

What Does It Mean to Understand Human Rights as Essentially ‘Triggers for Intervention’?

Hawre Hasan Hama¹

¹Department of Law and Politics, University of Sulaimani, Sulaimani, Iraq
Correspondence: Hawre Hasan Hama, University of Sulaimani, Sulaimani, Iraq.
Email: hawrehasan87@gmail.com

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Abstract: Traditional theories of human rights regard human rights to be equivalent to universal moral rights. They also claim that human rights are justified by an appeal to some valuable aspect of human nature. These approaches, however, have been strongly challenged by the political theory of human rights. The latter derived from John Rawls’s conception of human rights in his famous work, *Law of Peoples*, argues that human rights are not equivalent to our universal moral rights, but are a subset of those rights: they are those rights that once violated lead to an erosion of state sovereignty, thus acting as ‘triggers for intervention’. This article mainly discusses the political conception of human rights to explain this question; what does it mean to understand human rights in the ways that their violations lead to intervention? Furthermore, the article strongly argues that such understanding of human rights is neither accurate nor helpful for reasons that will be mentioned in chapter two.

Keywords: Human Rights, Traditional Approach of Human Rights, Moral Rights, Political Theory of Human Rights, Political Function of Human Rights

1. Introduction

According to John Simmons (2001, cited in Liao & Etinson, 2012), human rights are those rights owned by all human kinds alongside their humanity. This approach according to Tasioulas (2009), is known as the traditional approach of human rights. This approach, however, has recently been challenged by political conception of human rights. This theory refutes the traditional approach of human rights on the grounds that it ignores the basic function of human rights "political function". The political conception of human rights as it will be demonstrated later, states that human rights are those rights whose severe violations trigger for intervention. This article argues that the understanding of human rights as ‘triggers’ for intervention means that human rights have a political function and this understanding of human rights is derived from the political conception of human rights, particularly the writings of John Rawls. The article further argues that such an understanding of human rights is neither accurate nor helpful for many reasons; it does not accord with human rights practice, military intervention is not primarily humanitarian, human rights are only not violated by states, the theory cannot mention human rights in pre-social conditions, it lacks a normative justification, human rights are not the only factors that ‘triggers’ outside intervention, lastly, it is a problem solving theory.

2. The Political Conception of Human Rights

According to Allan Gewirth and Jack Donnelly (1982: 2003, cited in Cohen, 2008), the traditional approach looks at human rights as those rights that everyone possesses alongside their humanity, and therefore human rights are universal and have a timeless validity. This traditional approach, however, as Alasdair Cochrane notes (2013), is greatly challenged by a political conception of human rights. This is because a political conception of human rights assumes that the traditional approach of human rights is abstract from the practice of human rights. For example, Jean L. Cohen (2008) believes that, “the key problem is that this approach abstracts away from the role that human rights discourses play in contemporary international politics and law” (p. 582). Following Cohen, Joseph Raz (2010) argues that, whilst the traditional approach assumes that human rights are those rights that are possessed by everyone, and that they are important, Raz believes that the traditional approach cannot explain why these rights are important. By his account, neither being universal, nor being based alongside humanity determines that they are important. These scholars, according to Cochrane (2013), are inspired by John Rawls’s account, Rawls in *The Law of Peoples* criticised the traditional theories for being parochial, inflationary and abstract from the practice of human rights in international politics.

These thinkers believe that, we should remove the traditional understanding of human rights; instead they call for a political account. This approach is not derived from a moral explanation of the value of human rights, but the role human rights can play in the real world. As Baynes notes (2009), the political conception of human rights is originally set by Rawls. Rawls (2001) argues that human rights are a class of rights, which limits internal autonomy and plays a particular role in a reasonable Law of Peoples. Thus, for Rawls, human rights have a distinctive function (intervention), such a function can separate human rights from other rights. Therefore, for Rawls, human rights are only those rights when they are violated; they guarantee some form of outside intervention. This foreign intervention as Hinsch and Stepanians noted from Rawls, (2006), can come in different forms. For example, it can be diplomatic, economic, and in severe cases, military intervention. For Rawls as Nickel notes (2006, p.264), those societies that cannot abide by human rights are not immune from coercive and justified intervention. Similar to Rawls, Raz (2010) argues that human rights are those rights: Which set limits to the sovereignty of states, in that their actual or anticipated violation is a (defeasible) reason for taking action against the violator in the international arena.

