

An Overview of Human Rights in Pakistan in Context of Un Charter

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Abstract

10 December 1948 a day reflected ray of hopes among people after barbaric hiatus of slavery, colonialism, persecution-genocide and exploitation followed by equally devastating World Wars. Every year, the tenth of December provides an opportunity to humans across the globe to renew the pledge of protecting human rights by upholding the narrative of equality - irrespective of caste, religion, ethnicity, color and race. In the 'United Nations' offering days Pakistan used to be the Champion of the Human Rights cause. Contemporary situation, incontrovertible, is far from being a utopia dreamed by the forefathers of Pakistan. As albeit elitists iterates that the menace of poor Human Rights affects almost every section of society, likewise its impacts on the lives of people are grave that inflicts deep scars to the souls of common citizens. The manifestation of such scares include shackling of women, persecution of minorities, constitutional religious biases, lack of education and civic provision, and shrinking space of freedom of opinion coupled with compromised justice dispensation. All the governments would be democratic and dictatorial pledge one slogan of human rights. However, on the ground level, things are much worse. Though, the current situation of human rights documented in UNHR is not up to mark. Yet, with continuous legislation, empowerment of women and digitization can change the daunting picture to a peaceful future.

Keywords: Human Rights, Pakistan, UN Charter, Legislation, Women Empowerment

Introduction

The significance of the United Nations charter of Human Rights lies in its historical context. From Socrates to Augustin and Imam Ghazali to John Lock, a number of philosophers and reformers like FD Roosevelt tried to bring the society to a level for humans to excellence in. Above all, the very dearest, worthy, the perfect exemplar, the prince of the peace and the pride of Universe Holy Prophet (PBUH) provided human rights charter in his last sermon which are even valid till the dayⁱ. As evil and virtue are consistently in contest and competition, the world ruled by the principle of might is right has come out of persistent wars and chaos of state of nature. It was rightly summed up by the great philosopher Thomas Hobbes as a state where life was short, nasty and Brutishⁱⁱ. The history of humanity is brimful with darkness of reckless violence, whether it was under the pretext of religion and nationalism.

First half of the 20 century is paramount epitome of entire history of humanity in which humans fought two world wars namely World War I and World War II. Since the establishment of Human Rights Declaration (UHRD) supplemented by many other bills, treaties and customs tyranny and “final solutions”, with few exceptions, has been brought to an end. Along with traditionalism constitutionalism the Islamic Republic of Pakistan, has special body of Muslim constituted Scholars is constituted by the constitution. It has vast constitutional responsibilities and powers. However, several of its provisions are contested by the liberal or western commentators as against the fundamental values of the contemporary world and United Nations Declaration of Human Rights which the state of Pakistan denies plainly.

Human Rights in the Constitution of Pakistan 1973

By the Zulfiqar Ali Bhutto with full consensus is a working document enriched with several provisions to uphold human rightsⁱⁱⁱ. These articles are no different than the articles of the United Nations Declaration of Human Rights (UDHR). For instance, Article 4 of United Nations declaration of human rights “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”^{iv} is in lined with the article 11 of the Constitution of Pakistan “Slavery, forced labor etc. prohibited.”^v Similarly, article 14 of the Constitution of Pakistan and article 5 of United Nations Declaration of Human Rights along with its preamble uphold human dignity as an inviolable concept. Likewise, ideas of freedom of movement, freedom to assembly and Association are maintained by the constitution of Pakistan and United Nation Declaration of Human Rights explicitly in Articles 5, 16 ,17 and 20– (1) ,20-(2) respectively.

Similarly, article 14 of the Constitution of Pakistan and article 5 of United Nations Declaration of Human Rights along with its preamble uphold human dignity as an inviolable concept. On the same token, the idea of freedom of movement, freedom to assembly and Association are maintained by the constitution of Pakistan and United Nation Declaration of Human Rights explicitly. Articles 5, 16, 17 and 20– (1), 20-(2) respectively. However, there are several other conventions designed to supplement the United Nation Declaration of Human Rights such as international convention on civil and political rights (ICCPR) coupled with

international convention on racial, social, economic and cultural rights (ICESCR). Despite such a great synergy, unfortunately, the state of Pakistan has ratified these conventions with selective provisions under the incomprehensible excuses of religion nationalism, a step backward. Such steps do nothing for the common man's welfare but deprive them of many due rights confirmed by the civil trial and our obligations upon the state.

