

Universalism and relativism in human rights



**ASSIGN
BUSTER**

One of the most pertinent issues of the past twenty years has been the conflict between two different ideologies of human rights on a national scale, universalism, and cultural relativism. Universalism holds that more “primitive” cultures will eventually evolve to have the same system of law and rights as Western cultures. Cultural relativists hold an opposite, but similarly rigid viewpoint, that a traditional culture is unchangeable. Much like the question whether a tolerant society should tolerate intolerance, the debate between universalism and cultural relativism is more convoluted than it appears.

In universalism, an individual is a social unit, possessing inalienable rights, and driven by the pursuit of self interest. In the cultural relativist model, a community is the basic social unit. Concepts such as individualism, freedom of choice, and equality are absent. It is recognized that the community always comes first. This doctrine has been exploited by many states, which decry any impositions of western rights as cultural imperialism. These states ignore that they have adopted the western nation state, and the goal of modernization and economic prosperity. Cultural relativism is in itself a very arbitrary idea, cultures are rarely unified in their viewpoints on different issues, it is always those “who hold the microphone [that] do not agree” (<http://www.aasianst.org/Viewpoints/Nathan.htm>).

This discourse begs the question that in precisely what way are human rights Western. And even if they were Western in 1948, are they still Western today?

Cultural relativism “ continues to problematize the Universal Declaration of Human Rights since it was adopted in 1948 . In fact, the ‘ problem of what universality might mean in a multicultural world haunted the United Nations Human Rights project from the beginning’. As soon as news of the project became known, the American Anthropological Association, through the group’s executive board, warned the Human Rights Commission through a letter against drafting a ‘ statement of rights only in terms of the values prevalent in the countries of Western Europe and America.’ However, while the anthropologists working from within a framework of cultural relativism issued a warning, the UNESCO Committee on the Theoretical Bases of Human Rights offered hope by pointing out that ‘ even people who seem to be far apart in theory can agree that certain things are so terrible in practice that no one will publicly approve them and that certain things are so good in practice that no one will publicly oppose them’.

Whenever one group denies rights to another group within a culture, it is usually for their own benefit. Therefore human rights cannot be truly universal unless they are not bound to cultural decisions that are often not made unanimously, and thus cannot represent every individual that these rights apply to.

Even though cultural relativism has great problems and a potential for abuse, universalism in its current state is not the ideal solution. Universalism is used by many Western states to negate the validity of more ‘ traditional’ systems of law. For example, if a tribe in Africa is ruled by a chieftain and advised by the twelve most senior villagers, is this system any less representative than the more liberal societies of the West? Is it possible to

<https://assignbuster.com/universalism-and-relativism-in-human-rights/>

impose a universal system of human rights if the effects of social change stemming from modernization are not understood or worse yet, ignored? In non-Western societies, industrialization, capitalism, and democracy might not have been the eventual outcome of the process of cultural evolution. These ideologies have been shaped and created by Western imperialism, the slave trade, colonialism, modernization, and consumerism.

Today's world shows signs of positive progress towards the universal system of human rights. The declaration of human rights occurred immediately after the atrocities committed during WWII. The globalization of human rights began when the world was awakened to the crimes committed under one government (Hitler), and the need for a more universal system of accountability and responsibility. Through a forum such as the United Nations, cultural differences are better able to be resolved, thereby paving the way for universalism while at the same time recognizing and compromising on the needs of certain cultures. The recent adoption of the International criminal court in June 1998 is an important step in enforcing and promoting the values agreed upon by the member nations. As the world becomes a smaller place with the advent of globalization, universalism makes more sense as a philosophy of human rights. In a world where many people might not be governed by national borders, having fundamental human rights instead of ones bound to certain cultures provides the best solution.

The question of Westernness versus the universality of human rights remained a live issue throughout the process that led to the framing of the UDHR.

