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**Prolegomena of Human Rights.  
Historical Roots and Globalization**

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**Abstract:** The paper Prolegomena of Human Rights. Historical Roots and Globalization analyses the complexity of the history of human rights which revolve around an incessant struggle for the awareness of the value of the human being. It is the history which defends the man, the human being, regarded individually or collectively, who was subjected in the course of time to some atrocities and abuses, confronting itself with exploitation, discrimination, oppression, slavery, torture and even extermination. Moreover, the historical evolution of human rights knows halting places in which the concepts of human rights are accompanied by ambiguity, by different meanings for different people and vary in accordance with the context. By way of resemblance, the problem of human rights in the context of globalization which transforms human rights into rights of the global citizen, rights which acquire new dimensions and significances imposed by the economic, politic and social changes specific of globalization is approached in this paper. The global vision of the new human rights involves both the opportunity to have a say when they are infringed for example, when they are subjected to torture or terror, and where human rights abuses are carried out by the people, for example, trafficking in human beings. (Ritzer, & Dean, 2015, p. 115)

**Keywords:** human rights; historical roots; Globalization Era

## 1. General Aspects about the Historical Evolution of Human Rights

With a likeness to laws, rights must not be regarded as unchangeable organizations pertaining to different legislations or institutions but rather as dynamical and historical institutions modeled and influenced by economic, political and social processes. (Ibhawoh, 2007, p. 17)

The complexity of the history of human rights revolves around a continuous fight for the awareness of the value of the human being, a struggle that has lasted for centuries, cultures and different spaces from Asia all the way up to Europe and from the Middle East all the way up to America and Africa. It is the history which defends the man, the human being, regarded individually or collectively, a human being who has been subjected in the course of time to some atrocities and abuses, confronting itself with the exploitation, discrimination, oppression, slavery, torture and even extermination.

By way of resemblance, the historical evolution of human rights knows halting places in which the concepts of human rights are accompanied by ambiguity, by different meanings for different people and they vary in accordance with the context.

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The forces of historical change in the benefit of human rights are varied, including different visions, different actions, religious beliefs, philosophical, technological patterns of thought, wars and worldwide atrocities which dazzled profoundly the human conscience. The responsibility of human beings towards humans was broached upon by all religions of the world. Christianity was a powerful promoter of the idea that people must live in peace, justice and compassion.

The role of religions in defending human rights was outlined by the establishment of some visions and normative standards in the form of some moral codes with regard to the dignity of human beings and the way in which they must be treated.

By developing these moral imperatives, the visions of religions sustained the development of an essential concept for the rights of human beings: the responsibility of human beings to act for the well-being of others. Moreover, religions created a bridge of connection between rights and obligations. (Lauren, 2013, pp. 6-9)

Explaining the multitude of cultural, economic, social factors which contributed to the building of a complex history of human rights, we acquiesce the fact that it has never been balanced, precise, but it was characterized as well as by profound changes in different stages as by continuity. (Forsythe, 2009, pp. 393 – 394)

## **2. Religions of the World and Human Rights**

Although, there have been expressed many controversial opinions in what regards the historical origins of human rights, the authors of the Universal Declaration of Human Rights and representatives of the UNESCO members<sup>1</sup> averred the fact that modern understanding of human rights is influenced by religious humanism and primeval traditions. (Isay, 2008, p. 18)

Religious traditions are an authentic spring of the first significant philosophical conceptions with regard to human rights, playing an essential role in propagating humanistic outlooks. (Pușcă, & Pușcă, 2004, p. 10)

The value and dignity of human beings, their consanguinity, kindness, compassion towards others and the way of treating other people as they wish to be treated are values defended by all great religions of the world, starting from the primitive forms of religious beliefs, despite significant differences among them.

The sacredness of life, charity and correctness towards others are values met in the sacred writings of Hinduism, well over 3000 years before our times. (Vedas, Upanishads).

