is considered in an existing political norm, where one individual’s security of Human Rights leads to the security of another , manifesting this security to an indefinite expanse and time in the society(Dembour 2006).

Every individual craves for recognition in the personal and intimate level where an identity is formed, as well as in the broader socio-political level. The uniform formation or malformation of an identity and recognition leads to infringement or violation of rights by one on the other. The politics of universalism emphasizes on equal dignity of all citizens, barring division in the society leading to classes of citizenship. However, from the politics of Universalism grows the politics of differences, when one shifts from the universally familiar and accepted practices in the society (Taylor 1994). This is the basis of differentiation amongst the fellow members of the society, which threatens the universality of the Human Rights and often leads to its violation.

While enjoying their human rights, individuals tend to forget that their forbearers had to fight to acquire them, and hence they need to be protected. Hence it is often found that Human Right issues are treated with a Machiavellean approach, with the sole intention of maintaining one's interests and dominion power (Dembour 2006).

A study of Dembour's four schools of thought would further help to understand the different perspectives of Human Rights.

### **Position of the Perspectives: Dembour's 4 schools of thought on Human Rights**

Based on the analysis of the thoughts of the scholars, Dembour has broadly categorised all discussions on human rights to be based on four schools, namely-

The Natural Scholars: These group of scholars believe in the existence of the Human Rights independent of social recognition, laying their basis on the Universe, God, Reason or any Transcendental source. Their basis of Human rights is much contradictory according to Dembour, as they propagate that it is based on human nature as well as consensus. The Natural Scholars argue that 'human rights constitute a social choice of a particular moral vision of human potentiality, which is directly linked to the historical rise and consolidation of liberalism in the modern west.' This according to Dembour is contradictory as human rights cannot have their existence always as well as historically. The Natural scholars according to him perceive Human Rights as universal even though they come to receive a single means of expression. They do not depend on an actual manifestation of it on the context of the international law, disregarding the metaphysical basis. Some natural scholars again, do not agree that consensus is the basis of Human Rights. In this regard, Michael Freeman disagrees with Donnelly for considering consensus as a basis of Human Rights in order to avoid conflicting and contradictory philosophical theories on Human Rights. Scholars like Donnelly consider Human rights to be readily protected, and wanted the most when they are not enjoyed. The Natural scholars on the aspect of embodiment of human rights by human laws opine that human beings can actually have human rights because they are humans.

The Protest Scholars: These scholars believe that, Human Rights is language to express a protest, and is not an entitlement as thought by others.

Harscher, one of the prominent scholars of this school of thought argues that the basis of human rights on God and reason should be should be absolutely

discarded for the sole reason that god is non existent, and reason does not transcend as it is focused only on itself. The protest scholars depend more on things that are less specific and deal with social consciousness. However, Harscher's view of considering the existence of a society where human rights are efficiently protected naturally is very much surprising as the protest scholars are naturally never satisfied with whatever they receive in this world but ask for more. They always visualize human rights injustice, and want to fight the abuses of the rights. On the aspect of embodiment of human rights by human laws, the protest scholars argue that , human rights are always beyond reach, being the ' negative principle at the heart of social imaginery'. Dembour points out, Rights therefore according to the Protest scholars are -moral claims or aspirations, which challenge the status- quo, and are chiefly concerned with the oppressed class of people. They evolve historically and are directed towards a more free and egalitarian human society.

The Deliberative Scholars: The most interesting part about this group of scholars is that, they stay committed to human rights without believing in them, though both the natural scholars as well as the protest scholars strongly believe in human rights. The Deliberative scholars consider human rights to be an essential string of procedural principles or legal and political values that is necessary for running the government. They believe human rights should not dictate how things should be substantively , but rather act as guiding principles of a process. Both Michael Ignatieff and Conor Gearty , the two prominent representatives of this school are of this opinion. They believe that there cannot be any human rights beyond human rights law,

and the sole objective of human rights should be about the process, and not attaining the right moral solutions. The Deliberative scholars are non-religious in their approach to human rights and get it associated with the concept of liberalism.

The Discourse Scholars: The Discourse scholars are a bit cynical about the existence of human rights. Makau Mutua in his book *Human Rights: A Political And Cultural Critique* presents his scepticism saying that human rights cannot necessarily present the best means to alleviate suffering. He further mentions that, to him the very concept of human rights seems dangerous as far as the human society is concerned, and Universality in terms of Human Rights is even more shocking. Wendy Brown has a different opinion than Mutua, but expresses her doubt pertaining to Human rights asking about the standpoint of Human rights, in the perspective of International justice project, or should it be considered as a progressive international justice project. The discourse scholars not only insist on the non-naturalness of human rights, but also question the benefits of human rights on the individuals as well as the society. They point out at the ineffectivity of the concept of the human rights, but fail to provide an appropriate standpoint on this discourse, and explain what their alternative would rather be. (Dembour 2006)

## **Human Rights Perspectives on Diversity**

Cultural diversity in any state calls for cultural recognition in the political governance of a state, and have been reflected by various ethno-national movements, language groups, indigenous people, migrant communities.

