

## Are Human Rights Universal?

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The growing consensus in the West that human rights are universal has been fiercely opposed by critics in other parts of the world. At the very least, the idea may well pose as many questions as it answers. Beyond the more general, philosophical question of whether anything in our pluralistic, multipolar world is truly universal, the issue of whether human rights is an essentially Western concept—ignoring the very different cultural, economic, and political realities of the other parts of the world—cannot simply be dismissed. Can the values of the consumer society be applied to societies that have nothing to consume? Isn't talking about universal rights rather like saying that the rich and the poor both have the same right to fly first class and to sleep under bridges? Don't human rights as laid out in the international covenants ignore the traditions, the religions, and the socio-cultural patterns of what used to be called the Third World? And at the risk of sounding frivolous, when you stop a man in traditional dress from beating his wife, are you upholding her human rights or violating his?

This is anything but an abstract debate. To the contrary, ours is an era in which wars have been waged in the name of human rights, and in which many of the major developments in international law have presupposed the universality of the concept. By the same token, the perception that human rights as a universal discourse is increasingly serving as a flag of convenience for other, far more questionable political agendas, accounts for the degree to which the very idea of human rights is being questioned and resisted by both intellectuals and states. These objections need to be taken very seriously.

The philosophical objection asserts essentially that nothing can be universal; that all rights and values are defined and limited by cultural perceptions. If there is no universal culture, there can be no universal human rights. In fact, some philosophers have objected that the concept of human rights is founded on an anthropocentric, that is, a human-centered, view of the world, predicated upon an individualistic view of man as an autonomous being whose greatest need is to be free from interference by the state—free to enjoy what one Western writer summed up as the right to private property, the right to freedom of contract, and the right to be left alone. But this view would seem to clash with the communitarian one propounded by other ideologies and cultures where society is conceived of as far more than the sum of its individual members.

## Who Defines Human Rights?

Implicit in this is a series of broad, culturally grounded objections. Historically, in a number of non-Western cultures, individuals are not accorded rights in the same way as they are in the West. Critics of the universal idea of human rights contend that in the Confucian or Vedic traditions, duties are considered more important than rights, while in Africa it is the community that protects and nurtures the individual. One African writer summed up the African philosophy of existence as: "I am because we are, and because we are therefore I am." Some Africans have argued that they have a complex structure of communal entitlements and obligations grouped around what one might call four "rights": not "rights," but respect, restraint, responsibility, and reciprocity. They argue that in most African societies group rights have always taken precedence over individual rights, and political decisions have been made through group consensus, not through individual assertions of rights.

These cultural differences, to the extent that they are real, have practical implications. Many in developing countries argue that some human rights are simply not relevant to their societies—the right, for instance, to political pluralism, the right to paid vacations (always good for a laugh in the sweatshops of the Third World), and, inevitably, the rights of women. It is not just that some societies claim they are simply unable to provide certain rights to all their citizens, but rather that they see the "universal" conception of human rights as little more than an attempt to impose alien Western values on them.

Rights promoting the equality of the sexes are a contentious case in point. How, critics demand, can women's rights be universal in the face of widespread divergences of cultural practice, when in many societies, for example, marriage is not seen as a contract between two individuals but as an alliance between lineages, and when the permissible behavior of womenfolk is central to the society's perception of its honor?

And, inseparable from the issues of tradition, is the issue of religion. For religious critics of the universalist definition of human rights, nothing can be universal that is not founded on transcendent values, symbolized by God, and sanctioned by the guardians of the various faiths. They point out that the cardinal document of the contemporary human rights movement, the Universal Declaration of Human Rights, can claim no such heritage.

Recently, the fiftieth anniversary of the Universal Declaration was celebrated with much fanfare. But critics from countries that were still colonies in 1948 suggest that its provisions reflect the ethnocentric bias of the time. They go on to argue that the concept of human rights is really a cover for Western interventionism in the affairs of the developing world, and that "human rights" are merely an instrument of Western political neocolonialism. One critic in the 1970s wrote of his fear that "Human Rights might turn out to be a Trojan horse, surreptitiously

introduced into other civilizations, which will then be obliged to accept those ways of living, thinking and feeling for which Human Rights is the proper solution in cases of conflict.Ç

In practice, this argument tends to be as much about development as about civilizational integrity. Critics argue that the developing countries often cannot afford human rights, since the tasks of nation building, economic development, and the consolidation of the state structure to these ends are still unfinished. Authoritarianism, they argue, is more efficient in promoting development and economic growth. This is the premise behind the so-called Asian values case, which attributes the economic growth of Southeast Asia to the Confucian virtues of obedience, order, and respect for authority. The argument is even a little more subtle than that, because the suspension or limiting of human rights is also portrayed as the sacrifice of the few for the benefit of the many. The human rights concept is understood, applied, and argued over only, critics say, by a small Westernized minority in developing countries. Universality in these circumstances would be the universality of the privileged. Human rights is for the few who have the concerns of Westerners; it does not extend to the lowest rungs of the ladder.