The provision of equality of human rights is the first and foremost character of the United Nation Declaration of Human Rights. The Article 1 of UDHR declares that "all humans are born free and equal in dignity and rights."^{vi} Thus, this article has outlawed any kind of discrimination, whatsoever, was being propagated by the so-called custodian of the religion, nationalism and ethnic groups. It's universality of language and indiscriminate audience is the main reason to provide Prime importance to this document. First of such is the language of this declaration which is confidently being quoted by every journalist, media outlet and all and Sunday, whosoever, is conscious of defending human rights.

Provisions of gender equality wield significant value especially in the context of Pakistan where gender equality remains a distant dream even after the seventy years of United Nations declaration announcement. According to UN women head Quarter, Pakistan the country, has adopted a number of international commitments in order to ensure gender equality – The Universal Declaration of Human Rights (1948), the convention for the elimination of all forms of discrimination against women (CEDAW) including sustainable development goals and bidding platforms at the UN declaration and supplemented conventions IB are continuously providing justice etc.

Another aspect which manifests the importance of the Declaration of Human Rights is its wide acceptance. It is so popular that none of the world's organizations has ever succeeded in presenting alternatives to this declaration. The Organization of Islamic Cooperation has started consultations to bring Cairo decorations contended by many people, due to certain deficiencies regarding gender equality and abuses of individuality, at par with the US declarations. Likewise, the Council of American States African Union and Islamic cooperation organization has accepted this as your own charter more power consistently pledges Albert with Limited success by the Islamic Republic of Pakistan Express significance of this document for all and sundry to stop it has become an asset to all the levels and gaps in world governance.

United Nations overall working is primarily Human rights centric which leads to signing of several documents' treaties, and subsequently establishment of a number of organizations. The organizations were established following signing and a ratification of various bills such as the Beijing declaration, United Nations educational scientific and cultural organization (UNESCO) and human rights council etc. It has vast powers of investigating crime and releasing reports like June 2020 and July 2020 etc. about the plight of poor Kashmiris in the occupied valley. Similarly, The Hague courts for providing justice etc. In order to maintain Human Rights across the Globe two types of bodies are operational under the auspices of the United Nation one of these

categories based on charter having functions of promoting Human Rights like human rights council (HRC) established in 2006 following its predecessor Human Rights Commission.

One primary task assigned to this agency is to have a periodical review after every four years of entire world countries. Another example of the charter of bodies of the United Nations is the United Nations high Commissioner for human rights task with special issues of human rights like Refugee. The second category of the United Nations body is based on treaties which enforce Human Rights by monitoring, supervising and reporting for completion of such human rights tasks. Prominent examples of such bodies include the Committee include the Committee of Rights of Children monitor state parties' compliance, the Committee Against Torture, Committee on Migration and Migratory Workers and Committee on the elimination of Discrimination Against Women. All the bodies function with the end-to-end purpose to bring an end to the violations of Human Rights as enshrined or born from UN charter.

The United Nations Declaration of Human Rights is referred to as "an international document of the first order" by Lebanese diplomat Charles Malik. It clearly demonstrates the importance of this document. The document has been termed as International customary law despite its being non-binding in nature. First of almost 20 Nations got independence immediately after 1948 explicitly refer to the United Nations Declaration of Human Rights in their respective constitutions. Its importance becomes more obvious when courts and secular states like US India and they need their judgment to refer to this document. A Survey in 2020 from 1988 revealed that at least 20 cases have based their judgment on this document. This document in different courts including 6 in the US Supreme Court foreseeing the future, first lady of the US and the chair of the first human right Commission call this document as an International Magna Carta which might be as impactful as the US Bill of Right.

