

**June 15, 2007**

***Universality of human rights***

**YOUSRY MOUSTAFA, Consultant, Women and Memory Forum, Egypt**

The universality of human rights is a controversial issue.

As an Egyptian, Yousry recognizes the importance of remembering that Egypt is part of the African continent, that its history and culture are tied to the African continent etc.

The debate is one between cultural relativism and the universality of HR.

Defining universality of HR using the Amnesty phrase: “all human rights for all”.

Universality of HR came with the Vienna declaration of HR in 1993 – where, for the first time, the international community recognized that HR were universal, indivisible interdependent and interrelated.

The idea is that every person is entitled to all human rights.

With the Declaration of Vienna, human rights activists cannot say that one human right is more important than another, or that one human right does not apply in some contexts.

Cultural relativism defines the belief that HR are not universal but culturally contextual; that what applies in one society does not necessarily apply in another.

Women’s rights have systematically been challenged by ideas of cultural relativism (abortion, sexual orientation, reproductive health, genital mutilation).

Yousry argues that cultural relativism is used as an excuse in Egypt and in the Middle East to not give women their basic rights.

Justifications for the death penalty have also often been grounded in notions of cultural relativism.

Arguments of cultural relativists:

- HR are western values
- HR reflect cultural imperialism
- HR are politically motivated
- HR are morally unsuitable for our society

Counter-arguments of universalists:

- HR are a result of global effort - from all regions of the world - and a global history
- HR do not replace the cultural system existing in a country, but rather constitute a legal system, legal standards and values (Diana Ayton-Shanker)
- while people think that HR are imperialists, on the contrary they protect and defend cultural diversity; they assure that the marginalized voices are heard

Opposite of universality is local contexts, not relativism

Opposite of relativism is absolutism

Approach: changing the equation in order to move the debate forward

In other words:

Universalism can either be relativist or absolutist

Contextualism (local contexts) can also either be relativist or absolutist

In many cases, internationally, governments are relativist, and locally they are absolutist – within their own countries, they impose one idea over others, many voices are not heard.

Key here is noticing how arbitrary cultural relativism can be.

The Barbie doll as a form of imperialism, but the Islamic version of Barbie is identical with the added element of the veil.

Islamic version of Barbie does not represent the diversity of Islamic society, the diversity and quality of Islamic women. False diversity

There exist both global and local forms of imperialism.

HR do not take the place of local cultures. They protect the human dignity within those local cultures.

HR identity: Importance of feeling part of global community, importance of global solidarity

Yousry argues that he is not against Islam, but he feels another interpretation of Islam is possible - one that is not against HR. Governments and other groups, he feels, are manipulating local cultures for their benefit, particularly to dominate women within their societies - women who could provoke crucial change were they socially emancipated.

**JEFF PLANTILLA, Asia-Pacific Human Rights Information Center (HURIGHTS), Osaka, Japan**

The universality of human rights is based on our common humanity. Human rights are intrinsic to human condition.

While a consensus on the basic nature of human rights was supposed to have been agreed upon since 1948, there were challenges to their universality.

### **Asian values debates**

Lee Kuan Yew preaches respect for authority, community-consciousness, discipline and hardwork, among others, as the most important values, rather than the individual-centered rights and freedoms which lead to social disharmony and public disorder. His ideas are supposedly based on Confucian thinking, but also mainly suited to his status as a governor.

Maratha Mohammad believes that Asians are not inferior to anyone else and thus can assert as they wish their own views including the questioning of what are supposed to be international standards which are mainly dictated by those who come from one region of the world. “Asian values are universal values”

In China, while human rights are international concepts, they are not detailed enough to address particular context. Human rights cannot replace the thousands of years of Chinese civilization. From this perspective, the Chinese would value more their economic, social and cultural rights rather than civil and political rights.

In India, based on age-old tradition of Hinduism, the basic need is to fulfill one's duty before anything else.

Gandhi (1947) – *I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for.*

Not all Asian leaders agree with this view - counter debate

“With great moral strength, Kim Dae-jung has stood out in East Asia as a leading defender of universal human rights against attempts to limit the relevance of those rights in Asia.”

Asia and Pacific human rights community strongly rejects the “Asian Values” debate as a mere pretence of those in power

- to justify their authoritarian rule,
- to impose disabilities on minorities,
- to stifle voices of the excluded, and also
- to boast of new status as economic power (at least during the early 1990s).

Asian governments compromised on idea of universality of HR. The Asian Values debate finally took a formal inter-governmental form.

