

# How Should the claim that Human Rights are Universal be Reconciled with the Actual Cultural Diversity in the World?

Marte Lund Johannessen

University of Essex

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## **Abstract**

One of the classic debates within political theory has been between the idea that human rights are universal moral standards and the argument, often put forward by cultural relativists, that human rights are imposed on cultures and lack legitimacy. Within this debate, the question of whether the concept of universal human rights can be reconciled with the actual cultural diversity in the world has often arisen. This essay argues that they are compatible with each other in three ways. Firstly, the capacity of the modern state to cause human suffering and to stop human capacities to flourish is universal and human rights are therefore a necessary response to this. Secondly, human rights and culture operate on two different levels in the contemporary world, where human rights operate at the level of nation-state, and culture operates at the level of the community. Because of this, many cultural practices lie outside the domain of human rights and are instead afforded human rights protection. Lastly, human rights are only universal at the level of concepts, while having both room and need for cultural particularities in regards to interpretation and implementation of a right. Here, culture and human rights complement one another.

**Keywords:** Human Rights, Universal moral standards, Cultural diversity

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### Essay

On the face of it, universal human rights and culture may collide because it can seem implausible that a single set of rights can be applicable to all cultures in such a diverse world. Cultural relativists often argue that human rights seek to impose western standards upon other cultures, and is thus in conflict with the cultural diversity in the world. However, this essay will argue that there does not necessarily have to be a tension between the two, and that it is in fact possible to reconcile the claims and ideas regarding universality of human rights with those of cultural diversity. Firstly, this essay will argue that human rights can be universal, even though they derive from the West, due to the universality of the modern state and the universality of human suffering and capacity for action. Secondly, it will argue that human rights and culture operate in two different spheres of the world, that of government and community. Lastly, it will argue that human rights are universal at the level of concepts, while having room for cultural particularities with regard to interpretation and implementation of a right. This will allow for universality and culture to be reconciled in practice as well as theory.

In attempting to reconcile universal human rights and cultural diversity, it will be necessary to establish in what ways human rights are universal, and for what reasons. It will first be necessary to analyse the claim that human rights is a Western concept and therefore not universal. A common claim against the universality of human rights is that they “as defined by the West are rejected, or more accurately, are meaningless [to non-Western countries]” (Donnelly, 2002:85).

However, although coming from the liberal tradition of the West, human rights do not seek only to protect the Western way of life (Freeman, 1995). Human rights as we have them today are responses to principal threats to human dignity (Donnelly, 2002), these being universal threats like despotism and poverty for example (Freeman, 1995). Brems (2001) continues this line of thought and argues that the Western character of human rights should not be exaggerated. She points out that the reason for the West developing human rights was because it was the first to need something of this kind (Brems, 2001). The modern state was first developed in the West, and the cultural and political history of the West is not that of human rights, but rather gross violations against humanity, like torture and genocide (Donnelly, 2002). It is also true that human rights “historically did not smoothly and immediately obtain general acceptance in the West” (Brems, 2001:298). This is even clear today in recent discussions by the British government and the media proclaiming that

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human rights are not British. Donnelly makes it clear that the argument on the importance of where human rights derive from fails: “if human rights are irrelevant in a particular place, it is not because where they were invented or when they were introduced to that place” (2002:87). Brems furthers this line of thought and argues that this is what is called the ‘fallacy of origin’: “that current human rights are predominantly Western, both as regards to their origin and regards to their content, does not justify the conclusion that they cannot be made applicable to all persons worldwide” (2001:299). There are very few ideas that have their origin in all cultures. If this is the criterion for universality, it would definitely fail.

Furthering this argument, it has been argued that the universality of human rights can be proven by finding similar or equivalent moral codes in all cultures. An-Na’im (1992), as cited in Brems (2001), tries to show the universality of human rights empirically. He argues that there is something similar to the golden rule, that we should treat others as we wish to be treated, in all the major cultural traditions. However, as Brems (2001) points out, it is very dangerous to let consensus be the determinative condition for universality, because it would easily fail if some culture did not have that rule. In addition, two problems arise with using consensus on moral and political practices in cultures as a condition. Firstly, Donnelly points out that “Most traditional legal and political practices are not just human rights practices dressed up in different clothing” (2002:87). The fact that a culture is occupied with justice and fairness for example, does not mean that it is compliant with human rights; the human rights approach to certain concepts is often very different from other approaches (Donnelly, 2002). Secondly, even if there was consensus on certain human rights, this does not mean that they were founded on the same moral principle of human dignity. Rather it could be based on something culturally specific (Brems, 2001).

