

THE OPPORTUNITIES AND DANGERS OF GLOBALIZATION TOWARDS THE PROTECTION OF HUMAN RIGHTS*

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ABSTRACT

Globalization as a phenomenon, being universal by its nature and character, covers not only the global economy, finance and mass media, where it manifests itself in the most developed Form, but also in other spheres of social life, including law. At the same time, the impact of global factors significantly affects the essential and substantive aspects of the state's legal system. The article deals with globalization, the opportunities and dangers in the context of human rights perspectives. The development of human rights is considered as a social phenomenon included in the general dynamics of social process. First of all, the influence of globalization on human rights in the context of intensively developing states and the rights and methods of intercultural dialogue are studied. However, since the middle of the 20th century, global factors have had a significant impact on this process. A study on the problem of methodological substantiation of human rights and globalization in modern conditions of social development is presented in the article. The research methodology is based on general doctrinal methods of theoretical knowledge, methods of system analysis, comparison and generalization of globalization concept and human rights.

KEYWORDS: Globalization, Human Rights, Global Problems, Impact

INTRODUCTION

The relationship between globalization and human rights raises both legal and policy issues. One of the issues is whether globalization is essential for the development, promotion and protection of human rights. Globalization in contemporary society epitomizes the complex nature of the phenomenon itself. Accordingly, this has thrown up key elements involved in any discourse on globalization. Thus, it has underscored the fact that globalization is a multi-dimensional phenomenon implicated in developments in several fields of human endeavours namely: economic, technological, social, political, legal, cultural and historical. Moreover, the dimensions of globalization are also contested terrains, thus adding to the magnitude of the problem.

1. CONCEPTUALIZATION

Globalization is a complex, multifaceted and dynamic phenomenon which encompasses legal, economic, social, political, technological, historical and cultural dimension. Globalization perceives the world as a trade unit without socio-political barriers and constraint. It is a process through which people, goods and services trade ideas and information across the borders of countries with ease. This has been enhanced greatly by technological breakthrough with the development of the computer and ultra-modern telecommunication. Today, a set of new rules and regulations have been promoted through international firms and new initiatives have been

taken through the formation of regions/economic trading blocs. Developed countries in the world now relate trade policy with human rights policy. Under mounting pressure from the business lobby in the respective countries, several western governments have altered their policies depending on their business interests. Under the Generalized System of Preferences which provides for trade benefits for developing countries, the United States has withdrawn or threatened to withdraw preferences from some countries that violate human rights.¹ The case of China has been controversial with specific human rights. There has been strong pressure from United States business lobby against use of the Jackson Vanik Trade Act of 1976 for denying Most Favoured Nations status to China. It holds that talking about political freedom is not a sound argument for attempting to use the blunt instrument of trade sanctions to win democratic rule for China. Keeping millions of Chinese in poverty by restricting their right to trade, in the hope of promoting human rights, is neither logical nor moral. Likewise, depriving Americans of the freedom to trade and invest in China violates their rights to liberty and prosperity.²

2. PROTECTION OF HUMAN RIGHTS

Globalization has had several positive effects on the promotion and protection of human rights. The world is now a global village in which all peoples are increasingly interconnected and all the fences or barriers are removed. The world now witnesses a new state of fast and free flow of people, capital, goods and ideas. This has resulted in an unprecedented enjoyment of human rights everywhere, because it is bringing prosperity to all the corners of the globe together with the spread of the highly cherished values of democracy, freedom and justice.³ The recent protests and demonstrations against sit-tight rulers sweeping across the world, especially among Arab Nations of Tunisia, Egypt, Morocco, Algeria, Libya, Syria, Yemen, Iran and Saudi Arabia amongst others, can be regarded as positive fruits of globalization. Globalization contributes to the enhancement of human rights. Increased trade often aids developing countries and this contributes to the mitigation of poverty, increased communication, permits countries to learn from each others. Communication via e-mail has permitted human rights advocates in one locality to interact with their counterparts throughout the world. In the economic sphere, globalization has liberalized the economy of most nations. Nigeria for instance, has witnessed the liberalization of many aspects of her economy such as in the mass media, the telecommunication sector, particularly the telephone, inflow of computer networks such as internet services; all these have opened up new employment opportunities in Nigerian cities as most of these services have their operational base in the cities where there is pool of consumers and skilled labour force. These in turn improve quality of life and dignity of the human person.

