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## **Are (Should) Human Rights (Be) Universal?**

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### **HUMAN RIGHTS AND THE NECSSSITY FOR CULTURAL CHANGE**

Many critics of the concept of human rights argue that it undermines indigenous cultures, especially in the underdeveloped world (Cobbah 1987, Pollis and Schwab 1980, Rentoln 1990). I agree that the concept of human rights often undermines cultures. Culture rapture is often a necessary aspect of the entrenchment of respect for human rights. Culture is not of absolute ethical value; if certain aspects of particular cultures change because citizens prefer to focus on human rights, then that is a perfectly acceptable price to pay.

Human rights are rights held by the individual, without regard to status or position, merely because she or he is human. In principle, all human beings hold human rights equally. These rights are claims against the state that do not depend on duties to the state. They are also claims that the individual can make against society as a whole. Society, however, may have cultural preconceptions that certain types of individuals ought not to be entitled to such rights. Thus, culture and human rights come into conflict. The concept of cultural relativism recognizes this but does not consider the possibility that, in such instances, perhaps the better path to choose is to change the culture in order to promote human rights.

Cultural relativism is a method of social analysis that stresses the importance of regarding social and cultural phenomena from the "perceptive of participants in or adherents of a given culture" (Bidney 1968). Relativism assumes that there is no one culture whose customs and beliefs dominate all others in a moral sense. Relativism is a necessary corrective to ethical ethnocentrism. But it is now sometimes taken to such an extreme that any outsider's discussions of local violations of human rights are criticized as forms of ideological imperialism.

### **CULTURAL ABSOLUTISM**

In effect, this extreme position advocates not cultural relativism but cultural absolutism (Howard 1995). Cultural absolutists posit particular cultures as of absolute moral value, more valuable than any universal principle of justice. In the left-right/North-South debate that permeates today's ideological exchanges, cultural absolutists specifically argue that culture is of more importance than the internationally accepted principles of human rights.

Cultural absolutists argue that human rights violate indigenous cultures because they are Western in origin. But the origins of any idea, including human rights, do not limit its applicability. The concept of human rights arose in the West largely in reaction to the overwhelming power of the absolutist state; in the Third World today, states also possess enormous power against which citizens need to be protected. As societies change, so ideals of social justice change.

Cultures are not unchanging aspects of social life, ordained forever to be static. Cultures change as a result of structural change: secularism, urbanization, and industrialism are among the chief causes of cultural change both in the West since the 18th century and in the underdeveloped world today (Howard

1986). Cultures can also be manipulated by political or social spokespersons in their own interests. Culturalism is frequently an argument that is used to "cover" political repression, as when Kenyan President Daniel arap Moi told a female environmental activist not to criticize his policies because it is "against African tradition" for women to speak up in public.

This does not mean that all aspects of culture must necessarily be ruptured in order for human rights to be entrenched. Many aspects of culture, such as kinship patterns and art or ritual, have nothing to do with human rights and can safely be preserved, even enhanced, when rights-abusive practices are corrected. Many aspects of public morality are similarly not matters of human rights. The proper degree of respect one should show to one's elders and the proper norms of generosity and hospitality are cultural matters that are not human rights issues. The apparent Western overemphasis on work at the expense of family is also a cultural practice that non-Western societies can avoid without violating human rights. Many other such matters, such as whether criminal punishment should be by restitution or imprisonment, can be resolved without violating international human rights norms.

#### WEAK CULTURAL RELATIVISM

Jack Donnelly argues that "weak" cultural relativism is sometimes an appropriate response to human rights violations. Weak cultural relativism would "allow occasional and strictly limited local variations and exceptions to human rights," while recognizing "a comprehensive set of prima facie universal human rights" (Donnelly 1989). This is an appropriate position if the violation of a human right is truly a cultural practice that no political authority and no socially dominant group initiates or defends. Consider the case of female genital mutilations in Africa and elsewhere. Governments do not promote these violations; indeed, through education about their detrimental health consequences, they try to stop them. Nevertheless there is strong popular sentiment in favor of the operations among women as well as (if not more so than) men (Slack 1988), although more and more African feminists now oppose these mutilations. Similarly, child betrothal (engaging small children to be married), officially a violation of international human rights norms, is popularly accepted in some cultures (Howard 1986), although again in Africa, many feminists oppose such betrothals. And certain forms of freedom of speech, such as blasphemy and pornography, are deeply offensive to popular sentiment in many cultures, whether or not the government permits or prohibits them.

Although a weak cultural relativist stance is appropriate in some instances as a protection of custom against international human rights norms, to implement human rights does mean that certain cultural practices must be ruptured. One obvious example is the universal subordination of women as a group to men as a group, backed up by men's collective economic, political, and physical power over women. If women have achieved greater access to human rights in North America since the second wave of feminism began about 1970, it is largely because they have challenged cultural stereotypes of how they ought to behave. Feminist activists no longer believe that women ought to be deferential to men or wives subordinate to their husbands. Nor do they any longer hold to the almost universal cultural belief that women's divinely ordained purpose in life is to bear children. Feminists in other parts of the world, such as India or Africa, are making similar challenges to their cultures in the process of asserting their rights. (On women's rights as human rights, see Bunch 1990 and Eisler 1987).

