Human Rights: A Buddhist Critique

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1. Introduction

Human Rights has a venerable history in Canada. In my own work in the multicultural field in Canada for over three decades, I have seen how individuals and/or communities have fallen back on Human Rights legislation to grieve, both successfully and unsuccessfully, a perceived or actual discrimination, on the basis of the triple-C - colour, creed and culture, or gender, disability, sexual orientation and the like. The UN has made it a cornerstone of international relations. And not only Western nations, but the westernized elites of many a Two-thirds World, too, have adopted it as a guiding sociopolitical principle. All in all, it has come to be seen as a panacea for all our sociopolitical challenges of the 20th century, locally and internationally.

Despite its beneficial role over the last 50 years, it is perhaps now time to take a closer look at it. This paper claims that a Human Rights paradigm is inherently problematic, both as concept and practice. Contrary to conventional wisdom, it will argue that it undermines rather than promote social harmony and global peace. It will be evident that I use the term Rights in a loose sense, and also that I bring to the discussion the benefit of Buddhist scholarship.

2. Human Rights as Concept and Practice

Our first critique of Human Rights is that the concept behind it is conflictual. This is primarily because getting one's Right, of necessity, entails taking away another's.

To take an example in the context of the family, if one sibling demands, and gets, everything s/he wants, or more than the others, then other siblings would obviously get less. If we now replace 'sibling' with 'sibling of one gender', we immediately think of the practice in many cultures of favouring sons over daughters. When boys win, girls lose.

To understand it at a societal level, we turn to the sphere of economics. Let us take the needs of a society in binary terms: Education, Health and Environment on the one hand, and Law and Order on the other. If a provincial or the federal budget were to allocate 50% to the former, and the other 50% to the latter, then it would seem to be equitable. But if Education etc. makes a successful argument for more dollars, it can only come at the cost of Law enforcement, and, of course, vice versa. This would be true even if the economic pie were to grow bigger. So one can get only at a cost to the other.

If we don't ordinarily see resource distribution at the government or family level in terms of Rights, we could take abortion as a closer example. The argument for abortion is made in terms of 'a woman's Right to her Body'. But putting it in these terms clearly ignores 'the Right of the Unborn'.

Lawyers, and religions (for example, Jewish, Islamic) may debate whether an unborn child is a person, or should have Rights, and whose Rights should prevail over whose, and so on. But there is no question, from a scientific, and Buddhist, point of view, that life begins at conception. So abortion is a case of pitting one form of life against another, one winning and the other losing. Fetus-life loses out as soon as the mother-life puts into practice her Right to abort just as the mother-life loses out if fetus-Rights prevail in the face of a threat to life.
Basically, then, for someone to get, or win [a Right], another has to give [up] or lose (a Right). We steal from Peter to pay Paul. This is what renders a Human Rights approach immediately and inherently conflictual.

It may be of more than passing interest to note here the bellicose language used in association with Human Rights. The common phrase, "Fight for your rights" may have had its origins in some newspaper room for its catchiness. But behind the apparent innocence is an inherent friction. We may note the modus operandi: 'fight', not 'argue for', 'convince', 'negotiate', 'mediate'.

This conflictual nature is perhaps based, to make a second critique of Human Rights, in a lack of balance. This can best be seen in practice. An example would be the recent case of Amnesty International going to the Supreme Court of Canada to intervene on behalf of two Canadians from being extradited to the US to face murder charges. The argument was that if they were to be tried in the US, their Rights would be violated, since they may be subjected to capital punishment. But the appeal clearly failed to recognize that the accused are not being called on to answer for their behaviour, handing over a license for would be criminals to commit crimes with impunity in the full expectation of hiding behind a Right.

A similar lack of balance can be seen when a government, faced with a separatist and/or terrorist threat, is criticized for violation of Human Rights. Terrorists do no less a job of violating Human Rights, but are never called on to answer for their crimes.

This takes us to another theoretical objection — that Human Rights is based in ignorance, or the ignoring, of reality.

'Man', for example, makes sense only in the context of 'woman' (and vice versa). Likewise, a 'mother' or 'father' comes to be only in the context of conception. What this speaks to is the essential nature of interrelatedness of all human beings, and of course, nature.

Einstein captures this in his theory of 'relativity'. Chaos theory suggests that a butterfly flapping its wings in Japan causes a storm in North America. The Tao explains reality in terms of yin and yang, in a never-ending cycle. The Buddha explains relationality in terms of 'conditioned co-origination' (patiyo samuapada) — that, as in the song in the film Sounds of Music, nothing comes from nothing, and that any given reality stands in relation to a host of conditions.

Despite this reality of interrelatedness, the Human Rights perspective is exclusively individualistic. It never stops to consider what the impact of a Right might be on another — individual, community, society at large, nation. Amnesty International's appeal, or the issue of abortion again easily come to mind. It may be not irrelevant to note that the Human Rights of exclusive individualism arose in the context of capitalism, also of competitive individualism.