3. DANGERS OF GLOBALIZATION

Although, human rights have been on the international scheme of things since the end of the Second World War, 1948, and the violation of same as a consequence of globalization has not been adequately scrutinized. The International Bill of human rights holds States accountable for realization of human rights but in the contemporary era, it is the private global players that are frequently the most egregious violators of rights, and as far as accountability is concerned, they are accountable to none. Strikes and demonstrations protesting worsening labour conditions have

¹ For instance, USA, Canada and most Western countries have severed both trade and diplomatic ties with countries like Zimbabwe, Libya (prior to the overthrow of Col. Muammar Gaddafi by popular revolution in 2011), and Niger, etc following serious violation of human rights in these countries.

² A.A. James, 'Trade and Human Rights in China' (1996)(15) *Journal of Commerce*:10-14.

³ T.L. Friedman, *The Lexus and the Olive Tree: Understanding Globalization*, (International Publishers, 1999)30.

become widespread, including in communally based societies where restrictions on civil and political rights and, at times, grossly violating basic rights such as right to life in an effort to control labour force.⁴ Human rights Non- Governmental Organisations have extensively documented the increase in labour activism, particularly in such low-wage areas as Malaysia, Indonesia and even China, and the concomitant increase in State repression.⁵ In addition to labour strife, globalization has resulted in the intensification of ethnic and religious conflicts and violence. Globalization with its attendant social changes has precipitated fragmentation at the local levels. On the other hand, the resurgence of ethnic and religious strife can be understood as an effort to assert identities and to ascribe meaning in the face of global forces over which one has no control. It may be that ethnic or /religious and class categories overlap. It is well known, for instance, that in Indonesia where ethnic strife has erupted, the majority of merchants and retailers are Chinese. In such cases, a critical issue is raised as to whether, analytically, ethnic or/religious clashes or class conflicts is the decisive factor in increased violence. Furthermore, the rising poverty and unemployment, mal-treatment of children and women in society, rampant child labour and trafficking, illiteracy, and high dropout of children from school, burgeoning corruption, non-transport bureaucracy and unaccountable police force have come to stand out in light of fruits of globalization.⁶

The aftermath of World War II brought about a paradigm shift in positive international law with respect to the individual's relationship to the State. From post World War II to the era of globalization, no matter what method is used, various stages of history reveal a process of historic thought accretion whose transmission substantiates within and among civilizations, a theory of historic evolution that leads to the conceptual framework of the Post World War II human rights actualizations. Thereafter, the legal methods of international law were used for the actualization of human rights values and their transference to legally enforceable norms and standards. In turn, this Post World War II actualization of human rights is being tested in the transitional phase of globalization by emerging systems, processes, structures, actors, resources and changing dynamics in the interrelations of states, private sector entities, individuals and groups.

4. OPPORTUNITIES OF GLOBALIZATION

Globalization has created new spatial and political opportunities for human rights to develop including speed and access to information and social media which increases the individual's ability to galvanize one another and generate massive popular movements. New horizons include individual and political rights as well as collective, social, economic and cultural rights. New agents of change have however, emerged in this transitional phase which have the capability of enhancing future human rights prospects. These agents include international and national civic society and a sensitized private sector economy, which can more directly impact human rights

⁴ For instance, the number of deaths in the 2011 Libya revolution exceeded 50,000 persons, while even more people sustained severe injuries, according to British Broadcasting Corporation Report of 24th October, 2011.

⁵ See, Human Rights Watch World Report 1999 available at www.hrw.org/hrw/worldreport99/asia/malaysia.htm.> accessed 15th January, 2024. It reports amongst other things that as a result of the economic decline in Malaysia, the State deported more than 30,000 migrant workers, many of whom experience police brutality when they were detained. In the same report, Human Rights Watch notes that the Chinese government concerned about increased workers unrest, took measures, including detentions and imprisonment to stop activities in support of labour rights.

⁶ P. Raj, *Globalization and Human Rights*, available at <www.globalization/effects.org> last accessed on 10th January, 2024.

outcomes than any other segment of the globalized society.

