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Explained: Is International Human Rights Law Universal? A Case Of India And Asia



Abhinav Mehrotra Updated on Jan 02, 2022, 12:34 IST



- Highlights**
- Generally, the major concerns in India pertain to the historical inheritance of the tussle between group identities that seek to put forth their aspirations for autonomy, equality, self-determination and self-respect
- Originally, it was a territorial dispute between India and Pakistan that has now assumed multidimensional facets involving cultural, political and religious dimensions.

The debate between universality and cultural relativism i.e. the nuances between individualistic and collectivist approaches to human rights, such as the existence of traditional social structures and institutions that have been the inherent protectors of several human rights, without any legal obligation needed to do so gives rise to an important issue of whether International Human Rights law are truly universal.

One such example recently occurred in India through the National Human Rights Commission of India's annual debate competition **topic** on "Are human rights a stumbling block in fighting evils like terrorism and Naxalism".

Generally, the major concerns in India pertain to the historical inheritance of the tussle between group identities that seek to put forth their aspirations for autonomy, equality, self-determination and self-respect based on their existential state of feeling deprived, discriminated and subjugated as these groups are perceived as a threat to region's national security as the conflict of their aspirations with the national interests.

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To illustrate in the region of Jammu and Kashmir in India that is a landlocked region in South Asia between India, Pakistan, China and Afghanistan, thousands of civilians have been reportedly killed, injured and tried under laws like the Armed Forces (Special Powers) Act, the Terrorist and Disruptive Activities (Prevention) Act, the Public Safety Act etc.

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Dr. Anil Kishore, MD, Jindal Global Law School, Sonapat, Haryana

The core of the issue behind universality is that a group of nations is seeking to redefine the content of the term "human rights" according to their own social and cultural experiences as they argue that the principles enshrined in the Universal Declaration reflect Western values and not their own such as the question raised in the NHRC debate.



Such countries sign many international human rights treaties and conventions, but the use of reservations and internal obstacles jeopardize their implementation.

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It is pertinent to note that the challenges posed by the non-western nations are primarily based on the concept of "private" rights.

The private spheres deal with issues such as *religion, culture, the status of women, the right to marry* and to divorce and to remarry, the protection of children, the question of choice as regards family planning etc.

For example, Saudi Arabia abstained from the vote on the UDHR, arguing that Articles 16 and 18 (the rights for men and women to marry who they choose, and the right to freedom of religion) were in opposition to Islamic faith and teachings which emphasize patriarchal authority.

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Coming back to India, the focus must be to become a member of more regional as well as sub-regional mechanisms given the current government's endeavour to establish contacts with **all regions** ranging from South Asia to Central Asia as is evident from the Republic Day Guests or the oath-taking ceremonies where leaders of these regions have been invited. While doing so the protection of individual rights must be emphasised because groups are best protected when and only when every individual within them is protected.



Thus, the way forward is to truly recognise the safeguards of the human rights as it is the only universal available moral vernacular that safeguards the rights of women and children against the oppression of patriarchal societies and empowers dependent persons to perceive themselves as moral agents against discriminatory practices and traditions.

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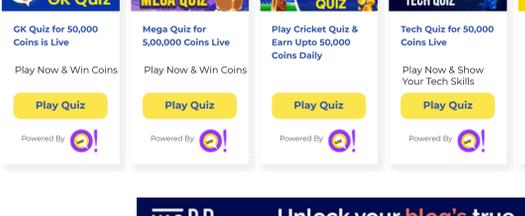
Dr. Anil Kishore, MD, Jindal Global Law School, Sonapat, Haryana

The writer teaches at Jindal Global Law School, Sonapat, Haryana. The view expressed in this article are author's own.

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