<https://assignbuster.com/universalism-and-relativism-in-human-rights/>

In the 1950s the UDHR came under criticism as being Western at the hands of the newly independent states of Asia and Africa. And in the heat of the Cold War, its perceived emphasis on political and civil rights also allowed the countries of the Soviet Bloc to skewer it as such, with the Third World looking on in wonder if 'the white man's burden' was being exploited once again to secure the 'white man's gain'.

In 1996, Prime Minister Mohammad Mahathir of Singapore famously declared: 'Asian values are universal values. European values are European values.'

(p. xi): Kishore Madhubani writes "that any Asian thinker who challenged the prevailing Western ideas in contemporary social and political theory must be advocating the superiority of Asian values. Actually, the only point that most Asians were trying to make was that Asian values were not inferior. They were trying to say that there was a need for a level playing field in the new intellectual debate of the 1990s. With the advantage of historical hindsight, we can now look at those years and see that Asians were not marching out in that period to proselytize to the West, They are only reacting to Western proselytization."

The Boston Sunday Globe on 29th April 2001 carried a spread entitled the BIG IDEA followed by the title: 'Are Human Rights Universal? Or is the West imposing its philosophy on the Rest of the World'. It also carried two pieces elaborating divergent perspectives, one by Makau Mutua and the other by John Shattuck, Boston Sunday Globe, 29 April 2001, p. D8. Perhaps it is the

intuition of Makau Mutua on this point which finds fuller expression in the following remarks by

Upendra Baxi : ‘ The more human rights are hailed as the patrimony of the West, the greater is the inclination in most Euroamerican societies towards world hegemony. Also keener, as a result, is the intergovernmental desire in some non-Euroamerican societies to reject the underlying aspiration affirming equal worth of all human beings. Not merely repressive regimes but also progressive intellectuals in these societies remain ambivalent towards contemporary human enunciations. And (as Chapter 6 illustrates) progressive Eurocentrism inclines us all towards a postmodernist critique of notions of human rights. Authentic intercultural, or even inter-faith, dialogue remains a casualty of warped approaches to histories of human rights ideas and practices.’

(p. vi of *The Future of Human Rights*): ‘ The principal msg of this work is that the originary authors of human rights are people in struggle and communities of resistance, which standard scholarship demotes to a lowly status. Once claims to authorship stand thus pluralized, it follows simply that “ human rights” are not the gifts of the West to the Rest; the dominant discourse is diversionary when it locates the origins of human rights in the Euroamerican tradition and experience and when it pursues endless debates over “ universality” and “ relativism” of human rights’.

(p. xiv): ‘ There is no unified Asian view in human rights and freedom of the press. These are Western concepts. Asians are obliged to react to them... An

understanding of the Asian reactions is clouded by the fact that many Asians feel obliged to pay at least lip service to Western values.'

The universalist theory of Human Rights is indeed largely based on Western philosophy and the value it places on the individual. Product of Greek philosophy, Christianity and the Enlightenment thinkers, the universalist approach to Human Rights contends that one can use nature, God, or reason to identify basic rights, inherent to every human, which pre-exist society. Jack Donnelly best summarizes the contemporary doctrine of the universalist approach by putting forward the following conclusions:

1. All humans have rights by virtue of their humanity;
2. A person's rights cannot be conditioned by gender or national or ethnic origin;
3. Human Rights exist universally as the highest moral rights, so no rights can be subordinated to another person (e. g. a husband) or an institution (e. g. the state)

By contrast, cultural relativism is based on the idea that there are no objective standards by which others can be judged. The debate between universalism and relativism is as old as the history of philosophy itself and its discussion of truth. Relativism was introduced by, among others, the sophist Protagoras. He rejected objective truth by saying in so many words, later quoted by Plato:

“ The way things appear to me, in that way they exist for me and the way things appear to you, in that way they exist for you.”

<https://assignbuster.com/universalism-and-relativism-in-human-rights/>

It is a perfect reflection of the European Enlightenment: Hobbes, Locke, Montesquieu, and Rousseau are its spiritual founding fathers. Indeed the Covenant insists on “negative” rights, those that limit the role of government and prevent its intrusion in one’s life, privacy, and freedom of speech, religion, opinion and association. Political liberalism thus defined has been the force underlying the US Constitution and the US Bill of Rights, the French Declaration of the Rights of Man and Citizen and the French Constitution. It is also the emphasis of the International Human Rights legislation and thus legitimizes the efforts by the West to spread-some say impose-Western models of democracy.