The scriptures of Judaism underline humanity, laws, ethical behavior, freedom from oppression and social justice.

*The teachings of Buddhism*, whose founder is Siddhartha Guatama, remind us about human equality, the value of each human being and the necessity that those who adhere to this belief should be benevolent and should manifest compassion towards all human beings. (Forsythe, 2009, p. 394)

The Revelations of Mohamed from the 7<sup>th</sup> century mention the duty of those who believe in Islam to be correct, clement and to manifest compassion towards the vulnerable ones.

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<sup>1</sup> United Nations Organization for Education, Science and Culture. It has 195 members and 8 associated states.

Some authors consider Islam to be a pioneer in acknowledging human rights, in protecting them and in their application, thus human rights were declared and acknowledged by Islam fourteen centuries ago. Rights acknowledged by Islam are: dignity, protection of war prisoners, the right to a fair trial, the right to equality, the right to faith, the right to individual freedom etc. (Muhammad, 2012, pp. 6-7)

*The Life and teachings* of Jesus, The Worthy Samaritan from the New Testament and from the Bible, underline the responsibilities of Christian people to love others as they love themselves.

Christian religion has ennobled the concept of human fraternity and the concept of equality between all people facing the divinity up to the level of a principle. In their reciprocal relationships, people must be tolerant and they must abide by the right of others to live in accordance with their own habits, in the spirit of understanding and complete respect. (Bolintineanu, & Năstase, 1995, p. 91)

Although the practice of certain religions to counteract hostile beliefs has transformed in many cases in intolerance towards human beings who were accused of committing certain heresies, the contribution of religions to the further development of human rights by the establishment of some traditions and the manifestation of principles starting from divine revelation, which has known in different historical stages different interpretations is irrefragable.

### **3. Philosophical and Moral Conceptions about Human Rights**

The ethical values of the moral and political philosophy, derived out of human reason and profane studies, represent other important sources of the historical evolution of human rights, starting from the principle according to which people hold certain rights just because they are human beings.

In ancient China one of the earliest contributions to the development of the concept of human rights was identified. The founder of the monist school of moral philosophy, Mo Tze, has made reference to the universal obligation of all comprehensive respect of other human beings anywhere in the world. (Forsythe, 2009, p. 395)

His ideas were shared also by the philosophers Kong Qiu and Confucius, according to which, all people share naturally a certain humanity which they possess as a value or moral force. Each man has the duty not to hurt others. (Forsythe, 2009, p. 395)

In ancient India, the philosopher Kautilya, the author of the book *The Artha Shastra*, underlined the fact that the individual value of each human being bestows upon him a series of inherent rights which must be abided by inclusively by laws.

The concepts of natural rights and of natural law appear delineated by philosophers of ancient Rome and Greece.

Protagoras from Abdera underlined the idea that the man is the measure of all things and that natural and social phenomena revolve around the man.

Following in the footsteps of his teacher Socrates, Platon wrote the paper *the Republic*: a universal law of nature with eternal standards or the moral justice is the elements of a naturally unchanged order which is paramount to the interests of a certain state; the conduct of humans towards others must be in harmony with this law.

Aristotle, the disciple of Platon, in his work *the Politics* has contended with the fact that human nature and virtue can be perfected if people treat others not necessarily in accordance to laws but in ways established only by their nature. According to Aristotle, the man is social by his nature and the family

is the first step of association of human beings; the association of more families leads to the creation of villages and cities, the union of more villages and cities give birth to the state; any association is established in the benefit of an indistinct good. (Pușcă, & Pușcă, 2004, p. 8)

It is noteworthy of being remarked the fact that there are three principles of law mentioned by the judicial adviser Ulpian: to lead an honest life; not to blight what belongs to another and to attribute to each what belongs to him (*Juris praecepta sunt haec: ni'oneste vivere, alterum non laedere, suum cuique tribuere*). (Pușcă, & Pușcă, 2004, p. 8)

Marcus Tullius Cicero, in his papers *About laws* and *About duty*, contends the fact that natural law, with its obligations to abide by a certain standard of justice was valid for all nations from all times, which brings all people together and imposes the universal responsibility to abide by the inherent value of each person. (Forsythe, 2009, p. 395)

#### **4. The Judicial Evolution of Human Rights**

The gradual decline of feudal absolutism has opened the way of free markets of capitalism, defending the concept of being free from economic slavery.