The existence of human rights equivalent moral codes in all cultures does not have to be determinative for the universality of human rights. Brems (2001) proposes the argument that the universality of human rights is a matter of choice and the motivation for that choice is irrelevant. This is Rawls’s notion of ‘overlapping consensus’, which states that the reasons for people subscribing to human rights are often based on people’s own religious views and philosophies (Nickel, 2007). Despite the many cultures in the world, what is empirically universal is that countries exist as modern states and all have enormous power over their citizens (Brems, 2001). The modern state first developed in the West and that is why human rights developed there

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(Donnelly, 2002). Claims that human rights do not comply with a culture's tradition, are often made by "political elites that have long left traditional culture behind" (Donnelly, 2002:87). If these political elites are willing to adopt the 'Western' modern state, it should be argued that they will need to take human rights as well, it comes in a package. A second argument for universality is that made by Brems (2002), which is human suffering. All humans are equipped with the capacity to suffer, and because the modern state is capable of causing human suffering, the need to protect is a universal need (Brems, 2001). A second universal principle that needs to be added is that of "the capacity of individuals for action" (Freeman, 1995:20). Without this, human nature would be undermined and seen as passive. Therefore, the modern state has a duty to let "capacities of individuals be developed and employed" (Freeman, 1995:20). This requirement adds an important element by requiring states not only to refrain from causing suffering, but to also allow human capacities to flourish. It is therefore clear that the fact that human rights derived from the West does not affect the claim that human rights are universal. Rather, because universal human suffering and potential capacity for action can be harmed by the modern state, human rights are necessary to restrict this possibility.

Secondly, in order to reconcile universal human rights and cultural diversity, it will be necessary to analyse the relationship between culture and human rights. Cultures are, as Donnelly points out, "complex, variable, multivocal and above all contested" (2002:86). Cultures do not have one voice, and if they do, this is often the voice of the dominant groups of classes (An-Na'im, 1991). Therefore, whenever a group makes a particularist claim, it is very hard to establish whether this is done in the interests of everyone in that culture. This essay argues that the conflict between human rights and culture is minimal, and when there is a conflict, it must be important to establish who makes the claim and for what reason.

Firstly, Nickel points out several reasons for what he calls the non-collision of culture and human rights, one being that "people often put potentially conflicting beliefs in different realms" (2007:176). By this he means that the norms people hold in regards to religion, family and home are put in their own category, while that of politics in another. For example, the belief that people should have a fair trial will not usually conflict with religious values. Freeman furthers this by proposing to consider "human life in the contemporary world as organised at four levels", these being individual, community/association, nation-state, and world system (1995:13). Human rights

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work at the level of nation-states and the world system, this means that many cultural practices lie outside the domain of human rights, and that they themselves are in fact protected by human rights (Freeman, 1995).

Another area to discuss in relation to culture and human rights is determining that 'civilization x holds belief y' (Donnelly, 2002). Cultures are not homogenous and it is therefore often hard to establish what should be the evidence of a cultural belief. Another point to add, is that cultures change rapidly due to internal struggles, as well as cross-cultural dialogue. It is therefore important to evaluate claims of culture in order to avoid certain elites being able to hide behind 'traditional culture'. Brems (2001) proposes to do this through looking at who makes the claim. Because human rights are supposed to protect against governmental abuse of power, cultural claims by governments should be looked at with a critical eye. The motives behind such claims are often to secure regime security or to pursue economic goals (Brems, 2001). On the other hand, if the claim is made by a more diverse group of claimants and their view is supported by evidence from NGOs, anthropologists and sociologists, it should be given more credit (Brems, 2001). In a globalised world, people within a culture might not value certain norms equally, therefore it is important to accommodate for all views (Brems, 2001). This is important because there is great potential for a small elite to promote their own values as if they belonged to all (Donnelly, 2002). It is therefore possible to say that many claims of cultural incompatibility coming from an elite group are not cultural claims at all but merely the claims of self-interest. Interestingly, this line of argument is often presented by cultural relativists when they argue that universalists are selfish for imposing their own western views, i.e. human rights, on other cultures. However, human rights do not impose a specific set of cultural values; instead they protect individuals in exercising their cultural practices and cultural diversity. Thus, in fact, human rights strengthen culture; as stated in Article 27 of the Universal Declaration of Human Rights 'everyone has the right to freely participate in the cultural life of the community'. It is evident from recent years that indigenous groups often use human rights to defend their culture from the government. Furthermore, it is also possible to reconcile universal human rights and cultural diversity by arguing that the two occupy different spheres of society. Human rights deal solely with governmental power over citizens, while culture is very rarely interested in this, and operates on a more community based level.