Another area of culture that impedes human rights is social and religious attitudes toward homosexuality. Very few states in the United States protect homosexuals against discrimination in areas such as employment or housing, and there is still a debate about whether homosexuals should be allowed in the military. Other Western countries, such as Canada, allow homosexuals in the military and provide comprehensive human rights protection in housing, education, and employment, but they still do not accept gay marriages. Strong cultural beliefs about the importance of the family and strong religious beliefs about the holiness of matrimony between a man and a woman make it difficult for homosexuals to obtain the full range of human rights. Cultural change -- indeed cultural rupture -- has been occurring in the Western world and will have to occur elsewhere before homosexuals obtain all the human rights protections they seek.

## **ARGUMENTS AGAINST HUMAN RIGHTS**

Many critics find human rights to be overly individualistic; these critics point to the selfish materialism they see in Western (North American) society as evidence that human rights destroy both cultures and communities. But the individualism of Western society reflects not protection but neglect of human rights, especially economic rights (Howard 1995). In the United States, certain economic rights are regarded as culturally inappropriate. A deeply ingrained belief exists that everyone ought to be able to care for himself or herself and his or her family. Since the United States is, or was, the so-called land of opportunity, at least for white people, anyone who lives in poverty is personally responsible for his or her being in that state. Thus the United States has the worst record of provision of economic rights of any major Western democratic state. The right to health is not acknowledged, nor is the right to housing or food. Before such rights are acknowledged and provided in the United States, the cultural belief in the virtues of hard work and pulling oneself up by one's bootstraps will have to be replaced by a more collectivist vision of social responsibility. The culturally ingrained belief that African Americans are inferior people not deserving of the respect and concern of whites will also need to be ruptured.

Critics of human rights sometimes argue that cultures are so different that there is no possibility of shared meanings about social justice evolving across cultural barriers. The many voices of talk about rights preclude any kind of consensus. The very possibility of debate is rejected. Indeed, debate, the idea that people holding initially opposing views can persuade each other of their position through logic and reason, is rejected as a form of thought typical of rationalist and competitive Western society. Western thought, it is argued, silences the oppressed. Yet it is precisely the central human rights premises of freedom of speech, press, and assembly that over the world permit the silenced to gain a social voice. Human rights undermine constricting status-based categorizations of human beings: they permit people from degraded social groups to demand social change. Rational discourse about human rights permits degraded workers, peasants, untouchables, women, homosexuals, and members of minority groups to articulate and consider alternative social arrangements than those that currently oppress them (for a similar point of view, see Teson 1985).

Human rights are "inauthentic" in many cultures because they challenge the ingrained privileges of the ruling classes, the wealthy, the Brahmin, the patriarch, the heterosexual, or the member of a privileged ethnic or religious group. The purpose of human rights is precisely to change many culturally ingrained habits and customs that violate the dignity of the individual. Rather than apologizing that human rights challenge cultural norms in many societies, including our own, we should celebrate that fact.

### **ADDED MATERIAL**

Rhoda E. Howard is professor of sociology at McMaster University in Hamilton, Ontario, Canada. She initiated and directed McMaster's highly successful undergraduate theme school on International Justice and Human Rights, a temporary program that began in 1993 and will end in mid-1999. Note: This article first appeared in *Focus on Law Studies: Teaching About Law in the Liberal Arts* 8.1 (fall 1992): 4 ff. Dr. Howard updated the article for this printing.

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### **WILL U.S. HALT EXECUTIONS?**

"[W]e should mark sharply the far too many places where implementation of the international law of human rights is still tragically wanting. Much remains to be achieved."

Jerome J. Shestack, President, American Bar Association, 1997-98

The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions issued a report recommending that the United States stop executions until it can ensure that death penalty cases are administered fairly and impartially, in accordance with due process.

The report, released in April 1998, contains the findings of the Special Rapporteur Bacre Waly Ndiaye (Senegal) following a visit to the United States to investigate allegations that the guarantees on the death penalty are not being fully observed in the United States.

During his mission, Ndiaye met with federal officials and visited several states, victims' families, and representatives of nongovernmental organizations, as well as death row inmates. In his subsequent report to the UN Commission on Human Rights, the Special Rapporteur stated that the increase in the use of the death penalty in the United States runs counter to the international trend toward decreasing the number of offenses punishable by death and decisions in many countries around the world to abolish the death penalty.

The report notes that the small percentage of defendants who receive a death sentence in the United States are not necessarily those who commit the most heinous crimes and that many factors other than the crime itself, including race and economic status of victims and defendants, appear to influence the imposition of the death sentence. Those who are able to afford expert legal representation are also less likely to be sentenced to death than those who cannot.

Following the Rapporteur's investigation, the UN Commission on Human Rights adopted a resolution that calls upon countries that still authorize the death penalty "progressively to restrict the number of offenses for which the death penalty may be imposed" and to "consider suspending executions with a view toward abolishing capital punishment."

Source: "United Nations Special Rapporteur Calls Upon United States to Halt Executions," *Human Rights* (Summer 1998) 25.3: 12-13.

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