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Philosophical Background of Human Rights

الخلفية الفلسفية لحقوق الإنسان

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Abstract:

Legal research cannot be separated from its philosophical roots, because most of the traditional philosophical theories have human dimensions that pushed philosophers into the intellectual and practical struggle in order to achieve equality between humans in various fields of political and social life. Philosophers have defended humanism and created doctrines and intellectual systems for it that made it Man is an end in itself, through which they support just causes in the world. This struggle is not limited to a specific time period, but rather includes all stages of the development of philosophical thinking, starting from the Greek period and ending with the modern period, especially the philosophy of the Enlightenment, which represents the basic starting point for the defense of human rights.

The topic has gained great importance in our current era, and its purpose is to alleviate human suffering and reduce tension between countries by establishing laws that protect human rights. What are the philosophical dimensions of the idea of human rights?

Keywords: philosophy, law, human rights, the right to life, freedom

الملخص :

لا يمكن فصل البحث القانوني عن جذوره الفلسفية، ذلك أن جل النظريات الفلسفية التقليدية ذات أبعاد إنسانية دفعت بالفلاسفة إلى النضال الفكري والفعلي من أجل تحقيق المساواة بين البشر في شتى مجال الحياة السياسية والاجتماعية، لقد دافع الفلاسفة عن النزعة الإنسانية وجعلوا لها مذاهب وأنساق فكرية جعلت من الإنسان غاية في حد ذاته، ساندوا من خلالها القضايا العادلة في العالم، ولا يقتصر هذا النضال على حقبة زمنية معينة بل شمل كل مراحل تطور التفكير الفلسفي بدءاً من الفترة اليونانية ووصولاً إلى الفترة الحديثة خاصة فلسفة الأنوار التي مثلت المنطلق الأساسي للدفاع عن حقوق الإنسان.

اكتسب الموضوع أهمية بالغة في عصرنا الراهن، الغرض منه تخفيف معاناة البشر والحد من التوتر بين الدول من خلال وضع قوانين تحمي الحق البشري. فما هي الأبعاد الفلسفية لفكرة حقوق الإنسان.
الكلمات المفتاحية : فلسفة، القانون، حقوق الإنسان، الحق في الحياة، الحرية.

1. INTRODUCTION

As humans were believed to differ by nature. This justification provided protection by the ruling systems of that time. Furthermore, there were intellectual trends in traditional philosophy that categorized humans into classes, such as masters with rights and slaves with duties. Violations of human rights are not novel but have existed since the dawn of humanity. In contrast, there emerged intellectual and philosophical currents with a humanistic tendency that advocated for human rights, seeking to lift oppression by advocating for the respect of human dignity and the preservation of vital rights.

It all began with political struggle against absolute rule, as seen in England's challenge to church authority and attempts to secure some political rights. Awareness spread among peoples led by a group of philosophers, leading to revolutions that changed the course of history, such as the American and French Revolutions.

Despite the advancements societies have seen due to scientific discoveries that eased life and brought prosperity to humanity, the world unfortunately still faces massacres and horrors due to wars. The most recent of these was World War II, which claimed about sixty million lives. This is not to mention the atrocities committed by radical and extremist racial governments against their people, as well as the ongoing massacres and genocides against the Palestinian people by the Zionist entity, all under the watchful eyes of the world.

This has embarrassed official international organizations and cast doubt on the legal value of human rights, prompting sincere individuals and advocates of good and reform from the free peoples of this world to think strongly and more effectively about enacting laws that protect humanity

from the ravages of war, famine, sectarian and religious conflicts, and to combat hate and racism among the human race. This can be accomplished through the establishment of international covenants that ensure security, realize lasting peace, enhance international relations, and work towards successful cooperation between nations for a better future for humankind.

