

Human Rights and Democracy: A Positive Approach

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Abstract: Democracy and human Rights have been the prominent and contentious concepts in the constitutional law of most states, especially after new nation –state theory, and international law after formation of UN. In this article, despite of the complexity and differences of opinion, it has been tried to analyze the correlation and interrelationship between democracy and human rights through a positive approach. In this approach, the components of human rights such as right to self-determination, right to public participation and liberties has been introduced as main components of democracy. And democracy, mutually, has been considered as instrument for promotion and application of human rights. Most of the rights and freedoms are drawn from principles and concepts of democracy and vice versa. So, Democracy and human rights are correlative.

Key words: Democracy, Human Rights, fundamental freedoms, theoretically contradiction, Correlation and Interrelationship.

INTRODUCTION

So far, only a few pieces of theoretical research on the correlation between human rights and democracy have been carried out. In these few pieces of studies, the subject related to the correlation between human rights and democracy has been sporadically discussed. This complication was given rise to by intermingling domain of subjects of these two concepts and extending the meaning of them.

In fact, "more recent interpretation of each of these concepts, both in multilateral organization documents and in academic literature, tends to broaden each of the two concepts in the way as to include or imply the other". The trend of broadening of the meaning of democracy and human rights can be observed in the documents of organization of American States, council of Europe, organization for security and cooperation in Europe and the other institution such as General Assembly, human rights commission. This strong inclination for extending the meaning of each of these concepts and intermingling of them with other concepts like international law and politics has led to difficulty in the systematic studies on the correlation between human rights and democracy.

Moreover, this tendency of extending the meaning of each of these two caused them to become so intermingled that one can consider them as being a single integrated concept which can not be understood separately. This is why, on the correlation between democracy, development and human rights, Vienna Declaration and Program of action (passed in the international conference on human rights in 1993) has declared that: Democracy, Development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

Regarding to the afore-mentioned interdictory theoretical statements, the fundamental question is whether the correlation between democracy and human rights is as simple as was declared in the Vienna Declaration or the analysis of the subject necessitates us to carry out some theoretical and statistical pieces of research based on case studies in different countries including democratic and non-democratic ones.

On the whole, there exist two different opposite viewpoints on the correlation between democracy and human rights; one view is that there is no systematic correlation between two concepts and the other one is that there exist a significant correlation, interrelationship and convergence between them.

1. Differences Between Democracy and Human Rights:

According to this view, regarding to the many theoretical controversy on this subject , it is impossible to accept such a naïve opinion (the correlation between democracy and human rights) in that democracy and human rights are institutionally separate and independent from each other which can be separately applied. "Democracy and human rights share a commitment to the ideal of equal political dignity for all. Furthermore, international human rights norms, as previously noted require democratic government. The link, however, need not run in the other direction. Because rights of democratic participation are but a small set of internationally recognized human rights, The struggle for human right is not only much more than the struggle for democracy, but also fundamentally different in character"

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On the other hand, democracy and human rights, historically have been considered separate from each other, in that each of the two covers a different and distinct subject in the history of political philosophy: "democracy is concerned with governmental organization while human rights is related to individual rights and their vindication. When we talk about democracy, we mean institutional arrangements such as competitive election, multiple-party system, separation of powers. That is we consider democracy to be related to legal orders and public power institution, whereas, the main objective of human rights is to provide individuals at least a necessary conditions for leading a safe life".

Furthermore, human rights have always defined and followed international rules while government legal arrangements- the way governmental institutions are organized- were traditionally considered to be a fully national.

As a result, they believed that, we should not consider a special and universal model for a democratic government and seek for imposing a specific model to a government and generalized it to all governments because an ultimate idea of democracy originates from the past, traditions and philosophy of every nation. Thus, imposing and instigating a specific model of democracy or national and regional democratic institutions to a nation is immoral and wrong.

2. The Correlation Between Democracy and Human Rights:

The arguments on the lack of the correlation between democracy and human rights given above is not convincing because on the one hand there are some statistical studies that indicate the significant correlation between the two; that is, the more a government is democratic, the more it follows the human rights." A 1985 study by Conway Henderson of 152 countries, and a 1980-1987 study by Steven Poe and Neal Tate of 153 countries present data in support of this view. Further research has confirmed the general initiation. Quantitative analyses of government use of killing, torture and detention have proven that the lowest levels of such abuses are associated with highest levels of democratic government (Cingranelli and Richards 1999; Davenport 1999; Henderson 1991; Mitchell and McCormick 1988, Poe and Tate 1994; Rummel 19994). Democratic societies are in general less likely to violate human rights because (I) potentially abusive leaders are more likely to be removed before they have engaged in serious human rights violations; and (II) civil liberties allow the opposition and citizens to use politically as a tool of preventing and stopping attempts at repression."

