

A Study of Human Rights: The International, Islamic and Malaysian Perspectives

Ho Wen Hui and H'ng Zhuang Yu*

ABSTRACT

The subject matter of human rights is arguably one of the most integral and fundamental aspects of law and legal systems. New issues and views constantly emerge and existing ones evolve. The advent of the concept of human rights has progressed over the years; yet, it is still a challenge to fully enforce and honour these rights. This paper seeks to study the different approaches, i.e. international and Islamic perspectives of human rights law to rationalise their significance and justification. A focus is also made to observe whether they are relatable to our human rights situation in Malaysia, by reference to fundamental liberties bestowed upon all Malaysian citizens as enshrined in the Federal Constitution. By employing analytical research methods, it is learnt that different approaches do not mean competing interests as such. While the mechanisms of securing human rights might slightly differ, the rights, in essence, are generally similar, or rather, universal. Due to cultural, historical and background differences, it is impossible to employ an identical approach globally. Certain adjustments are hence, inevitable. This paper also examines the scope of human rights protection in Malaysia in certain areas and proposes possible reforms for comprehensive development and protection of human rights in Malaysia. It is hoped that this paper would shed new light on the discussion of human rights through a multi-dimensional perspective, and prompt more constructive and contributive ideas towards this area of law.

Introduction

Human rights are most commonly defined as the rights that are inherently bestowed on all human beings, regardless of their nationality, place of residence, sex, age, race, religion or any other status.¹ The core concept in the protection of human rights is that everyone in this world is given equal rights and must be treated equally even though they are not born equal. No discrimination should be practiced at any level be it individual, state, or international. Often, the provision of human rights is expressed and enshrined in legal instruments such as in the form of customary international law, treaties, declaration, or even legislation.

* LLB candidates, Faculty of Law, Multimedia University.

¹ 'What Are Human Rights' (OHCHR) <<http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>> accessed 25 March 2018.

The modern protection of human rights is pioneered by two instruments, namely the Charter of the United Nations (adopted by the General Assembly in 1945) and the Universal Declaration of Human Rights 1948. The aftermath of World War II left a great impact on the international community leading to the unity of the global leaders in response to the atrocities committed by certain States. Hence, on 26 June 1945, the Charter of United Nations was signed and came into force on 24 October 1945.² The United Nations was given the duty to promote and encourage respect for human rights and for fundamental freedoms.³ For the purpose of this paper, main reference will be made to the Universal Declaration of Human Rights (UDHR) as it is accepted by virtually the whole world. The Islamic counterparts of the Declaration will also be discussed in this paper and the Federal Constitution shall be referred to in analysing the situation in Malaysia.

Donnelly had studied the effects of cultural relativism in relation to the practice of human rights.⁴ He found that cultural relativity is indeed real and undeniably affects the practice of human rights in certain parts of the world. This is due to the fact that human rights are intrinsically rights of *individuals*, in relation to and against the State. As a result, it is inevitable for conflicts to arise as individuals are often viewed as components of a family or a society rather than as autonomous individuals. However, he had found that some conflicts may be resolved, but sometimes, a choice has to be made between the two, depending on how strong the cultural relativism is. In another related work, Donnelly had studied on the different senses of universality and proposed that human rights are universally relative.⁵ In this sense, universal rights do not mean identical practices. Changes are justifiable as long as they do not deny privileges promised by human rights.

International Instrument of Human Rights: Universal Declaration of Human Rights
The Universal Declaration of Human Rights (UDHR) is an advisory declaration adopted by the UN General Assembly Resolution 217A(III) on 10 December 1948. Human rights protection is accorded and enshrined in its Preamble and 30 Articles.⁶ It is the first 'International Bill of Human Rights', alongside with the Twin Covenants which will be discussed later. Human rights are always about the principle of equality and Art. 1 of UDHR stipulates that *all human beings are born free and equal in dignity and rights*. In addition to that, the non-discriminatory clause can be found in Art. 2 of UDHR where it stated that everyone is entitled to all the rights provided under this Declaration with no distinction of any kind. Another feature that is worth pinpointing is the principle of universality. Words or phrases such as "*all human beings*", "*everyone*", "*all*", "*men and women*" and "*no one*" is used to indicate that every man and woman is entitled to enjoy the rights accorded therein without any discrimination.

² 'Introductory Note' (*United Nations*)

<<http://www.un.org/en/sections/un-charter/introductory-note/index.html>> accessed 25 March 2018.

