

Study on Human Rights in Charity Activities

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Supported by the Fundamental Research Funds for the Central Universities: Theoretical Construction of Ethics Values on Contemporary Chinese Philanthropy (SWU1409231).

Received 20 March 2014; accepted 30 June 2014

Published online 27 August 2014

Abstract

Human rights are rights that distinguish human being from other beings. A man will lose his status as a rational being if his human rights have been deprived. There are so many problems associated with human rights in charity activities in recent years, such as ignorance of the right to know, violation against the privacy right, and trample of the right of freedom, etc.. These phenomena are very universal, and they damaged the interests of citizens, tortured the Conscience of the society, and even challenged the dignity of law. The author considers that these phenomena are caused by a variety of reasons and could be solved by continuous improvement of human rights protection system.

Key words: Charity; Human rights; Ethics

Wu, S. L. (2014). Study on Human Rights in Charity Activities. *Studies in Sociology of Science*, 5(3), 101-104. Available from: URL: <http://www.cscanada.net/index.php/sss/article/view/5226>
DOI: <http://dx.doi.org/10.3968/5226>

INTRODUCTION

A case on child abuse which has made a woman became the most hated stepmother was flying around the internet in July 2007 in China, for her 6-year-old stepdaughter who was beaten by her so many times that the girl spitted blood heavily and had a chance to get paraplegia in her lower part of the body. This case has caused widespread concerns in the society, so quite a few well-known sites launched a

nationwide petition to urge people to help the girl. People acrimoniously berated the behaviors of the stepmother, and donated generously to provide financial aid to the girl. Some people visited the girl in the hospital in person. But only a week later, another piece of amazing news was exposed that the girl has not been battered according to the investigation result from the police. The family made this 'white lie' just because of their difficulties in affording medical costs. In this case, donor's right to learn the truth was ignored in this charity activity.

There are still some other problems in the charity activities which are similar to the mentioned one, such as ignorance of the right to know, violation against the privacy right, and trample of the right of freedom and so on. Therefore, we must take measures to protect the human rights of the donors and recipients in charity activities.

1. THEORETICAL BASIS FOR HUMAN RIGHTS PROTECTION IN CHARITY ACTIVITIES

With the legalization of human rights on a world scale, human rights have already impressed everyone. The key to realizing human rights protection lies in deep understanding of its basic theory.

1.1 Concept of Human Rights

As a general political concept, "human rights" was born in the process of the new bourgeoisie's objecting to the feudal autocracy and divine authority. In 1777, "natural rights" was written in American "Declaration of Independence" as the political platform of bourgeois revolution. "Declaration of Independence" is called by Max "the first declaration of human rights in the history of mankind. It proposed that all men are created equal and they share equal rights to life, liberty, and the right to pursuit happiness. It was the first time "natural rights" had been written in constitution in 1789. "Declaration of Human rights and Civil rights" ensured people's rights of equality and

liberty through a formed fundamental law. However, these called human rights, which based on the theory of the bourgeoisie's "natural rights", have regarded natural rights as inborn rights but ignored the process of production and development limited by the influence of socioeconomic and history. Marx and Engels criticized the bourgeoisie' general viewpoint of human rights from the point of historical materialism then put forward their opinion that human rights are concrete and historical. They believe that human rights are products which happen along with the development of production pattern, instead of simply being inborn rights. And it will change with the development of society, polity, culture and economic environment.

Above all, we considered human rights are rights that distinguish human being from other beings. Human rights are so common that everyone could share. They are not privileges of someone or some class. Human rights are always varied, and it will change with the development of society, polity, culture and economic environment. In modern society, we generally share human rights including life right, safety right, freedom right, right to know and privacy right, etc..

1.2 Basic Theory of Human Rights Protection

Human rights are rights everyone should enjoy to meet his needs for survival and development. A well-known American ethicist Henry Shue considers that human rights could be equal to "citizens' fundamental rights". He has explained citizens' fundamental right in three dimensions: The first one is the right to life which shows the economic security of livelihood; the second one is the safety right to ensure the integrality of human's body and mind; the third one is the right of freedom including the participation right and the migration right (Gan, 2009, p.20). Concerning the property of human rights, Habermas emphasizes that human rights are essentially legal rights, which require a public order all people could be treated equally, and the legality of the public order should be decided by the autonomic government. Different from Habermas, Tugendhat considers human rights as moral rights. He claims human rights' priority to law, owing that "the will for people to protect individuals' rightful requirements by means of law goes after the terrible historical experience of human rights having been infringed" (Gan, 2009, p.43). We also share the opinion that moral characters of human rights have decided the priority of human rights to the law. Hence, we have to respect people's human rights because of their irreplaceable value, and should pay attention to their right to make own decisions and their pursuit of fundamental interests. To my mind, human rights may be limited in a excessive narrow range if we only take them as legal rights. Besides, it is hard to be guaranteed because of the weakness of its own in case of only being regarded as moral rights. Undoubtedly, to achieve the maximum utility certainly requires combination of the legal character and moral character.

