Chapter 1

Embracing Diversity, Upholding Universality: A Moral Discourse on Human Rights ⌻

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Abstract

This study touches upon the complex discourse surrounding universal human rights within the framework of cultural diversity. It explores the origins of universalism in natural law, tracing its evolution through moral development and contrasting perspectives like cultural relativism. The examination spans historical, philosophical, and legal dimensions, emphasizing shared values amidst diverse cultural traditions. The narrative underscores the delicate balance between acknowledging cultural diversity and preventing its exploitation to violate inherent rights. Ultimately, the study asserts that while cultural disparities exist, the pursuit of universality in human rights hinges on ethical navigation, recognizing the intrinsic worth of every individual irrespective of cultural boundaries.

Introduction

Are human rights truly subject to a common standard that applies universally to all of humanity? Or should we recognize and appreciate the diverse cultural differences among nations and societies, understanding that complete homogeneity, as imposed by universal principles, may not be feasible? The moral justification for universal human rights lies in the shared values across diverse societies. This study embarks on an exploration starting with the foundational principles that underpin the universality of human rights, touch upon the concepts rooted in natural law and legal precedents. Additionally, it refers to the concept of cultural relativism as a contrasting viewpoint to universalism. Ultimately, the discourse emphasizes the importance of acknowledging commonalities in cultural visions and underscores the significance of fostering cross-cultural dialogue.

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This study explores the multifaceted discussion surrounding universal human rights in light of cultural diversity. It refers to historical, philosophical, and legal dimensions to elucidate the foundations, challenges, and ethical implications inherent in the pursuit of universalism in human rights.

The text commences by examining the origins of universal human rights, rooted in the philosophical tenets of natural law. It traces this concept's evolution, attributing its emergence to Stoic philosophers during the Hellenistic period. The Stoics postulated the notion of natural rights as universally applicable, transcending the confines of specific city-states and bestowing inherent rights upon all individuals.

A critical juncture in this exploration is the moral evolution of humanity, underscoring the earliest vestiges of universal human rights in prehistoric times. The emergence of written records within religious traditions serves as a cornerstone, portraying sacred texts as repositories of moral imperatives transcending cultural boundaries. These texts, revered by believers, highlight the sanctity of every individual and lay the groundwork for a rudimentary system of universal human rights. Then the interplay between cultural relativism and universalism is explained. Cultural relativism emerges as a contrasting ideology, emphasizing cultural distinctions and the subjective nature of moral norms within distinct societies. However, the study reframes this contrast not as an antithesis but as a dialectic, acknowledging the perpetual negotiation between global and local forms. It underscores the inevitability of this dialogue in an ever-evolving world, highlighting the ethical challenges and possibilities arising from this interplay.

The doctrine of legal positivism is scrutinized for its profound influence on natural law, emphasizing the role of the nation-state as the source of law and its implications on individual status within international law. Concurrently, the exploration of international human rights initiatives underscores the essentiality of concerns about individuals in other states and the pursuit of uniformity in addressing these concerns while respecting cultural nuances. Throughout this discourse, this study underscores the presence of shared values and cross-cultural universals amidst the diversity of traditions. Anthropological evidence highlights universally condemned practices like torture and killings, pointing to a shared ethical underpinning that transcends cultural boundaries. The complexities inherent in reconciling cultural diversity with the moral imperative of universal human rights are analysed. It accentuates the ethical imperative of preventing the misuse of cultural diversity to perpetuate human rights violations while respecting the embeddedness of cultures.

In conclusion, this study advocates for an ethical approach that balances the recognition of cultural diversity with the prevention of its exploitation to undermine fundamental human rights. It contends that navigating this delicate equilibrium is pivotal to ethically realizing the moral aspirations of universality in human rights.