Thus, the foreshadowing of some documents which espouse human rights is being favored.

At 15<sup>th</sup> June 1215, *Ioan Fără de Țară/Ioan without Country* signs the first European document of protection of the human being, *Magna Charta Libertatum*, known under the denomination of *Chart of Liberties* or the *First English Constitution*. At pct. 39 of this document it is mentioned: No free man shall be carried away, imprisoned or disseized of or brought outside the law or blasted in any way and we will not go or send after him outside of a fair judgment of his siblings or according to the law. (Danziger, & Gillingham, 2003, p. 283)

We observe from the interpretation of this text the protection of the rights of human beings to live, the right to freedom, the right to an equitable process and the free access to justice etc.

The period of Renaissance has played a very important role for the evolution of the concept of human rights, this concept being endowed with new valences starting from the human conscience. Consequently, the freedom in the face of censorship, the interdiction of intolerance, the freedom of expression and individual freedom represented new connotations of this concept.

Christine De Pizan, in her work *Cartea Orașului Doamnelor/The Book of the Ladies' Town* (1405), has had the courage to underline the inclusion of women in each broaching upon natural rights and natural law.

Hugo Grotius, the father of international modern law, Dutch diplomat and judicial, terrified by the abuses of 17<sup>th</sup> century, wrote in his paper *On the right to war and peace* (1625) that: Natural law is derivable from God and the nature attributes to human beings certain rights naturally irrespective of religion or civil statute.

The *Petition of Rights*, a document elaborated in the year 1628 by king Sir Edward Coke, followed by the leaders of the American revolution, John Adams and Patrick Henry. The *Petition of Rights* represented an answer of King Sir Edward Coke to the serious attacks exercised by Charles I on the liberties of Englishmen. According to this document, the King has no authority to imprison a person arbitrarily and he must honor the rights of the English people.

Among the rights acknowledged to the English people, this document refers to the interdiction of imprisonments and detainments on the short term without a legal accusation; the interdiction of imprisonments and detainments on the long term for want of a process; the interdiction of credits and taxes forced without the accord of the Parliament; the interdiction of the stationing of soldiers in the houses of citizens on time of peace. (Patterson, 2004, pp. 36-37)

In the year 1679, The House of Commons of the English Parliament adopted Habeas Corpus Act, a law which decreed the communication of legal grounds for arresting a person in at most a few days from the intake of a measurement, whereas on the contrary the person must be freed. Consequently, by means of this document the respect of the inviolability of the person as well as the rights of the arrested person was foreseen. (Patterson, 2004, pp. 36-38)

The Bill Of Rights, the British law adopted in 1689 which reconfirmed the traditional British liberties: the power of the Parliament to elaborate laws and to approve taxes, the freedom of expression, the interdiction of inhuman or degrading punishments. (Censer, 2004, pp. 35- 37)

In his works, *A Letter about Tolerance and the Second Treaty about Governing*, the philosopher John Lock underlined the rights of human beings and the obligation of the government to abide by them. All human beings have certain natural rights long before any government or any civil society existed. These rights include: the life, the liberty and the right to property. People created governments in order to protect these natural rights and are condign to oppose resistance in case they are trespassed. (Forsythe, 2009, p. 397)