International laws in the field of human rights have philosophical roots that stemmed from the struggle of philosophers to achieve freedom and equality among humans in all areas of political and social life. Philosophers advocated for humanistic tendencies, creating doctrines and intellectual trends that made humans an end in themselves, supporting just causes worldwide. This struggle is not limited to a specific period but encompasses all stages of philosophical thought development, starting from the Greek period and extending to modern times, especially the Enlightenment philosophy, which represented the basic starting point for defending the idea of human rights. Consequently, the genesis of international law in the field of human rights cannot be isolated from its historical context, especially as human rights gained immense importance in our present era, particularly after World War II. Hence, in this research, we will attempt to uncover the philosophical background that contributed to the emergence of laws related to human rights, as the initial formation of these laws was philosophical. Before delving into the details of the subject, it is necessary to unpack fundamental concepts such as the concept of rights and law.

2-Human Rights Issues: Concept

The term "human rights" is characterized by a kind of flexibility as it is used in many fields of political, legal, economic, and philosophical research.

Although philosophers have circulated the idea of rights since ancient times, it has been used more recently due to the impact of social crises on human life, prompting many peace advocates to promote the idea of human rights. They aim to protect and defend these rights by enacting a set of binding laws for states and individuals. Concepts that need to be dissected for a deeper understanding of the subject include the concept of rights and the concept of law.

2-1. Concept of Rights

Jamal Saliba defines rights linguistically as "The fixed that cannot be denied, certainty after doubt, duty, justice, conclusive order, property, ownership, and truthfulness."⁽¹⁾

Al- Djourjani defines it in the terminology of semantics as "the judgment that corresponds to reality, applied to statements, beliefs, religions, and doctrines, considering their content, and opposes falsehood"⁽²⁾

On the other hand, Laland defines rights through multiple meanings that can be summarized into two basic ideas. The first idea relates to correspondence, as it is everything that corresponds to a specific rule or is obligated religiously and legally. In this sense, it is said to have a right, and it deserves, as laws and judgments command it or because this duty arises from contracts made according to laws like the right to reply. It is also deserving and obligatory for performance because it corresponds to the ethical opinion⁽³⁾ This means that the right is everything allowed and protected by law or religion, worthy of demand and protection. The demand is because it has ethical dimensions, as the right considers ethical values, so there is no right that contradicts ethics. Protection requires the existence of binding laws for individuals and states to defend the rights of others.

In philosophical research, the concept of rights is addressed in the subject of values,

"axiology," which means researching what should be. Rights are not subject to personal factors or determined by emotions and whims but rather philosophical orientations differed in defining the intellectual basis of rights. The ideal school sees right as an inherent quality in the nature of statements, thus making the judgment of the correctness or error of the statement a constant that does not change. Natural philosophers see right as a quality added by reason to statements according to changing circumstances, hence the right varies depending on who issues the judgment. Realists, including Aristotle, see right as everything that corresponds to reality, and rationalists, like Descartes, see right as clarity during its conformity with rational principles⁽⁴⁾

Discussing rights cannot be complete without mentioning the concept of law, as legal legislation fundamentally aims to regulate public life by defining rights and duties, thus achieving justice as a lofty ethical virtue sought by societies.

Its application is effective in achieving growth and development, which can only be attained by adopting a set of legislative laws that touch the spirit of justice authorized religiously and legally to protect people's rights and defend them.

2.2. Concept of Law

The word "law" comes from the Greek word "Kanun," which means "straight stick," symbolizing rectitude. Thus, Latin languages referred to law as "straightness," and in Arabic, it refers to the origin or measure of everything and its way⁽⁵⁾

In the philosophical dictionary of Ibrahim Mathkour, the word "law" signifies "every material standard by which something is measured or acted upon. It is the measure by which every intellectual or spiritual work is evaluated"⁽⁶⁾

Jamal Saliba defines it as "the system, the Sharia, the origin, and the law"⁽⁷⁾

Humanity transitioned from natural life to civil life, establishing systems to manage public life until it reached the state as a social phenomenon with a political character, based on three fundamental pillars: the people (citizens), the territory, represented by a geographical area with political boundaries and authority with its various branches of executive, judicial, and legislative. Each authority has specific delegated tasks; the legislative authority's task is to enact laws narrowly defined. The term "law" in terminology refers to "the sum of binding general rules that express the ideal nature of the existence of something, its function, as it is the standard that the being must adhere to achieve its existence"⁽⁸⁾ This definition is closer to legal definitions where it is used "to refer to the binding rules that regulate the relationships of individuals in society regardless of their source, whether religious, customary, or legislative body, and this general meaning of law"⁽⁹⁾