*The Bangkok Declaration, Regional Meeting in Asia of the World Conference of Human Rights (Bangkok, 1993)*

8. Recognize that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.

### **How should we understand universality?**

- As basic characteristic of human rights
- As recognition of human rights
- As condition of morals and cultures of people
- As principle in human rights practice

Human rights are human attributes – this is where the validity of human rights and their universality is derived from. It is part of human attitude to react against injustice.

Universal human right is a modern concept. It developed with time, with instruments and with consensus.

All cultures have some commonalities such as notion of human dignity.

There is a common culture of modernity and globalization. Global economy has brought many ideas together and created common notions about people and society. Every culture is affected by globalization and modernity.

Cross-cultural consensus on many themes constitute the basis for HR: “values about life, social order, the family, protection from arbitrary rule, prohibition of inhuman and degrading treatment, the guarantee of place in the life of the community and access to an equitable share of the means of subsistence are certain moral aspirations in nearly all cultures.” (Donnelly J., *Universal Human Rights in Theory and Practice*. New York: Cornell University Press, 1993.)

Universality does not mean sameness of ideas but recognition of pluralism and difference. Universal human right does not preclude differences of opinion except that certain acts are not acceptable (discrimination, slavery, apartheid, etc.). It is not a question of saying this culture is right or wrong, but of working with the culture, interrogating it in order that it may further contribute to human rights.

How make universality become a practice? How do we obtain a common understanding of the rights and freedoms that governments have pledged to fully realize? How do we look at human rights (UDHR) as a common standard of achievement?

## **Approches**

- Dialogue between cultures:

“rational conversation about rights” consisting of rectifying mistakes by discussion and experience.

“No human being can seriously hold some ethical principle to be right, or imperative, without wishing that others too deem it right or imperative.”

(Vincent, R.J. *Human Rights and International Relations*. Cambridge: University Press, 1986.)

“cross-cultural interaction and mutual influence”

“This process must be both mutual between cultures and sensitive to the needs of internal authenticity and legitimacy.”

(An-Naim, A.A. *Human Rights in Cross-Cultural Perspectives*. Philadelphia: University of Pennsylvania Press, 1992)

- Internal dialogue in cultures

An internal discourse about the fundamental values of the culture and the rationale for these values.

“...any cultural heritage is rich enough that it can, if appropriately construed under some circumstances, make inspirational contributions to the struggle for human rights...”

(Falk, R. “Cultural Foundations for the International Protection of Human Rights” in An-Naim 1992)

- Emphasis on global cosmopolitan culture

Increasing interaction among peoples in various capacities due to academic, economic, political, social, health, environment and cultural pursuits create a sense of shared understanding of what are common values.

- Rethinking of human rights concept (as part of evolution of human rights)

Revisiting cultures to reconcile their concepts and practices with human rights. This may lead to an evolution (adoption of new thinking) of human rights in ways not yet thought of.

Duty-first concept in Hinduism - reinterpreted to mean that it can be performed well only when human rights of the duty-bearers are respected

Buddhism - Buddha's defiance of the caste system as basis of the idea of equality of people “Each person is a Buddha to be”- spirit of liberation.

HR will be strengthened in the Pacific if they can be expressed through local cultures.

### **Idea of consensus:**

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

(Section 5, Part I, Vienna Declaration and Programme of Action, 1993)

While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

(Section 5, Part I, Vienna Declaration and Programme of Action, 1993)

Mr. Plantilla encourages participants to work for this consensus.

### **Question and answer period**

In response to a question on prioritizing certain rights, Yousry argues that every NGO has to specialize, needs to establish priorities in order to have better impact, and for HR to be

furthered as a whole. The problem, however, is when one actually believes that some rights are more worthwhile than others, or when rights are deemed unrelated. If some rights are ignored when one is working on other rights, violations of rights can occur, and situations can in fact be worsened overall.

We cannot implement socio-economic rights without defending political rights. They are all interrelated.

Violence against women is suffered at an everyday level, cannot be put aside to deal with other rights

Yousry equally insists on the importance of viewing rights as evolving. UN system is being reformed, needs to continue being reformed. HR must be viewed as dynamic. HR are not perfect, just as the UN system is not perfect.

Jeff argues that cultural differences are not right or wrong. What is important is that they are practiced within a context of respect for human rights.

Islam is often viewed as homogenous - this is a flawed picture, one that encourages discrimination, tension. There exists a large diversity within and among Islamic countries.

On what HR consist in exactly (a way of life, an identity etc), Yousry stresses that the problem is simply when HR culture is viewed as replacing a local culture. It should not be viewed this way, he feels. It should be viewed as providing a context for a culture, of being compatible with local cultures. Each should be viewed as integrating the other.