

CHRONICLE OF PRIVILEGE: A BRIEF NARRATIVE OF HUMAN RIGHTS

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ABSTRACT:

Human rights encompass an articulation of the need for people to be treated in a just, decent and humane way regardless of their ethnic, religious or racial profile. Human rights violation involve denying human beings their basic moral entitlements. Perpetrators of human rights violations range from governments, corporations, and organized crime rings to communities and individuals. There are numerous underlying causes that drive people to commit human rights violations. Man has been always trying to establish his right, time and again; sometimes there has been a depressing failure and the assault on human rights continues. A new world order came into being out of the ashes of the World War II in 1945, putting respect for human rights along with peace, security and development as the primary objective of the United Nations. The main objective of the essay is to trace the historical development of human rights. So the essay is a chronicle of human rights i.e it's development over the years and its effect on the world.

I. INTRODUCTION:

Since the advent of the modern welfare state, humans have been guaranteed a level of dignity and prerogatives that distinguish us from the other primitive life forms that exist on this planet. Humans have been bestowed with an inherent quality to learn and grow, this helped us occupy the highest position in the hierarchy of organisms in the past epoch, but in the process humans have not only stepped on other life forms but also on their own kind to fuel their ascent to glory. And even today a select few choose to trample the basic needs of others to achieve their own solipsistic and fiendish ends. This malefaction was rampant in the times of our forefathers and it is still prevalent today, the weak are being preyed upon by the strong. But with the realisation of the modern welfare state, several measures and policies have been adopted to prevent the commission of transgressions against other human beings. Numerous lives have been completely destroyed because of the trespass committed against individuals, the basic rights that have been guaranteed to every individual by the virtue of them being a human have been completely disregarded by miscreants who seek to achieve their self-serving design. Our situation has improved from the dismal reality of the archaic times when humans had no regard for each other and breach of human rights were rampant with little to no corollary for the malefactors, but after the universal

declaration of human rights on 10th December 1948 there was now hope for individuals who were being decimated by the violation of their human rights.

The universal declaration of human rights was first of its kind as it included in its ambit all human beings regardless of their race, class, gender and other factors which several of its forerunners failed to include in their deliberations. The Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791)¹ are the written precursors to many of today's human rights documents, but these documents were made by the imperialists and antiquated ideals which failed to accommodate the needs of the present era. The universal declaration of human rights steered the world into the modern age where all transgressors had to answer for their crimes, whether it be a prince or a pauper. Its preamble asserts that:

*Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.*²

The UDHR envisions an idealistic social order for our world where every individual is treated with the respect they deserve by the virtue of them being humans, but even after decades this dream is far from reality. Several atrocities committed by humans against their own kind raised the outcry for a uniform code to safeguard the birth right of individuals.

The industrial revolution that began in Britain in the 1700s transformed entire nations and colonies along with the humans who stimulated the rapid growth, for the benefit of a select few the impoverished masses of working class people were worked to death to support the growing demands of the maniacal overlords. Children as young as the tender age of four were employed in the factories and mines to work for hours on end for a meager pay.³ The wealthy owners of these factories and mines employed children to save up on their cost of production as children were paid less than their adult counterparts. There were no safeguards for the children working in horrid conditions which often resulted in fatalities. The children were expected to work in overcrowded mills obediently for long 12-16 hour shifts.⁴ these young children were viciously tormented by their supervisors and were practically treated as slaves. The children were lucky if they escaped with their lives as most of them suffered some form of permanent disfigurement or were maimed

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¹ Nancy Flowers, *Human Rights here and Now*, (October 5, 2016), <http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/short-history.htm>

² Michel Streich & Paul Williams, *The Universal Declaration of Human Rights* 1, (1st ed. 2008)

³ History Crunch Writers, *Child Labour in the Industrial Revolution*, (July 29, 2019), <https://www.historycrunch.com/child-labor-in-the-industrial-revolution.html#/>

⁴ History crunch writers, *supra* note 3.