1. Historical Foundations: Natural Law and Universal Rights

The foundation of human rights in natural law is widely attributed to Stoic philosophers. During the Hellenistic period that followed the collapse of Greek city-states, Stoics articulated the concept of natural rights as universally applicable. These rights were not exclusive to citizens of specific cities; rather, they were believed to be inherent to every human being (Cranston,1973:2). The Stoics emphasized essential principles of justice, asserting that right reason aligns with nature, a concept deemed unchangeable and eternal within the context of natural law.

The notion that certain fundamental rights should universally apply has evolved over millennia through humanity's moral development. Its earliest stages trace back to prehistoric times, with the first historical records emerging in written pieces preserved by various religious traditions. These texts, revered by believers as sacred, are considered repositories of moral commands from an often-perceived absolute moral authority. According to Talbott (2005: 4), many religions, at least initially, advocate that moral truths are discerned by unquestioningly accepting the directives of this moral authority. In religious contexts, the sanctity of every human being and their creation in the image of God confer upon men and women an inherent value and dignity. This premise, as highlighted by Shestack (2006: 36), forms the rational basis from which a rudimentary system of universal human rights can be derived.

"With the decline of feudalism, there emerged contemporary secular interpretations of natural law that marked significant advancements. These philosophies disentangled natural law from its religious moorings, laying the groundwork for the modern civil interpretation of natural law. Grotius, for instance, defined natural law as the 'dictate of right reason,' implying that an action is morally necessary or reprehensible based on its conformity with rational nature. According to Shestack (2000: 37), this conception provides a means to appeal from sheer power dynamics to a higher authority, serving as a safeguard for human rights.

The concept of natural rights, therefore, contributes significantly to the discourse on human rights. It furnishes the tools for safeguarding and fortifying the construction of human rights, both on a local and global scale."

2. Contemporary Justifications for Human Rights

Within the framework of morally justifying universalism, Rawls and Waldron explore similar concepts through different approaches. Rawls endeavors to demonstrate that if individuals, behind a 'veil of ignorance,' acted purely rationally and in their self-interest, they would formulate principles benefiting all members, not favoring any specific group. As elucidated by Shestack (2000: 48), the choices made by individuals in this original position could serve as a blueprint for establishing universally acceptable laws, forming the foundation for a just society irrespective of time or place. Rawls' perspective thus offers a framework for devising morally universal principles of justice applicable to all of humanity.

In contrast, Waldron presents two strategies. The first involves identifying practices, such as torture, that elicit universal horror. The second strategy focuses on practices like foot binding and infibulations (the most extreme form of female genital cutting), which, while accepted in certain cultures, are profoundly disturbing and challenge relativist neutrality, as noted by Talbott (2005: 14). While some universally abhorrent practices can aid in constructing a universal human rights framework based on Waldron's first strategy, traditions highlighted in the second strategy pose significant obstacles to achieving such universality.

The doctrine of legal positivism has wielded the most profound influence on natural law. This doctrine staunchly repudiates efforts to identify and articulate a notion of law that surpasses the empirical realities present in existing legal systems. Essentially, it undermines the moral and philosophical underpinnings of human rights by placing paramount importance on the nation-state as the sole origin of law (Shestack, 2000: 38). Consequently, the positivist theory implies that the individual lacks standing within international law.

International human rights initiatives operate under the assumption that concerns regarding the treatment of individuals within other states are both essential and legally binding for states and non-state actors alike. The pursuit of international human rights aims to delineate the aspects that fall inherently under the jurisdiction of individual states. It's crucial to highlight the nuances and depth of this practical discourse. For instance, the Vienna Declaration, in paragraph 5, emphasizes the universality, indivisibility, and interdependency of all human rights. It stresses that the international community should uniformly prioritize and address human rights concerns, irrespective of political, economic, or cultural systems within states. As pointed out by Buergenthal (200: 17) and Piechowiak

(1997: 5), the declaration unequivocally asserts that human rights and fundamental freedoms are inherent to all individuals and beyond question in their universality.

The exertion of these pressures prompts changes in state perceptions and improvements in human rights practices (Skkink, 1993: 4). As human rights are deeply entwined with the value systems of specific societies, questions arise about the potential amalgamation of 'Western' values with African and Asian values to create a framework capable of supporting a spectrum of legal rights (Tomuschat, 2003: 60). This perspective offers a pathway toward the universal implementation of human rights.

