

## **Universality of Human Rights and Cultural Relativism**

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#### **Culture and Human Rights**

Culture is in itself a complex notion with an enormous influence on the concept on human rights and on the direction the struggles take to promote and protect these rights. Too often, any exploration of the relationship between human rights and their cultural context is neglected in favour of exploring economic, political and social conditions. However, since culture greatly influences our world-view, our values, our habits and our conduct, recognition of the connection between culture and human behaviour would permit a better understanding of how culture influences our perspective of human rights as well as our concept of human rights abuses. Culture is flexible, changing and non-static, extracting its meaning from the reality of daily life. It follows that many cultural practices that existed in the past are not necessarily appropriate today and therefore will often be rejected.

The relationship between culture and human rights revolves around two general ideas. Firstly, both globally and nationally, cultural diversity is an omnipresent aspect of society and must inform our approach to human rights. Very few countries can claim to be culturally homogeneous. Secondly, throughout the world, culture is often used to justify human rights abuses.

#### **Language and Concepts**

There are two schools of thought located at the opposite ends of the spectrum on the relationship between culture and human rights. The first denies the relationship between human rights and a cultural context, while affirming that human rights come exclusively from international legal instruments and can be preserved without cultural variation according to existing international jurisprudence. The second dismisses human rights as being a western notion, imposed on the populations of the South, unrelated to the reality of non-western world cultures.

Neither of these positions is correct because no culture has a monopoly on human rights. The concept of human rights is so vast that it would be impossible to situate it entirely within one cultural tradition at one precise moment of history. Granted, the legal vocabulary does come from western countries, but the language used is only one way of describing values we find in a majority of cultures. Vocabulary can change according to the context within which concepts are articulated. It is necessary not to

confuse basic human right concepts with the language adopted to disseminate these concepts. There is a need to transmit these concepts in terms appropriate to other cultures.

### **Measures that can be Taken by Defenders of Human Rights**

To promote human rights within different cultural contexts, it is necessary to emphasize the many areas of communality amongst cultures. The first task is to identify areas of agreement. In general, cultures resemble each other in their vision of rights and liberties, but we have a tendency to emphasize differences and to represent these differences as the essence of a culture. What should human rights workers do with areas of disagreement? Before we jump to the conclusion that disagreements involve values, we must learn to invoke culture more creatively. The following elements would be useful in tackling this difficult task:

1. Investigate carefully to determine who is representing the cultural reality of society. Who is speaking on its behalf - is it the state, the elite, the army or civil society? All cultures contain diverse elements within them. The idea of a homogeneous culture is invalid and it is, therefore, necessary to question who is speaking on its behalf;
2. Examine the political context within which culture is being used as an obstacle to human rights. Very often, individuals who use culture to oppose the notion of human rights and to justify certain political acts are the first ones to be accused of human rights violations. It is important to remember that s/he who comes to equity must come with clean hands. Using the concept of culture in this manner poses a grave conflict of interest that de-legitimizes the authority of these people to speak on behalf of their culture;
3. Identify cultural aspects that have already evolved (e.g., political institutions, educational, legal and economic systems). We must be careful not to use a romanticized view of culture. Within an African Muslim context, for example, we have the tendency to speak of “our culture” as if it has remained unchanged during the last three centuries. When we use this notion of culture, we do not take into account that the last fifty years have had major effects on culture realities. Changes have been brought about by nation-states and by the development of educational systems based on a recognition of individual capabilities. These changes have produced social and cultural transformations that must be acknowledged.

### **Dr. I. A. Rehman**

#### **History of Human Values**

Notions of good and evil existed in ancient tribes. While all religions have established moral codes, these concepts did not give birth to rights which individuals could claim. The ancient political structures recognized that discipline, the well-being of society and a certain notion of justice were necessary for the collective stability of society, but the notion of rights remained very limited. It was during the 17<sup>th</sup> and 18<sup>th</sup> centuries, in a period of resistance to absolute power, that the concept of rights appeared (e.g., the charters of rights of Great Britain, France and the United States.) That was the beginning of a notion of rights, which continues to evolve. Before the 1940s, these rights were only

recognized in certain western countries. The rest of the world's populations were subjugated to foreign regimes, feudalism or caste divisions that did not recognize majority rights.