The new horizons of human rights in this globalized era will probably be classified as the fourth generation of human rights. But this new generation of human rights will be based on a number of paradigm shifts. The fourth generation of human rights in this transitional phase to a globalized society is not likely to offer better outcomes and whose outcomes (if any) cannot be predicted.

5. BENEFICIAL IMPACTS OF GLOBALIZATION ON HUMAN RIGHTS

Deriving from the general recognition of the pervasive and intrusive nature of globalization, it is accepted that it also has some effects on human rights. This is because it necessarily engenders social, political, economic and even cultural transformations. The transformation being precipitated by globalization is often compared to that inflicted on European states by capitalism in the 18th century which transformed the social structure of Western societies to the present atomized, individualized societies.⁷ Not surprisingly, it has been 'described as the 'Second Great Transformation' by Howard-Hassmann.⁸ The impact of such transformation on the social and economic conditions of people can be said to be more critical in Nigeria due to the traditional and communal mode of social organization. While most theorists accept this transformation as a universal truth, the same cannot be said of their positions on the nature and extent of the impact. Thus, some writers argue that it is a progressive development creating numerous opportunities for people world-wide. Others hold that its effects are negative while a third category adopts an eclectic position.

It is clear that globalization has led to the tremendous transformation of society. Starting from its early origins to the contemporary phase, it is indisputable that globalization has wrought fundamental changes in the nature and structure of society. Relying on economic interpretations of social reality, some writers have regarded such changes as progressive. This school of thought maintains that over the years there has been tremendous improvement in living conditions world-wide with a consequent positive impact on human rights. Accordingly, ⁹Bhagwati, picking on particular aspects of social and economic life such as democracy, poverty, women and environment, contends, that globalization has had a significant and beneficial effect on society. According to the learned author, it has a human face and ought to be extolled and further promoted. Put simply, the argument is that trade enhances growth which reduces poverty and this, in turn, impacts positively on human rights. Thus, globalization does not perpetuate human rights violations but has rather greatly decreased the prevalence of such violations.¹⁰

One other feature of this paradigm of thinking is the equation of contemporary marked economy with globalization which possesses the capacity ultimately to enhance human rights. On this score, the market is projected as one of the most sophisticated products of civilization and the only arrangement capable of generating sustained increases in prosperity, guaranteeing liberal democracies and enhancing individual welfare.¹¹ Accordingly, only further intensification of the

⁷ K. Polanyi, *The Great Transformation: The Political and Economic Origins of our Time* (Beacon Press, 2001) 42-44.

⁸ R.E. Howard-Hassmann., 'The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization,' (2005) (27) *Human Rights Quarterly*:1-40 at 3-6.

⁹ J. Bhagwati, *In Defense of Globalization* (Oxford University Press, 2007) 30-31.

¹⁰ *Ibid.*

¹¹ M. Wolf, *Why Globalization Works* (Yale University Press, 2004)319.

globalization process can reduce the present inequality and persistent poverty in the world. It is therefore, urged to ignore the 'siren voices'¹² of those opposed to globalization principally because it is the absence of globalization, if anything, that contributes to the maintenance or increase in the disparities between countries.¹³ From this perspective, globalization is necessarily seen as a good thing because it promotes allocative and productive efficiency, which in turn increases overall social and economic welfare.¹⁴

Support for this position is sometimes located in historical context through a comparison between the present economic situation and conditions several years back. There is extensive evidence that the global economy has brought prosperity to many different areas of the globe. Pervasive poverty dominated the world a few centuries ago; there were only a few rare pockets of affluence. In overcoming that penury, extensive economic interrelations and modern technology have been and remain influential. What has happened in Europe, America, Japan, and East Asia has important messages for all other regions, and it is clear that one cannot go very far into understanding the nature of globalization today without first acknowledging the positive fruits of global economic contacts.¹⁵ However, Sen acknowledges the existence of gross inequality today both international and intra-national and posits that the central question is how best to share the potential gains of globalization between the rich and poor countries and among different groups within a country, and, therefore, advocates institutional reform as the panacea.¹⁶