This is a first level of contention brought forward by cultural relativism proponents. To limit the role of government and its treatment of nationals is an interference with domestic affairs and a violation of state sovereignty, which for most of them is newly acquired and still fragile. The debate in very simple terms could read as follows: “As soon as we (usually Third World countries) are granted independence and sovereignty, you (the West) introduce Human Rights and your style of government as a limit or as a condition.”

Indeed, the old “mission civilisatrice” is now replaced by the “spread of multiparty democracy.” Christianization, civilization, democratization: the rhetoric has changed, the interference has not. Furthermore, there is still the underlying concept that Western culture, because it legitimizes itself behind its pretension to universality, also positions itself as superior to non-western culture. Universalism becomes Westernization.

A question remains, if it is westernization, then westernization for what purpose? Once again we need to look back at the history of political liberalism and its expression in the modern Human Rights doctrine. Locke cannot be separated from Adam Smith. Central to a western definition of fundamental freedoms is the right to property. Economic liberalism and political liberalism are brothers and in Western philosophy they are Siamese twins. The freedom to vote is often translated in the freedom to consume and/or the freedom to invest. It is very important that one billion Chinese be free to vote and express their opinion as long as they also choose to buy Motorolas and Marlboros.

The link between Western-defined Human Rights and globalization of the economies explains the virulence of the West on the issues of fundamental freedoms. In other terms, critics agree that the universalist discourse barely hides a Western attempt to give a moral legitimization to an economic agenda. The ultimate contradiction lies in the fact that political liberalism has supported the same economic liberalism that has legitimized, for example, the Structural Adjustment Programs of the IMF. The SAPs in turn have been the catalyst for the curtailment of political freedoms and human rights in many developing countries.

That the universal Human Rights discourse can disguise a hidden agenda is certainly undeniable. But does this mean by contrast that the cultural relativist discourse is agenda-free? Let's place it under scrutiny.

The first level of criticism of the use of cultural relativism as an exception to universal norms, lies in the fact that bringing forward culture at a given time

is to fundamentally ignore the dynamic and fluid nature of culture. Cultural relativism adopts a static definition of culture: a snapshot of a group of people and their system of meaning at a given time with the underlying assumption that they will not change. It introduces in the paradigm an element of determinism that has no factual or historical relevance. Static definitions of culture also lead to such statement as “ traditional ancestral ethnic hatred,” which explain conflict in terms of culture, obliterating in the process all other determining parameters such as political economy.

However, cultural relativism’s most fundamental weakness in the work towards Human Rights lies in the conflict of interest between the people who articulate the argument and those they represent. More often than not, cultural relativism is claimed by repressive regimes whose practices have nothing to do with local or indigenous cultures but more with their own self-preservation. 4 Cultural policymakers are those who can speak for the group and articulate the group values to the outside world. Such spokesmen are likely to only stress the elements insuring their position. This is especially important in multi-ethnic or multi-cultural states where not only would it be difficult to establish a national identity based on cultural values but also where one group dominates the others at best, blatantly discriminates at worst. Would someone attempt to define what is the “ culture” in Bosnia-Herzegovina? Or in Rwanda? Culture is a construct much more so than a reality and people can always find different levels of allegiance. Indeed, one critique of cultural relativism is that it leads to fragmentation. Cultural relativism as a tool is a legitimization of a behavior designed to preserve a structure of powers.

In a study on Iranian women, Karen Miller illustrates that “ in rejecting the aspirational character of universalism, relativism merely perpetuates traditional practice.” Miller insists notably on the fact that generally women have not taken a large part in determining the culture because traditionally, male activities have set the standards. In fact, violence against women seems to be common in many cultures. 5

IV. Reconcilability of the Two Approaches.

Neither universalism nor cultural relativism is exempt of political manipulations. Does that mean that neither view carries some validity? Furthermore, if they each carry some validity, are they mutually exclusive?