³ Charter of the United Nations, Art. 1.

⁴ Jack Donnelly, 'Cultural Relativism and Universal Human Rights' [1984] 6(4) *Human Rights Quarterly* 400-419.

⁵ Jack Donnelly, 'The Relative Universality of Human Rights' [2007] 29(2) *Human Rights Quarterly* 281-306.

⁶ 'Charter of the United Nations and The Universal Declaration of Human Rights (UDHR)' (*Women With Disabilities Australia*) <<http://wwda.org.au/issues/unhrt/hrchart1/>> accessed 25 March 2018.

The rights and principles provided in the UDHR are all-encompassing and deal with every possible aspect. These include *inter alia* the right to life and liberty (Art. 3), the right to be treated and protected equal before the law (Art. 7), the right to marry and to found a family (Art. 16), the right to freedom of thought, conscience and religion (Art. 18), the right to freedom of opinion and expression (Art. 19), the right to rest and leisure (Art. 24), the right to education (Art. 26), and the right to participate in the cultural life of the community (Art. 27). However, the rights are not only protected in a positive manner, but in some certain provisions, our human rights are protected in a negative manner. For example, prohibitions are given in cases of slavery and servitude (Art. 4), torture or to cruel, inhuman or degrading treatment (Art. 5), and also arbitrary arrest, detention or exile (Art. 9).

Out of the 58 countries, 48 of them became the signatories of the UDHR in 1948⁷, signifying the high acceptance of the said document in the international community. Unfortunately, the UDHR is not a binding and legal instrument as it is an advisory declaration to be adopted. It lacks the legal force to compel all the Member States in complying with provisions contained therein. Hence, in 1952, the General Assembly requested the Economic and Social Council (ECOSOC) to ask the Commission on Human Rights to draft two separate International Covenants on Human Rights to ensure observance and respect for human rights.⁸ After a long-standing debate, the Twin Covenants, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), were adopted in the year of 1966.⁹ The main reason for separating the civil and political rights with the socio-economic rights was due to the Cold War rivalries and difference in political views. The United State and its allies (the "Western bloc") advocated for two separate documents in their effort of preventing the undermining of individual rights, besides the non-justiciability of ICESCR rights. However, the Soviet Union and allies focused more on the collective rights of the people and held the view that ICESCR rights were of equal or even greater importance as compared to its counterpart.¹⁰

The ICCPR came into force on 23 March 1976. To date, the treaty has 169 State parties and 74 signatories to it.¹¹ It contains a Preamble and 53 Articles, which are further categorised into 6 Parts. In its preamble, it recognizes the duty of both the States and individuals in promoting and observing the rights enshrined in the instrument. Articles 2 and 3 impose obligations on the State parties to respect and ensure the protection of equal rights of men and women. Parts I to III of the Treaty, comprising of Articles 1 to 27, promotes civil and political rights which are also known as the "traditional rights" of people. Among these are the right to life (Article 6), the right to be treated equal before a court (Article 14), and, the right to freedom of thought, conscience and religion (Article

⁷ 'Universal Declaration of Human Rights Signatories' (*Ethiopia Blog*, 2014)

<<https://unethiopia.org/universal-declaration-of-human-rights-signatories/>> accessed 25 March 2018.

⁸ 'Resolution of the General Assembly', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/067/98/IMG/NR006798.pdf?OpenElement>>

⁹ 'International Human Rights Law: A Short History | UN Chronicle' (*United Nations Chronicles*, 2009)

<<https://unchronicle.un.org/article/international-human-rights-law-short-history>> accessed 2 March 2018.

¹⁰ Linda M Keller, 'The Indivisibility of Economic and Political Rights' [2001] 1(3) *Human Rights and Human Welfare* 9-14.

¹¹ 'International Covenant on Civil and Political Rights' (*United Nations*). Resolution 2200A (XXI) of 16 December 1966 <https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&lang=en> accessed 25 March 2018.

18). The rights are also known as “negative rights”¹², indicating the duty of non-interference of the State in the enjoyment of its people of these rights. Parts IV to VI of the Treaty (Articles 28 to 53) contains monitoring provisions, interpretation, and final clauses. The Treaty is monitored by the Human Rights Committee empowered by Article 28 to ensure compliance of State parties and introduces the report system under Article 40. In addition, there are two Optional Protocols under ICCPR aiming to establish the individual complaint mechanism and to abolish the death penalty. Slight imperfections can be found in Article 25 where the political rights are only accorded to only the State’s citizen. Besides that, Article 27 is only limited to ethnic, religious or linguistic minorities.