The term "law" in philosophical studies has taken a broad and flexible dimension, applied to various systems governing natural, economic, and social phenomena like natural or economic laws. The system held a prestigious position among the Greeks, and most studies aim to adopt systematicity, especially after the Sophist school. This systematicity manifests in the law to achieve greater virtues. Socrates sees in the law an absolute truth, a duty of obedience derived from the divine, a symbol of reason, hence it must prevail to regulate chaos in human societies, and since its origin is divine, it does not change⁽¹⁰⁾ Plato considered it a major ethical value that achieves justice among people, drawing its principles from the world of ideals, thus not subject to personal aspects, which is why Aristotle considered it a basis for all rectitude, an obligation of obedience that does not change or alter, absolute and derived from God's will, not human will. This distinguished position of the law extended to modern times, as the scientific

revolution that brought about the Renaissance in Europe was based on the organized rules governing society to achieve justice, freedom, and equality, breaking away from the authority of the church and the chaos it caused, and establishing differentiation among people, not to mention the social privileges that churchmen enjoyed at the expense of the rest of the population. Therefore, it was necessary for the system to be established.

Thanks to strict laws, Thomas Hobbes asserts, "law is a set of commands issued by the state to each individual through words, in writing, or by any other sufficient sign indicating the will, aiming to use them to distinguish law from harm"⁽¹¹⁾

2-3 Concept of Human Rights

The concept of human rights cannot be precisely and clearly defined since it is a compound word consisting of the word "right," which has a specific definition already established, and the word "human." Furthermore, the concept of human rights often carries a cultural and ideological load, understood within the framework in which it is used. It can be said that the concept of human rights belongs to the field of legal culture related to the international community as defined by the United Nations as "The set of international legal guarantees to protect individuals and groups from government actions that infringe on freedoms and human dignity. Human rights law requires governments to do certain things and prohibits them from doing others"⁽¹²⁾

One international jurist, Ronny Casan, defines human rights as "a special branch of social branches dedicated to studying relationships between people based on human dignity and defining the necessary rights and freedoms for the flourishing of each human being's personality"⁽¹³⁾

3- Philosophical Foundation of Human Rights Issues:

Traditional philosophies focused on the idea of rights and established philosophical theories aiming at protecting, defending, and recognizing human rights. Humans live within a social network governed by a set of interactive behaviors that determine rights and duties. Among these rights are those related to the individual, and the focus on these rights has been a priority in philosophical research throughout history. Therefore, we will delve into the historical milestones in the field of philosophical research on human rights.

3-1 Human Rights in Ancient Eastern Civilizations

The beginnings of defending human rights emerged in ancient Eastern civilizations. Legal legislation among the Babylonians witnessed significant development embodied in the laws of Hammurabi aimed at protecting people's rights and establishing justice among them. These regulatory laws encompassed all areas of life despite their strictness. Among the rights protected by Hammurabi's laws were those related to the obligations of the judge to adhere to the laws during issuing judgments, protecting the rights of the accused, ensuring fairness, avoiding injustice, and achieving justice in judicial rulings. These laws also protected the rights of legitimate children. They also emphasized the punishment for violating the dignity of a child, with theft of a child resulting in the thief being punished by execution, as stated in Article 14, which reads, "If a man steals the son of a free man, he shall be put to death"⁽¹⁴⁾ Furthermore, Hammurabi's laws addressed women's rights during marriage, protecting their rights through the marriage contract as a condition for its completion. Article 128 of these laws states, "If a man takes a wife and does not execute a marriage contract for her, this woman is not a wife"⁽¹⁵⁾

Other Indian and Chinese civilizations also knew some laws that stipulated the protection of human rights. Buddhist philosophy focused on equality among

humans, despite material differences, believing that all souls are one. This belief motivated them to reject all forms of hatred, discrimination, and racism.

