Are Human Rights Universal or Culturally Relative?

Nhina Le

Published online: 18 May 2016.

Submit your article to this journal ⎘

Article views: 11

View related articles ⎘

View Crossmark data ⎘

Are Human Rights Universal or Culturally Relative?

NHINA LE

What are human rights? Are human rights universal or culturally relative? Is the Universal Declaration of Human Rights (UDHR) a manifestation of Western cultural imperialism? Since the UDHR was created in 1948, these questions have been the subject of policy and intellectual debates between the "universalists" and the "cultural relativists." Universalists believe that same legal enforcement mechanisms of human rights exist everywhere. Cultural relativists argue that there are diverse ways to interpret and to use or abuse human rights.

By definition "human rights" are based on the universal dignity of all human beings by virtue of their humanity. "Dignity" refers to the universal aspiration that all humans are entitled to be treated with respect, as ends rather than means, to be recognized as of equal worth, and to be permitted to advance their gifts. These perspectives provide the foundation for human rights claims.

Still, it cannot be assumed that the international human rights regime is well-established and non-controversial. Advocates for human rights may benefit from the arguments of the cultural relativists since they may end up being an important resource for improving their knowledge and practice of human rights. The tension between cultural relativism and universalism need not be destructive. Instead, it can generate new insights that strengthen global and local efforts to bring human rights to life.

In June 1947, when word of a proposed UDHR reached the American Anthropological Association, that group's executive board sent a letter to the Human Rights Commission warning that the document could not be "a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America." Members of this Association and other cultural relativists challenge the Declaration's universality based on four claims.

First, as Jack Donnelly and Mary Glendon have pointed out, individuals involved in the making of the UDHR were cosmopolitans who had international experiences and enjoyed certain privileges in their societies. Their perspectives did not reflect the concerns of ordinary people. Since

cosmopolitans and ordinary people do not live in the same world, they do not view and operationalize human rights the same way.

Second, the rhetoric and practice of human rights reflect Western values that put more emphasis on the individual than anything else. Thus, non-Western belief and value systems are lacking, which view the individual as a part of something bigger than himself or herself, such as families and social groups.

Third, national governments resist international norms they perceive as contradicting local cultural and social values, or their domestic political interests. Thus, the international human rights regime cannot dictate what countries do with their rights practices. In fact, there are two human rights covenants in the international human rights regime; that is, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. In the Cold War era, the Soviets and non-Western entities defended the first covenant, whereas the United States defended the second one. In today's world politics, the dichotomy between non-Western and Western approaches to human rights has not disappeared. Governments worldwide continue to use this dichotomy to justify their emphasis on only a portion of, and not all the internationally recognized, human rights. For instance, East Asian policy makers argue that the right to development takes precedence over other rights, and is the most culturally appropriate way to advance all human rights in their countries. Thus, the best way for the region to meet its human rights obligations is to prioritize the unified goal of development even at the cost of restricting political and civil rights. By contrast, the United States emphasizes political and civil rights, but resists socioeconomic rights due to a concern that these rights might harm business competition, infringe on autonomy, and limit freedom of speech.

Fourth, some rights that the UDHR recognizes, such as the right of private ownership of the means of production, equality, and marriage and religious freedoms, are at odds with traditional practices and norms in non-Western societies. These societies obviously have not adopted rights instruments nor embraced the language of rights as expressed by the UDHR. Thus, rule-makers in non-Western societies may interpret certain rights as Western cultural impositions.

For instance, many families in Asia and Africa hold rights to use, but not possess, communally owned land. Rule-makers and industrialists in these regions use the land for urbanization projects, and introduce the right of private ownership. Yet, they do not take into account the fact that communally owned lands are spaces where people foster a sense of community. Without social bonds, the future of development and politics will not be feasible. In other words, rapid urbanization and insensitive implementation of the right of private ownership may destroy the existing cultural norms and provoke conflicts among communities, the state, and the market.

India's caste systems do not recognize the right to equality before the law; that is, the prohibition of preferences given to people based on their age, gender, ethnicity, or political leanings. In principle, socializing the ideal of equality requires rule-makers to eliminate discrimination, include voices of the opposition in decision making, and recognize the dignity of the chronically underprivileged grassroots. But, in reality, self-serving rule-makers may not do so, and the grassroots may be unable to unite against the normalization of inequalities.