The way for human society to accept somebody as a human being is to recognize his basic human rights.

Everyone owns the right to choose to be happy instead of being painful, but the society cannot ensure everyone of what he wants. One person's happiness is not more important than the others', so is the pain. To pursuit the greatest happiness for most people is the first principle of utilitarianism. In utilitarianism, only individual life belongs to the area of ethics, because only individuals can feel the happiness and pain.

The issue of human rights is actually the consequence of excessive pursuit for self-interest in the process of chasing their best interest. It goes against the utilitarian canon of pursuing the universal benefit for the whole.

2. PRESENT SITUATION OF HUMAN RIGHTS CONFLICT IN PHILANTHROPIC ACTIVITIES

Although charity is a voluntary and preying act, the donors and recipients of human rights should be respected and protected. But in actual charitable activities, human rights violations are so common. For example, the right to know is ignored, the right of privacy is violated, and the right of freedom is trampled and so on. The development of charity cause is facing a stern test.

2.1 The Right to Know Being Ignored

The donors have the fully knowing right over the use of their own donations. In *Law of the People's Republic of China on Donations for Public Welfare* (1999), the Article 5 stipulated that "the donor's wishes for the use of property donated shall be respected and such property shall be used in conformity with public welfare purposes and may not be used for any other purposes". And the Article 13 stipulated that "upon completion of the donated public welfare project, the donee shall inform the donor of the construction, use of the funds and checking and acceptance of the construction quality".

But the donor's right to learn the truth is often damaged in general charitable events, which mainly shows in the following two aspects: the realization of the right to know has some obstacles, and the philanthropic organizations are still transparency lacking so that the donors often don't know how the contributed property is used on earth. Especially after the "Guo Meimei incident", the purpose of donations was unknown to the public, so the charity organization's credibility was questioned. In the second, the right to know is misled and deceived by the person or groups with ulterior motives. The truth what donors learned is not the real truth. For example, the donors in the cause of "Stepmother Child Abuse" were misled by the false information so as to get the wrong opinions and judgments. In the society, "A citizen as a member of the society, has the right to know what happens to the society as a whole, and the problems and situations which he is interested in" (Lin, 2006, p.327). Especially for the donors, the right to know being damaged will hit the donors' enthusiasm severely, and it also cause the public

trust of charity to be declined, and finally have a negative impact on the healthy development of philanthropy.

2.2 The Privacy Right Being Violated

In charity activity, the donor's behaviors are usually considered as doing good things, while recipients are naturally thought as the weak that must be grateful to the donors. These acceptors' personal dignities have not been taken into consideration in this process. Donors often have a condescending attitude to using the recipients' information optionally regardless of their will. In fact, many recipients are not willing to expose him in front of the public. However, there are some situations, that the organizer posts the grantees' privacy for the sake of verifying information or just for the purpose of speculation. In some case, recipients would rather than refuse to accept help in order to avoid to be looked down upon by the community. Some recipients will choose to hide their real situations and claim they do not need help because they worry about his or her family and career. What's worse, they can't feel happy on account of negative effects after privacy exposure. The situation violated the original intention of charity seriously.

To protect the privacy of recipients, in the Article 33 of *Law of the People's Republic of China on Donations for Public Welfare* (2010) stipulated that "The charitable organizations shall respect the personal dignity and protect the privacy of those who accept other's help", but it is obviously that the act achieves little in terms of the current reality.

2.3 The Right of Freedom Being Trampled

As the main body of charitable event, the donors and their donation behaviors are the core of philanthropic activity. The donors have the right to decide whether to contribute or not, and they have the freedom to choose which charitable organizations to donate to. Their rights ought to be protected by law. In *Law of the People's Republic of China on Donations for Public Welfare* (1999), the Article 4 stipulated that "Donation shall be made voluntarily and gratis. Any allocation of donations by compulsion or that in a disguised form shall be prohibited and no profit-making activity may be allowed to conduct in the name of donation." And the Article 9 figured out "Any natural person, legal person or organization may choose community public welfare organizations or nonprofit public welfare institutions which he/it thinks conforms to his/its wishes as the donation receiver".

At present in China, donor's freedom of donation is trampled, and compulsive donation becomes objective existence. Bad influences are palpably being exposed. First of all, the connection between the donors and recipients is cut out. The former is forced to do good things so that they never care about who accept the help and whether those people really need assistance. While the latter would take other's help for granted and hold a perverse conception that helping him is the responsibility of the society, or even

take it as some people's cheap means to seek fame, so they would not have gratitude for contribution from the society. In the second place, these abuses phenomenon will distort our Party and the government's image, and may deface our nation's philanthropy and deepen the contradictions among the people, letting charity lost the vast majority of donor's recognition.

3. CAUSES OF HUMAN RIGHTS PROBLEMS IN CHARITY ACTIVITIES

Law of the People's Republic of China on Donations for Public Welfare which was introduced in 1999 has advanced the human rights protection in charity activities in our country. Human rights Protection has the foundation in law. But there are still many issues to be solved in charity activities. The human rights protection system is far from perfect. The causes of human rights problems are various, but the main are the following three ones.

