

A gathering storm: on engaging with human rights laws

A few weeks ago, the World Justice Project released its Rule of Law Index 2017-18 report, which measures the extent to which 113 countries have adhered to the rule of law in that period. (India's rank was 62, better than China, Pakistan, Myanmar and Bangladesh; Denmark occupied the top spot.) Every country's performance was assessed in eight areas, including fundamental rights, which is measured by "absence of discrimination, right to life and security, due process, freedom of expression and religion, right to privacy, freedom of association, and labour rights." The survey found that 71 out of the 113 countries have dropped in score. This report, along with others such as the Amnesty International Annual Report 2017-18, indicates the serious erosion of international human rights law in recent times.

Even a cursory glance at the world is worrying. In Turkey and China, the assault on civil liberties and freedoms has intensified. There is increasing hostility towards civil society organisations and hardening of attitudes towards minorities in Poland and Hungary. The human rights of refugees are routinely negated, including in Australia and the U.S. The rise of majoritarian attitudes, hate speech and hate crimes is a growing concern, including in India. Mass atrocities (genocide, war crimes, and crimes against humanity) are or have been committed in Iraq, Myanmar, Central African Republic, and Burundi. It is not just the erosion of human rights but the normalisation of it that is of concern.

The Second World War and the horrors of the Holocaust were the impetus for the adoption of the Universal Declaration of Human Rights (UDHR), which celebrates its 70th anniversary this year. The ideals of justice, equality, and human rights for all, enshrined in the UDHR and other international treaties, are the building blocks of international human rights law. The articulation of fundamental rights and freedoms, their implementation, and accountability for violations is a continuum. It is sometimes not easy to connect the dots between seemingly innocuous restrictions and a broader clampdown on rights, with potentially catastrophic effects. Taken to the extreme, the commission of mass atrocities do not happen in a vacuum. An environment in which rights are minimised or discarded provides fertile ground for a more concerted assault on rights. Allowing hate speech to flourish is one example. For instance, in Rwanda, judgments of the UN tribunal detail how radio stations facilitated the demonisation and 'othering' of Tutsis, in the build-up to genocide. As a precursor to the Holocaust, Jewish populations across Europe were deprived of basic rights including that of citizenship and the right to practice a livelihood. These highlight the perils of complacency in the current environment.

In the international arena there are concerted efforts to advocate the inclusion of international human rights provisions in the local laws of countries and more effective implementation and monitoring. Treaty bodies assess states' obligations to incorporate these norms into national laws, review compliance, including with main human rights treaties, and provide recommendations. Regional and supranational courts such as the Inter-American, African and European courts of human rights oversee the fulfilment of obligations of regional treaties. International and mixed judicial tribunals have been established to provide justice in mass atrocities, culminating in the establishment of the International Criminal Court. These international fora buttress crucial local efforts for greater accountability.

However, in many instances, engagement with these mechanisms has reduced. The Philippines, for instance, imposed conditions on the UN Special Rapporteur who was to investigate the alleged extrajudicial killings of suspected drug dealers since President Rodrigo Duterte took office. In Myanmar, the UN Special Rapporteur who was to investigate the claims of persecution against the Rohingya was denied all access to the country. The UN system may not be perfect, but it helps sustain international human rights law, and there must be greater engagement with such

institutions.

The gradual erosion of rights can result in a landslide unless efforts are made to halt and reverse this process. While not a panacea, effective engagement with international human rights law is necessary in an era where rights are increasingly being stifled in many countries.

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