On the other hand, ICESCR came into force on 3 January 1976. There are 166 State parties and a total of 71 signatories to this Treaty.¹³ It also contains a Preamble and 31 Articles which are divided into 5 main parts. Parts I and III provide for socio-economic rights such as the right to self-determination (Article 1), the right to the enjoyment of just and favourable conditions of work (Article 7), the right to an adequate standard of living (Article 11), right to education (Article 13), and many more. These rights are recognised as “positive rights”¹⁴ as most of the provisions impose an active duty on the State party to ensure its citizens the enjoyment of such rights. Part IV of the Treaty provides for the system of supervision, via submission of a periodic report, by the ECOSOC. The Twin Covenants were adopted in order to further promote and realise the protection of human rights enshrined in the UDHR. Although separated, we can always see common features between them. For example, Article 2 from both Treaties prohibits discrimination based on any status, which is in line with the principle stipulated under the UDHR. Article 8 of ICCPR is similar to Article 22 of ICESCR that provides the right to form trade unions.

Despite being called the *Universal Declaration of Human Rights* [emphasis added], there have been contentions that universality in human rights is impossible to achieve. These arguments often find their foundations from the doctrine of cultural relativism. This doctrine recognises culture as the principal or important source of the validity of a moral right or rule.¹⁵ It is pertinent to note that relativity in culture is indeed real. After all, cultures differ starkly across the plane of space and time. In the perspective of human rights, this doctrine demands respect and priority over differences in culture.¹⁶ A statement by the American Anthropological Association may be used as an apt illustration of how this doctrine operates; “man is free only when he lives as his society defines freedom.”¹⁷ This doctrine would somehow be inconsistent with a universal document promoting individual and private rights as opposed to communal rights. The rationale of the argument is that humans cannot possibly function if they were to abandon the societies of which they are a part of.¹⁸

¹² Berlin I, ‘Negative vs. Positive Rights’ (*Globalization101*) <<http://www.globalization101.org/negative-vs-positive-rights/>> accessed 25 March 2018.

¹³ *Supra* n 11.

¹⁴ *Supra* n 12.

¹⁵ *Supra* n 4.

¹⁶ *Supra* n 5.

¹⁷ The Executive Board American Anthropological Association, Statement on Human Rights [1947] 49(4) *American Anthropologist* 539-543.

¹⁸ *Ibid.*

However, on the other end of the spectrum of arguments, the UDHR may be considered universal under various doctrines of universality. One of them is the doctrine of international legal universality. The outspread of endorsement on the international instrument of human rights support such a proposition that human rights are indeed universal, given that virtually all states have welcomed the authority of UDHR.¹⁹ However, the authors of this paper opine that this is not a flawless line of argument, based on two grounds, *i.e.* firstly, certain nations may have endorsed the document due to international pressure, and second, the UDHR does not impose any legally binding obligations²⁰ but is merely a provision of political and moral guidelines to be observed by States. This means that little appeal from the document can be invoked in events of contravention of human rights. Therefore, purported ‘acceptance’ or ‘endorsement’ of the Declaration does not *per se*, amounts to adherence or observance of human rights. Some other doctrines put forth by Donnelly including conceptual universality, historical or anthropological universality, functional universality, overlapping consensus universality and ontological universality are also imperfect, as suggested by Donnelly himself.²¹ His doctrine of relative universality is the most infallible, which will be applied and explained in the later part of this article.

The Islamic Perspective of Human Rights: A Consistent Interpretation?

The Islamic interpretation of human rights would be a pertinent and interesting scope of discussion as it has been perceived as a notion irreconcilable with the UDHR. Many Islamic countries, including Afghanistan, Egypt, Iran, Jordan, Kuwait, Maldives, Pakistan and Qatar have quoted Sharia Law as a barrier to the complete implementation of the UDHR.²² On the other hand, some scholars have argued that the teachings of Islam are parallel with the concept of human rights and human dignity.²³ The faith had persistently advocated the notion of justice and is not in entirety distinct with the liberalist ideology often attributed to the West.²⁴

This is relatable to the doctrine of historical or anthropological universality by Donnelly. Human rights may be perceived to be universal due to the fact that the majority of cultures and societies have exercised human rights in most parts of their history.²⁵ These conceptions and attitudes, however, may vary from society to society. Thus, its universality is not infallible. For a fact, there have been conflicts between faiths, societies and cultures with the UDHR. The Universal Islamic Declaration of Human Rights (UIDHR) and Cairo Declaration of Human Rights in Islam (CDHRI) were birthed from such conflict.

