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Human Rights in World Civilizations I [SOSC 24900 1]

October 15th, 2023

Standardizing Human Rights and Genocide

Standardization is the process of conforming to a common conclusion. For instance, regardless of the imperial or metric system, society is able to communicate about same distance, weight, or temperature. In contrast to the realm of science, establishing a standard for the state of being to which all humans are entitled has proven difficult. With the adoption of the Universal Declaration of Human Rights, Member States have agreed to "the promotion of universal respect for and observance of human rights and fundamental freedoms" (United Nations 1948) Analogous with scientific measurements, a framework has been developed overtime to outline which rights must be recognized under this global effort. While a common language allows for the international community to unite, the standardization of human rights must be recognized as a double-edged sword. The negative effects of standardizing can be observed through the difficulties of defining, identifying, and politicking the concept of genocide.

The effort to define “genocide” demonstrates how the standardization of human rights shifts prioritization from protecting humans to conceptual compromises. When tracing back the term’s origins, lawyer Raphael Lemkin leaves room for interpretation when describing “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating.” (Lemkin 1944) The extent of coordination and annihilation needed for an event to be considered genocide is not specified. Instead, Lemkin explicitly expands the concept of annihilation beyond killings to include a variety of political, social, cultural, economic, biological, physical, religious, and moral techniques. By developing the term “genocide” through examples from the Second World War, the resulting definition relies on the shared purpose of the actions as the main identifier. Lemkin presents the objectives of genocide as the “disintegration of the political and social institutions … and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.” By focusing on the intent of the preparators, Lemkin’s conception of genocide provides a gist rather than criteria. By building upon an ambiguous definition, Lemkin’s proposed framework is malleable to varying context, and therefore, not suitable for the rigidity of standardization. For example, the human rights violations against African Americans could be charged as genocide depending on one’s interpretation of “destruction.”

In contrast, the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the General Assembly of the United Nations in 1948 defines genocide by specific actions. Before establishing a framework to criminalize the event, a definition for genocide had to exist independent of a nation’s context. The result includes “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such” killing, causing serious physical or mental harm, inflicting physical destruction by conditions of life, imposing measures to prevent births, and forcibly transferring children away. (UN General Assembly 1948) While the criteria of the Convention are more explicit, the full range of techniques described by Lemkin’s objective-focused definition are excluded and the interpretation of annihilation becomes reduced to a physical demise. The practice of standardizing human rights removes nuance and complexity from the human experience. When determining definitions for which to build a framework, there exists a trade-off between enforceability and adaptability. In contrast to Lemkin’s flexibility, the plight of African Americans is considered genocide only if the five-bullet point standard is met. As human rights are meant to protect humans, it follows that established frameworks should be applicable to diverse contexts, which is not possible under the rigid interpretations necessary for process of standardizing.

The second difficulty with the standardization of human rights is that charges must be identifiable using existing frameworks. In response to the suffering of African Americans, the Civil Rights Congress (CRC) sought to “charge their own government with mass murder of its own nationals, with institutionalized oppression and persistent slaughter… on a basis of race.” (Civil Rights Congress 1951) Before preventions against these human rights violations could be made, the CRC first had to make a convincing case for how the Crime of Genocide applies. The petition argues that “the oppressed Negro citizens of the United States, segregated, discriminated against and long the target of violence, suffer from genocide as the result of the consistent, conscious, unified policies of every branch of government.” To garner consideration from the international community, the violations of human rights against African Americans were described using the criteria for genocide established by the 1948 Convention. As calls to action must go through existing frameworks, the focus shifts from protection to identification and therefore the claims become susceptible to straw man fallacies that detract from the gravity of the charges.

The fixation to first identify atrocities using established standards before taking action delays response to human rights violations. When asked to comment on the petition from the CRC, Lemkin does not argue the truthfulness of the evidence but rather that the claims do not meet the criteria of genocide. Lemkin dismisses the notion of destruction or “intent to destroy” by referencing the actions of President Truman and Supreme Court and how the African American population is rising. (Google News Archive Search) The lawyer continues to diminish the charges of the CRC by adjusting the severity thresholds needed for actions to be considered genocide. For instance, Lemkin states that physical destruction from conditions of life is more than “depressing wages and difficulties in employment” and that fear is not sufficient to constitute “bodily and mental harm.” In sum, Lemkin denounces the argument by stating ‘genocide means annihilation and destruction, not merely discrimination.” (4) Though, this assertion is counterproductive as the General Assembly of the UN does not recognize discrimination and the “existence on a lower level” as crimes. The CRC is limited to already established frameworks, since other accusations, such as crimes against humanity, “have not yet been codified in a dedicated treaty of international law, unlike genocide and war crimes.” (United Nations) As recently as April of 2023, “delegates debated whether a new convention on such crimes would close gaps in the current international legal framework.” (UN Press) Until human rights violations are identified under an agreed upon standard, the international community does not intervene. Therefore, truthful charges are left to the scrutiny of straw man fallacies that distort conversations from plans of action to whether action is even justified.