The United Nations is leading the climate change mission boldly not only because changing climate is proving devastating for the planet, but also because it is the part and parcel of the United Nations Declaration of Human Rights (UDHR)^{vii}. As climate is proving a nightmare for the entire world because of the terrible potential it wields like food insecurity, soil infertility to lack of availability of consumable water. Same is the fate of humans itself, as the changing climate is proving too great a challenge to be conceived. United Nations Human Rights declaration article 3 considers right to life as fundamental and inviolable; compels United Nations to ensure climate change does not toll upon humans unchallenged. Changing climate threatens trade and businesses, education and Housing etc. which is covered by decoration of human rights. Additional instruments brought to reality by the UN are additional tools to strengthen leadership and the Charter of the United Nations declaration.

United Nations Framework convention on climate change, Paris agreement, intergovernmental panel on climate change (IPCC) and Council of parties(COP26) recently had its 26th meeting in Glasgow are few of these organizations under the auspices of the UN^{viii}. Their sole purpose is to save humanity from the devastating impact of Climate Change on human's

fundamental rights- lives and property etc. In this regard article 22 specifically encompasses climate change leading and their realization issues through social security and its realization through National and international cooperation in accordance to its needs and resources filled socks immediately article 21 to 25 cultural assessment assistance to human rights defenders which emphasize the real appetite for risk and conventions.^{ix}

Having discussed the unmatched importance of the United Nation Human Rights declaration (1948). It is pertinent to have an unbiased and meticulous analysis of the situation of Human Rights in Pakistan. The first challenge arises from the poor plight of gender in the city or state of affairs. Even though the UN Human Rights declaration clearly mentioned in a Preamble that all human beings born free and equal bill complemented by several of its provisions regarding rights to freedom of opinion speech freedom of trade and business dignity and freedom from slavery which are also complemented by the constitution of Pakistan. The ground reality however is that according to the UN report 2020 performance in terms of human rights, Pakistan is the 2nd worst country. And hundreds of women are murdered in cold blood in the name of honor killing while dozens of women face acid attacks every month. Very few women almost 10% of the 49% of the 225 million strong nations are participating in formal economic activities of the country

Likewise, literacy rate among women is as low as 47% which is 20% in Makran district of Baluchistan's area where it is the biggest province of Pakistan. Similarly, women have very limited rights or none at all to choose to marry or freedom of movement and choice of profession. This situation is so bleak that Pakistan household health and demographic survey 2018 revealed that 43% of women and 35% of men gave legitimacy to violence inflicted upon their wives by the husband. Continuous defamation threats, online abuse and harassment to women rights defenders already narrow space is suffocating space for women and to these poor indicators the Islamic Republic of Pakistan is referred as one of the most dangerous places for a woman to live in. Likewise equally deplorable is the fate of religious and ethnic minorities in Pakistan. Pakistan is a diverse Nation with broad cultural lingual and ethnic diversity.

Unfortunately, the treasure of variety of people –their opinion etc. is being endangered like Kailash tribe one of its kind is facing threat of extinction going to continuous pressure of conversions and government on the government is on defensive post is unable to stand up for long-term National Handloom and goes as a square by the United Nations Declaration of Human Rights and related treaties get fired by the Islamic Republic of Pakistan. There is no adequate safeguards against misuse of the said provisions and even dare to express his recent mint is assigned to be killed by the more striving for the owner of the religious figures are is booked under the said provisions first of Council of Islamic ideology remained a conservative interpretation protection forum of the religion and really upload blood relation legislation regarding prosecution of Army statement of minorities even though the state continuously going on plating to report

fundamental rights the hatred and fanaticism filled in by the pseudo religious policy is a huge obstacle against the basic rights of minorities.

Freedom of Media- Liberty

Speech and thought is also being knocked down by the state, pressure groups, and religious or social fanatics. Various methods and arguments are being used to shackle all the teethes of the media; curbs on freedom of speech against the article 19 of the Constitution of Pakistan and United Declaration of Human Rights. Ayyub khan former military strong man who ruled Pakistan from 1958 to 1968 and famous listed that the biggest weapon of a politician is his tongue and we have changed it as noted by Khalid Bin Saeed in his book the political system of Pakistan^x. Similarly, president Musharraf also tried to rein in the media. On the same track widely criticized Pakistan electronic media regulatory authority act 2016 and recently issued contentious proposals regarding media regulatory authority bill are nothing but media freedom directly means tabs on opinion are speech about Education is professed as a fundamental right in the constitution of Pakistan (Art-22) and UDHR (Art-26).