Cultural diversity has become a major challenge for many nations, and <https://assignbuster.com/analysing-the-universality-of-human-rights-philosophy-essay/>



affects their policy making. Globalization is one of the major factors responsible for cultural diversification. The intense capital flow in the market, the post-Fordist production methods, and the widespread western consumer culture globally has given rise to various social movements that lay emphasis on their own distinct ethnicity, linguism or religion. The common claim of all these movements is to be included equally in the mainstream society, and their particular identities be recognized publicly. Cultural diversity has become a major threat to the nation states, where claims of cultural recognition put forwarded by different social movement groups has started to be considered as a major threat to the stability of the state and national unity. Theoretically, governing a culturally diverse polity has become a major challenging and controversial issue for the nation states, with the institutionalization of Human Rights in the cultural and social platform. The international human rights have far reaching contributions in the periphery of national citizenship. Its institutionalization in both government and non-governmental organizations has led to the establishment of a 'Universal Personhood', which go beyond the arena of classical modern political tradition. The Right of equality and non-discrimination have thus been specifically mentioned in articles pertaining to individual rights to cultural identity and minority rights, obliging governments of the state to take up a pro-active approach in promoting the identity of all minorities within their territories (ICCPR Article 27 adopted by the UN in 1996) (Koenig Guchteneire 2007).

## **Multi-Culturalism In General**

Multiculturalism terminologically refers to practice of sharing a set of positive evaluation of cultural traditions and ethnic identities of minorities. The literatures, arts and even politics cites evidences about it, acknowledging the intellectual and artistic contributions of the minorities, though multiculturalist thought is often accused of promoting nihilism as they are considered to be influenced by Derrida. The basic challenge faced by multicultural societies is, on one hand they are entitled to enjoy the rights and opportunities of a ; liberal democracy, on the other hand they also have the right to maintain their identity and remain different. This directly contradicts the nationalistic view of a state which maintains that a state should have a homogeneous culture. This refers to necessity of cultural uniformity, shared territory and citizenship as the basis of nation integrity and political legitimacy. The Classic Enlightenment thought highlights that a universal human civilization existed, which was accessible to all human beings. Propagators of German Romanticism emphasized that every nationality has their own linguistic and cultural character, which it had a right to defend. This concept developed as a defense against French Universalism restrained itself from interfering with individual human rights. Every society is a multicultural one irrespective of the fact of holding diverse ethnic groups, as it is full of individuals having different values and views pertaining to the world. The practice of Multiculturalism in a society in this respect can be a practice of instigating strong individualistic thinking, about personhood. If the core practices of multiculturalism is based on institutionalised differences, it has the definite possibility of regressing into apartheid, nihilism, or enforced ascription of cultural identities( Eriksen 1996, pgs 49-53).

<https://assignbuster.com/analysing-the-universality-of-human-rights-philosophy-essay/>

## **Linguistic Diversity**

Language is one of the three major dimensions of cultural diversity.

Historically it is evident that Nation States have been formed on the basis of linguistic homogeneity, so as to ease the process of communication in the governance. The most sensitive challenge that a government faces is blending a collective identity with the territorially based national movement. Though Linguistic diversity does not lead to secessionist movements, it sufficiently threatens a democracy. Language being the most essential form of communication, no state can maintain a state of neutrality as far as language is concerned. Apart from carrying out communicative and instrumental function, language also performs symbolic functions and contributes to the construction of collective identity. State building is often characterised by linguistic homogenization as found in the case of France. The standardization of scripts, grammar, semantics and canonization of literatures are the most important policy tools involved in the process of state building. The Classical Democratic Theory is essentially developed on this linguistic characteristics of a state, where language is considered as the main public discourse. This modular concept is presently challenged by the de facto linguistic diversity that arises out of international migration and social networks which is based on the new electronic media communication, and by de jure linguistic pluralism imposed on the nation states by the international human rights regimes. Ferdinand de Varennes argues that, language rights are generally considered as basic human rights of freedom of expression and non-discrimination both in the global as well as various regional human rights regimes. They are inadequately captured by notions of unenforceable collective or minority rights. It is argued that claims to the

<https://assignbuster.com/analysing-the-universality-of-human-rights-philosophy-essay/>

privalkte and public use of minority language rights are more justified as individual human rights. However since minorities cannot be termed as bearers of collective rights, the transnational legal discourse on human rights de-legitimizes strong policies of language homogenization and clearly obliges states to respect and promote linguistic diversity (Koenig Guchteneire 2007).

## **Conclusion**

To conclude, it can be said that governing cultural and linguistic diversity is a very important and controversial issue in contemporary politics whether in the domestic politics or international politics. States in order to accommodate increased cultural diversity has to balance by recognition of the differences. They also have to promote equal participation of the minorities, ethnic groups and indigenous groups publicly, and with a vision towards the future should frame policies accordingly. This task calls for framing suitable policy making pertaining to the issues of the ethnic, linguistic and religious claims for recognition, going beyond classical institutional contours and modern nation-state. They also highlight that while human rights provide some normative yardsticks for making policies pertaining to these issues there are no simple or easy solution for dealing with the burning challenge of cultural diversity. The dynamics of ethnic, linguistic, and religious diversity follow their own logics which are varied depending on the historical trajectories of state formation and nation building. Therefore, to accommodate cultural diversity it is essential to find highly context-sensitive pluralistic policy designs. Having knowledge of socio-historical context are pre-conditions for

framing successful pluralistic policies that would contribute successfully to the political governance of cultural diversity. (Koenig Guchteneire 2007).