For Howard-Hassmann, contemporary globalization, which represents the second great transformation, is impacting on human rights and will ultimately lead to the latter's advancement.¹⁷ Adopting a temporal approach, the author argues strongly that although in the short run, globalization could have a negative impact on human rights, in the medium and long-run, 'globalization may well create a world of increased prosperity, democracy, and the protection of human rights'.¹⁸ Accordingly, since globalization is inevitable and is changing societies in the fashion that capitalism did in Europe from the end of the 18th century, the obvious negative short-term effects must be endured. In response to Howard-Hassmann's formulation and adoption of one of Karl Marx's classic criticisms of economists such as Adam Smith and Ricardo who focused on how wealth is acquired and who, according to Marx, saw poverty as 'the pang which accompanies every child birth'.¹⁹

6. NEGATIVE IMPACTS OF GLOBALIZATION ON HUMAN RIGHTS

Indeed, an increasing number of recent writings on the subject have highlighted the negative effects of globalization on human rights.²⁰ Theorists who belong to this group can be classified

¹² Wolf, (n 11)13-320.

¹³ M.A.A. Warner, 'Globalization and Human Rights: An Economic Model,' (1999) (25) *Brooklyn Journal of International Law*:99-112 at 108.

¹⁴ *Ibid.*

¹⁵ A. Sen, 'How to Judge Globalization.' F.J. Lechmer and J. Bon (eds.), *The Globalization Reader* (Blackwell Publishing, 2004) 16-21.

¹⁶ Sen (n 15)21.

¹⁷ Howard-Hassmann,(n 8)) 5.

¹⁸ *Ibid.*

¹⁹ K. Marx, *Selected Writings*, D. McLellan (ed.) (Oxford University Press, 1997) 211.

²⁰ H.S. Kanzira-Wiltshire, 'Globalization Nonsense upon Stilts? Reflections on Globalization and Human Rights Nexus.' (2008) (14) *East African Journal of Peace and Human Rights*: 125-147.

into two, namely, those who look at it from an ideological perspective and those who appraise the process within the neo-liberal paradigm. Those who adopt an ideological approach regard globalization as an imperial project of Western capitalism that can never yield any positive fruits.²¹ Their central argument is that since globalization is a neo-liberal project with pre-determined political and economic objectives, it cannot promote, but rather only undermine human rights. Accordingly, it is impossible to reconcile the need for the promotion of human rights with neo-liberal globalization since the latter is inherently inimical to the protection of human rights.²² Moreover, the 'magic of laissez-faire' which underpins the neo-liberal globalization project has failed in terms of its announced goals as the period has been characterized by substantially increased gaps of material welfare within and between countries, and increased marginalization especially of the least fortunate elements in society.²³ It is said that globalization has led to the widening of existing social and economic inequities as the poor are getting poorer at a faster and harsher rate.²⁴ To be sure, while the globalization process is universal, its negative impact is felt more in developing countries because of the dependent nature of their economies, their lack of domestic economic capacity and weak social infrastructure.²⁵

Highlighting the unequal exchanges that constitute the present capitalist world economy and situating it within a radical ideological orientation, Santos argues that this has led to the emergence of 'a new global social apartheid' between rich countries and poor countries, and, within the national societies, between the rich and the poor.²⁶ Attributing this to hegemonic globalization, the author states evocatively: 'People are not poor, they are impoverished; they do not starve, they are starved; they are not marginal, they are marginalized; they are not victims, they are victimized.'²⁷

The second category of writers who have identified the negative effects of globalization are those who use the mirror of the existing neo-liberal paradigm to find globalization deficient in important respects. One key aspect of their formulation is the concern for a restructuring of the process under the present paradigm in such a way as to deal with the unpleasant aspects of the process. A leading voice in this group is Joseph Stiglitz. According to the author, it is now increasingly clear to all that globalization has failed to live up to the expectations of its advocates. This is because not only has it not resulted in economic growth in some cases, but even where this has occurred, it has not brought benefits to all, the net effect being that only the few well-off have benefitted at the expense of many who are poor.²⁸ Accordingly, that there is

²¹ J. Petras and H. Veltmeyer, *Globalization Unmasked: Imperialism in the 21st Century*. Nova (Femwood Publishing and Zed Books, 2001) 12.