Despite having clarity in policy and pledge by the state, people of Pakistan are devoid of fundamental right to Education. Education, a basic requirement, is facing several kinds of hurdles. Article 25 -A of the constitution considers it an obligation upon the state to provide free education to its students up to 16 years of their education. Still as per UN estimates 2021 almost 22.9 million children are out of school (OTS) the second largest number throughout the world. The situation is further worsened by the recurring covid19 waves. Literacy rate of the state is somewhat 62% which is one of the lowest across the globe. The literacy rate in some districts of Balochistan is up to 80% for the girls. Moreover, the worrisome situation is of the class date education system. You are few when studying Western education in luxury at our state-of-the-art Institution. While there are four to five percent of the students somewhere one to two million in 35000 Madrassas. These Madrassa Students are not eligible for public service commission jobs and are devoid of any Technical Education. Furthermore, jettisoning is about lack of any relevance of their syllabus with the contemporary world. There is no discussion about the contemporary world in the cell syllabus.

So, they find it highly difficult to understand the modern world of Technology and multi dogmatic interaction. This is a systematic way of propagating different classes or civilizations; a recipe for social disasters, Chaos and blatant violations of human rights. A credible review of the prevailing Human rights situation across Pakistan demands a scrupulous analysis of the causes of deteriorating human dignity and basic rights. The first reason is widespread illiteracy. Uneducated people do not know about their rights and duties. Such people who are unable to comprehend what is correct for their long-term future can neither be good voters nor appropriate citizens. Neither do they respect those who are different from them whether it's physiological difference or ideological nor they wish to get respected. Uneducated and emotive messes of

Pakistan are being used by demagogues for their inconceivable motives meaning that rights violation resources are the citizens themselves.

The third cause of the unbearable human Rights situation is absence of farsighted political commitment on behalf of leadership. In Pakistan politics is polarized to a disastrous level. In this scenario short-sighted motives are acquired by using rhetoric language which emboldens extremist and conservative elements to play with passionate South Asian messes. In Pakistan politicians base their anti-government movements with slogans that directly hurt the sentiments of millions of minority dwellers. In order to nest their feathers, there are certain groups, politicians and tribal leaders who stand against the states writ for self-centric aims, prominent examples are those who are encouraging Baluchistan Liberation army -a terrorist group or Pashtun Tahfuz movement an extreme right wing organization. Such intolerant groups compelled the state to use hard force to assert its sovereignty by dealing with them undesirable situation leading towards Human Rights violation at bigger level like Balochistan .unless ,there is political commitment from the leadership with futuristic version issues like These will continue to parthenogenesis a throne in states Sovereignty.

Judiciary is one of the three main pillars of the state. Its primary objective is to enforce fundamental rights of the common citizens against arbitrary detention, violence, abuse of power and every provision mentioned in the constitution of the state. The factual situation in practice is that according to the world justice report (WJP-2021) project Pakistan listed 120th among 128 countries in overall rule of law while one-fifteenth in human rights^{xi}. This demonstrates that the country is among the bottom few ones meaning by the human right is in abysmal state tantamount to state that Judiciary of Pakistan is unable to offer rule of law in the country. The main causes of the weak position of Pakistan's Judiciary was revealed in the US report on investment climate in Pakistan 2021. The report alleged that the judiciary of Pakistan is corrupt, compromised and inefficient. It is unable to stand out for disseminating justice for the basic rights such as protection to life and property. Almost 50,000 cases are pending- litigation conclusion of these cases is expected to be available in three decades^{xii}. A prime example of justice delayed is justice denied as visible in Pakistan's Supreme Court like the dawn of the day.