by the dangerous unguarded industrial machines, they had to witness the horrifying scenes of fellow children being mauled to death by the machines and yet could not raise any cry since no one could be held accountable for. The salaries were immediately stopped for the children who could not work anymore due to the injuries sustained while working in horrid conditions and no compensation was provided to them for any the injuries they sustained while working in these death traps. The abhorrent conditions raised hue and cry by the people who still understood the nature of humanity and had not regressed to barbaric times. This clamor for relief led to the formulation of some legislation that gave relief to the tormented children. In 1819 The Factory Acts limited the number of hours to 12 hours a day for British children and by 1833 it was made illegal to employ children under the age of 9 and children over 13 who were employed could not work more than 9 hours a day.⁵

Even more people had been displaced from their homes only to be treated as second class citizens and were discriminated based on the colour of their skin, which is just an evolutionary attribute and does not affect an individual's intellectual or physical capabilities. African Americans were treated as inferior beings in the United States as recently as 1964. the roots of this discrimination can be traced back to the colonial times when slave trade was prevalent and millions of Africans were captured to serve the demands of the rapidly growing population of the colonists in America. People were snatched away from their families and locked up on overcrowded ships for months on end, unable to see the light of day, just to be delivered on an entirely new continent and sold into slavery.⁶ And this practice lead to the formation of a notion in the minds of the people that the African Americans were serving class people and warranted the same treatment that was given to slaves, this gave rise to discrimination based on the colour of their skin due to which they were denied the basic human rights that every individual deserves. Racism percolated down to the more recent times in the form of apartheid and other discriminatory practices which were demeaning in nature and reduced the African American citizens to being subservient to other citizens. Such a pernicious practice could not persist being contradictory to the general morals and humanity, so people raised up their voices against this oppression and demanded their birthright. This led to political unrest which gave rise to the civil war 1861 and emancipation proclamation in 1863,⁷ and many more movements for equal rights gained momentum, since the practice of slavery and discrimination was eventually outlawed but it was harder to change the mindset of the people who

⁵ Extract from a Factory Inspectors report, British Parliamentary Papers No 353 (1836) (unpublished manuscript) (on file with author)

⁶ History.com editors, *Black History Milestones: Timeline*, (October 14, 2009), <https://www.history.com/topics/black-history/black-history-milestones>

⁷ History.com editors, *supra* note 6

still believed in this baneful practice. This gave rise to the Jim Crow Laws that were formulated between 1874 and 1975, stressed on “separate but equal” status for African Americans, which essentially meant segregation in relation to school, churches, public amenities, public bathrooms, buses and many more aspects, in addition to this the Vagrancy laws enabled the law enforcement to convict African Americans for petty offences and the system of penal leasing was basically re establishing slavery.⁸

The imperative need for a worldwide declaration of human rights was crusaded after the atrocious cataclysm that shocked the world, the Holocaust. From 1939 to 1945 the axis powers, Germany, Italy and Japan committed appalling crimes against defenceless innocent people, performing gruesome experiments, killing masses, confining and torturing people in concentration camps and essentially wiping out a considerable faction of the population based on preposterous views of ethnic cleansing. The crimes that were committed against humanity during this time period had no parallel, the sheer volume of people who had been subjected to horrendous crimes had no match in the history of the civilized world. The ghastly acts committed by the axis powers and their troops under the guise of the war ideals jolted the entire world and formed the necessary momentum needed for the formulation of a worldwide code of conduct to safeguard the human rights of every individual on this planet earth. Almost all the war criminals who were rounded up after the war ended were made to answer for their crimes against humanity in the Nuremberg trials, for all the people they condemned to horrific deaths in their reign of terror.

To put human beings in their capacity as individuals, citizens and members of a race governed by principles of equality, justice and solidarity at the center of interest and action of the world order is the novel element which gives the United Nations Charter its historical value and present validity. This new emphasis is clearly discernible in the light of the conviction that there is a close connection between the respect for human rights and the preservation of international peace and security.⁹

However, the challenge to achieve universal respect for human rights are still a matter of great importance. For example, slave-like practices have remained a grave and persistent problem even in the closing years of the twentieth century despite the fact that it is condemned. Another example of this nature is the refugee problem. Although the immediate cause of most refugees movements

⁸ Hansan J.E. , *Jim Crow laws and racial segregation*, (2011), <http://socialwelfare.library.vcu.edu/eras/civil-war-reconstruction/jim-crow-laws-and-racial-segregation/>