Dominant Muslim groups in Saudi Arabia still do not adequately promote marriage and religious freedoms despite pressures from within and outside the country. These groups claim that doing so contradicts their religious beliefs, which do not recognize marriage freedom for women and do not allow people to change their religions.

Overall, cultural relativist claims challenge the strong Western influence in the UDHR, rejecting the idea that enforcement mechanisms of these rights exist in all countries. Their claims suggest that cultural contexts determine the ways in which rights are interpreted, used, or abused.

In response to cultural relativists' claims, one of the most influential framers of UDHR, Peng-chun Chang (China), stated that "human rights are for everyone," not just for Westerners or for non-Westerners. Chang and other moderate universalists make several arguments for their position.

First, universalists agree with cultural relativists that much of the world's population was not represented in the United Nations (UN) in 1948. Large parts of Africa and some Asian countries remained under colonial rule, and the defeated Axis powers, that is, Japan, Germany, Italy, and their allies, were excluded. Peng-chun Chang (China), Charles Malik (Lebanon), Carlos Rómulo (the Philippines), Hansa Mehta (India), and Hernán Santa Cruz (Chile), however, were among the most influential and independent members of the Human Rights Commission. The members of the committee that prepared the draft of UDHR represented diverse cultures and backgrounds. Even though Chang and Malik might be labeled as "Westernized," their performance suggested that they were familiar with both local and transnational norms. Not only did each contribute insights from his own culture, but each possessed an ability to understand other cultures and to translate concepts from one frame of reference to another. Cultural relativists must keep this in mind.

Second, UDHR synthesizes the Anglo-American understanding of the individual and the modern "dignitarian" rights tradition of continental Europe and Latin America. It does not choose either of these visions. The Anglo-American vision reflects the ideas of Western thinkers (e.g., Thomas Hobbes, John Locke, and John Stuart Mill) that the individual is alone, isolated, and in competition with his fellows. Europe and Latin America's vision refers to a public realm where individual and community are bound together in

reciprocity. The differences between the two traditions are of degree and emphasis, but their aspirations of human dignity penetrate every corner of the world. While its body is devoted to individual freedom, UDHR begins with an exhortation to act in "a spirit of brotherhood" and ends with community, order, and society. It recognizes that an individual is constituted and sustained by and through their relationships with others. "Everyone" is uniquely valuable in the self, but, "everyone" will be recognized only if the person acts toward others in a spirit of brotherhood. These details demonstrate that the protection and promotion of human rights are neither Westerners' nor non-Westerners' business. Rather, these are everyone's business.

Third, tensions between universal norms and local realities over the right of private ownership, equality, and marriage and religious freedoms, for instance, are not "zero-sum" games. In fact, these tensions are necessary. In the process of exposing the public to these tensions, the entities involved open a window of opportunities for different kinds of change to emerge. Thus, even at a time when human rights abuses continue to flourish, the use of "human rights" in English-language books has increased 200-fold since 1940, and is used 100 times more often than terms such as "constitutional rights" and "natural rights." Evolving social justice movements across Asia, the Middle East, Africa, and Latin America show that more and more people realize that domination, discrimination, and exploitation, as rationalized by cultural–political myths, are not defensible. The public's rising consciousness of the importance of human dignity and rights transforms the international human rights regime.

Fourth, it is true that country leaders use their stories of "cultural differences" between non-Western and Western cultures to defend some, but not all, internationally recognized human rights. But these stories are disputable. In fact, there are diverse truths in each cultural milieu. In non-Western and traditional cultures, communal customs provide each person with a place in society and a certain amount of dignity and protection. There are traditional practices and values to be used to mitigate leaders' abuses of power, such as: "a chief is a chief by the people" (Africa) or "virtuous man knows righteousness, non-virtuous man knows only profits" (China). In the other direction, Alexis de Tocqueville described what he saw as a major element of the American society: "self-interest rightly understood." There are two contradictory interpretations of this important philosophy: that the individual wants what is good for himself or herself immediately, and that the individual's interest is bound up with everyone else's interest. The former can be used to normalize greed and socioeconomic inequalities, whereas the latter can be used to challenge and address these problems. These examples suggest that there are diverse ways to interpret culture. Leaders' simplistic interpretations are powerful partially because they are not widely challenged within their cultural milieus.