Confucian philosophy in China advocated for spreading justice among people, considering it the noblest virtue and viewing injustice as a vice to be avoided. The purpose of human existence, according to them, is to achieve happiness, freedom, and to move away from selfishness and self-love, embracing others and achieving comprehensive peace and security. These principles touch on human rights and are reflected in Confucian philosophy's emphasis on the relationship between rulers and the ruled, highlighting the role of ethics in political action. Confucianism asserts that rulers should be righteous role models, exhibiting exemplary behavior⁽¹⁶⁾

3-2 Human Rights in Greek Philosophy

There was a fundamental topic, despite philosophical differences and varying perspectives on rights, sophists initiated a defense of human rights by rejecting racial disparities. They believed in the equality of all people under natural law, granting every individual the right to express their opinions freely without conforming to preconceived patterns or rigid speeches. According to them, human rights stem from freedom as a source of knowledge, with humans serving as the measure of all things, in accordance with natural law that ensures equality for humanity.

Similarly, Stoics embraced the same idea, considering natural law as guaranteeing fundamental human rights such as the right to life, property, and freedom. These rights lead to positive outcomes like people respecting each other's rights because they are derived from human nature and align with innate inclinations. These are the same rights advocated by contemporary international covenants. Stoics also advocated for a global state where all

humans live equally in rights, without discrimination based on race, color, or gender, as stated in Article 2 of the Universal Declaration of Human Rights⁽¹⁷⁾

Although sophists and Stoics called for equality among humans, some philosophers acknowledged the existing differences among humans. Plato, for instance, presented a model of an ideal state by recognizing abilities and talents and placing people in roles accordingly, considering it a realization of justice. One of the state's necessities is to divide tasks based on natural qualifications built on competence rather than ethnicity. Therefore, human rights include giving each rightful individual their due, and it is the state's responsibility to protect rights based on the principle of entitlement rooted in individual differences.

Aristotle shares a similar view, acknowledging the reality that people are not equal and deeming it unjust to acknowledge equality among individuals given their natural differences. According to him, each person has abilities determined by nature that place them in positions varying in competence, with it being fair to give each person their due based on their capabilities and natural qualifications. The selection and distribution of roles adhere to the principle of entitlement, as affirmed by natural law. In his book "Politics" Aristotle states, "In society, some individuals and entities are like the heart and the head for the state, and due to their position, they enjoy privileges and importance that cannot be equaled by others, who are like the fingers or the arms"⁽¹⁸⁾ Aristotle believes that the greatest right of humans is to live in happiness, ensured by natural laws that consider the natural differences among humans, with the state's primary duty being to seek the fulfillment of human interests.

3-3 Human Rights in Roman Philosophy

It differed from Greek philosophy in their ethical interpretation of rights,

defending their protection either through equality or by considering individual differences. This was not the case in Roman thought, which was based on racial discrimination. Romans believed they were superior to other peoples, granting Roman citizens' rights at the expense of foreigners. They established what they called "the law of foreigners," applied to inhabitants of territories opened for relations between Rome and other nations based on differentiation. Foreigners had fewer rights compared to native citizens, and these laws were stricter, limiting freedoms due to Rome's autocratic rule. This led some philosophers to resist this racial discrimination, such as the Roman philosopher "Chrysippus," who emphasized the necessity of equality before natural law. Natural rights are inherent to individuals at birth, such as the right to life and freedom. Chrysippus argued that there is nothing more similar to a human than another human is, as we all have senses and intellect, and even if there are differences in intelligence, we all have the capacity to learn. The right to life is guaranteed by the force of human law, as stated in Article 3 of the Universal Declaration of Human Rights, affirming that every individual has the right to life, freedom, and security.

All positive laws established by states are based on differentiation among humans, contrary to nature. Equality is the foundation of justice, especially regarding fundamental rights that every human should enjoy regardless of gender, color, race, or belief. Therefore, Chrysippus advocates for adopting natural law, as the world is one, and fundamental human rights remain constant despite life's changing conditions. The purpose of laws is to achieve justice, virtue, and preserve human dignity, as reflected in the legal provisions announced by the Universal Declaration of Human Rights in its first article, stating, "All human beings are born free and equal in dignity and rights. They are endowed with reason and

conscience and should act towards one another in a spirit of brotherhood⁽¹⁹⁾"

3-4 Human Rights in the Middle Ages

They were heavily influenced by religion, whether in the Christian period from the 5th to the 16th century or in the Islamic period in the 7th century AD. It is necessary to explore the relationship between Christian and Islamic philosophy during this period regarding human rights principles.