⁹ Cf. C. Parry, Ed. *The Consolidated Treaty Series*, (Dobbs Ferry, New York: Ociana Publications, 1969, Vol. 56 (1801-1803), pp. 93-103, Vol. 116 (1856-1857), pp. 121 - 141.

is armed struggle or serious domestic disorder the violation of human rights usually finds root in the struggle itself.¹⁰

Slavery, forced labor and human trafficking are violations of human rights because these acts strip human beings of their inherent rights. In fact, the Universal Declaration of Human Rights explicitly references slavery, stating in Article 4.¹¹

Some of the worst human rights violations that occur around the world are as follows:

Worldwide 10 million children are in slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment for armed conflict, prostitution, pornography and other illicit activities (ILO)

151.6 million are estimated to be in child labour (ILO)

114 million child labourers are below the age of 14 (ILO)

72 million children are in hazardous work that directly endangers their health, safety and moral development (ILO)

more than 700 million women alive today were married before their 18th birthday. More than one in three (about 250 million) entered into union before age 15 (UNICEF)

300,000 children are estimated to serve as child soldiers, some even younger than 10 years old (UNICEF)

15.5 million children are in domestic work worldwide – the overwhelming majority of them are girls (ILO)

In the UK, 981 children were referred to authorities as potential victims of trafficking in 2015 (National Crime Agency)¹²

For 18 years, the LRA guerrillas of northern Uganda has been kidnapping boys to train them as soldiers and girls to turn them into sexual slaves of the commanders. In 2002, as many as 20,000 children were controlled by the LRA.

¹⁰ United Nations, Notes for Speakers: Human Rights (New York: Department of Public Relations, 1993). Forword and pp. 4, 38-39: United Nations, Center for Human Rights, Contemporary Forms of Slavery, Fact Sheet No. 14. (New York: United Nations, 1991)

¹¹ Article 4 states that No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

¹² <http://www.antislavery.org>

Child labor is a human rights problem, and increasingly recognized as such the world over. As well it ought. Of the approximately 246 million children between ages 5 and 17 estimated by the International Labor Organization (ILO) to be engaged in child labour.¹³ Working long hours under exploitative conditions, often beaten or otherwise abused, and commonly trafficked from one country to another, they are unable to obtain the education that can liberate and improve their lives; their health is severely threatened from years of exposure to hazardous material; many, if they survive, are deformed and disabled before they can mature physically, mentally, or emotionally. The UNICEF partners with the civil society organizations to support a holistic child approach to child slavery, labour and trafficking by finding sustainable solutions to address its root causes.

Forced sterilization occurs when a person is sterilized after expressly refusing the procedure, without her knowledge or is not given an opportunity to provide consent. Coerced sterilization occurs when financial or other incentives, misinformation, or intimidation tactics are used to compel an individual to undergo the procedure. Women with disabilities are particularly vulnerable to forced sterilizations performed under the auspices of legitimate medical care or the consent of others in their name. Across the globe, forced sterilization is performed on young girls and women with disabilities for various purposes, including eugenics-based practices of population control, menstrual management and personal care, and pregnancy prevention (including pregnancy that results from sexual abuse).¹⁴ The practice of forced sterilization is part of a broader pattern of denial of the human rights, including reproductive rights of women and girls with disabilities. This denial also includes systematic exclusion from comprehensive reproductive and sexual health care, limited voluntary contraceptive choices, a focus on menstrual suppression, poorly managed pregnancy and birth, involuntary abortion and the denial of rights to parenting. These practices are framed within traditional social attitudes that characterize disability as a personal tragedy or a matter for medical management and rehabilitation.¹⁵ Safeguards to prevent forced sterilization should not infringe the rights of women with disabilities to choose sterilization voluntarily and be provided with the necessary supports to ensure that they can make and communicate a choice based on free and informed consent. The Convention on the Rights of Persons with Disabilities provides a basis for upholding the rights of persons with disabilities and contains specific articles of relevance to the issue of involuntary sterilization. Article 23 reinforces the right of people with disabilities to found and maintain a family and to retain their fertility on an equal basis with others.

¹³ ILO, EVERY CHILD COUNTS: NEW GLOBAL ESTIMATES OF CHILD LABOUR 6, 20 (Geneva: ILO, 2001),

¹⁴ Brady, S., Briton, J., & Grover, S. (2001), OpCit.