The biggest battles between supporters of cultural relativism and universalism are those related to politics, rather than authentic cultural, legal, religious, and moral concerns. In particular, both non-Western and Western societies face similar challenges: the "weak" implementation of human rights and the politicization of human rights.

For instance, the U.S. government publishes annual Human Rights Country Reports on other countries, not on the United States. These reports do not thoroughly explain the fact that established democracies that supported certain human rights declarations sometimes ally with dictatorships and transitional regimes in opposition to binding human rights enforcement. In response, Russia and China publish their reports documenting rights abuses within the United States. North Korea has recently followed suit, generating reports about abuses in the United States as a response to discussions about North Korea at the UN and other international platforms. Indeed, the different reports broaden rights advocates' perspectives; yet, these reports are used to exacerbate tit for tat in the fragmented world.

Furthermore, while American officials criticize Asian governments' denial of political rights that Asian citizens deserve, they downplay American policy makers' denial of their role in all kinds of rights abuses, for example: denying American citizens' rights to basic healthcare, jobs, and a good education; invading the privacy of citizens through surveillance programs; the mistreatment of prisoners in the prison system; and the illegal detainment of prisoners at Guantánamo Bay.

In the United States, contradictions have emerged among conservatives in their view of human rights. On the one hand, many political conservatives distrust the UN, and even want to withdraw U.S. participation. These individuals do not want any "world police" enforcing rules on U.S. citizens. On the other hand, other conservatives support the linking of trade sanctions against China to negative rights reports produced by the United States.

These examples demonstrate that both Western and non-Western governments use their human rights agendas to advance their domestic political interests and geopolitical interests. As a result, the broader public is confused about the quality of human rights advocacy across the world.

The changing geopolitical landscape, particularly the rise of China as the largest world economy and a new world superpower, allows Asian state officials to boast about their governance models, widely known as the "Asian way." Lee Kuan Yew, the longtime leader of Singapore, is one of the influential defenders of this discourse. For Lee, the Asian way emphasizes Asia's "unique" values (e.g., collectivism) vis-à-vis Western values (e.g., individualism). B. G. Ramcharan states that Asian governments use this dichotomy as a shield for their repression of universal values and human rights movements in the region. What is often missed is that the Asian way is similar to other myths of exceptionalism, for example, sub-Sahara Africa in the 1970s, imperial

Germany in nineteenth century, and American exceptionalism in 1920s. These myths over-emphasize the positive aspects of a country and under-examine its negative deeds, such as its abuses of power.

The Asian way was powerful in 1990s when the Asian Tigers or Dragons (Hong Kong, Singapore, Taiwan, and South Korea) were able to maintain their exceptionally high economic growth rates. It waned during the 1997–98 Asian financial crisis when some Asian states (Thailand, Indonesia, Malaysia, and the Philippines) faced serious structural and social problems. It has waxed again in the era of China's rise, becoming an inspiring story for transitional regimes, including the so-called "African lions."

Storytelling by state officials about the Asian way often entails three contested truths. First, Asians are tolerant of being guided by a government father figure; hence, it is "normal" for the region to sustain hierarchical, state-centric societies. Second, the majority of people are too busy trying to make ends meet; hence, it is "normal" that they do not pay full attention to political rights and freedom of speech. Third, it is "normal" that governments delay discussions about other issues in order to fully focus on national security and development matters.

The normalization of these truths aims to defend the status quo. The first truth reinforces a colonial mindset that suppresses the dignity and the fundamental agency of Asian peoples. The second and third truths attempt to deny social and political movements that challenge the abuse of power in Asia and globally. For instance, during the Cold War, many countries in Asia were active members of the Non-Alliance Movement against foreign occupation, colonialism, and any kind of domination politics. In today's world, many Asian villagers, with assistance from rights activists within and outside Asia, are challenging the taken-for-granted development models that have threatened their livelihoods and the environment. The past and present movements use human rights claims to augment their struggles against the abuse of power perpetrated by self-serving officials, profit-oriented businesses, and other irresponsible non-state actors. The dominant stories about the Asian way attempt to erase the existence and significance of these important movements, however.