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The last argument to be put forward, is that human rights operate at the level of concepts or minimal standards which are open to interpretation at the national level (Nickel, 2007). There are, of course, certain human rights where there is no room for local interpretation. For example, gross human rights violations such as torture and slavery. Donnelly (2002) points out that the rights found in the Universal Declaration of Human Rights formulate rights at the level of concept. These concepts are broad or abstract and allow for considerable latitude to local interpretation (Nickel, 2007). Nickel shows the example of Article 10 of the Civil and Political Covenant which requires people in prison to be “treated with humanity and with respect for the inherent dignity of the human person” (2007:175). It is clear that this leaves room for different conceptions of human dignity and cultural interpretation of what is humane and respectful. Donnelly argues that “conceptions of human nature or society that are incompatible with such rights are almost by definition indefensible in the contemporary international society” (2002:94). These abstract and interpretable concepts are also what Walzer (1996), as cited in Brems (2001), calls ‘thin’ or ‘minimalist’ accounts of morality; thick morality reduced to its essence. Thin morality is used to condemn human rights violations because it communicates a clear message, for example ‘the right to education’ which is easily understandable by all if not in exactly the same way (Brems, 2001). Thick morality, however, is universal in its core or concept; the rest is particular to a specific culture, developed through interactions between members of that culture (Brems, 2001). Human rights, after being interpreted and implemented by certain cultures, become thick morality. Because certain human rights are ‘essentially contested concepts’, culture can provide a plausible mechanism of selecting interpretations (Donnelly, 2002). This mechanism is especially important because in order for human rights to work they need to be inclusive. People need to feel that human rights answer to their needs. However, Donnelly points out that interpretation is not synonymous with free associations or arbitrary stipulations, and argues that there are only a modest number of defensible variations in interpretations (2002).

Lastly, the stage of implementation and form is where there is most room for culture to play a role. In fact it can be argued that there needs to be room for culture in order for human rights to be effective. An-Na’im (1992), as cited in Brems (2001), argues that human rights must be implemented in a manner consistent with the peoples own rationale in order for them to perceive the rights as their own. This can be done in many ways, but an important aspect is to make human rights more attractive by linking them with issues that are important to that society (Brems, 2010). Freeman

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(1995) does this by linking the Asian values of community to individual human rights by arguing that a community will not flourish if the individual level does not. Another way may be to relate human rights to already existing moral codes in that society which will help to increase the legitimacy of certain rights (Brems, 2001). However, Donnelly (2002) points out that the implementation must fall within the range of variations consistent with the overarching concept, but also points out that the range of variations can be considerable. It is then clear that it is possible to reconcile universal human rights and cultural diversity by looking at specific rights as concepts where the interpretations and implementations of that concept can leave significant room open for cultural particularities.

To conclude, it is possible to reconcile universal human rights and cultural diversity in four main points. Firstly, the fact that human rights were derived from the West does not affect their universality because, as the creator of the modern state, it is natural that human rights would have evolved there. The modern state is universal, as are the potential for human suffering and human capacity for action. As the state has the potential to cause suffering as well as limit human capacity, it is therefore necessary that the modern state adhere to human rights. Secondly, human rights and culture operate in two different areas of the world, the government level and community level respectively. When they do operate in the same sphere, human rights are usually used to protect culture against government power. Furthermore, claims of cultural incompatibility with human rights made by small elites may often be claims of self-interest and not representative of the wider community. Lastly, many human rights operate as concepts open to cultural interpretations and implementation so long as they still comply with the basic principle of the right. This means that in both theory and practice universal human rights can be reconciled with the actual cultural diversity in the world.

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