¹⁵ Dowse, L. & Frohmader, C. (2001) *Moving Forward: Sterilisation and Reproductive Health of Women and Girls with Disabilities*, A Report on the National Project conducted by Women with Disabilities Australia (WWDA), Canberra.

Article 12 reaffirms the right of persons with disabilities to recognition everywhere as persons before the law and to enjoy legal capacity on an equal basis with others, including access to the support they may require to exercise their legal capacity. Article 25 clearly articulates that free and informed consent should be the basis for providing health care to persons with disabilities. In June 2011 the International Federation of Gynecology and Obstetrics (FIGO) issued new guidelines on female contraceptive sterilization and informed consent. There were various recommendations made to expand on these guidelines with specific considerations for women and girls with disabilities. These recommendations were reflected in laws and policies governing sterilization practices as well as in other professional guidelines and ethical standards. The involuntary sterilization of disabled underage girls is still lawful in Australia which violates human rights.

Across the globe, lesbian, gay, bisexual, and transgender people (LGBT) continue to face endemic violence, legal discrimination, and other human rights violations on account of their sexual orientation or gender identity. It is a matter of deep concern that across the globe, at least 76 countries (home to 44% of the world's population) continue to criminalize same-sex relations. Six countries (Mauritania, Sudan, Iran, Saudi Arabia, Yemen, and Iraq) implement the death penalty for same-sex relations, as do some provinces in Nigeria and Somalia.¹⁶ The OHCHR report was released in anticipation of a Human Rights Council meeting scheduled for March 2012. Ban Ki-moon opened the Council meeting by stating: The High Commissioner's report documents disturbing abuses in all regions. We see a pattern of violence and discrimination directed at people just because they are gay, lesbian, bisexual or transgender. There is widespread bias at jobs, schools and hospitals, and appalling violent attacks, including sexual assault. People have been imprisoned, tortured, even killed. This is a monumental tragedy for those affected and a stain on the collective conscience. It is also a violation of international law. The United Nations has been working with Member States to reject discrimination and criminalization based on homophobia and transphobia. While the denial of human rights for LGBT persons persists throughout the world today, over 30 countries have decriminalized homosexuality in the past 20 years. In the face of resistance, determined efforts from the U.N., associated NGOs, and representatives of Member States to guarantee the human rights of LGBT persons have been gaining momentum.¹⁷

Article 4 talks about no slavery I.e “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

¹⁶ <https://www.amnestyusa.org>

¹⁷ <https://www.apa.org/international>

In northern Uganda, the LRA (Lord's Resistance Army) guerrillas have kidnapped 20,000 children over the past twenty years and forced them into service as soldiers or sexual slaves for the army. In Guinea-Bissau, children as young as five are trafficked out of the country to work in cotton fields in southern Senegal or as beggars in the capital city. In Ghana, children five to fourteen are tricked with false promises of education and future into dangerous, unpaid jobs in the fishing industry. In Asia, Japan is the major destination country for trafficked women, especially women coming from the Philippines and Thailand. UNICEF estimates 60,000 child prostitutes in the Philippines. The US State Department estimates 600,000 to 820,000 men, women and children are trafficked across international borders each year, half of whom are minors, including record numbers of women and girls fleeing from Iraq. In nearly all countries, including Canada, the US and the UK, deportation or harassment are the usual governmental responses, with no assistance services for the victims. In the Dominican Republic, the operations of a trafficking ring led to the death by asphyxiation of 25 Haitian migrant workers. In 2007, two civilians and two military officers received lenient prison sentences for their part in the operation. In Somalia in 2007, more than 1,400 displaced Somalis and Ethiopian nationals died at sea in trafficking operations.¹⁸ Article 4 talks about no torture i.e. "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In 2008, US authorities continued to hold 270 prisoners in Guantánamo Bay, Cuba, without charge or trial, subjecting them to "water-boarding," torture that simulates drowning. Former-President George W. Bush authorized the CIA to continue secret detention and interrogation, despite its violation of international law. In Darfur, violence, atrocities and abduction are rampant and outside aid all but cut off. Women in particular are the victims of unrestrained assault, with more than 200 rapes in the vicinity of a displaced persons camp in one five-week period, with no effort by authorities to punish the perpetrators. In the Democratic Republic of the Congo, acts of torture and ill treatment are routinely committed by government security services and armed groups, including sustained beatings, stabbings and rapes of those in custody. Detainees are held incommunicado, sometimes in secret detention sites. In 2007, the Republican Guard (presidential guard) and Special Services police division in Kinshasa arbitrarily detained and tortured numerous individuals labeled as critics of the government. Slavers and human traffickers grossly violate human rights since they claim ownership, labor and/or the humanity of another human being.