These ideas have been betaken, modeled and developed by the great thinkers of the Enlightenment (the 17<sup>th</sup> century): Francis Hutcheson – *Scurtă introduceere în filosofia morală/Brief introduction to moral philosophy*; Jean – Jaques Burlamaqui - *Principiile dreptului natural/Principles of natural law* (1747); Montesquieu – *Spiritul legilor/Spirit of the Laws* (1748); Adam Smith – *Teoria sentimentelor Morale/Theory of Moral Sentiments* (1759); Jean Jaque Rousseau – *Contractul social/The Social Contract* (1748); Voltaire – *Tratat despre Toleranță/Treaty on Tolerance* (1763) etc. (Forsythe, 2009, p. 397)

The pinnacle of the contribution of the Enlightenment to the historical development of human rights was reached by means of the revolutions from the second half of the 18<sup>th</sup> century: the American revolution (1775- 1783) and the French revolution from 1789.

The Declaration of independence of SUA (1776), remarkable international document drafted from the theories of natural law of John Locke and Montesquieu, stems from an obvious truth: *people were created equal and endowed with inalienable rights*, reaffirming a series of rights: the right to life, the right to freedom, the pursuit of happiness, rights which governments must protect and promote.. (Fomerand, 2014, pp. 203- 204)

Another valuable precursor of the Universal Declaration of Human Rights is the Declaration of the Citizen and Human Rights of the British colonies, adopted in 1789. This unique document, more comprehensive than any library and more powerful than the armies of Napoleon, (Acton, L., apud Forsythe, 2009, p. 398) served on an ulterior basis as a preamble to the Constitution of France in 1791. It establishes the principles of the French revolution as well as the fundamental rights of French citizens: all people are born free and equal in rights.

The Declaration provides the warranty of the rights to freedom, property, security and resistance to oppression from French citizens. Moreover, the conditions of this document foresee the freedom of speech, religion and equality in the face of law.

The fulminatory echo and the speedy progress in the field of human rights of the two revolutions especially with regards to the universality and the equality of natural rights has not managed to inhibit the trespassing of the rights of certain categories of people: women, servants, slaves, children, who were stuck outside the sphere of protection of certain rights.

The unprecedented amplitude of the phenomenon of slavery and of slave commerce has determined the British Parliament to react by adopting in 1807 the Act for the Abolition of the Slave Commerce and the USA Congress Act of interdiction of the Slave Commerce.

## **5. Human Rights in Globalization Era**

Cultural, social and economic globalization plays an extremely important role in the reconfiguration of the international conception on human rights. Although there is no consensus regarding the last round of globalization, the end of the Second World War is considered to be a starting point. Thus, the historical trajectory of globalization in close connection with human rights, is projected starting with the year 1945 by the creation of the United Nations Organization, the first institution of global governance which, starting from the ideal of maintaining peace and security in the world has known a spectacular evolution whereas the promotion of human rights becomes one of its major objectives. (Howard-Hassman, 2010, pp. 9-11)

After The Second War, international Community adopted many documents in the matter of human rights: The Chart of the United Nations<sup>1</sup>, The Universal Declaration of Human Rights<sup>2</sup>, The International Covenant on Civil and Political Rights<sup>3</sup>, The International Covenant on Economic, Social and Cultural Rights, The European Convention of Human Rights<sup>4</sup>.

The process of globalization of human rights takes amplitude in the 20<sup>th</sup> century. The issuance of China from its own economic isolation, its transformation into one of the most powerful participants at world economy and the fall of the communist regime in Europe (1989 – Germania, 1991 – Russia) marks the debut of the integration of market economies in the universal system of global economic governance.

Overwhelmingly, the approach of globalization in specialized studies is concentrated on the economic dimension of this interaction process and integration between people, companies and governments pertaining to different nations of the world, a process which was led by international commerce and investments and assisted by the technology of information. (Bhagwan, 2009, pp. 1049- 1053)

Economic globalization integrates the national economies in the international economy by means of commerce, direct foreign investments, capital fluxes on a short term, international fluxes of work force and fluxes of technologies etc.