#### The Case for the Defense

That is the case for the prosecution—the indictment of the assumption of the universality of human rights. There is, of course, a case for the defense. The philosophical objection is, perhaps surprisingly, the easiest to counter. After all, concepts of justice and law, the legitimacy of government, the dignity of the individual, protection from oppressive or arbitrary rule, and participation in the affairs of the community are found in every society on the face of this earth. Far from being difficult to identify, the number of philosophical common denominators between different cultures and political traditions makes universalism anything but a distortion of reality.

Historically, a number of developing countries—notably India, China, Chile, Cuba, Lebanon, and Panama—played an active and highly influential part in the drafting of the Universal Declaration of Human Rights. In the case of the human rights covenants, in the 1960s the developing world actually made the decisive contribution; it was the ónew majorityÇ of the Third World states emerging from colonialism—that broke the logjam, ending the East-West stalemate that had held up adoption of the covenants for nearly two decades. The principles of human rights have been widely adopted, imitated, and ratified by developing countries; the fact that therefore they were devised by less than a third of the states now in existence is really irrelevant.

In reality, many of the current objections to the universality of human rights reflect a false opposition between the primacy of the individual and the paramountcy of society. Many of the civil and political rights protect groups, while many of the social and economic rights protect individuals. Thus, crucially, the two sets of rights, and the two covenants that codify them, are like Siamese twins—inseparable and interdependent, sustaining and nourishing each other.

Still, while the conflict between group rights and individual rights may not be inevitable, it would be naïve to pretend that conflict would never occur. But while groups may collectively exercise rights, the individuals within them should also be permitted the exercise of their rights within the group, rights that the group may not infringe upon.

### A Hidden Agenda?

Those who champion the view that human rights are not universal frequently insist that their adversaries have hidden agendas. In fairness, the same accusation can be leveled against at least some of those who cite culture as a defense against human rights. Authoritarian regimes who appeal to their own cultural traditions are cheerfully willing to crush culture domestically when it suits them to do so. Also, the "traditional culture" that is sometimes advanced to justify the nonobservance of human rights, including in Africa, in practice no longer exists in a pure form at the national level anywhere. The societies of developing countries have not remained in a pristine, pre-Western state; all have been subject to change and distortion by external influence, both as a result of colonialism in many cases and through participation in modern interstate relations.

You cannot impose the model of a "modern" nation-state cutting across tribal boundaries and conventions on your country, appoint a president and an ambassador to the United Nations, and then argue that tribal traditions should be applied to judge the human rights conduct of the resulting modern state.

In any case, there should be nothing sacrosanct about culture. Culture is constantly evolving in any living society, responding to both internal and external stimuli, and there is much in every culture that societies quite naturally outgrow and reject. Am I, as an Indian, obliged to defend, in the name of my culture, the practice of suttee, which was banned 160 years ago, of obliging widows to immolate themselves on their husbands' funeral pyres? The fact that slavery was acceptable across the world for at least 2,000 years does not make it acceptable to us now; the deep historical roots of anti-Semitism in European culture cannot justify discrimination against Jews today.

The problem with the culture argument is that it subsumes all members of a society under a cultural framework that may in fact be inimical to them. It is one thing to advocate the cultural argument with an escape clause—that is, one that does not seek to coerce the dissenters but permits individuals to opt out and to assert their individual rights. Those who freely choose to live by and to be treated according to their traditional cultures are welcome to do so, provided others who wish to be free are not oppressed in the name of a culture they prefer to disavow.

A controversial but pertinent example of an approach that seeks to strengthen both cultural integrity and individual freedom is India's Muslim Women (Protection of Rights upon Divorce) Act. This piece of legislation was enacted following the famous Shah Banu case, in which the Supreme Court upheld the right of a divorced Muslim woman to alimony, prompting howls of

outrage from Muslim traditionalists who claimed this violated their religious beliefs that divorced women were only entitled to the return of the bride price paid upon marriage. The Indian parliament then passed a law to override the court's judgment, under which Muslim women married under Muslim law would be obliged to accept the return of the bride price as the only payment of alimony, but that the official Muslim charity, the Waqf Board, would assist them.

Many Muslim women and feminists were outraged by this. But the interesting point is that if a Muslim woman does not want to be subject to the provisions of the act, she can marry under the civil code; if she marries under Muslim personal law, she will be subject to its provisions. That may be the kind of balance that can be struck between the rights of Muslims as a group to protect their traditional practices and the right of a particular Muslim woman, who may not choose to be subject to that particular law, to exempt herself from it.

It needs to be emphasized that the objections that are voiced to specific (allegedly Western) rights very frequently involve the rights of women, and are usually vociferously argued by men. Even conceding, for argument's sake, that child marriage, widow inheritance, female circumcision, and the like are not found reprehensible by many societies, how do the victims of these practices feel about them? How many teenage girls who have had their genitalia mutilated would have agreed to undergo circumcision if they had the human right to refuse to permit it? For me, the standard is simple: where coercion exists, rights are violated, and these violations must be condemned whatever the traditional justification. So it is not culture that is the test, it is coercion.