¹⁹ Henkin Louis, ‘The Universality of the Concept of Human Rights’ [1989] 506 *Annals of the American Academy of Political and Social Science* 10-16.

²⁰ It, however, may become binding law if translated into national legislation through the power of the lawmakers.

²¹ *Supra* n 5.

²² Christina M Cerna, ‘Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Context’ [1994] 16(4) *Human Rights Quarterly* 741-752.

²³ Abdul Olayemi and others, ‘Islamic Human Rights Law: A Critical Evaluation of UIDHR & CDHRI in Context of UDHR’ [2015] 1(3) *Journal of Islam, Law and Judiciary* 27-36.

²⁴ Lakshini Sundaramoorthy, ‘Is the Idea of Human Rights a Universal Concept?’ [2016] 2(1) *Merici- Ursula Hall Academic Journal* 23-29.

²⁵ *Supra* n 5.

The UIDHR was started by the Islamic Republic of Iran two years after the Iranian revolution, in 1981.²⁶ The document was drafted by representatives ranging from Pakistan, Egypt, Saudi-Arabia, and several other nations with the endorsement of the Islamic Council, an organisation associated with the Muslim World League, a worldwide NGO with its headquarters in Saudi-Arabia.²⁷ The Muslim World League is regarded as representative of the opinions and interests of conservative Muslims.²⁷ The declaration is very religious in character; it began with a verse from the *Quran* 3:138.²⁸ The adherence to a theocratic approach is greatly apparent in the document. It is stated that "All human rights are given by God and God only, and due to their divine origin, no ruler, government, assembly or authority can curtail or violate in any way the human rights conferred by God, nor can they be surrendered."²⁹

This document is not only directed towards the State, but it also incorporated responsibilities on the part of the individual as well. For example, the roles to be undertaken by a husband were also stated.³⁰ Privileges for the mother and child are also included where some of these privileges are to be provided by members of her family.³¹ In terms of comparison with UDHR, certain substantial differences can be observed. For instance, the right to marriage is an absolute right under the UDHR, where it was stipulated that "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family."³² In contrast, under the UIDHR, this right is subjected to the requirement of conformity with one's religions, traditions and cultures.³³

Another stark difference between these two declarations is the right to freedom of thought, conscience and religion. UIDHR merely appropriates the right to freedom of conscience as well as worship according to a person's faith.³⁴ *Vis-à-vis* with UDHR, it does not encompass the right to change his religion or belief. After all, apostasy is considered a grave sin in the Islamic faith.³⁵ It is considered so serious that it had been narrated in *Hadith* that it is a crime punishable with death penalty.³⁶ While UIDHR seems to abide by Sharia law, it is however uncertain whether it is acceptable for a non-Muslim to leave his or her religion for the Islamic faith. While it is apparent that quite substantial changes have been made in the UIDHR, it is interesting to note that it still faced opposition and criticism for being insufficiently comprehensive and not representing the decision of the member states of the Organization of Islamic Conference (OIC).³⁷

Subsequently, the CDHRI was drafted as a substitute to mitigate the shortcomings of UIDHR. It was presented to the United Nations in 1992 and was subsequently recognised and included into the Human Rights Commission's Compilation of International

²⁶ *Supra* n 23.

²⁷ AE Mayer, *Islam and Human Rights: Traditions and Politics* (Westview Press 2009).

²⁸ This is a clear statement to [all] the people and a guidance and instruction for those conscious of Allah.

²⁹ UIDHR, Foreword.

³⁰ UIDHR, art. XIX (c).

³¹ UIDHR, art. XIX (d) and XIX (g).

³² UDHR, art. 16.

³³ UDHR, art. 18.

³⁴ UIDHR, art. XII.

³⁵ See *Quran* 6:106, and *Quran* 2:217.

³⁶ *Sahih Bukhari* (52:260): "...The Prophet said, 'If somebody (a Muslim) discards his religion, kill him.'".

³⁷ *Supra* n 23.

