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UNIVERSAL HUMAN RIGHTS

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I am going to argue today in favour of universal human rights.

Definition

Human rights are rights that all human beings are entitled to, merely by virtue of being human. Such human rights do not have to be earned, nor are they dependent on any particular social status. Human rights include both civil/political and economic/social/cultural rights; they also now include "third generation" rights such as the right to self-determination and development.

This is an explicitly liberal view of human rights, originating in the West and enshrined in the 1948 Universal Declaration of Human Rights. Although all non-Western societies have their own concepts of justice, none (as far as I know) articulate this as equal rights for all human beings regardless of their status. So when we say human rights originated in the West, what we mean is not that only the West has a moral system of justice. Rather, we mean that the philosophical and legal conceptions of universal, individual human rights originated in the West. Of course, this does not mean that in practice, the West has always adhered to these principles. In so far as it does adhere to them, this adherence is a consequence of struggle by many oppressed groups (workers, women, African-Americans, etc.) to obtain human rights.

Although the United Nations was dominated by Western and Soviet-Bloc countries in 1948, many non-Western countries were members and participated in the drafting of the Universal Declaration of Human Rights; specifically, these countries were Chile, China, Egypt, India, Iran, Lebanon, Panama, the Philippines and Uruguay. The principle of human rights is one to which many non-liberal and/or non-Western states now adhere, at least formally with regard to their obligations under international law and their constitutional obligations to their citizens. This does not, of course, mean that the elites or ruling classes of all these countries actually believe in human rights. But neither does it mean that -- although the concept is originally Western and liberal -- the masses don't believe in human rights.

Indeed, your presence here today -- and your activism in your home countries -- shows the power of the idea of human rights worldwide.

Human rights do not reflect "concepts of good that can be found in one form or another in most ethical and religious traditions", as many authors try to suggest. Islam specifically discriminates against women in matters such as inheritance and religious intermarriage, and it also discriminates against people who are not "of the book", i.e. not Muslim, Jewish or Christian. Hinduism is based on the belief that human beings are not equal: they are divided into unequal social statuses (castes). Christianity until recently was used to justify slavery, discrimination against women, and oppression of all non-Christians. Orthodox Judaism discriminates against women. While much good can be found in all religious traditions, all can and have been used to justify violations of the equal human rights of all human beings.

All societies have principles of social justice, but they do not all acknowledge human rights as equal and applicable to all citizens. Nevertheless, human rights are increasingly a cross-cultural value. Cultures are not static; nor are they unchanging nor "holistic". There are conflicts within cultures over various principles of justice. There are power groups within each culture who oppress less powerful groups. There are people who like tradition and those who want to change it. In almost all cultures, there are people who favour human rights and who want to change their culture's principles to entrench human rights.

Rights against State, Society and the Family

The United Nations' principles of human rights protect the individual against state, society and the family.

State

All human beings live under state rule: even the most isolated, unchanging indigenous society is threatened by the existence of the state. Gross human rights violations such as extra-judicial execution, arbitrary arrest and torture are usually, though not always, committed by the state. (They can also be committed by rebel groups such as the Shining Path in Peru or the former African National Congress in South Africa.) Civil rights such as the rights to due process, a fair trial, and habeas corpus are necessary to protect citizens against the state. So also are political rights such as freedom of speech, freedom of assembly, trade union rights and the right to vote. These rights are absolutely necessary in all societies and all cultures to protect citizens against dictatorial rule.

So I disagree with the stress on "diversity" now found in much of the literature on human rights, as if diverse societies need diverse (different kinds of) rights. The key human rights violations are still violations by states, whether it be the Taliban theocracy in Afghanistan punishing women who work or teach, or China utilizing detention without trial and prison labour, or the massacres and mass expulsions of ethnic Albanian Muslims in Kosovo under the direction of President Milosevic of Serbia.

That states are still the principal perpetrators of human rights violations is particularly important regarding the rights of indigenous peoples. It is often claimed that human rights are inappropriate for indigenous peoples because their internal social rules do not recognize individuals, or rights claims: rather, they focus on community, and obligation to others. But indigenous peoples are most at risk from the states that have power over them. Sometimes, that risk extends as far as genocide. How indigenous peoples work out other kinds of internal rights problems -- such as, in Canada, the rights of women to be protected from inequitable decisions by male elders -- is very complicated, but both as groups and as individuals, indigenous peoples require protection from the state.