There are definitions of globalization which comprise not only economic aspects but also social and political aspects of this process or set of processes which imply a transformation in the special organization of social relationships and of transaction generating fluxes and interactive transnational and interregional networks and power. (Held, 1999, p. 483 apud Howard-Hassman, 2010, p. 9)

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<sup>1</sup> Signed at San Francisco, 26th June, 1945, came into force on 24th October, 1945.

<sup>2</sup> Adopted at 10<sup>th</sup> December 1948 by General Assembly of UN, Resolution no. 217 A III

<sup>3</sup> Into force from 23rd of March 1976, Ratified by Romania through the Decree no. 212/ 1974.

<sup>4</sup> Adopted in 1950. Amended by the 15 additional Protocols. Ratified by Romania through the Law no. 30/ 1994 (Official Monitor no 135 of 31 May, 1994).

The majority of critics brought to the negative effects of globalization on human rights revolve around its economic dimension. It has been considered that globalization has created a void between poor and rich societies. (Ishay, 2008, p. 13) The ebullience of the action of globalization over poverty produces directly some repercussions on the need of people to enjoy the exercise of economic rights and indirectly those of civil and political rights.

On the other side of the barricade there are the advocates of the positive effects of globalization over redefining human rights. The Third World characterized by the expansion of the world market, the development of international commerce, the development of the technology of information which renders possible the rapid exchange of ideas, experiences, practices between different people from different corners of the world has managed to delineate new rights and new freedoms of global citizens.

Human rights have been classified, after the criterion of historical evolution into three generations: rights of the first generation (civil and political rights - the right to life; the interdiction of torture and of inhuman and degrading punishments; interdiction of arrest or detainment in an arbitrary way; the right to freedom of thought, freedom of conscience and of religion; the right to freedom of speech; the right to a peaceful meeting; the right to take part in public matters, to vote and to be elected), rights belonging to the second generation (economic, cultural and social rights) - the right to social security, the right to work, the right to free choice of work, the right to equitable and satisfactory conditions of work, the right to protection against unemployment, the right to an equitable retribution which would ensure the man and his family an existence in accordance with human dignity and completed at need by other means of social protection; the right to a level of living which would ensure his health and welfare and that of his family; the right to learning; the right to take part in the cultural life of the collectivity etc.) and rights belonging to the third generation (rights of solidarity - the right to political, economic, social and cultural determination; the right to economic and social determination; the right to participate and to benefit from the common patrimony of humankind; the right to peace, the right to a healthy environment, the right to natural resources etc.).

Subsequently, the concept of human rights has migrated in the course of history from those civil and political rights (the first generation), it has developed by means of the economic, social and cultural rights (the second generation) and is accomplished by means of the rights pertaining to the third generation.

The right to a healthy environment, the right to a sustainable development, the right to an asylum, the right to enjoy the patrimony of the community are only a few examples of new rights acknowledged to the members of the globalized human family of the 21<sup>st</sup> century. We may consider this extension of the gamut of human rights one of the positive effects of globalization.

## **6. Conclusions**

Explaining the multitude of cultural, economic and social factors which contributed to the building of a complex history of human rights, we realize the fact that it was never balanced, precise, being characterized as well as by profound changes in different stages as by continuity.

We ascertain, as a result of this study, the gradual progress of human rights, which, in the course of their historical evolution, from the Antiquity and up to the 21<sup>st</sup> century, have acquired different valences by gradually setting apart from their natural and theological roots, thus becoming the subject of profane approaches and afterwards of the dynamics of the powerful changes of globalization.

Regardless of the source of human rights: human nature; legal regulations; social reality or politics of a particular nation, in a given period of time, the fact is that we are witnessing, amid globalization, to a continuous process of reinvention of the concept of human rights, defending the new rights into the agenda of the international community.

Promotion and protection of these new global rights is an important matter because they are essential to any human beings that is contemporary with the new technologies, the international flow of information, the development of accelerated international trade etc. that is contemporary with the new technologies, the international flow of information, expedited development of international trade.

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