Instruments in 1997.³⁸ Although some view it as an endorsement of the document by the United Nations, it was accompanied by multiple criticisms. One of the main concerns is that the rights and privileges bestowed by the document are subject to Sharia (which permits corporal punishments).³⁹ The condoning of such punishments is criticised because it is said to be an attack on the dignity and integrity of a human being.⁴⁰ Furthermore, just like UIDHR, it does not permit changing of religion, which under the UDHR, is regarded as one of the non-derogable rights.⁴¹

Nonetheless, in the authors' opinion, the drafting of such documents somehow demonstrates the commitment of some states towards complying with human rights to a certain extent. This, if viewed from a different light, may be considered as an initiative to participate and be included in meeting the international standards of human rights. Arguably, by employing the international legal universality principle, the acceptance of the document by the United Nations is a testament of its universality. The differences in the extent and certain principles, however, ensues argument from a different dimension of universality. This will be discussed in the next part.

Human Rights in Malaysia: A Litmus Test for Universality

Malaysia is a befitting country to study the universality of human rights as it can possibly relate to both perspectives of human rights. Although the Federal Constitution of Malaysia is secular, it is also a Muslim-majority State,⁴² where the Islamic faith is somehow influential in various facets including governance and the legal system.⁴³ It should be noted that Malaysia has not ratified a few of the most prominent covenants which seek to protect human rights including, ICCPR and ICESCR. Hence, Malaysia's participation in the international human regime can be described as "limited".⁴⁴ However, we still enjoy rights provided in the Federal Constitution (FC), which are somewhat similar to the provisions of these human rights documents.

Even if the UDHR is adopted through the Twin Covenants, they would be non-binding in Malaysian courts. There must be adoption by the national legislation for such laws to be enforceable in the country, albeit the fact that they are binding internationally, as illustrated in the case of *R v Chief Immigration Officer, Heathrow Airport ex p Salamat Bibi*.⁴⁵ This is to uphold the doctrine of separation of powers. The law of the land must be unperturbed by any decision of the executive (*i.e.* being signatory to any international treaties, documents, *et cetera*). Besides, the interpretation of "law" under Article 160(2) of the Federal Constitution does not include international law. Even in Section 4(4) of the Human Rights Commission of Malaysia Act 1999, regard can be made to the UDHR to the extent that it is not inconsistent with the Federal Constitution. The right to freedom of

³⁸ *Supra* n 27.

³⁹ CDHRI, Arts. 19 and 24.

⁴⁰ David Litmann, 'Universal Human Rights and "Human Rights in Islam"' [1999] 45(2) *Midstream* (New York) 2-7.

⁴¹ See Art. 4 ICCPR for non-derogable rights.

⁴² Muslim state is a state densely or majorly populated by Muslims, not to be confused with an Islamic state which adopts Sharia law as the *lex loci*.

⁴³ Art. 3 of the Federal Constitution exalts Islam as the religion of the Federation.

⁴⁴ Rendall Peerenboom and others, *Human Rights in Asia* (Routledge 2006).

⁴⁵ (1976) All ER 843.

religion will be explained to 'test' the universality of human rights in reference to Malaysia.

There is a number of controversies regarding fundamental liberties in Malaysia as well, including the freedom of religion,⁴⁶ given the dynamics in the canvas of a multi-cultural and multi-religious society. In the controversial case of *Lina Joy*,⁴⁷ her long dispute of wanting to leave the Islamic faith and embrace the Christian faith lasted until 2007, where the Federal Court delivered its decision of dismissing the appeal by a two-to-one majority decision. Justice Ahmad Fairuz in his judgment stated that for the appellant to leave her religion, she must abide by the practices or the law of Islam specifically on that to abandon the religion. When the conditions as stated in Islam are complied with, and the religious authority verifies her apostasy, only then she is allowed to embrace Christianity. It may be argued that it impliedly allows the act of leaving one's religion as long as it is approved by the competent religious body, although such an outcome is unlikely.

However, in an earlier case of *Daud bin Mamat & Ors v Majlis Agama Islam & Anor*,⁴⁸ the complaints revolved around the issue of their right to apostasy. It was undisputed that the plaintiffs had voluntarily declared themselves as having left the Islamic faith. The High Court held that "The act of exiting from a religion was certainly not a religion, or could be equated with the right 'to profess and practice' their religion." Nevertheless, the decision of the Federal Court would be deemed superior.