On the other hand, promoting human rights is one of the characteristics and ingredients of modern democratic nations and of democracy and vital principles of democracy are changed by social processes into rights and liberties and hence can be claimed. There are some cogent arguments in favor of the fact that there is a correlation between democracy and human rights. Some are as follows:

1. Democracy without human rights is non-sense and meaning less; how could one call a government democratic merely for having, formal characteristics of democracy even though people's participation in their own self-determination is simply formal? That is the government agents, although being elected by the people, instead of the application of people's will, abuse their gained power and endure no controls and seek for their own benefits, can such a government be considered to be democratic?! In such a country, people are put under pressure, oppression, discrimination and terror by the government.
2. Many characteristics of a democratic government are a part of human rights that are emphasized by human rights documents including: the right of people to control public affairs of the country, free and fair elections and tolerance. There are principles, norms, standards and values mentioned in international human rights law that are the basis of democracy. Therefore a merely formal and institutional process is not enough to evaluate democracy: rather the principles, norms, standards and values mentioned in the international human rights law should be taken into account.
3. The effectiveness of the democratic principles and the standards mentioned in the human rights documents for making governmental democratic institutions based on the principle of rule of law including accountable executive, selective legislative and independent judiciary is necessary. Democratic institutions guarantee the public control over power and free and fair elections are important for the effectiveness of institutions and public participation.
4. All citizens' right to comment on public affairs and to control the government based on the equality of each citizen is an indispensable feature of democracy. To make this right practicable, on the one hand we need political institutions such as elections, parties and legislation assemblies with which we have become familiar by what we experienced from our old democracies and on the other hand we need the guarantee of those human rights which are called and are cited in the civil and political rights. International covenant on civil and political rights and European convention on Human Rights. We need both for the realization of democracy.
5. Public participation, observance, deliberation and political equality are required for democracy. These should be actualized by accountable, representative and available institutions conditioning that these institutions be changed periodically. Democracy is a mechanism of right to self determination and should be based upon people's free will to express their opinion by means of elections accompanied by information,

freedom of speech, association and opinion.

6. The use of rule of law and a fair enforcing of justice have a vital role for democracy to become more efficient. Hence, democracy needs to observe the guarantee for judicial independence, enforcing the regulations of human rights, in the legal decisions, removing corruption in the judicial decisions, invigorating of official affairs in judiciary branch, the guarantee for suitable resources for judiciary branch and promoting the judicial education.
7. Legislative which is elected democratically has a fundamental role in making a perpetual and vital relationship between people, democracy and human rights.
8. Democracy and human rights are correlated even in a deeper level. That is, both of them can be justified on the basis of the assumptions we make about man's nature "the philosophical justification of human rights program is based on the fact that despite their differences, all human beings have common needs and capabilities especially in their right in freedom, freedom of speech, freedom of thought, and personal freedom etc. which are based on the assumption that human being is capable of selecting consciously and logically of acting thoughtfully and of having a definite aim etc. which in turn affect his life. A democratic right is also based on the same assumption that human beings capabilities in solving the problems that have an effect on their common or social/governmental life. The right to vote and to be a candidate for public position is based upon the man's capability to participate in different interactions and discussions concerning to general and specific benefits. Both of these two rights for social and individual life are for those who are mature in age.

As a result, democracy should be defined on the basis of respecting human rights, fundamental liberties, freedom of society, and freedom of speech, freedom of the press and of respecting the right to grab the reigns of power and to enforce it in terms of rule of law, to conduct periodical free and fair elections through public and unnoticeable as a representation of people's will and plural system which as itself based on party competition, separation of powers, independent judiciary, transparency and accountability.

Conclusion:

Although there are some complications in the content of democracy, majority of people and government have an optimistic viewpoints towards it. Therefore, through ages, people have perpetually endeavored to obtain this kind of government and all the time the governments tried to prove that their ruling is on the basis of democratic principles.

Despite their deficiencies, the modern democratic governments are the best and the most conducive way of governing people in which the dignity of man as a free creature is highly respected. That is, in such a government, man is considered as the main owner of government, not as a tool in the hand of government.

The designation of some of the constructive characteristics and elements of democracy in the human rights documents and the designation of democracy as a right of man (Right to Democracy) in the United Nations approach shows the two following facts concerning to democracy and human rights: 1) these two concepts are so correlated that we can not consider one without considering the other by which we mean that it is impossible to consider a government democratic if it doesn't respect human rights even though it follows all principles of formal democracy;

2) Democracy and human rights strengthen each other mutually; that is, the richness of democracy is enhanced by respecting human rights and a democratic government endeavors to highly respect human rights.

On the whole, the most impossible criterion for evaluating democracy in a country is the extent to which it respects human rights, not the member of elections by which we mean that as we mentioned before the more governments respect human rights and freedoms, the more democratic they are.

In conclusion, the government that doesn't respect human rights and fundamental liberties not only is not democratic but also is a clear manifestation of dictatorial and suppressor government in that this kind of despotic and cruel government tries to neglect respecting people's rights, suppress freedom, kill and torture people and do all other actions that are against human rights.

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