Additionally, the Asian way may not be consistent with what we have discovered about security. As Amitav Acharya and Amartya Sen have suggested, broader security evolves if individuals achieve greater freedoms, including freedom from the struggle to make ends meet and freedom from fear and want. Although almost all states claim that they have understood this wisdom, Asian states still prioritize the security of states at the expense of freedoms.

In the long run, the use of the Asian way as a means to manipulate the masses' consciousness can be counterproductive for two reasons. First, this tactic can make Asian governments appear to be authoritarian regimes and even traitors to Asia's principle of "society above the self." As Hannah Arendt

argues in *The Origins of Totalitarianism*, "the ideal subject of totalitarian rule is not the convinced Nazi or the convinced Communist, but people for who the distinction between fact and fiction (as in the reality of experience) and the distinction between true and false (as in the standards of thought) no longer exist." Second, it can provoke strong reactions that may threaten the survival of the state. The fall of the Suharto regime in Indonesia in the wake of the Asian financial crisis has offered Asia and the world an important lesson: the kind of peace measured only by state-centric security and Gross Domestic Product (GDP) growth would continue if the state can effectively sustain GDP and distribute socioeconomic benefits among citizens. If the state fails to do so at critical times, however, citizens would challenge the power of the state. Those who have benefited too little, including not at all, from the system may attempt to renegotiate the social contract. In crises, unpredictable actions and reactions among competing social and political groups may threaten stabilities of the state, markets, and other related institutions.

Indeed, the Asian way suppresses the real meaning of human rights and reveals power politics that is similar to Western government approaches to human rights. Mainstream debates about the Asian way over Western values, and vice versa, have two significant effects: First, the public is distracted from genuine dialogue about the unfinished human rights business across the world, and second, it reinforces the business-as-usual policies whereby national governments support some, but not all, internationally recognized human rights. Critics argue that the misuse of "national" security and development, and of "free" business competition to defend the abuse of power, have no place in the UDHR and in contemporary Asian and Western civilizations, which recognize the significance of fairness, freedom, and humanity.

The tension between universalism and cultural relativism can have a positive effect. Continued debates between these forces keep human rights relevant throughout contemporary world history. Human rights advocates can use cultural relativist insights as essential inputs for improving their understanding and practice of human rights. Among other things, they encourage the development of cross-cultural and conflict sensitivity. Without it, human rights campaigns risk provoking negative reactions from the host society and government or exacerbating conflicts between them. According to the 1993 Vienna Declaration, in protecting human rights, the "significance of national and regional particularities and various historical, cultural, and religious backgrounds must be borne in mind." Kofi Annan reiterated that "no single model of human rights, Western or other, represents a blueprint for all states." These details suggest that universal human rights are flexible enough to allow differences in terms of emphasis and means of implementation; but, they are not malleable as to permit any basic right to be eliminated or subordinated.

The present and future generations of human rights scholars and activists will have to continuously examine and address the unresolved tension within

the international human rights regime. During the Cold War, disagreements over which set of rights to prioritize divided East from West and North and South. This legacy of division persists in today's mosaic multilateral world where overlapping authorities and identities, non-state actors—ranging from nongovernmental organizations to foundations, corporations, and extremist and illicit groups—compete with sovereign states for influence and legitimacy. In this world, enhancing human dignity and rights will not be the same as in the past, but will instead be accomplished through an ongoing dialogue about universalism and multilateralism. The former refers to a concerted effort to move the world toward a more universal system where human rights are defined in the same way and are enforceable at the international level. The latter refers to a situation in which the UN provides general principles of human rights, and each country decides what these rights mean in practice and where these rights are enforceable at the international level. The international human rights regime can accommodate this dialogue because doing so helps make the entire regime legitimate.