### **Modern Conception of Human Rights**

After World War II, the Universal Declaration of Human Rights (UDHR) was adopted by the UN. Its Preamble freely admitted that the rights within the Declaration were not yet accessible to all. They were to be seen as standards for the world to aspire to. The Declaration enounced principles under which all nations had the right to independence and democracy, and that peace and protection against tyranny were essential. States that have become independent since 1945 have adopted the Declaration, having been founded on the notion of liberty as a human right. Few states have seen any contradiction between the universality of human rights and their cultural traditions at the moment of their independence.

### **Conflict between Human Rights and Culture**

In societies that have recently gained their independence, there is a tendency to return to cultural values to promote nationalism and a glorious past often invented by politicians in authority. The incapacity of post-colonial states to respond to the basic needs of their populations leads them to mistrust any discourse on human rights that would permit citizens to claim respect for their rights from the state, often categorizing human rights as a luxury which they can not afford. Political rulers are using culture to justify their lack of respect for human rights and to advance their own political interests. Their opposition, based on religious and cultural values, is much stronger when international instruments exert a positive obligation on the state.

### **Arguments Invoked to Challenge Human Rights**

Opposition to human rights in the countries of the South is based on political, historical, economic and cultural arguments, the majority of which have little validity as illustrated below:

- *“Human rights are based on Christian values that do not correspond to other religions which know their cultural and religious values inside-out and which can offer a better conception of human rights than the Universal Declaration of Human Rights”.* No non-Christian community has ever succeeded in developing and /or adopting another notion of human rights which is better than the one proposed by the Declaration. Opposition from Muslim countries, for example, does not address the complete Declaration, but only two or three points.
- *“Human rights are an instrument of the West, which serve its imperialistic goals.”* Oftentimes, these critics of western imperialism collaborate with the West for their own personal interests, to the detriment of their populations.
- *“Given that the preservation of cultural specificities is a right, cultural diversity should be favoured, to the detriment of uniformity.”* The argument of cultural diversity is valid in certain areas such as language and the arts, but must not be used to deny the right of self-determination for minorities, nor the need for a common criminal code of law applicable to all.

- *“Underdeveloped countries and those whose national security is threatened do not have the luxury of permitting human rights.”* Respect for human rights strengthens the fight against poverty and helps to establish security in a region. Life in general is improved. There are many reports that demonstrate the positive impact of human rights on economic production, quality of life and the economy of the country.
- *“The West requires respect for human rights only from countries which do not adopt its line of political conduct, while it ignores the violations committed by allied states.”* It is true that western politicians often lack coherence in their human rights discourse. Nevertheless, many countries, instead of accusing the international community as they have been doing for a long time, should take responsibility for the human rights problems and abuses that they encounter.
- *“The Declaration was adopted by a small number of states and a majority of states that sit in the United Nations today did not contribute to it.”* Countries which have become independent since 1948 have participated in the drafting of several international instruments other than the Universal Declaration of Human Rights.

In Muslim countries, culture is often used to deny the rights of women and minorities. On the other hand, religion is never invoked to justify slavery, even though sacred texts do not forbid it. Secular laws adopted by these governments forbidding slavery are not based on religious laws. This demonstrates a willingness on the part of followers of a particular culture to permit cultural changes, outside of religious customs, when it is politically beneficial.

No interpretation of religion exists that could be used to justify not respecting human rights in the name of cultural relativism. Note how opposition of Muslim governments to the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) varies from one country to another, depending on Muslim practices accepted within each society. If there were a valid uniformity of Muslim opinion, all these countries would be in agreement with each other. Within the same religion, there are divergent reasons to deny or accept particular human rights, which illustrates an internal religious diversity.

### **Challenges Presented by Extremists in Pakistan and Elsewhere in the World**

In Pakistan, religious extremists, having failed to gain power through elections, seek to attain their objectives through militancy and non-respect for democracy. NGOs working for democracy, women’s rights and minorities are their first target. The situation is the same in Indonesia, Malaysia, Northern Africa and India. NGOs are constantly threatened by the adoption of laws thwarting the promotion of democracy. NGOs that work for education rights for girls, for reproduction and minority rights, and against discrimination and child labour, are attacked. Extremists have not gained power because they are politically popular with the Pakistani citizens, but rather because governments capitulated and let extremists put parallel legal and educational systems into place.