To answer the first question by the affirmative-neither is valid, Human Rights paradigms are tools, therefore they do not have intrinsic values-would be reducing critical thinking to syllogism. Let's more importantly see if both notions can and should be reconciled in theory and in practice. That there exist profound differences of perceptions among cultures or groups of people according to their history, language, and economic circumstances might be true. Does that mean that there exist among them no common points? Not necessarily. It is actually quite remarkable to do a comparative textual analysis between Confucius and Locke and to see how both at different times, insist on the centrality of the concept of Humanity in defining individuals. 6

4 Donnelly, Jack.

5 Miller, K. " Human Rights of Women in Iran: the Universalist Approach and the Relativist Response." <http://www.law.emory.edu/EILR/volumes/win96/miller.html>

6 Nicoll, N. " Confucianism and Human Rights," unpublished paper.

Secondly, disagreeing with the content of what is now presented as universal does not have to mean that there are no values or norms universally agreed upon. Western values may not be universal but it does not mean that universal values do not exist.

This leads us to a level of conciliation that would embody a true cross-cultural search of what can be universally agreed upon. Universal standards should be the goals while cultural legitimacy would offer a method. This would be made that much more relevant if those defining the culture were not those in power. The search of commonalities would (in theory) bypass the structures of power. It could forge a necessary dialectic between external attempts to build a universal system and the internal assistance of various civil societies.

V. The Obstacle of Law

It is precisely at this juncture that we see how the debate between universalism and relativism has contributed to perpetuate a situation that has actually hindered, more than benefited, the cause of Human Rights. The defense of Human Rights has been presented as a legal endeavor among state actors. The debate is essentially a legal debate when texts of international law are being drafted. Discussions then follow on what

<https://assignbuster.com/universalism-and-relativism-in-human-rights/>

understanding to give to the term “ degrading treatment” or what reservations can a domestic legislation make in the name of religion, culture or constitution (in the case of the US).

The debate concentrates on the content of the legislation or its interpretation or application in domestic law, never on the means itself: the fact that there is an over reliance on law to address Human Rights issues. Actually if there is a western influence, it is to be found in that domain. Law as an absolute value is permeating the international realm. In international law nation-states are both creators and parties. In Human Rights, like in any other domain, states are not going to create universal or local structures that bypass their level of control. The western idea that a ‘ good litigation can solve all problems’ is also present in Human Rights doctrine. The fact is that the Human Rights legislation, which by nature of the international system lacks serious mechanism of enforcement, has acted as a smokescreen and has often diverted efforts and resources from other venues. Victory is claimed when a given country finally adopts an international treaty or adequately adapts its domestic law, i. e. China signs the ICCPR or Kenya outlaws female circumcision. Efforts can then stop or more realistically, MFN status can be renewed.

The issue of course is that most people whose rights are violated do not have equal access to the law-especially true for women in many countries. What difference would a change in the legislation make when you cannot drive or go to an urban center, or for that matter, even read?

In addition, the nature itself of the existing legislation on Human Rights has indeed under western influence, favored such rights as privacy and property. The legislation has erected a wall between the public sphere and the private sphere to better protect those rights. This has been ultimately catastrophic for women's rights for most violations of women happen in the private sphere. This is really a domain where one can witness how both theories, universalism and relativism, have had a negative impact by creating a double standard. Men readily accepting western norms of respect for privacy and property and women made to bare the brunt of cultural authenticity within a private sphere made untouchable by virtue of respect for fundamental freedoms.

Conclusion

The debate between universalism and relativism should be a non-issue. Universal goals and cultural sensitivities can be reconciled in the establishment of realistic strategies. However the debate in its present form contributes to divert attention from more important issues. Is International Law, made by states, the right venue to improve human rights? The effective protection of Human Rights requires a transformation not only of government and laws but of the non-state institutions and practices that the present Human Rights doctrine-universal or relative-does not touch.