The ubiquity of the state -- the fact that non-democratic governments and elites the world over persecute political dissidents and minorities of various kinds -- is what unites us all and makes necessary a universal standard of human rights. The question of "diversity" becomes relevant regarding rights claimed against society and the family, but not regarding rights claimed against the state.

Society

Protection against the state is less a matter of debate than the idea that one ought to claim rights against society, as, for example, women, gays, blacks and minority groups do now in Canada and the United States. These previously subordinated or hidden groups are now less willing to live their lives according to prescribed social roles and rules. Even gays now assert themselves in such formerly repressive states as South Africa and Russia. South Africa has even included gay rights in its Constitution, over the objections of some traditional rulers. Nevertheless, some of you here may object to gay rights and see gay rights as a Western cultural imposition. In some ways you are certainly correct. Gay rights are not protected in the Universal Declaration or other documents in international law. They are not protected by the US Constitution or by some US states, and they have only recently been protected in most Canadian jurisdictions. Rights for gays seem to violate the most basic rules of family life, and so to attack non-Western cultures that stress the importance of the family.

Family

So even the family is now vulnerable to human rights claims. The family is no longer protected as a "private" realm of activity. Feminist human right activists object to the separation of the private from the public spheres. Some even claim that women suffer more in the private (family) than in the public sphere, and that human rights as they have traditionally been defined are irrelevant to women. I disagree with this claim: women, like men, are persecuted for their political activities, their trade union activities, their race, ethnicity or religion. Women are human beings active in the public sphere as well as wives or mothers.

But the new stress on the private sphere does undermine men's authority over women in the home, and this offends many traditionalists, from whatever culture (including North American) they belong to. It gives rights as well to children, seemingly undermining parental authority - often, in North America, without substituting any other moral consensus to help parents raise children properly. Most of the rights in the children's rights convention are rights most of us

would agree with, such as the right to be protected from exploitative labour conditions. Yet the idea of children's rights seems to tell children they do not have to obey or respect their elders.

These are very serious problems that do indeed seem, in the West, to contribute to the breakdown of moral order and to the creation of a generation of delinquent children and of parents who are responsible neither to themselves, their children nor their elders. The trick, here, I think, is to recognize that not all social practices of individual freedom are human rights. Individual human rights do not mean extreme individualism and selfishness, which is an aspect of Western culture that people from non-Western societies are quite justified in criticizing.

Nevertheless, the search for human rights can be stopped only by severe repression. Our world is a complex one. Most human beings are now individualized by the processes of modernization, including industrialization, urbanization, and secularization. Or even if they are "down home on the farm," they encounter ideas of freedom and equality that are attractive to them. The idea of human rights is very attractive to oppressed people everywhere. Morality is no longer local, nor is it circumscribed by local boundaries.

There is of course a strong reaction against such individualization and breakdown of older social customs, among the political right in North America, among traditionalists in Asia, Africa and the Middle East, and among religious fundamentalists of various stripes (Hindu, Jewish and Christian as well as Muslim). Many of these people resort to arguments in favour of the preservation of their cultures to stop groups such as women, gays, or low-caste individuals from claiming human rights.

Ethnocentrism

This raises the question of ethnocentrism, and whether to propose universal human rights is to be a Western cultural imperialist.

The argument is frequently made that since the concept of human rights originated in the West in liberal theories (e.g. in the writings of John Locke), it applies only to the West. This is illogical: we would not argue that engineering or medical discoveries originating in the West apply only to the West.

Behind this argument there is often the assumption that Westerners proposing universal human rights are imposing a "West is best" perspective on the rest of the world. But in fact, this could be seen as a "West is worst" perspective.

Western thought and practice have produced liberalism and political democracy. But Western thought and practice have also produced fascism, communism, imperialism and highly abusive capitalist social structures. Western theorists proposing universal human rights do so because they have historical and contemporary evidence of what happens when individuals are not protected against such political and economic systems. Western activists see that Africans or Chinese, for example, are undergoing the same kinds of abuse of their rights that Europeans underwent in the period of national state consolidation (18th to 20th centuries) and indeed far

more recently, under fascism and communism, and now under resurgent nationalism in the Balkan region.

All ethnic or cultural groups are capable of producing powerful groups who abuse the rights of the less powerful. Cruelty knows no ethnic or cultural boundaries.

Cultural Relativism

Rather than the charge of ethnocentrism, some theorists argue that human rights should not be "imposed" on a culture that does not acknowledge them. I call this position "cultural absolutism:" culture is considered to be the absolute social good, of higher ethical value than individual human rights. And I ask, why is preservation of a culture a greater good than giving each member of that culture her or his human rights?