3. Cultural Relativism: Challenges and Commonalities

Cultural relativism posits that moral norms hold relevance solely within cultures that espouse them. According to Talbott (2005: 39), cultural relativists contend that human rights norms are applicable only within cultures that traditionally embrace such rights. The essence of relativism suggests that each society formulates its moral guidelines, believing them to be optimal. Therefore, the theory emphasizes enculturation over tolerance, as noted by Renteln (1990: 13). For relativists, diverse cultures construct distinct moral systems grounded in their customs, history, geographic contexts, and worldviews. While acknowledging that different belief systems occasionally converge on certain values, relativists, as stated by Parekh (1999: 129), refuse to attribute moral significance to such consensus.

Although relativism presents the notion that differing traditions hinder the establishment of universal human rights, the subsequent examination will explore the significance of commonalities.

Anthropological evidence suggests certain values hold universal validity across cultures. Practices such as torture and killings are universally condemned, as noted by Bouandel (1997: 62). Building on this, Donelly outlines fundamental universal rights, including the rights to life, liberty, and personal security, along with protections against slavery, arbitrary arrest, detention, exile, and inhumane treatment (Dunnu and Wheeler, 1997: 7). While acknowledging the distinct rules within each culture, Renteln (199: 137) proposes that if there exists a cross-cultural consensus denouncing arbitrary killing as indefensible, this consensus might serve as a foundational principle for establishing human rights.

Some argue that human rights are inherently Western-centric due to the West's historical tradition of championing them. However, Western societies themselves have not always upheld human rights; these rights are a relatively

recent development even in the West. Consider the right to religious freedom, a right identified relatively recently by many Western democracies. If respect for human rights can emerge despite entrenched cultural customs, then cultural differences should not serve as an excuse for disregarding or failing to establish certain fundamental human rights (Talbott, 2005: 40). The doctrine of human rights does not inherently devalue communal aspects of people's lives. Contrary to some claims, the potential conflict between self-determination and human rights does not have to result in irreconcilable opposition. Human rights thinking can acknowledge and accommodate the communal dimensions of people's lives through both collective and individual rights (Booth, Dunne and Cox, 200: 22).

Hence, human rights should not only be universal in their scope but their core values should be universally shared. Acknowledging and respecting different values within diverse cultures does not equate to rejecting universality; rather, it recognizes the plurality of culturally distinct groups and peoples (Stavenhagen, 1998: 8). While cultural relativism may pose challenges to the notion of human rights, it does not negate the truth that our world comprises a multitude of culturally distinct groups and communities.

Relativism should not wield unchecked power to infringe upon human rights. Historically, such ideologies have been regressive, perpetuating values and structures of patriarchy, class hierarchy, religious traditionalism, and ethical values that are restrictive (Booth, 1999: 40). For instance, certain societies consider violence against women, deemed a human rights violation, as a practice integral to their culture. Tragically, such human rights violations intertwine with local customs, such as punishment by stoning and female genital mutilation, actions often condoned by the local society (Merry, 2001: 37).

4. Human Rights and Cultural Dynamics: Negotiating Local and Global Realities

While some values are universally accepted, their interpretation and application vary across cultures due to differing customs and perspectives. These variations lead to inherent differences in how values are practiced within societies. For instance, the perception of what constitutes humiliation, degradation, or demeaning work varies significantly among societies and cannot be uniformly legislated. In certain cultures, an individual might prefer physical reprimand over being coldly ignored or subjected to verbal abuse (Parekh, 1995: 151).

Cultural differences can also be exploited as a tool to justify political opposition in international affairs, as seen in the United Nations' Third Committee during the finalization of the Declaration. Notably, during its adoption, both the former Soviet Union and Saudi Arabia abstained from voting. They argued that the Declaration sought to impose a Western model in a vastly different social and cultural environment (Bouandel, 1997: 18).

