Individual and Collective Human Rights

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CONVENTION on the RIGHTS of PERSONS with DISABILITIES

Preamble

The States Parties to the present Convention recognize:

a. The inherent dignity and worth of all members of the human family;

b. The equal human rights and fundamental freedoms of all disabled persons;

c. The need to promote respect for and the promotion of the rights of all disabled persons;

d. The importance of the right to development and its role in subserving the full and equal enjoyment of all human rights and fundamental freedoms;

e. The need for the international community to take action to promote and support the implementation of the rights of disabled persons;

Conversely, the States Parties agree to:

a. To respect the rights of disabled persons and to promote their human rights;

b. To ensure the effective implementation of the rights of disabled persons;

c. To promote the full and equal enjoyment of all human rights and fundamental freedoms by disabled persons;

d. To take action to promote and support the implementation of the rights of disabled persons;

Martha C. Nussbaum

FRONTIERS OF JUSTICE

DISABILITY

NATIONALITY

SPECIES MEMBERSHIP
The Assignment


• Although this assignment includes two elements, namely a conceptual and a justificatory, I shall focus on the latter, that is, the normative grounding of human rights.

• What is at stake regarding whether human rights are justified as either ‘individual’ or ‘collective’? And is the assignment’s assumed tension between these forms of rights adequate?
The Trial Lecture’s Frame

- NCHR’s Master Programme – “Theory and Practice of Human Rights”

- Mandatory course (HUMR 5131), 1. semester – Introduction to the History, Philosophy, and Politics of Human Rights

- “philosophical (...) justification of universal human rights”
Today’s Plan

- **Definitions**: ‘human rights’; ‘human dignity’; **individual** human rights’; **collective** human rights’

- **Pros & Cons** – ‘individual human rights’ vs. ‘collective human rights’

- **More than a ‘family quarrel’?** – **Non-/complementarity** between ‘individual’ and ‘collective’ human rights regards to their normative justification

- **Q&A**
What Is a ‘Human Right’?

• **Human rights** = *Moral norms*:
  - **Individual** – apply to human persons
  - **Inalienable** – inherently inviolable
  - **Fundamental** – basic for human beings
  - **Universal** – independent of time and space
  - **Egalitarian** – equal treatment of all

• **Regardless** of **collective** status (e.g., ethnic, sexual, linguistic, or religious) (UDHR, Article 2)
The Kantian Background Picture

- “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family” (UDHR, Preamble)

- “that which [is] (...) an end in itself has (...) an inner [i.e., inherent] worth, that is, dignity.” (Kant, Groundwork, 1785)

- Human rights protection = Morally individual ≠ Collective
What Are ‘Individual Human Rights’?

• **Definition**: “bestowed upon every single human being personally” (Yoram Dinsein 1976)

• **Whose individuality – which rights?**
  - ‘Basic’/‘fundamental’ human rights (1 generation, i.e., Civil & Political) (e.g., the right to freedom of religion) ascribed to human ‘individuals’, or persons, regardless of either (a) personhood or (b) collective status

  - Basic human rights protecting **individual members of humanity**, that is, membership **characteristics** (i.e., personhood/personality) (e.g., autonomy)

  - Economic, Social & Cultural rights (2 generation) (e.g., the right to hold opinions) ascribed to **individual group members** (e.g., citizen in a state)

• **Central thinkers**: James Griffin; James Nickel; Allen Buchanan, etc.
What Are ‘Collective Human Rights’?

- **Definition**: “afforded to human beings **collectively**” (Yoram Dinstein 1976)

- **Whose collective – which rights?**
  - Human (‘group’) rights’ ascribed to a ‘**collective**’ as valuable in itself (e.g., group; minority; people)
  
  - Economic, Social & Cultural rights (2 generation) protecting individual **members** of a ‘**collective**’ (e.g., minority member)

  - All human rights (both 1 & 2 generation) that are exercised **collectively** (e.g., the right to free speech practiced in democratic publics)

  - Basic human rights (1 generation, i.e., Civil & Political) ascribed to **members of humanity** as a ‘**collectivity**’, that is, “all members of the human family” (Preamble, UDHR)

- **Central thinkers**: Iris Marion Young; Charles Taylor; Will Kymlicka, etc
Pros & Cons – Individual Human Rights

Pros

• Since human rights normatively are grounded in inherent dignity (cf. Preamble), and only persons are ascribed such moral status, these rights are ‘individual’

• Example: In the Canadian context, disabled persons, as ‘humans’, have a basic ‘human right to democracy’ (UDHR, Article 21), which ensures them equal participation in polls

Cons

• Human rights based on individuals’ ‘human’ dignity is too abstract to grasp systematic human rights violations of groups

• Example: CBS News reports that the right to democracy is violated to members of the minority group of disabled in Canadian polls
Pros & Cons – Collective Human Rights

Pros

• As groups cannot be reduced to its members, human rights should be collectively justified

Cons

• If even ‘individual’ human rights can be exercised ‘collectively’, the term ‘collective human rights’ is inadequate

Example: The minority group of disabled persons must appeal to the collective rights in CRPD to have an actual voice in Canadian polls

Example: As long as each member of the minority group of disabled is recognized by the Canadian society as co-citizen, their (2 generation) civil and political rights will be fulfilled
The Nussbaumian Story on Human Rights

- **Martha Nussbaum combines aspects** of both the individual and collective account

- **The individual view:**
  - “[H]uman rights (...) uphold[-] the (...) [human] dignity of all persons”, i.e., the ‘basic principle’
  - ‘**Embodied** dignity’: Human dignity is grounded in persons’ bodily ‘situatedness’ (i.e., collectivity)
  - ‘**Relational** autonomy’: Self-determination depends on social relationships (i.e., collectivities)

- **The collective approach:**
  - ‘**Asymmetrical dependency**’: Due to ‘shared human features’, such as bodily vulnerability, individuals are mutually dependent on others (i.e., collectivities)
  - ‘**General disability**’: All humans are more or less, for longer or shorter period, disabled
Wrap Up

- In spite of the crucial role of the tension between ‘individual’ and ‘collective’ rights in the contemporary international discourse on the philosophy of human rights (e.g., the minority group of disabled) – and since my assignment is on the grounding of human rights – I hold that Nussbaum, particularly her account of dignity, represents a ‘golden mean’ between these camps.

- Still, the assignment for my trial lecture is not a matter of normative justification alone, but also for future conceptual and empirical inquires within the interdisciplinary research field of human rights – in addition to an awareness regarding both individual and collective struggles for human rights protection on a national as well as a global level.

- Q&A