US and Canadian culture in the past (and even in the present) included strong racist and sexist elements. Yet no one except for the occasional extremist now argues that these aspects of our two cultures should be preserved. Even the most conservative US and Canadian politicians take care not to sound racist or sexist.

Nevertheless, I agree that some human rights abuses are matters of culture. If they are not gross human rights abuses (torture, executions, disappearances, etc.) we should consider their cultural meaning, rather than simply advocate wholesale punishment by law of these abuses. Three criteria help to identify practices violating human rights that are clearly cultural in origin.

- a) there is strong popular support, based in religion or custom, for the violation of a human right;
- b) the state has never promoted the violations;
- c) the state tries to abolish the custom, but there is too much popular support for it to do so.

An example of such a custom is female genital mutilations (FGM). There is strong popular support for FGM, the state has never promoted it, and indeed some states try to abolish it. But FGM is a gross violation of women's and girls' right to health. African women, realizing this, increasingly call for educational, medical and even legal intervention to stop the mutilations; this is no longer a practice that only "Western" feminists condemn. Some customs cannot be abolished outright (e.g. by imprisoning everyone who adheres to them), but there ought to be an "opting out" right for those who do not want to be bound by them. And a law against such customs can have an educative effect, even if no one wants to actively punish every adult involved in circumcising young girls.

In practice, the assertion of cultural relativism against universal human rights usually means defence of violations of rights of women and children, of gays, and of other low-status groups, such as can be found in the Hindu caste system. It also means denial of the right to freedom of religion (e.g. in Islamic states) and the practice of censorship (e.g. of pornography and blasphemy, but also of much political commentary). Cultural relativism is not normally claimed

as a justification for a state to commit gross human rights violations such as torture. This is evidence of the universal appeal of human rights.

Which Human Rights Shouldn't Be Universal?

Thus, if you are of the view that for cultural reasons human rights should not be universal, then I would ask, which human rights shouldn't be universal?

Since I can't read you all the (over 60) rights in the Universal Declaration of Rights and subsequent documents, I'll read you a short list that Jack Donnelly and I published in 1988, a proxy for the entire list. You will see from this that we mix together civil/political and economic, social and cultural rights.

Our list is:

- a) protection rights: habeas corpus, independent judiciary
- b) empowerment: education, free press, association
- c) membership: right to a family, nondiscrimination
- d) survival rights: life, food, health care.

You might want to ask yourself which rights from this list you think that, for cultural reasons, some individuals should be denied in some other societies. Under what conditions can we argue to others, deprived and suffering, that we, but not they, should have an independent judiciary, the right to habeas corpus, or the right to life? For what cultural, political or other reasons could we argue that the government of India, for example, was wrong to violate the Hindu religion by outlawing the caste system, thereby protecting the right of nondiscrimination. For what cultural, political or other reason could we argue that the government of Sudan is right to preserve Muslim culture by restricting women's rights? For what cultural reason can we defend the imprisonment of gays in Romania or Cuba?

You might want to argue that there should not be economic rights: such an argument would be in keeping with the West's own cultural traditions. Food is not guaranteed as a constitutional right in Canada or the US. Health care is universal in Canada in practice, but is not a constitutional right; in the US it is not universal in practice, nor is it a constitutional right.

These two North American societies are derelict in their protection of economic rights, a fact often noted by socialist and Third World critics. Universal human rights, in my view, entail the creation of a society in which all human rights are respected. This in effect means a social democracy, laying equal stress on civil/political and economic, social and cultural rights (as well as taking seriously "third generation" rights to self-determination in countries such as Canada and many other countries of the Americas that have large aboriginal populations).

Non-Western societies might be more willing to accept the principle of universal human rights if Western societies acknowledged their own human rights abuses and were subject to international criticism accordingly. This would avoid the "Occidentalist" approach that now exists, assuming

that the entire Occident, or West, is unchanging and monolithic. Occidentalists equate all of the West with the United States, hence with an imperialist society that does not seem to recognize its own responsibilities for human rights abuses, either externally or internally. Canada, and all other western states that link foreign policy or aid to human rights, should be subject to human rights scrutiny by other societies.

A Note on Economic Rights

As I have just mentioned, many Western states, especially Canada and the United States, fail to fully protect economic rights even though they are very wealthy. How then, can economic rights be protected in non-Western states with few economic resources?