²² P. O'Connell, *On Reconciling the Reconciliable: Neo-Liberal Globalization and Human Rights* (2007) (7) *Human Rights Law Review*: 484-509.

²³ O' Connell, (n 22) 491.

²⁴ O.O. Ajayi, 'Globalization and the Politics of Marginality', O. Vaughan et al (eds.), *Globalization and Marginalization* (Sefer Books Ltd., 2005) 201-235 at 215.

²⁵ M. Khor, *Globalization and the South: Some Critical Issues* (Spectrum Books Ltd., 2003) 13.

²⁶ B. de Sousa Santos, *Towards a New Legal Common Sense; Law, Globalization and Emancipation* (2nd edn, LexisNexis, 2002) 290.

³⁰ M. Camdessus , 'The IMF at the start of the twenty-first century: What has been learned? On which values can we establish a humanised globalization,' D. Vines and C.L. Gilbert (eds.), *The IMF and its Critics: Reform of Global Financial Architecture* (Cambridge University Press, 2004) 417-432.

²⁸ J. Stiglitz, *Globalization and its Discontents* (The Penguin Press, 2002) 20.

now an understanding that many of the problems with globalization are of our own making, as a result of the way globalization has been managed, and he consequently calls for a reform of globalization.

Globalization can be reshaped, and when it is, when it is properly, fairly run, with all countries having a voice in policies affecting them, there is a possibility that it will help create a new global economy in which growth is not only more sustainable and less volatile but the fruits of this growth are more equitably shared.²⁹ This concern for restructuring the global system derives from the conviction that it is the emphasis on market fundamentalism or the imperatives of the 'Washington Consensus' underpinning the globalization process, and the consequent inequality this has engendered that has made it a threat to open society.³⁰

The eclectic school of thought consists of writers who have taken a middle course in the debate about the impact of globalization on human rights. One common thread running through the arguments of theorists in this category is that they see globalization as having both positive and negative impacts. The implication of this is that whether the beneficial or negative aspects will dominate in any given situation depends on how the process is applied. In other words, to them, globalization is an instrument that can be used to attain either a beneficial or negative end like every other human phenomenon. Thus, in their comprehensive analysis, McCorquodale and Fairbrother, while not taking a stand either way, contend that it is important to be aware of the opportunities and dangers of globalization for the protection of human rights, and that through such awareness one can "seek to ensure that the dangers are diminished and the opportunities are taken."³¹

This perspective sees human rights as often carried by a variety of winds on both sides of globalization's borders or divides, so making it an open question as to which side human rights will ultimately be secured. Accordingly, emphasis is placed on the relevance of contingency in the analysis of the effects of globalization on human rights since, in their view, globalization is neither inherently a friend nor a foe of human rights.³² This is a non-essentialist, noncommittal interpretation of globalization which emphasizes the fact that its effect on human rights will depend on how it is used.

7. HISTORICAL EVOLUTION

Historical origin of globalization has been a subject of great controversy. While some academic writers situate the origin of globalization in the modern era, other scholars maintain that globalization has a long history. The chief proponent of the latter view Frank states that globalization has been in existence since the rise of the trade links between summer and the Hindus valley civilization in the third millennium BC.³³ During the Hellenistic age, there was an early form of globalized economics and culture.

²⁹ J. Stiglitz, *Making Globalization Work* (Penguin Books, 2006) 24.

³⁰ G. Soros, *The Crisis of Global Capitalism: Open Society Endangered* (Little, Brown and Company, 1998) xxii.

³¹ R. McCorquodale and R. Fairbrother. 'Globalization and Human Rights' (1999) (21) *Human Rights Quarterly*: 735-766.

³² J.L. Dunoff. 'Does Globalization Advance Human Rights?' (1999) (25) *Brooklyn Journal of International Law*: 126- 238.