During this era, Europe was under the control of church authorities who exercised various forms of authority based on the concept of divine authority and care. They believed they represented God's will on Earth, deriving their power from heaven, and demanded obedience and compliance from the rest of the population. Failure to comply would result in the wrath of God. This led to encroachments on basic human rights, with the church acquiring land and controlling wealth. People's rights were usurped, and the concept of human rights was absent from social and political dealings. One of the notable abuses by the church was directed towards scientists and scholars. Scientific discoveries by individuals like Copernicus and Galileo, such as the heliocentric model of the universe, angered church authorities who believed Earth to be the center of the universe as it was the abode of Christ. Scientists became subject to church scrutiny, leading to the torture and execution of some, like Giordano Bruno, who was publicly burned at the stake on charges of heresy and blasphemy.

Amid these encroachments, some voices arose calling for respect for human rights in knowledge, freedom, and agency. St. Thomas Aquinas opposed authoritarian rule and advocated resistance to it, considering it a barrier to people's freedom to choose their rulers, which he deemed a legal right. Among the fundamental rights

were those related to political aspects, allowing people to participate in governance.

The situation differed in Islamic philosophy due to Islam's teachings of tolerance, justice, upholding rights, eliminating injustice, and achieving equality among humans. Islam protected life and prohibited unjust killing even of non-Muslims, stating, "Whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely." Among these rights were those related to political participation, as Islam encouraged consultation, stating "And their affair is [determined by] consultation among themselves." Protection of human rights in Islam extended to economic aspects, especially labor rights, as Islam emphasized paying workers their due before their sweat dries. It also emphasized the rights of the weak and needy through a social solidarity system facilitated by Zakat (obligatory charity). The demand for rights was not limited to specific areas but encompassed all aspects of life, as "human rights in Islam have a human, social, economic, and political concept, some of which are among the greatest legislative purposes, strong and highest in rank, such as the right to life."⁽²⁰⁾ Human rights in Islam were embodied in the objectives of Islamic law, including the preservation of wealth, life, honor, establishing justice, and achieving equality.

3-5 Human Rights in Modern Philosophy

This period, stretching from the beginning of the 17th century to the mid-20th century, marked a new phase in dealing with human rights, in line with the overall character of the Renaissance in Europe. The Renaissance witnessed significant developments in all social, political, and economic spheres. The political systems underwent a transformation due to scientific and cultural revolutions, leading to the emergence of political models dedicated to

upholding freedoms and establishing justice. Authoritarian regimes receded, making way for democratic systems that involved the people in political practices.

During this period, philosophical theories advocating natural rights gained prominence. These theories emphasized rights that traditional theories had upheld and believed were non-negotiable as they represented the highest rights every individual should enjoy, with authorities and governments prioritizing their protection. "Individuals have rights inherent in their humanity, derived from their very nature since their earliest existence. These absolute natural privileges precede laws and even communities, as they are based on natural status. Therefore, rights are not based on law; rather, law is based on rights, and the function of the law is solely to protect these rights"⁽²¹⁾

Philosophical theories addressing rights included various interpretations of social contract theory. One prominent figure in this regard was Thomas Hobbes, who presented a theory on the social contract between rulers and the ruled. He viewed natural life as chaotic, disorderly, and unstable, necessitating society's departure from this state unsuitable for human society. It was imperative to establish a contract that preserved everyone's dignity, ensured security and stability, and safeguarded everyone's rights. Thus, political power should guarantee security and rights, and a ruler possessing absolute power and authority should undertake this task.

Protection of fundamental rights, including the right to life as a central and fundamental right leading to other rights such as liberation from slavery and oppression, was highlighted in international treaties and the Universal Declaration of Human Rights in Article 4, which prohibits slavery or servitude in all its forms.