We are now living in the era of globalization: that is, the world-wide spread of capitalism. Both socialism and various forms of national "self-reliance" have failed abysmally as economic policies, in the former Soviet Bloc and China and in the underdeveloped world. There is no substitute for market economies. And countries in which there is no foreign investment are much poorer, overall, than countries in which there is foreign investment. In the long run, too, there is much evidence that societies that become wealthier through capitalist investment are likely to democratize and provide more complete protection for human rights.

But this is little comfort in the short run for those who suffer from structural adjustment policies, high debt loads (often accumulated by dictatorial, anti-capitalist governments in the past), lack of rights in export processing zones, and the dislocations caused when peasant economies must give way to market economies. How can the rights of these billions of people be protected?

There is no easy answer to these questions. I can only offer the following observations:

- 1) The best route to economic rights is still the preservation of civil and political rights. The rights to freedom of speech, press and association allow critics of governments and private corporations to speak out. Governments make many mistakes when they try to organize economies, and some governing elites -- for example in Indonesia under Suharto or Zaire under Mobutu -- essentially run entire national economies in their own private interests.
- 2) The right to form trade unions is especially important. I oppose the establishment of export processing zones in which trade unions are forbidden. Trade unions are the only route by which workers can express their needs and interests.
- 3) The right to private property must be protected. This may surprise you if you consider yourself to be on the political left, associating private property with the power of multinational corporations. But many relatively powerless people need protection of their private property: these include indigenous peoples (who need their collective property protected); peasants, who need their right to land protected from state or private capitalist expropriation; women, who need their rights to use land and sell their own products protected from male family and village elites; and ethnic minorities, who are often targets for expropriation, as scapegoats for economic chaos. The right to private property is also fundamental to successful economic development.

4) The international human rights movement must intensify its pressures on multinational corporations (MNCs) to adopt codes of conduct. At present, and for the foreseeable future, these codes will all be voluntary. But all attempts to draft codes --- and to boycott companies that do not adhere to these codes -- are worthwhile. Recently, the International Labour Organization issued a Declaration of Fundamental Principles and Rights at Work: these rights include freedom of association, the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment.

So universal human rights need to include universal economic rights, however difficult these are to protect in practice.

Humanitarian Intervention

Finally, when I defend universal human rights, many people seem to assume that I think "we" (the West, or US, or Canada) have the right to intervene militarily or coercively to impose human rights on other countries. But universal principles do not necessarily imply endorsement of unilateral (or even multilateral) intervention to impose them on independent states.

Here I take the usual cautious approach of any political scientist. Any realist will be aware of the state goals such as security, prestige, trade, political alliances and protection of borders that determine all states' foreign policies. Hence, for example, I assume that one reason for the NATO bombing of Serbia was to stem the flow of refugees from Kosovo to the rest of Europe. Any political realist will be very cautious about advocating that her own, or any other state, intervene in another society for allegedly humanitarian reasons.

I advocate universal human rights in principle. This does not mean I advocate that the "West" take over the entire world, to enforce in practice elsewhere principles that it does not always respect in its own territory.

But I do advocate the following:

a) First, discussion of human rights is never imperialist or coercive. Anyone has the right to discuss, write about, and publish material on politics, economics, culture, morality or human rights anywhere. No one has to censor herself because of the preconceptions that might be a consequence of her race, ethnicity, religion, gender or material wealth. People can transcend their backgrounds: people can think about issues that have never affected them directly. And their listeners or readers are free to accept or reject their ideas.

b) Human rights "networking" across lines that previously divided individuals, such as across ideological or geographical lines, is imperative. Human rights networking helped bring down the governments of the old Soviet Bloc. We are in the process of forming an international civil society that protects citizens against abusive states.

c) Western governments do have a responsibility to promote human rights using non-coercive means. This means that they should include human rights criteria in their foreign policies and aid policies. They have the right to monitor the human rights policies of

other states with which they do business, though they should do this with sensitivity to other states' histories of having suffered from imperialism, warfare or natural tragedy. Western states should also monitor their own, and their citizens', activities, to check how economic policy, trade, consumer preferences or tourism might contribute to human rights abuses elsewhere.

d) No government that perpetrates genocide or crimes against humanity can hide behind the principle of national sovereignty: in these cases, the use of force by other states to protect human rights maybe justified.

A Final Word of Thanks

Finally, I want to thank you all for listening to this talk. You who are here today are important parts of the expanding international civil society that focuses on bringing human rights to everyone everywhere. Many of you risk very serious repression of your own and your families' human rights by the activities you so bravely engage in. It is very humbling to address such an audience.

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