³³ *Ibid.*

During that period, trade was widespread and it was during this time that the idea of a cosmopolitan³⁴ culture first emerged. Furthermore, an early form of globalization has been perceived in the trade links between the Roman Empire, the Parthian empire and the Han Dynasty. Thus, the increasing rate of commercial links between these empires gave rise to the developments of the Silk Road which started in Western China and extended to the boundaries of the Parthian Empire, and continued towards Rome.³⁵ Another important stage in the history of Globalization is the Islamic Golden Age. During this period, there was an establishment of a sustained economy across the old world between Jewish and Muslim traders and explorers which resulted in the globalization of crops, trade, knowledge and technology. The advent of the Mongol Empire³⁶ and the so called *Pax Mongolica* of the 13th century had several other remarkable globalizing consequences; such as, the creation of the first international postal service. The age of discovery witnessed a broad change in globalization. This was a period when for the first time, Eurasia³⁷ and Africa were engaged in substantial cultural, material and biologic exchange with the New world. Thus, in the 15th century, the two kingdoms of the Iberian Peninsula namely; Portugal and Castile sent the first exploratory voyages around the Horn of Africa and to the Americas which Christopher Columbus discovered in 1492. It's noteworthy to mention herein that global integration continued with the European colonization of the Americas and this covers the period between 15th century and 18th century.³⁸ The 19th century ushered in globalization in its modern form. Globalization in the period was decisively shaped by 19th century imperialism. As a result of the opium wars³⁹ and the completion of the British conquest of India, vast population of these regions were subjected to ready consumers of European exports. Again; during this period, the areas of sub-Sahara Africa and Pacific islands became incorporated into the world system and the European conquest of the new dominions especially sub-Sahara Africa yielded valuable natural resources and helped to accelerate trade and investment opportunities between the European imperial powers and their colonies and the United States.⁴⁰

However, at the beginning of the 20th century which witnessed World War I,⁴¹ the first phase of modern globalization started to breakdown. Globalization⁴² in the period since World War II,⁴³ was primarily the result of planning by economists, business interests and politicians who become aware of the cost implications associated with protectionism and declining international economic integration. Their efforts resulted to the Bretton Woods conferences and the formation of global institutions intended to oversee the renewed process of globalization. Among these International institutions are the International Bank for Reconstruction and development (the World Bank) and the International Monetary fund.⁴⁴

³⁴ From the Greek word "*cosmopolis* which means World City.

³⁵ History of globalization", available at <<http://wikipedia.org/wiki/globalization/history>>last accessed on 19/1/2024.

³⁶ D. O. Bolander et. al. (eds.,) *New Webster's Dictionary of English Language* [International Edition, *Lexicon International - Publishers Guild Group*, (2000) 645.

³⁷ Bolander et al,(n 36) 326.

³⁸ "History of Globalization", (n 35).

³⁹ Bolander et.al (n 36) 703.

⁴⁰ "History of Globalization", (n 35)

⁴¹ *Ibid.*

⁴² "History of Globalization," (35)

⁴³ *Ibid.*

⁴⁴ "History of Globalization" , (n 35).

Since World War II, barriers to international commerce have been reduced through international agreements such as GATT.⁴⁵ Among the initiatives carried out as a result of the General Agreement on Tariffs and Trade and the World Trade Organization which is the successor of General Agreement on Tariffs and Trade includes the promotion of free trade by the elimination of tariff, reduction of transportation costs etc. and restriction of free trade by the harmonization of intellectual property law across the majority of states, with more restrictions and the supranational recognition of intellectual property restriction. Thus for instance, patents granted by China would be recognized in the United States.⁴⁶ In this process of globalization, there is an easy movement of products and financial flows across borders involving investments, financial capital, merchandise trade, services, technology and labour. Competition, production and markets become global in outlook, while goods and services become less distinguishable with their country of origin. Hence there is internationalization or a globalization of consumption as consumers are buying more foreign goods.⁴⁷

8. CONCLUSION

The phenomenon of globalization is inevitable because it is a natural process of socialization and also a world history. The advent of globalization poses a lot of challenges to human rights jurisprudence. Globalization has had several positive effects on the human rights evolution. Global communications technology accelerates the spread of human rights consciousness and facilitates coordinated advocacy, but globalization has had an important countervailing effects. The development of a unified, global, embracing and incorporating the characteristics of all countries and regions of human rights standardization is not possible. Human rights that have emerged as universal rights are very common rules in the modern world and in reality.

⁴⁵ (Herein refers to as General Agreement on Tariffs and Trade).

⁴⁶ "History of Globalization"(n 35).

⁴⁷ *Ibid.*