Following Raz, Beitz argues that (2009), the central idea of international human rights is that states are responsible for satisfying certain conditions in their treatment of their own people and that failures or prospective failures to do so may justify some form of remedial or preventive action by the world community or those acting as its agents. Thus, all thinkers of political theory believe that human rights are those rights whose violation can pose outside intervention. This is a distinctive function of human rights, as such Raz (2010) argues that human rights can be held against individuals, international organisation and other agents, but what makes human rights distinctive from those rights is that their violations lead to intervention. Thus, human rights are those rights which ‘trigger’ intervention. This means that political theory has a minimalist understanding of rights because it only looks at those rights whose violation poses an outside intervention. For example, Rawls (2001) offers a minimalist list of human rights as such: [The] right to life; to liberty; to property (personal property); and to formal equality as expressed by the rules of natural justice. Thus, Rawls has a minimalist understanding for

human rights. In general, all thinkers of political theory believe that human rights are only held against states, and such a political function separates human rights from other rights. Consequently, human rights are only those rights that have a distinctive function (outside intervention).

3. Is Such an Understanding Accurate or Helpful?

This section argues that the understanding of political theory for human rights is neither accurate nor helpful for many reasons. First of all, the political conception of human rights does not accord with human rights practice. As mentioned before, proponents of the political conception of human rights criticised the traditional approach of human rights on the ground that it does not accord with the reality of human rights within the real world. However, the political conception of human rights itself seems to be incongruent with the way that human rights are used in contemporary world affairs. This is because as Cochrane argues (2013, p.7), human rights in practice do not only have an international function, but rather human rights play an indispensable role in the domestic arena, through both courts and in the campaigning activities that are held by groups in civil societies. Cochrane believes that these domestic roles of human rights do not mean limiting the sovereignty of the state, but rather they can be regarded as indicators of the power of the state. Following Cochrane, Tasioulas (2009) argues that, even at the international level, human rights can serve much more use than mentioned by proponents of political theory. As such Charles Beitz (2001) argues that, human rights record may determine eligibility for development assistance programs, or human rights conditions may be attached to internationally sponsored financial adjustment measure. Following Beitz, Nickel (1987) argues that ‘human rights serve as standards for noncoercive international persuasion’ (p. 101), and that they serve as ‘benchmarks’ for the quality of civil society more generally, domestically and internationally. According to Cochrane (2013), the international activities which we have discussed above put limits on the sovereignty of the state. This might not be direct intervention, but all contribute to some type of inference, and therefore they constraint the sovereignty of the state. This for Cochrane means that the basic function of human rights in international politics is to specify when states should legitimately be interfered with. But if this does exist, the traditional approach of human rights should be accepted because human rights give us guidelines as to when intervention is permissible in international politics: therefore, it seems human rights are not a special class of rights, but equal. This is because they are moral rights: when they are violated they guarantee some kind of intervention regardless of whether the intervention manifests itself in the form of sending troops or condemnation. Consequently, Cochrane believes that once the moral right is set, it enforces parallel obligations. If such obligation is held by the state, and the state fails its responsibilities, it will be criticised as such.

Secondly, as mentioned before, the political conception of human rights assumes that severe violations of human rights ‘trigger’ military intervention. This seems to be wrong because according to Waldron (2013), in contemporary world politics military intervention is rare, and that where it exists among states, its aims are not purely humanitarian. This according to Bialys and Smith (2001), mean that states are self-motivated towards military interventions, and therefore they attach their own interests to military intervention. Consequently, military intervention is selective: the international community failed to intervene in Rwanda and in Syria as well, despite obvious violations of human rights. Thus, it is clear that the political conception of human rights is too optimistic about the role that states might play in protecting human rights. Not every severe violation of human rights guarantees military intervention, for

states are not self-sacrificial, they are self-interested and always biased. Furthermore, in contemporary world politics as Chomsky argues (1999, cited in Szende, 2012), human rights are used by great powers as a tool to serve their interests.