### **Response of the NGOs in Pakistan**

Faced with the obstacles posed by religious extremists, NGOs in Pakistan chose several strategies to fight for positive social change. Certain NGOs engaged in dialogue with religious groups in order to explain that an extremist interpretation of religion was not correct. While there is an enormous need for dialogue on these subjects within Islam, a dialogue is not possible without freedom of opinion and expression. Many NGOs began to work in the area of education, particularly education for girls. NGOs tried to give more political space to civil society organizations (e.g., to professors, professionals, unions, farmers). NGOs were successful in increasing the presence of women within legislative institutions and forced the government to abolish separate elections, while trying to achieve equality between the sexes in their own organizations. Fighting against feudal property regimes and the exclusion of certain groups, as well as countering militarism, are the daily battles of Pakistani non-governmental organizations.

## Question Period

During the question period, IH RTP participants brought up the following issues. The presenters' responses are summarized below.

- **The importance of cultural diversity for political resistance movements.** Although cultural diversity represents a useful weapon in movements for political and economic autonomy vis-à-vis the West, these movements use it above all to repress women and minorities. They all make agreements to collaborate with the West or its allies in order to obtain arms and finances. The Muslim chiefs of state could try to draft their own declaration of human rights, but they will never succeed in putting it in place, because it would not have the support of the citizens.
- **The role of the West in the creation of Islamic extremists.** It is true that the majority of fundamentalist Islamic groups, including the Taliban, were created and sustained by the United States. Islamic fundamentalism as we know it today had its origins in the Cold War, when Churchill called upon the world to fight communism. Fundamentalist groups in Pakistan were developed by the United States to support that war. Political leaders in the countries of the South allowed this external control, sacrificing their citizens for their own interests. Even today we are trying to curry favour with distant powers. It is necessary for the countries of the South to stop blaming external factors and to take responsibility for the problems of their countries.

It is also necessary to ask why extremist groups can be so powerful within Muslim society, to the point where they are able to manipulate both the West and the local populations at the same time. The answer rests in part on the fact that these extremists make use of religious norms in a creative way in order to react against certain changes and to engender others. People who fight against religious fundamentalism and for social changes within their country have to employ the same creativity in their interpretation of Islam as their adversaries do. Secular Muslims in Islamic countries often find their social projects run aground because they leave religion to the extremists.

- **Cultural Diversity as justification for not applying international human rights instruments (for example, in the Optional Protocol of CEDAW).** Recognition of cultural diversity as justification for not respecting human rights in certain international instruments was always based on a lack of knowledge of the fact that the values underlined in these documents are suitable to the majority of cultures in the world. We all have an obligation within our specific cultural contexts to rebuild the bond between these international instruments and our cultural values.

- **Challenges to cultural diversity posed by globalization.** Globalization presents enormous problems to populations who want to preserve their specific cultural practices. The politics of financial aid, credit and free trade establish social conditions that are potentially devastating for local ways of living. If members of these cultures want to develop strategies to oppose this destruction, it is necessary that they work together instead of leaving all resistance to globalization to young westerners. The introduction of national and international human rights measures within these free-trade agreements is a vital way of reducing the nefarious effects of globalization.
- **Slavery in Mauritania.** The institution of slavery in Mauritania is not based on religion, but rather on existing customary practices. The Hasani elite believe it to be their absolute right to make those whom they consider inferior work as slaves, and the population in general seems to accept this situation. The people of Mauritania must confront the fact that its culture reinforces an institution that has no justification in real life.
- **How can the rights of marginalized individuals be promoted and protected (e.g., prisoners, sex trade workers, homosexuals)?** Defending the rights of members of society who are marginalized by a majority of the population is a very difficult battle to undertake. As defenders of human rights within a particular cultural context, we have a job to draft arguments appropriate to the local internal dynamic to convince other members of society that they must adopt a more egalitarian attitude towards sexual, linguistic, religious and other minorities.
- **How can the concept of rights be articulated in cultures which do not have this concept?** The word 'right' is used in Islamic jurisprudence in the narrow sense of law or rule, but it is never used to speak of rights as we know them in the international human rights instruments. Once again, while the language is western, the concepts are not necessarily so. It is important to make the distinction between terminology and concept. If the concept is not found, what can be done to define it? For example, the Koran advises Muslims not to enter into a house without an invitation and how to act when in someone else's house. We can describe these rules of conduct in many ways, but in a certain sense they represent a concept of rights to a private life (i.e., privacy rights).