The contrast between the communal and individual aspects in diverse societies is evident in the concept of property ownership. Although the Universal Declaration, in Article 17, asserts 'everyone has the right to own property,' in cultures such as that of the Gojami-Amhara in Ethiopia, land ownership is communal without any provision for individual holding rights. Additionally, while Article 16 emphasizes the 'family as the fundamental unit of society,' this concept differs across societies. In some societies, such as hunting and gathering communities, the kinship group holds more significance, while in China, the clan structure supersedes the nuclear family (Pollis and Scwab, 1980: 9).

It's important to acknowledge that not all individuals hold a unique moral perception, as this isn't a true reflection of life. However, this doesn't negate the importance of persistently seeking universal values. As Renteln (1990: 139) suggests, diversity in moral systems doesn't exclude the possibility of convergence among them.

Parekh emphasizes the need for universal values to garner widespread support and democratic validation, free from ethnocentric biases. He advocates for these values to emerge from an open, unforced cross-cultural dialogue, incorporating perspectives from all cultures. Such a dialogue should incorporate diverse historical experiences and cultural sensibilities, ensuring that the values derived are genuinely universal, devoid of ethnocentric biases (Parekh, 1999: 139)."

Non-European cultures, having their distinct customs and moral perceptions, might not necessarily adhere to the individualistic notion of rights. Pogge contends that just as Western cultures frame their conception of rights within their values, other cultures should possess the freedom to define their values within their own cultural contexts (Pogge, 2005: 24). Consequently, he argues for the necessity of a single universal standard that all individuals and cultures worldwide can endorse. This standard should serve as the basis for moral adjustments concerning the global order, accommodating diverse perspectives and serving as a framework for agreements on adjustments and reforms in response to evolving circumstances or experiences (Pogge, 2005: 24).

The existence of diverse traditions across societies doesn't preclude the possibility of shared commonalities. Renteln argues that relativism can align with the presence of cross-cultural universals (Renteln, 1990:13). Instead of viewing universalism and relativism as mutually exclusive choices, it's essential to recognize the dynamic interplay between these positions. This negotiation between global and local forms is an ongoing process, inevitable in a changing world. However, the current era tends to emphasize setting and implementing global standards for humanity, overshadowing the significance of local practices and opportunities for development.

Merry highlights the quest to reconcile local conceptions of gender and family with global human rights perspectives, leading to a redefinition of local cultural practices and influencing the global human rights system (Merry, 2001:50). This dynamic negotiation has propelled changes within the global human rights system, where although rights were initially individualistic, they are now becoming more collective, while cultural concepts are experiencing increased fluidity.

Thus, legitimizing the realities of cultural embeddedness while seeking intercultural consensus—a shared ground amid divided cultural customs—is challenging (Dunne and Wheeler, 1999: 11). This pursuit necessitates acknowledging and navigating the complexities inherent in the coexistence of diverse cultural perspectives.

The existence of diverse cultures with their unique traditions poses challenges in establishing a comprehensive universal concept of Human Rights. However, Indian writer Agarwal contends that human rights cannot differ between Eastern and Western countries, nor between developed and third world nations. He asserts that human rights are impartial to color or direction, blind to distinctions of right or left, recognizing only the human (Tomuschat, 2003: 60).

While acknowledging and respecting cultural diversity, this diversity should not be exploited to perpetuate human rights violations. It's only in this context that the moral achievement of universality in human rights can be realized.

Conclusion

In the discourse on human rights, the quest for a singular standard applicable to all of humanity remains a complex and nuanced endeavor. The question persists: can a common standard truly encompass the diverse array of cultures and traditions across the globe, or do the existing cultural

disparities necessitate an understanding that universal principles might not readily align with the kind of homogeneity that universalization often brings?

Throughout this examination, the moral underpinnings of universal human rights have emerged as a response to the commonalities inherent in diverse societies. Rooted in natural law and evolving through the moral development of humanity, the concept of universality finds its genesis in the recognition of shared fundamental principles transcending cultural boundaries.