Not with Faith, But with the Faithful

Nor can religion be deployed to sanction the status quo. Every religion seeks to embody certain verities that are applicable to all mankind—justice, truth, mercy, compassion—though the details of their interpretation vary according to the historical and geographical context in which the religion originated. As U.N. secretary general Kofi Annan has often said, the problem is usually not with the faith, but with the faithful. In any case, freedom is not a value found only in Western faiths: it is highly prized in Buddhism and in different aspects of Hinduism and Islam.

If religion cannot be fairly used to sanction oppression, it should be equally obvious that authoritarianism promotes repression, not development. Development is about change, but repression prevents change. The Nobel Prize-winning economist Amartya Sen has pointed out in a number of interesting pieces that there is now a generally agreed-upon list of policies that are helpful to economic development—openness to competition, the use of international markets, a high level of literacy and school education, successful land reforms, and public provision of incentives for investment, export and industrialization—none of which requires authoritarianism; none is incompatible with human rights. Indeed, it is the availability of political and civil rights that gives people the opportunity to draw attention to their needs and to demand action from the

government. Sen's work has established, for example, that no substantial famine has ever occurred in any independent and democratic country with a relatively free press. That is striking; though there may be cases where authoritarian societies have had success in achieving economic growth, a country like Botswana, an exemplar of democracy in Africa, has grown faster than most authoritarian states.

In any case, when one hears of the unsuitability or inapplicability or ethnocentrism of human rights, it is important to ask what the unstated assumptions of this view really are. What exactly are these human rights that it is so unreasonable to promote? If one picks up the more contentious covenant—the one on civil and political rights—and looks through the list, what can one find that someone in a developing country can easily do without? Not the right to life, one trusts. Freedom from torture? The right not to be enslaved, not to be physically assaulted, not to be arbitrarily arrested, imprisoned, executed? No one actually advocates in so many words the abridgement of any of these rights. As Kofi Annan asked at a speech in Tehran University in 1997: “When have you heard a free voice demand an end to freedom? Where have you heard a slave argue for slavery? When have you heard a victim of torture endorse the ways of the torturer? Where have you heard the tolerant cry out for intolerance?”

Tolerance and mercy have always, and in all cultures, been ideals of government rule and human behavior. If we do not unequivocally assert the universality of the rights that oppressive governments abuse, and if we admit that these rights can be diluted and changed, ultimately we risk giving oppressive governments an intellectual justification for the morally indefensible. Objections to the applicability of international human rights standards have all too frequently been voiced by authoritarian rulers and power elites to rationalize their violations of human rights—violations that serve primarily, if not solely, to sustain them in power. Just as the Devil can quote scripture for his purpose, Third World communitarianism can be the slogan of a deracinated tyrant trained, as in the case of Pol Pot, at the Sorbonne. The authentic voices of the Third World know how to cry out in pain. It is time to heed them.

#### The “Right to Development”

At the same time, particularly in a world in which market capitalism is triumphant, it is important to stress that the right to development is also a universal human right. The very concept of development evolved in tune with the concept of human rights; decolonization and self-determination advanced side by side with a consciousness of the need to improve the standards of living of subject peoples. The idea that human rights could be ensured merely by the state not interfering with individual freedom cannot survive confrontation with a billion hungry, deprived, illiterate, and jobless human beings around the globe. Human rights, in one memorable phrase, start with breakfast.

For the sake of the deprived, the notion of human rights has to be a positive, active one: not just protection from the state but also the protection of the state, to permit these human beings to fulfill the basic aspirations of growth and development that are frustrated by poverty and scarce resources. We have to accept that social deprivation and economic exploitation are just as evil as political oppression or racial persecution. This calls for a more profound approach to both human rights and to development. Without development, human rights could not be truly universal, since universality must be predicated upon the most underprivileged in developing countries achieving empowerment. We can not exclude the poorest of the poor from the universality of the rich.

After all, do some societies have the right to deny human beings the opportunity to fulfill their aspirations for growth and fulfillment legally and in freedom, while other societies organize themselves in such a way as to permit and encourage human beings freely to fulfill the same needs? On what basis can we accept a double standard that says that an Australian's need to develop his own potential is a right, while an Angolan's or an Albanian's is a luxury?

#### Universality, Not Uniformity

But it is essential to recognize that universality does not presuppose uniformity. To assert the universality of human rights is not to suggest that our views of human rights transcend all possible philosophical, cultural, or religious differences or represent a magical aggregation of the world's ethical and philosophical systems. Rather, it is enough that they do not fundamentally contradict the ideals and aspirations of any society, and that they reflect our common universal humanity, from which no human being must be excluded.

Most basically, human rights derive from the mere fact of being human; they are not the gift of a particular government or legal code. But the standards being proclaimed internationally can become reality only when applied by countries within their own legal systems. The challenge is to work towards the indigenization of human rights, and their assertion within each country's traditions and history. If different approaches are welcomed within the established framework, in other words, eclecticism can be encouraged as part of the consensus and not be seen as a threat to it; this flexibility can guarantee universality, enrich the intellectual and philosophical debate, and so complement, rather than undermine, the concept of worldwide human rights. Paradoxical as it may seem, it is a universal idea of human rights that can in fact help make the world safe for diversity.

#### Note

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