Pakistan a front ally of the United States in War on terror is also prime victim of little terrorist groups. War on terror has devastated impact on the issues of human rights. An observation of several Collateral Damages like the one - Shootout carried out by the Counter Terrorism Department of Punjab Police. Similarly, well known Rao Anwar former SP police Sindh alleged handler of dozens of fake counters is living a lie from justice clutches^{xiii}. The Preamble of the United Nations Declaration of Human Rights and 28 articles of the Constitution of Pakistan are unable to prove their existence here in Pakistan. The fate of victims of free flying American drones which killed almost hundreds innocent civilians speaks a lot about the state's capability to protect its citizens from external or internal threats and hurdles standing in the way of justice^{xiv}. Weak Judiciary male governance state system, corruption and free hand to security

personnel give blanket checks to the shadows which overwhelmed the justice and basic rights means no declaration no fundamental right in practice.

In Pakistan the lack of implementation of the concept of freedom of opinion despite the fact that it is mentioned in the constitution of Pakistan as fundamental and in inviolable rights is another declaration against the reality of fundamental rights. Various hurdles stand out in the way of Liberty expressing his opinion or thoughts. Security centric approach for vulnerability to expository statements and respective government's strategies to demonize and pressurize journalists and those who ever expresses his or her views are hurdles against the said provisions implementation in letter and spirit. Similarly, overreaching domains of the Pakistan Electronic Media Regulatory Authority (PEMRA) and newly enacted social media rules are nothing but manifestations of government's resentment with the free media and freedom of speech. Murder of former governor Salman Taseer^{xv} and riots against Pakistan Muslim league government Ministers in 2017 and attempt of religious fanatics to pressurize the supreme court of Pakistan against the decision of releasing Asia Bibi are epitome of different kind of pressure faced by those who dare to challenge the status quo^{xvi}. The situation is becoming worse with rising extremism among masses and inability of the state to deal with iron fist as said by the minister of information Fawad Chaudhry.

Way forward remedies

A careful discussion about lack of Implementation of human rights brings several hurdles to limelight. Consequently, it calls for a meticulously designed and wholeheartedly developed policy of bringing reforms in almost all the pillars of the polity. Only requirement is the political commitment to serve the nation at least in terms of making available fundamental rights. Leadership of all the parties needs to develop a reassuring commitment to bring critical reforms in the entire governance structure. The leadership is competent as demonstrated while articulating the Eighteenth amendment. Same spirit can be a panacea for Pakistan's dwindling governance structure.

The second step forward is to ratify critical treaties wholeheartedly and the ratification must be for the people of Pakistan. Pakistan's government needs to broaden its version of political Islam. In this way the state of Pakistan can take a leading role in bringing forward the long due process of bringing reforms into the Organization of Islamic Cooperation's Cairo Declaration 1993. It needs the spirit of 1948 of the time of ratification of the United Nations Human Rights Declaration. In early days of its inception, Pakistan used to champion Human Rights cause as it rebuked the kingdom of Saudi Arabia for its narrow interpretation of Islam. The same spirit can again strengthen the state polity, its sovereignty, its international and nation standing and above all its capability of making available basic rights for its citizens.

The third most desired reform is to strengthen the judiciary. There is a need for an overwhelming judicial system of Pakistan. From criminal procedure code (CpC) to investment regime legalese everything needs reevaluation and a restructuring by incorporating technology,

incentivizing the performance of the judges , prosecution and the police along with making available sufficient security for the witnesses can bring much needed change. There is also a need for more human resources to make the process of litigation justice a real compensation. The fourth requirement is to ensure freedom of speech by empowering the fourth pillar of the state; the media. By bringing transparency in media houses, fair playing field for advertisement funds and restricting the State Power at bay from intimidating the media is a recipe directly in demand. In this regard media houses need to be more open and accountable against the abuse of liberty of speech and opinion.