This means that the political conception of human rights serves power politics because it is a state-centric approach, in the sense it assumes that human rights have no meaning without the guarantee of states. Consequently, great powers use human rights as a mask whilst pursuing their interests. For example, Kerr (2010, p.130) argues that, the United States of America used human rights discourse to justify its invasion of Iraq. This means that military intervention, as Rawls suggested, is by no means purely motivated for the sake of human rights. Consequently, understanding of human rights as having a political role in international politics seems to be wrong. This is because as Carr argues (1939/2001 cited in, Brown and Ainley, 2005), states compete within the world system with their counterparts for scarce resources rather being concerned with protecting human rights. This means that states do not only violate the rights of their own people, but rather they sometimes violate the rights of foreign people through their foreign policies. Moreover, Waltz (1993) demonstrates that internationally there is no higher government organizing the behavior of states. This means that the main feature of the world politics is anarchy - in anarchy, states are engaged in a self-interested set of priorities rather than doing altruistic actions. All of these flaws reveal that the theory cannot be successful in applying ethical perspectives of human rights to international politics.

Thirdly, in contemporary world politics human rights are not only violated by states, but they can also be violated by terrorist groups. In this case, outside intervention does not have a logical basis because military intervention would be far too logistically and strategically costly. In addition, severe violations of human rights can happen when a state loses its sovereignty. These violations come in the form of genocide, rape, torture and so on. Thus, it can be said that human rights should be held against every actor that can violate them. However, the political conception of human rights is not perfect: it does not give human rights any normative justification because it does not look at the content of human rights, but their functions, and therefore the political theory is unable to determine what qualifies as a 'real' human right. Therefore, it is difficult to persuade sceptics and condemn the violation of human rights because as mentioned there is no basis for human rights. Consequently, the traditional approach should be accepted for human rights. This is because according to Cochrane (2013), the traditional approach gave human rights a normative justification, which attaches a principled determinacy to human rights. This gives some basis to determine 'what counts as a genuine human right and what does not'.

After all, it is important that the whole discourse of human rights does not become debased by say, being at the whim of those who shout the loudest, have the most resources, or employ the best lawyers. It is this point that is crucial for Cochrane: having a normative justification for human rights, anchored in moral values, allows us to persuade sceptics of human rights and to condemn violators.

Fifthly, if human rights have a political role and such a role depends on the state to fulfil, then human rights did not exist in pre-social conditions. This is because, before states, human rights had no role to play in international politics. Therefore, the political conception of human rights is wrong in assuming that human rights have only a political role - rather it is more true to say that human rights are those rights that all human beings possess by virtue their humanity. For in pre-social conditions, whilst it seems that human beings created the state on the ground of some valuable moral rights, it is also bound

up with social and economic rights. The point here is that human rights are those rights that are possessed by all human beings irrespective to the state. Consequently, the traditional approach is still more relevant than the political conception of human rights because as argue the former looks at human rights as independent from states. This means that human rights are those moral rights whose existence does not need the recognition by states. This is because the existence of moral human rights is older than the existence of the state.

Sixthly, if human rights are separated from the right of other creatures by their political role (outside intervention) this classification would be wrong. According to Cochrane (2012), human rights are not the only type of rights that 'trigger' outside intervention, but also animal rights can serve the same function (though it is quite rare). For example, the European Union's ban on the import of and trade in seal products is a case where animal rights 'triggered' an economic international intervention.