A fourth problem with Human Rights is the subdivision of morals and values in society to law. Rights are both enshrined as well as implemented within a framework of law. The various Human Rights Commissions, Provincial and federal in Canada, and internationally, bear witness to this. When a person is discriminated against, on the basis of ethnicity, gender, sexual orientation and so on, the question to be determined is whether the treatment s/he has received is legal or illegal, never whether it is immoral or unethical, if indeed aspiritual.

Though not directly related, the whole impeachment process of President Clinton, for example, is indicative of how we in the west have fallen back on such a legalistic straitjacket. The concern of the Congress was not whether he acted immorally, unethically or aspiritually.

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1 See Macy, 1991, for a comparative discussion with systems theory.
but illegally! It is indeed on this very legalistic basis, too, that the President survived, from beginning to end.

Yet another objection to Human Rights, to zero in on its ‘Human’ dimension now, is that it is anthropocentric. It is not that being born human is not to be celebrated -- “Rare indeed is birth as a human” [Buddha]. But it is that an exclusive Human Rights makes us forget, if not subjugate, all other forms of life - animal, plant or elemental -- in the human interest. We have seen the disastrous results in this century of humans being given suzerainty over earth -- pollution, deforestation, soil erosion, depletion of species of wild life.

A final critique, in terms of practice, comes at the international level. We, for example, hound China and Cuba for what we see as their Human Rights violations. Recently, Canada offered more money to the Two-Thirds World -- but only to those countries that respected Human Rights. This is to force-feed an exclusive western paradigm upon non-western societies, for it all ignores that many a non-western society may be governed by a different worldview. Both China -- with half the human population of the world -- and Cuba, for example, value the social good over the individual good, the latter under Marxist principles, and the former under Marxist and Confucian ones. We have seen how Taoism, and Buddhism, view reality in terms of relationality. So does Hinduism, the cultural basis of another quarter of the human population. Though currently Christian, Latin America has a traditional Native spiritual base which again is respectful of harmony and relationality. Further, non-western societies are more governed by a moralistic than a legalistic imperative, as indeed in times past in the western world, too.

So, to impose an individualistic and legalistic Human Rights paradigm on peoples who value collectivity over individuality and morality over legality is to continue what may be called intellectual colonialism, and a continuing hegemony!

3. A Specific Buddhist Critique

We now make a particularly Buddhist critique. To take the individual level, it is ironically the case that the very success on a Human Rights issue makes for unhappiness, and continuing disharmony. For as the Dhammapada (Penguin, 1973:64, verse 201) reminds us, “Victory brings hate, because the defeated is unhappy”. Loss engenders anger, enmity and hatred in the vanquished, specially in view of the possible continuing one-upmanship, perceived or real, on the part of the victor.

Things don’t turn out to be better for the victor either. Not only does victory not bring less enmity and hatred, and peace of mind, it also leads to continuing greed and revengeful thoughts. At a more fundamental existential level, the resulting ego-boost promotes soul-attachment. Buddha reminds us of the transient nature of reality (anicca), in mind and matter. One of his epithets for the mind is ‘stream of consciousness’ (vādivāsena) and the Pali term for ‘matter’ -- rūpa -- literally means that which is destroyed/flutters, etc. In this understanding, Buddha denies the presence of a permanent and unchangeable soul. This is the teaching of asiosity (anattā). So the more one claims a Right, for yourself, or your group, successfully, what gets promoted is attachment (sacchā), which is the very condition that keeps us in the samsaric life cycle.

1 If the term reminds you of William James (in his Varieties of Religious Experience), suffice it to say that he was a student of Buddhism at least by 1892 (Fields, 1986).
Further, Buddha explains that the individual changing consciousness is made up of both 'skilful' and 'unskilful' (kusala and akusala respectfully) states. It is by completely eradicating the unskilful ones that one comes by Nirvana. No amount of ensuring Rights -- getting more and more doses of soul-attachment -- is going to help overcome the unskilful states! Indeed, if any, the skilful mind is facilitated not by asking, i.e., an exclusive selfishness, but rather by giving (dāna), i.e., a considerate unselfishness.

4. Towards a Solution

A Human Rights paradigm, then, is problematic on several scores, not even considering the Buddhist critique. To recap, conceptually, it is conflictual, anthropocentric and founded in ignorance of reality, and constitutes intellectual imperialism. In practice, it lacks balance, values legality over morality, and continues a hegemony.

The major outcome of a Human Rights approach, then, as we have seen in a Canadian context, is that it undermines social cohesion, by legitimizing the polarization of society into different camps. One only has to think of the ongoing conflict between the pro-life and the pro-choice constituencies, or between the 'balanced budget' vs 'social spending' lobbies. We may also note the rise in both the number and the level of conflicts in society since the enshrining of our Charter of Rights in the 80's.

Internationally, the export of a Human Rights paradigm is to bring about global disharmony. It underdevelops the Third World, continuing to keep it in the grips of the west, but with no gain, only continuing pain, to the gripped. Today, for example, 50 years after the UN Charter, the world is not any less conflictual. This, by the way, is no accident. After the same number of years of exporting Western models of development, and pumping in billions of dollars in aid, it is the accepted wisdom of the development specialists today, that the world is better off than it was earlier (Ryan, 1998)! Can it be any different of yet another Western model?