There are also other limitations applied to this right under the Federal Constitution. In Article 11(4), other religions may not be propagated to people professing the religion of Islam. It has been debated that laws regulating propagation among Muslims are not only meant to prevent Muslims from being exposed to 'deviant religious doctrines, regulating of Islamic or non-Islamic roots and irrespective of the propagators being Muslims or not', but arguably the object of Article 11(4) is to safeguard Malays against internationally funded and powerful proselytising forces.⁴⁹

This leads to another limitation in Article 11(5), *i.e.* acts against public health, public order or morality. In *Halimatussadiah v Public Service Commission*,⁵⁰ Justice Eusoff Chin held that disciplinary order by the Public Service Commission prohibiting female employees from wearing *purdah* while on duty was held to be constitutionally valid because government secrets and governmental interests must be safeguarded and protected at all cost. On the surface, these terms, "acts against public health, public order or morality" may seem wide and be subject to misuse by authorities. However, the same rider is also seen in Article 18(3) of the ICCPR.

Donnelly has argued in recognition of limitations imposed on rights that are relatively universal, on the argument that freedom of religion does not demand religious neutrality.⁵¹ Under the doctrine of relative universality, it calls for a certain degree of tolerance towards

⁴⁶ Federal Constitution of Malaysia, art. 11.

⁴⁷ [2007] 3 CLJ 557.

⁴⁸ [2001] 2 MLJ 390 (HC), 402.

⁴⁹ Kevin Tan and Li-ann Thio, *Constitutional Law in Malaysia and Singapore* (3rd edn, LexisNexis 2010).

⁵⁰ [1992] 1 MLJ 513.

⁵¹ *Supra* n 5.

cultural differences as long as they are in-line with comparable rights for others and it can be imagined that these practices are freely asserted by free people.⁵² After all, universal rights do not connote identical practices around the globe. There are surely certain interpretations of religious or cultural traditions which can pave way for robust development of human rights and acceptable human rights are relatively universal. Although they dictate specific forms of implementation and certain conceptions, they still permit a wide range of particular practices.

The authors opine that other than all existing arguments on the universality of human rights, human rights can be deemed universal because it is a common desire and aim of every individual. It is also a universal struggle to ensure that these rights are protected and fulfilled. The reason why 'universal' documents are drafted is that there is a realisation that such rights are applicable and owed to every individual. While it may be open to disputes as to whether existing documents are indeed universal, it is rather clear cut that the desire and the necessity for human rights are universal. Hence, there is a common duty and need to safeguard these rights.

Safeguarding Human Rights

As human rights are rights against and to be provided by the State, it makes the judiciary the most suitable body in safeguarding these rights. In other words, the courts can be said to be determinants of whether those universal rights have been infringed or not. Public health, public order or morality must not be compromised under the pretence human rights. On the same vein, human rights must not be compromised under the pretence of public health, public order or morality. Hence, it is up to the courts to balance these two.

When the existing law yields unjust outcomes or raises concerns of public policy or public interest, judges ought to try to find means of "adding moral colours or public policy shades to the legal canvas," as suggested by Prof Shad Saleem Faruqi.⁵³ In interpreting the Federal Constitution, judges carry additional responsibilities and he cannot be too literal. The task of a judge is not passive but rather a creative one; he is allowed to effect what is implicit in basic law and uphold those which are inherent. Only by this way, the Federal Constitution will remain the source of the people's freedom and the protector of their rights. An example of the judiciary applying the broader sense of interpretation is demonstrated in *Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan*.⁵⁴ The court held that "life" in Article 5 of the Federal Constitution does not mean mere physical existence but includes all aspects which are an integral part of life and encompasses matters making up the quality of life. Clearly, such an approach reflects the court's active role in upholding justice.

In essence, the judiciary has the essential role of maintaining the principles of human rights, including its universality.

⁵² *Ibid.*

⁵³ Shad Saleem Faruqi, 'Human Rights, International Law and Municipal Courts' (SUHAKAM, 24 October 2009) <<http://www.suhakam.org.my/wp-content/uploads/2013/12/Human-Rights-International-Law-24.10.09.pdf>> accessed 1 March 2018.

⁵⁴ [1996] 1 MLJ 261.

Conclusion

It can be deduced that although human rights and its degree of implementation that vary in different parts of the globe, the primary object of human rights law is to secure interests of human beings in general. While there are many issues and challenges that have to be addressed, there must be perseverance and strength as the fight for human rights is a never-ending one. Hence, it is a duty of every nation to work together to preserve human rights and uphold its universality.

“Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world... Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.” – Eleanor Roosevelt