In discourses on human trafficking, trafficking is frequently categorized as either sex trafficking or labour trafficking. Although it is impossible to have completely accurate statistics, the International

¹⁸ <https://www.humanrights.com>

Labour Organization estimates that there are 14.2 million victims of forced labour, and 4.5 million victims of forced sexual exploitation. However, the two categories often overlap, such as in the case of a person trafficked to work in a restaurant who is also forced to do sex work, rendering such a dichotomy counterproductive to protecting the rights of victims. The most obvious justification for distinguishing these two categories is that sex trafficking involves a violation of the victim's bodily integrity. However, women who are trafficked for other forms of labour, such as domestic work, also experience forms of sexual abuse and violence. Men and children who are trafficked for labour can also be subject to sexual or physical abuse. All victims of trafficking suffer various forms of coercion, both physical and psychological, to force them to perform degrading tasks against their will. Since a violation of bodily integrity is not sufficient for differentiating these two categories of trafficking, the distinction seems to be an arbitrary one based on moral perceptions of the work the victims do. Domestic work, farm labour and construction, however exploitative the conditions, are all still perceived as morally acceptable sectors of work, whereas sex work is not. The consequence is that sex trafficking becomes conflated with prostitution, which has a negative impact on those who engage voluntarily in sex work. Additionally, the disproportionate focus on female sex trafficking obscures the violence and human rights violations experienced by men and children, in addition to women, who are trafficked for other forms of forced labour. A human rights approach to trafficking means putting victims at the centre of anti-trafficking policies by prioritizing the protection of their rights. By taking such an approach, whether the person is trafficked for sex work or another form of forced labour becomes irrelevant, because the victim's rights are protected regardless of why they have been trafficked. A core component of a human rights approach is ensuring equal protections to all victims of trafficking, regardless of their gender, age, or field of work. All victims are entitled to equal access to aid mechanisms, protection, and justice, as well as the choice to access these services in the way that they choose so as not to have their agency compromised (ie, not being obligated to testify in criminal proceedings). Therefore policy responses must take into consideration the often gender based nature of trafficking and sufficiently compensate for any gender-based discrimination in terms of access to aid and justice. In addition to actively ensuring these rights to trafficking victims, other anti-trafficking policies involving criminal prosecutions and migration regulations must not compromise human rights in the process.¹⁹

The international protections against trafficking are found in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This was established as part

¹⁹ <https://ourworld.unu.edu>

of the UN Convention Against Transnational Organized Crime, not within the human rights system. To help states implement this protocol through the lens of human rights, the UN High Commissioner for Human Rights has issued guidelines on human rights and trafficking.

Human rights advocates agree that, sixty years after its issue, the Universal Declaration of Human Rights is still more a dream than reality. Violations exist in every part of the world. For example, Amnesty International's 2009 World Report and other sources show that individuals are: Tortured or abused in at least 81 countries, face unfair trials in at least 54 countries and are restricted in their freedom of expression in at least 77 countries. Not only that, but women and children in particular are marginalized in numerous ways, the press is not free in many countries, and dissenters are silenced, too often permanently. While some gains have been made over the course of the last six decades, human rights violations still plague the world today. Human rights violations occur when any state or non-state actor breaches any of the terms of the UDHR or other international human rights or humanitarian law. Human rights abuses are monitored by United Nations committees, national institutions and governments and by many independent non-governmental organizations, such as Amnesty International, Human Rights Watch, World Organisation Against Torture, Freedom House, International Freedom of Expression Exchange and Anti-Slavery International. These organisations collect evidence and documentation of human rights abuses and apply pressure to promote human rights.