Lastly, the political conception of human rights is a problem-solving theory. This is because it looks at human rights practice and the world order as it exists, and therefore the theory does not predict any change or any progress in human rights and world order as well – it is both reactive and descriptive. Consequently, political theory looks at human rights and world order as timeless and unchanging. Such an understanding for both human rights and international politics is wrong because if people change the existing world order positively through emancipatory social change, for example, then human rights would not exist. This argument is supported by Valentini, as such he argues (2012), what if we were to move towards a different kind of world order? Would we be forced to say that human rights no longer exist under those changed conditions, because the very idea of foreign intervention would become unnecessary?

4. Conclusion

The traditional approach of human rights assumes that human rights are those rights enjoyed by everyone on the ground of humanity. This approach, however, is refused by political conception of human rights because the latter claims that the traditional approach is too remote from reality. The political conception of human rights assumes that human rights are those rights serving outside intervention. This means that human rights are only those rights possessing a political function. This understanding for human rights as mentioned above is neither useful nor helpful for many reasons; it is less practical with the way in which human rights are used in reality, it is too idealistic about military intervention, it does not look at other perpetrators of human rights violation, it gives no determinacy for human rights, it fails to give a historical account of human rights in the past, and it is a static and unchanging theory. consequently, the political theory of human rights was unable to replace the traditional approach of human rights not a good alternative

References

- Baynes, K. (2009). Discourse Ethics and the Political Conception of Human Rights. *Ethics & Global Politics*, 2(1), 1-21.
- Beitz, C. (2009). *The Idea of Human Rights*. Oxford: Oxford University Press.
- Bialys, J., & Smith, S. (2001). *The Globalization of World Politics: An Introduction to International Relations*. 2 Ed, New York: Oxford University press.
- Brown, C., & Ainley, K. (2005). *Understanding International Relations*. 3rd Ed, New York: Macmillan.

- Cochrane, A. (2013). From Human Rights to Sentient Rights. *Critical Review of International Social and Political Philosophy*, 16(5), 655-675.
- Cochrane, A. (2013). In Defence of Traditional Theories of Human Rights, Centre for Political Theory and Global Justice, Working Paper Series, 1-21.
- Cohen, J.L. (2008). Rethinking Human Rights, Democracy, and Sovereignty in the Age of Globalization. *Political Theory*, 36 (4), 578–606.
- Hinsch, W., & Stepanians, M. (2006). Human Rights as Moral Claim Rights. In R. Martin & D. Reidy (Eds.), *Rawls' Law of Peoples: A Realistic Utopia* (117-133). Malden, MA: Blackwell Publishing.
- Kerr, P. (2010). Human Security. In Collins, A. (Eds.) *Contemporary Security Studies*, New York: Oxford University press, 104-117.
- Liao, S. M., & Etinson, A. (2012). Political and Naturalistic Conceptions of Human Rights: A False Polemic? *Journal of Moral Philosophy*, 9(3), 327-352.
- Nickel, J. (2006). Are Human Rights Mainly Implemented by Intervention? In R. Martin & D. Reidy (Eds.), *Rawls' Law of Peoples: A Realistic Utopia* (263-277). Malden, MA: Blackwell Publishing.
- Nickel, J. W. (1987). *Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights*. University of California Press.
- Rawls, J. (2001). *The Law of Peoples: With the Idea of Public Reason Revisited*. Cambridge, Mass: Harvard University Press.
- Raz, J. (2010). Human Rights without Foundations. In: J. Tasioulas and S. Besson,eds. *The Philosophy of International Law*. Oxford: Oxford University Press, 321–337.
- Szende, J. (2012). Selective Humanitarian Intervention: Moral Reason and Collective Agents. *Journal of Global Ethics*, 8, (1), 63-76.
- Tasioulas, J. (2009). Are Human Rights Essentially Triggers for Intervention? *Philosophy Compass*, 4(6), 938-950.
- Valentini, L. (2012). In What Sense Are Human Rights Political? A Preliminary Exploration. *Political Studies*, 60(1), 180-194.
- Waldron, J. (2013). *Human Rights: A Critique of the Raz / Rawls Approach*. New York University.
- Waltz, K. (1993). The Emerging Structure of International Politics. *International Security*, 18, (2), 44-79.