The absence of a global enforcement mechanism permits the continuation of rights abuses. According to Jack Donnelly, no government finds it in their interest to trust and give up their sovereignty rights to a global authority. There is a fear that if this global authority exists, no states below it will have the power to hold it accountable for its actions. In the meantime, many state leaders still find it "normal" to pay lip service to the protection and promotion of human rights at home and abroad. Civil society finds it not wise to rely on international norms as the only tools for opposing the abuse of power. Thus, the key for the future of the human rights regime is twofold: to establish a clearer perception of independence from North–South and East–West geopolitics, and to conduct consciousness-raising at all levels, so that people understand what human rights mean. Recklessly throwing around the term "human rights" without clear explanations and sound arguments is detrimental to the international human rights regime. This manner converts legal rights into meaningless rhetoric. The performance of these steps helps improve the entire regime and ameliorate the abuses of human rights.

Finally, advocates of human rights cannot completely eliminate the potential for the politicization of human rights, which sometimes stem from debates between cultural relativists and universalists. One of the reasons for this reality is related to human nature and nurture. Human beings can be at their best and worst with their potential to use human rights for doing harm or good to the self and others. Similarly, the state can be at its best and worst, and capable of exacerbating or combating rights abuses. Still, what these advocates can do is to state the truths about human rights that they believe to be self-evident, and to engage change-agents in governments, the private sector, and civil society that can help bring human rights not only to "big" cities but also to "small" places and homes. In these places and homes, individuals of

different generations imagine, make, and hopefully begin to live the reality of freedoms, including freedom from the struggle to make ends meet and freedom from fear and want. Ultimately, while addressing the "big" picture of human rights, advocates of human rights should recognize the importance of "small" victories.

RECOMMENDED READINGS

Acharya, Amitav. 2001. "Human Security: East versus West." *International Journal* 56(3): 442–460.

Council on Foreign Relations. 2013. "The Global Human Rights Regime." Available at <http://www.cfr.org/human-rights/global-human-rights-regime/p27450>, last accessed November 14, 2014.

Donnelly, Jack. 1984. "Cultural Relativism and Universal Human Rights." *Human Rights Quarterly* 6(4). Available at <http://hmb.utoronto.ca/Old%20Site/HMB303H/weekly_supp/week-02/Donnelly_cultural_relativisim.pdf>, last accessed September 13, 2014.

Donnelly, Jack. 2004. "State Sovereignty and Human Rights." *University of Denver*. Available at <https://www.du.edu/korbel/hrhw/workingpapers/2004/21-donnelly-2004.pdf>, last accessed September 18, 2014.

Economy, Elizabeth C. and Michael Levi. 2014. *By All Means Necessary: How China's Resource Quest Is Changing the World*. New York: Oxford University Press.

Glendon, Mary. 2001. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House.

Kurlantzick, Joshua. 2006. "China's Charm Offensive in Southeast Asia." *Carnegie Endowment for International Peace*. Available at <https://www.carnegieendowment.org/2006/09/01/china-s-charm-offensive-in-southeast-asia/979>, last accessed January 5, 2013.

Lagon, Mark and Anthony Arend. 2014. *Human Dignity and the Future of Global Institutions*. Washington, DC: Georgetown University Press.

Polanyi, Karl. 2001. *The Great Transformation: The Political and Economic Origins of Our Time*. Boston: Beacon Press.

Posner, Eric. 2014. "The Case Against Human Rights." *The Guardian*. Available at <http://www.theguardian.com/news/2014/dec/04/-sp-case-against-human-rights>, last accessed December 20, 2014.

Ramcharan, B. G. 1989. *The Concept and Present Status of the International Protection of Human Rights: Forty Years After the Universal Declaration*. Boston: Martinus Nijhoff Publishers.

Sen, Amartya. 2000. "Introduction: Development As Freedom." *Development As Freedom*. New York: Anchor, 3–12.

Stiglitz, Joseph. 2003. *Globalization and Its Discontents*. London: Penguin.

Stiglitz, Joseph E. 2013. *The Price of Inequality: How Today's Divided Society Endangers Our Future*. New York: W. W. Norton & Company.

UN. 1948. "The Universal Declaration of Human Rights." Available at <http://www.un.org/en/documents/udhr/>, last accessed October 5, 2014.

Nhina Le is a Ph.D. student and a Research Associate at George Mason University's School for Conflict Analysis and Resolution. E-mail: mle14@gmu.edu