3.1 Lacking of Human Rights Consciousness

The Chinese traditional culture used to pay too much attention to the protection of kingship and the ruler's privileges, and had established a set of rigid feudal hierarchy. Common people have very few rights under the powerful guide of the government. Although Chinese people have won various rights through revolutions in the modern times, they haven't built a strong concept of individual legal rights instead of belonging their rights to the group or country. In general, citizens lack awareness of human rights.

Consciousness is the premise of an action, and people's practical activities march under the guide of certain consciousness. Therefore, to protect human rights needs to build up one's awareness of human rights firstly. Due to the lack of human rights consciousness, these violations of human rights happened so frequently in charity activities, and majority of the problem did not achieve the best solution. For the moment, most of the citizens prefer to pay more attention to their property right and personal right, while they have ignored the necessities to protecting their right of freedom, right to know and privacy right in charity activities.

3.2 Economic Incentives

In the "3·15 evening party of 2012", CCTV Once exposed a case of people earning profit in the name of charity. "Chinese eye protection program", a claimed non-profit organization which has been known for eyesight protection among teenagers, declared a donation of 30 million and a 10-year program of reducing the incidence of myopia by 30%. There are hundreds of workstations all over the country, and then this program even has a worldwide influence. They gave a card worth 360 yuan to a student for free, and he could use the card to get a pair of glasses in local workstation. However, the reporter

survey found that the selling price of the glasses was 12 times from the purchase price. In addition, the student also needs to spend extra money on the frame. Through this, the profits of a workstation could reach to a maximum of more than 5 million. Obviously, the public's right to know has been ignored in this case. The original idea of charity has been lost under the stimulus of economic interests, while the name of charity has been abused, and the infringement of human rights comes to be inevitable.

3.3 Imperfect Legal System

Although the relevant laws and regulations on charity have covered most aspects of charity activities, the administration also has tried to standardize the practical operation in charity activities, many stipulations still cannot function well in practice due to people's lack of ability to handle things appropriately.

The government always takes a supportive attitude on the development of public welfare and the cultivation of charitable organization. But due to the different understandings changing with different areas and sectors, the concrete measures they adopted are also various. The misunderstandings have led to some awful circumstances, such as apportioned donation by the local government. Voluntary donation become administrative enforcement that linked with the administration performance, but the laws do not provide clear and relevant stipulations. Besides, there are several donors offering little or nothing instead of the announced number in charity activities. These donation shows not only embarrassed the government's public image, but hurt charity itself. In particular, there is also no operational specification to deal with these behaviors.

4. HUMAN RIGHTS PROTECTION SOLUTIONS IN CHARITY ACTIVITIES

How to protect the citizens' human rights in charity activities, not only relates to the interests of donors and recipients, but also the image of state and government, and the healthy development of harmonious society. As a consequence, to improve human rights protection in charity activities does have a important significance.

4.1 Training on Human Rights Consciousness

After the founding of New China, the institutional construction of human rights in China has experienced a rapid development. The government is the powerful strength to ensure our human rights, while citizens always stay in a passive position on the aspects of both cognition of human rights and the obtaining of human rights. It is obviously inadequate to respect and protect human rights only by the strength of government while without the active participation of citizens.

In charity activities, donors have the right to decide whether to donate or not free without enforcement by

organization or other individuals. Facing forced or assessed donation, the donors should learn to defend their right of freedom by themselves. The donors also have the right to know the object and purpose of donation. Furthermore, they have the right to take back their donations if the donations have not been used in a designated way. Similarly, the recipients have the right to accept help or not, and they also have the right to protect their privacy and personal dignity. One should be subject to legal sanctions if he exposures people's privacies without permission.

4.2 To Strengthen the Legal Protection

The fact whether human rights being respected is the standard to evaluate if the laws are correct or not. Human right represents the principle of minimum standard of humanitarian; at the same time, the law provides best safeguards for the realizing of human rights. So, it is very necessary to strengthen the construction of public participation in the legal system of charity. On the one hand, to form clear legal provisions of the citizen's charitable behaviors in law is advantageous to the citizens to reposition themselves, as well to make their rights in charity activities clear and in the end improve their enthusiasm of charity. On the other hand, to modify and refine some relevant laws and regulations in order to provide more comprehensive protections for the human rights in charity activities.

For example, in terms of charity publicity work, it is likely to undermine the credibility of charity in the public since quite a few reports are far from the truth in pursuit of being more eye-catching. Therefore, more adjustments on laws and regulations of media communication are needed to provide legal basis for the punishment for distorted reports that may mislead people's behaviors.

CONCLUSION

The original intention of charity activities is to respect and guarantee human rights, so we should pay more attention to the human rights problems in charity activities. Even though this article only places emphasis on three prominent problems in charity activities and has drew a conclusion, we still need more theoretical research and experience summary. The maneuverability of legal protection may deserve more attention in future discussions.

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