Finally, the process of standardizing human rights weakens the ability of creating effective frameworks due to political ordeals and incentives. Within the Convention, the first eight articles provide a limited definition and briefly discuss the actions that could be taken in response to genocide. Instead of spending more time developing a thorough understanding of genocide, the remaining articles focus on the logistics on how the international agreement will function. For instance, Article XIV states that the Convention will hold for a period of ten years before remaining “in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.” (UN General Assembly 1948) While standardization creates a means of communication for a united front, the temporary instrument created contradicts the concept of constant and fundamental right against genocide. Furthermore, the bureaucratic ordeals limit the ability of frameworks to adapt efficiently. For instance, a U.S. Senator asked to extend the definition of genocide “to include those persecuted for political reasons” and the addition was defeated on the basis that “it would require the nations who had signed to accept it all over again.” (Toner 1986) This reasoning demonstrates how the bureaucratic process to standardize human rights directly hinders the effort to develop appropriate protections.

Furthermore, the process of standardization leaves human rights vulnerable to political biases. Human rights protect a state of being that is accessible to any human and therefore must exist beyond a realm of politics. Yet, a main reason the United States chose to not op-in on the international agreement on genocide for nearly four decades was not due to rights-based issues but rather fear that the ban could impinge on national sovereignty. (Toner 1986) Another instance in which political opinion influenced human rights affairs is the inclusion of the section titled “Genocide Leads to Fascism and to War” in the petition by the CRC. To build a case of genocide against African American, the CRC was inclined to argue that the general public is also at risk, “it is historically necessary both for the welfare of the American people and for the peace of the world…We cannot forget Hitler's demonstration that genocide at home can become wider massacre abroad, that domestic genocide develops into the larger genocide that is predatory war.” (Civil Rights Congress 1951) By including this argument, the CRC recognizes that identifying the crime of genocide may not enough and that it is necessary to convince the general public to become invested in addressing the treatment of African Americans. A third example is Lemkin’s response to dismiss the petitioners as “’Communist Sympathizers’ who are falsely accusing the US of genocide to divert UN attention from true genocidal crimes.” (Google News Archive Search) Despite being at the forefront of campaigning against the human rights violations that occur under genocide, Lemkin’s political biases prevent an earnest consideration of the case made by the CRC in regard to the treatment of African Americans in the United States. These cases demonstrate that within process of standardization, matters of human rights becomes subject to the influence of political opinions.

While the framework for genocide was developed to help uphold a “common standard of achievement” for human rights, the result has been an instrument susceptible to definitional scrutiny, straw man fallacies of identification, and bureaucratic ordeals. (United Nations 1948) The standardization of human rights draws effort away from effectively protecting humans and towards the creation of rigid frameworks that do not account for the complexities of human existence. In application, these standards are difficult to use and slow against atrocities, like genocide and the human rights violations against African Americans in the United States.

Works Cited

Civil Rights Congress (U.S.). We Charge Genocide : the Historic Petition to the United Nations for Relief from a Crime of the United States Government against the Negro People. New York,[publisher not identified], 1951.

Lemkin Raphael and Carnegie Endowment for International Peace Division of International Law. 1944. Axis Rule in Occupied Europe : Laws of Occupation Analysis of Government Proposals for Redress. Washington D.C: Carnegie Endowment for International Peace Division of International Law.

“Raphael Lemkin’s Response.” Google News Archive Search. Accessed October 17, 2023. https://news.google.com/newspapers?id=mdQmAAAAIBAJ&sjid=kgIGAAAAIBAJ&dq=we-charge-genocide&pg=827%2C3191714.

Toner, Robin. “After 37 Years, Senate Endorses a Genocide Ban.” The New York Times, February 20, 1986. https://www.nytimes.com/1986/02/20/us/after-37-years-senate-endorses-a-genocide-ban.html.

UN General Assembly. 1948. Convention on the Prevention and Punishment of the Crime of Genocide, 9, United Nations, Treaty Series, vol. 78, p. 277, available at: https://www.refworld.org/docid/3ae6b3ac0.html [accessed 17 October 2023]

UN Press. “Speakers Argue over Codifying International Law Commission Draft Articles on Crimes against Humanity, as Sixth Committee Resumes Session | UN Press.” United Nations. Accessed October 17, 2023. https://press.un.org/en/2023/gal3679.doc.htm#:~:text=As%20the%20Sixth%20Committee%20(Legal,International%20Law%20Commission%2C%20should%20be.

United Nations. 1948. Universal Declaration of Human Rights.

United Nations. “United Nations Office on Genocide Prevention and the Responsibility to Protect.” United Nations. Accessed October 16, 2023. <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml>.