While cultural relativism serves as a contrasting ideology, it need not be viewed as antithetical to universalism. Rather, the interplay between these perspectives stands as a testament to the ongoing negotiation between global and local forms, underscoring the inevitable nature of this dialogue in an ever-evolving world.

The examination of historical, philosophical, and legal dimensions reveals both the challenges and possibilities inherent in the pursuit of universal human rights. It becomes evident that while cultures and traditions differ significantly, there are shared values and norms that hold cross-cultural validity.

The essence of universal human rights lies not in compromising cultural diversity but in preventing its misuse to violate the rights inherent to every individual. It is through this delicate balance that the moral attainment of universality in human rights finds its foundation, respecting and acknowledging cultural embeddedness while striving for an intercultural consensus.

In the words of Indian writer Agarwal, human rights remain color-blind and direction-blind, recognizing only the intrinsic value of the human being. Therefore, while navigating the complexities of cultural diversity, it becomes imperative to ensure that such diversity is not exploited to undermine the fundamental rights of individuals. Only through this conscientious approach can the moral aspirations of universality in human rights be ethically realized.

References

Cranstom, M. (1973). *What are Human Gights?*. The Bodley Head.

Booth, K. (1999). Three Tyrannies in T. Dunne and N. Wheeler (Eds.), *Human Rights in Global Politics*, pp. 31-71. Cambridge University Press.

Booth, K., Dunne, T., & Cox, M. (2000). How Might We Live? Global Ethics in a New Century. *Review of International Studies*, *26*(5), 1-28.

Bouandel, K, (1997). *Human Rights and Comparative Politics.* Dartmouth Publishing Company.

Buergenthal, T. (2000). International Human Rights in a Historical Perspective in J. Symanides (Ed.), *Human Rights: Concepts and Standards*, pp. 31-69. Unesco Publishing.

Dunne, T. and Wheeler, N. (1999). Introduction: Human Rights and Fifty Years' Crisis, in T. Dunne and N. Wheeler (Eds.), *Human Rights in Global Politics*, pp. 1-29. Cambridge University Press.

Merry, S. (2001). Changing Rights, Changing Cultures in J. Cowan, M. Dembour and R. Wilson (Eds.), *Culture and Rights Anthropological Perspectives*, pp. 31-56. Cambridge University Press.

Parekh, B. (1999). Non-ethnocentiric Universalism, in T. Dunne and N. Wheeler (Eds.), *Human Rights in Global Politics*, pp. 128-160. Cambridge University Press.

Piechoviak, M. (1997). The Concept of Human Rights and Their Extra-Legal Justification in R. Hanski and m. Suksi (Eds.), *An Introduction to the International Protection of Human Rights*, pp. 3-15. Institute for Human Rights Abo Academy University.

Pogge, T. (2005). Human Rights and Human Responsibilites in A. Kuper, *Global Responsibilites*, pp. 3-57. Routledge.

Pollis, A. and Schwab, P. (1980). Human Rights: A Western Construct with Limited Applicability in *Human Rights Cultural and Ideological Perspectives*, pp. 1-19. Praeger Publishing.

Renteln, A. (1990). *International Human Rights, Universalism versus Relativism.* Sage Publication.

Shestack, J. (2000). The Philosophical Foundations of Human Rights in J. Symanides (Ed.), *Human Rights: Concepts and Standards*, pp. 31-69. Unesco Publising.

Sikkink, K. (1993). Human Rights, Principled Issue-Networks and Sovereignty in Latin America. *International Organisation,* 47(3): 411-441.

Stavenhagen, R. (1998). Cultural Rights: A Social Science Perspective in H. Niec (Ed.), *Cultural Rights and Wrongs,* pp. 1-21. Unesco Publishing.

Talbott, W. (2005). *Which Rights Should be Universal.* Oxford University Press.

Tomuschat, C. (2003). *Human Rights, between Idealism and Realism.* Oxford University Press.