Preserving these rights requires the legitimate use of force in law to defend

them, employing all possible means to achieve that end. Since the right to life is granted by nature for defense and protection, "individuals are given the freedom to protect their lives and defend them by all means"⁽²²⁾

If freedom, according to Hobbes, is a natural right, its purpose is to allow all choices to defend a greater right, which is the right to life. Although he viewed natural life as chaotic and unstable, he found in natural laws an effective means of protecting rights, especially the right to life and freedom. Achieving this required an agreement among members of society to establish a contract that ensures this, by prioritizing reason over natural instincts. Hobbes emphasized, "That it is reason that demands humans to relinquish their freedom and natural right to establish peace among themselves and others. This is reached by joining a community so that everyone can enjoy safety and peace of mind... The social contract transforms individuals into a nation; it creates this body politic called..." Republic or state, in order to achieve this goal, people decided to relinquish their natural authority in favor of absolute authority, which could be either a monarchy or a council of representatives⁽²³⁾.

John Locke presented a contrasting view to Thomas Hobbes. He viewed natural life as a life of cooperation, solidarity, free from chaos and conflicts, where individuals enjoy freedom. Because of this harmonious state, individuals agreed to contract among themselves to preserve this state and establish a governing authority to oversee it. The condition was that everyone, including the ruler, would relinquish some of their rights for the benefit of the community to achieve a common good, which includes securing natural rights such as the right to life and freedom. The contract was not driven by chaos or instability as Hobbes believed but by a social necessity, that integrates individuals into communal life. This foresight by John Locke was about the establishment of an international community

characterized by security, stability, and cooperation, reflecting contemporary aspirations of the international community⁽²⁴⁾.

Further, Locke recognized the right to individual property and considered it a natural right for the establishment of civil authority. Individuals' relinquishment of some of their properties for the sake of authority makes individuals feel empowered through this participation. Locke also added the right to respect religious diversity. This respect helps society avoid tensions among people and overcome disturbances that may lead to sectarian conflicts, known in Locke's philosophy as religious tolerance. According to international covenants declared by the United Nations, such as the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience, and religion, including the freedom to change their religion or belief and freedom of expression through teaching, practice, and observance of rites, either in private or in public⁽²⁵⁾.

All these rights advocated by John Locke provide a philosophical background for many international laws in the field of human rights, such as property rights and beliefs, in addition to fundamental rights such as the right to life.

Interest in human rights increased during the Enlightenment era with figures like Jean-Jacques Rousseau and Montesquieu. Rousseau, among social contract philosophers, presented a distinct conception of the rights that individuals should enjoy, which he endorsed within his political philosophy. He contributed to reinforcing the ideals of the French Republic, believing in direct government where citizens participate, considering this participation as a fundamental political right leading to more rights such as freedom.

Rousseau believed that natural society was characterized by happiness and virtue, with humanity living in cooperation.

However, conditions worsened due to private property, leading to the emergence of the first rogue who claimed something as "mine." At that point, a social contract was formed, where individuals relinquished their natural rights not for the benefit of a monarch or an individual but for the benefit of the community as a whole. "The social contract ensures equality"

"For individuals, within this, all partners have equal rights within the group, as Rousseau ensures that freedom related to equality, the sovereignty of the people is a space for guaranteeing individual rights, and humans possess their freedom by obeying the laws⁽²⁶⁾

Intellectual models that significantly contributed to the construction of European civilization distinguished the Enlightenment era in Europe. The philosopher Immanuel Kant is among those who presented a project that delineates the features of the international community based on peace and international security, through his work "Perpetual Peace." In it, he explains the reasons for achieving peace and avoiding conflicts and wars between nations, as all violations that affect human rights occur during wars. Wars are negative phenomena that hinder civilization, and countries that seek wars do not reach a level of human civilization. Indeed, what we have noticed in our contemporary time is a decline in human values in conflicts and wars. The Second World War caused tragedies and calamities, with about sixty million victims.