To stop with a critique is, however, to be irresponsible. If such critique is to be socially useful, as the Buddha insists it must, we need to provide alternatives.

In this direction, then, a first base solution would be to balance Rights with Responsibilities, enshrining, if we must go the legalistic route, a Charter of Rights and Responsibilities, at both the national and the international levels. But such a Charter is still individualistic. An improved version might be a Charter of Relationality.

What such a balancing does is to prod us, before seeking a Right, towards taking a second look, a closer reflection, of the impact of a claim of a Right on all others -- individuals and society -- before a claim is asserted, or granted. So, for example, parents who favour boys over girls, or a brother who unquestioningly accepts the favourable treatment over the sister(s), would not continue the practice out of tradition, but would be encouraged, or be legally required, to consider the viewpoint of the female siblings, the role of the woman in family and society, etc. The girls and women themselves would be encouraged not to accept things as handed down.

So would a mother considering abortion. In addition to its impact on one's own health -- physical and mental, a mother would consider the impact on the aborted life itself. Will it be re-born -- if one accepts rebirth (and there is much evidence that suggests the possibility; see neuroscientist Stevenson's study, 1975; and Holzer, 1985) -- traumatized, or psychologically or physically challenged? How would the abortion impact upon family, and in general, upon the
moral fibre of society. Will abortion promote more promiscuity (both male and female) and irresponsibility?

At the social level, if, for example, Education, Health and Environment felt it needed more money, a recognition that Law and Order may suffer as a result (and of course, vice versa), can help us modify our expectations. Or perhaps ever find creative solutions — to do with less while working cooperatively to help each other to meet their specific needs. Likewise Amnesty International would ask itself the question regarding the Rights of, and impact on, society. Western countries would study the work of terrorists before condemning governments, and/or lean equally on terrorist organizations as on governments. The West would also take time to study, for example, the theories of the social good over the individual good.

The Charter route, even with such balancing and expansion, however, still keeps us in a legalistic straitjacket, based as it is currently in western Judeo-Christianity. A Just Civilization for all humanity — as intended in the Conference — must surely go beyond, in search of a common morality, common human values and principles of private and public behaviour.

But are there such common values? Buddha makes a beginning by identifying friendliness, loving-kindness, altruistic joy and equanimity (mettā, karunā, muditā, upakhā) as the four psychological states to be developed at the personal level. The four for social living are listed as sharing, pleasant speech, the social good and egalitarianism (dāna, pīrya vajja, attha cariyā, samanātta). Buddhism’s Five Precepts, the Commandments in Judeo-Christianity, and religious ethics of other religions, and the Humanist ethics provide other possible models.

But is society based in such Buddhist, and humanistic, principles possible? Or is it a pie in the sky, mere sky-gazing? I could share two case studies for inspiration. One is the Indian experiment of King Asoka of ancient India (3rd century BC). The other is the classical Sinhalese culture, of the Anuradhapura (lasting a full 13 centuries (3rd century BC-11th century AD), and the Polonnaruwa (71 to 13th, following a brief ascension of South Indian power) periods.

In revaluation at the death, pain and suffering inflicted upon many in his successful attempt at establishing a unified India, Asoka converts himself to Buddhism and sets out to establish the ‘Principled Kingdom’ in which the welfare of both humans and animals is to be ensured under the watchful eye of Dharma Officers appointed for the task. Emulating the Buddha’s principle of ‘doing what one says, and saying what one does’ (vathāvāri satthākāri, vathākāri vathāvāri), and heeding the Buddha’s advise that the ruler be guided by the same values as the ruled, he, for example, sets a personal example by banishing meat-eating from the Royal Household.

Following the introduction of Buddhism to Sri Lanka by Asoka’s son and daughter, Sinhalese kings came to build a hydrologic civilization that was prosperous and culturally sophisticated. The vast man-made ‘oceans’ (some over 8-feet deep and extending several acres), canals and a multi-layered catchment system of the rain to water the fields explain how the island came to earn the epithet ‘Granaries of the East’. The technical sophistication of the era can be judged from the example of the Yoda Ela canal with a 17 gradient per mile, and the ‘mirror wall’ of the Rock fortress of Sigiriya (5th to 8th c.). The free-verse poetry etched on the mirror wall by visitors to express their feelings in admiration of the of 500 or more frescoes

3 See Ling, 1973, the chapter on ‘The Ashokan Buddhist State’ (pp. 151-170).
painted on the rock walls speaks to the sophistication and extent of cultural activity of the era (see Paranavitana, 1956).

5 Closure

We have argued that a Human Rights paradigm is not promotive of social harmony and would thus not serve as a good model towards the Evolution of a Just and Sustainable Civilization that respects all our peoples cultures. We have proposed the alternative of a Charter of Human Relationality. But arguing for a moralistic rather than a legalistic framework towards social harmony, we have offered some Buddhist principles and examples. Ironically, to go forward is to go back, for our search leads us back to the time when societies were governed more by morality than by law, and where the social good took precedence over the individual good!

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