The fifth step in the right direction is to ensure liberty in terms of choice practice and thoughts of religion. The Blasphemy laws arbitrary enforcement needs to be regulated and some safeguards must be brought to the green book. Similarly, government needs to mainstream madrassas and educational institutions must be rooted out of extremisms and biases by promoting Supremacy of humanity and importance of Human Rights and United Nation Declaration of Human Rights. The 6th target to bring much needed reforms in poor human rights regime is to bring forth reforms in educational system. Plato, Jacous Rousseau, John Lock and Allama Iqbal almost all stated that education is a tool to bring change in human behavior. Same is the theme of United Nations strategy and nongovernmental NGOs which focus entirely on women education in order to improve human rights situation. For this purpose biased dogmatic indoctrination needs to be replaced with modern scientific, technological and production led learning with continuous up gradation of skills. The state needs to teach its students about the meaning of global village and basic social etiquettes requirement to live in this village having people of as many view n ideas as the number of people are. Additionally there is dire need of eradication of class based educational foundation to make the polity a sustainable and peaceful house to live in.

The next 7th solution is to support religious scholars who are wise, rational and moderate. There is a need for people who can realize that if their religion is to be practicable there must be the concept of religious values embedded in ijthihad (striving) ijmah (agreeness) and ijthihad. Religion which wields significant guiding principles by turning man away from mundane desires and bringing in him the concept of spirituality. The religion needs to be regulated by the state in a way so that mischievous elements cannot turn its basic objective of bringing equality among people. The religion must serve for what it is designed to be. As being done by the Organization of Islamic Cooperation (OIC) in introducing the concept of religious values which is wider and inclusive instead of sharia which is misinterpreted by selfish motives, the same needs to be copied here. Additionally, for the affairs of minorities such as Temple construction, the issue needs to be realized that it is a basic right of every citizen of the pure land. Good news is states resolve in developing consensual understanding among different communities.

This led to development of Kartarpur Corridor and Chief justice of Pakistan's celebration of Diwali with Hindus are reassurances that states can do if they desire to ensure human freedom.

There needs to be some limits on behalf of the state so that fundamentals of basic rights remain intact and citizens irrespective of the belongingness to any community can be treated with equality in dignity.

The ninth augment to bring the country's gender equality dream into reality is to provide to those who are here to defend and support Human Rights especially of women. The state of Pakistan has been doing sufficient legislation in relation to women yet there is no sign of abatement in number of honor killing, domestic violence and unfounded misconception that women can't compete. By inoculating that gender is no reason to keep women in the four walls of a house like a prison, a lot of change can be brought in this realm. For this purpose, there is a need to sensitize the public, incentivize the women, give more opportunities to the women, and ensure provision and availability of economic rights and access to Financial Institutions. This all must be provided to women as an independent individual instead of making them dependent on their spouse or family members. All this needs awareness among women and implementation of existence legislation in letter and spirit.

Conclusion

Incontrovertible, it can be concluded that failure of upholding Human Rights as envisioned by the UDHR remains a most pitfall menace for the citizens of Pakistan. Impacts of the evil are so devastating for certain sections of the society especially women, minorities and children that it does not go without giving shivers. Various factors ranging from misinterpretation of religion, social divide and political polarization are causing the inhuman practices to run riot upon the common citizens of Pakistan. Governments at different times had tried to tackle the issue by signing international treaties especially of UDHR and European values Charter of 27 points. Despite these steps in the right direction, halfhearted attempts failed to yield results which could be termed as satisfactory and encouraging. Despite very slow progress, however, it needs to be realized that human rights violating zombies could not be allowed to play with fundamental needs of a human.

Therefore, a practicable plan of action needs to be chalked out and be implemented wholeheartedly throughout the country without visible or invisible discrepancies. With reference to human rights, those assigned the task of governing the state of Pakistan should understand that unabated dehumanization of citizens has the potential of destabilizing the very structure of the state. No doubt, the goal of ensuring rights of the citizens is a daunting one, however, there is no step back option. Authorities and civil society especially nongovernmental organizations and media houses campaign to imprint upon people's mind that it is humans who can change the status quo. Let's hope that the light that has been awaited for so long will enter the corridors of Pakistan. At the end a famous quote of John Stuart Mill, 'A State which dwarfs its men, in order that they may be docile instruments in its hands even for beneficial purpose, will find that with small men no great things can really be accomplished' "give a clear omen.

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