In addition to regional conflicts, what happened in Bosnia and Herzegovina and what is happening now in Gaza with ethnic cleansing is a stain on humanity's forehead, and this is attributed to authoritarian regimes that hinder people's freedom and place barriers before the public to participate in political decisions that are supposed to be humanitarian. Because the public prefers a state of peace to a state of war, as they realize that in a state of war, they are the direct victims. Kant says, 'If the decision

whether war should occur or not can only be made with the citizens' approval - a necessary aspect of a republican constitution - it is very natural that, since what is required of them is to judge themselves by the suffering of the evils of war and its disasters, they are forced to hesitate in the matter and to prolong their reflection on it before engaging in such a dangerous game: they have to themselves plunge into the dangers of war and participate with their money in its expenses, and bear the trouble of rebuilding what it has left behind in its destruction⁽²⁷⁾.

Kant made ethics a fundamental criterion for correcting political action, as political practice necessarily requires ethical intervention to reduce the risks and excesses resulting from the narrow interests of malicious political intentions. Ethics is the only means to frame political work in order to achieve permanent peace between nations and respect for human rights and freedoms.

Another intellectual phenomenon more related to legal jurisprudence is the French thinker and philosopher Montesquieu, one of the pillars of Enlightenment philosophy in Europe. He conducted research in the social and legal field that had an impact on changing the political and legal system in France in particular and Europe in general. He rejected authoritarian regimes and showed the extent of their danger to freedoms and human rights, especially those related to political practice, as freedom is a fundamental demand and a legal right that must be claimed and protected. To achieve this, Montesquieu decided to establish a basic principle in political practice, which is the principle of the separation of powers. The legislative authority is responsible for enacting laws and is an elected authority representing the will of the people. The executive authority, represented by the government, is responsible for managing state affairs and adopting regulatory decrees and regulations in line with legislation. As for the judicial authority, it is responsible for

resolving disputes and conflicts and is an independent authority from the executive authority that ensures the integrity of laws and their conformity with the adopted constitution in the country. To ensure the proper functioning of the state, it is necessary to separate the three authorities and ensure the independence of each with its tasks and powers, so that no one authority dominates over the others."

"Furthermore, each of these powers must exercise the monitoring authority, with the goal of thwarting authoritarian practices in dictatorial systems and ensuring political and social rights. The three powers cannot be in the hands of the ruler to be exercised as they please, for governance and authority cannot be centralized in one party. If the power to issue judgments is not separate from legislative authority, then ruling over citizens' lives and freedoms will be arbitrary, as the judge will essentially become the legislator⁽²⁸⁾ The Universal Declaration of Human Rights in its tenth article stipulates that every individual be entitled to full equality with others in seeking their case before an independent and impartial court, with a fair trial, public hearing, and judgment on their rights and obligations in any criminal charge brought against them.

4-CONCLUSION

From the above, we conclude that human rights issues as presented in our contemporary time at the level of legal branches, especially international ones, are the result of traditional philosophical thought. They began with their early signs in ancient Eastern civilizations and continued with Greek philosophers until they became clear with modern philosophers. This philosophical thought within the historical turning points of philosophy all contributed to developing the concept of human rights, as these theories were an inspirational source for legal scholars in establishing international legal systems dedicated to protecting individual and collective rights.

The philosophical reference for human rights law primarily appeared in natural rights, which were initially established by Greek philosophers including the Sophists and Roman philosophers, with Cicero at the forefront. Their essence was to ensure basic human rights such as the right to life and freedom, rights inherent to individuals by nature and from birth, necessitating legal protection through binding laws. Therefore, we find that most legal texts in the field of human rights urge for the guarantee and protection of these fundamental rights.

With the modern era, rights expanded to include other aspects related to political practice, especially with social contract philosophers who laid the foundation for new concepts in political philosophy. This paved the way for intellectual debates that contributed to building a legal framework upon which international agreements and

treaties were based, regulating relations between individuals in the international community within the framework of coexistence and ensuring basic rights for peoples, thus solidifying a culture of peace.

The fundamental standards of human rights first mentioned in the Universal Declaration serve the purpose of guaranteeing rights and protecting humans worldwide from the horrors of war and suffering. However, it is noticeable that these laws have not been fully implemented in reality. It can be said that international bodies, particularly the United Nations, have failed to achieve international peace and security, especially amid increasing tensions worldwide, which demonstrate the extent to which states infringe upon human rights in life.

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