

Human Rights and the Development Of Cross-Cultural Processes  
 Vitaly Merkushev Ural State University Ekaterinburg, Russia

In analyzing human rights doctrine, we can logically imply that if human rights exist, it follows that the existence of human community, or moral humankind, should be accepted as the relevant foundation for such rights. The creation of such a community is a logical aim of the universal human rights concept. The establishment of the broad international network of human rights treaties, conventions, and conventions seems to be an intermediate step toward the creation of a moral humankind; it seems evident, however, that reality does not provide a serious basis for the above-mentioned conclusions. In theories concerning different aspects of human rights, there is a pressing necessity to check the difference between a normative theory of universal human rights, which have been elaborated during the centuries, and the reality of world politics, which is still far from the theoretical projects. The cultural diversity inherent in the world implies a different interpretation of human rights norms. The majority of states reject the assumption that there is a universal doctrine of human rights with strong standards of rights that should be immediately implemented in a state.

The official doctrine underlying the international law of human rights, however, is in principle universal.<sup>1</sup> This doctrine does not suggest that there are different rules for different states and regions. "If I as a statesman, sign a treaty in which I accept the legal obligation to respect human rights, it means that I acknowledge not only a domestic responsibility, but a 'cosmopolitan' one as well."<sup>2</sup> In practice, however, the interpretation of these rules varies between cultures both as to the place of human rights in society and as to the hierarchy in which different groups of rights are placed. Positivist lawyers hold the point of view that the contradiction between universal human rights and customs and reasons of cultures will be reduced as soon as a common law of mankind is developed, and that at present this law is in an early stage of development.<sup>3</sup> In this respect, the contemporary international law of human rights might be called a "soft law," which should become actual customary

---

<sup>1</sup> Vincent, R.J. 1991. *Human Rights and International Relations*. Cambridge: Cambridge University Press, p. 47.

<sup>2</sup> Hoffman, Stanley. 1987. *Janus and Minerva. Essays in Theory and Practice of International Politics*. London: Westview Press, p. 371.

<sup>3</sup> Vincent, R. 1. 1990. "Order in International Politics." In Vincent, R. 1. And I.O.B. Miller, eds. *Order and Violence. Hedley Bull and International Relations*. Oxford: Clarendon Press, p. 57.

international law in the future. The current tendency within international human rights law development can be viewed as holding certain principles such as that of non-discrimination on racial ground and the principle of self-determination, both of which were dismissed as political slogans in past, and now have become a part of international customary law.

It should be said that the contemporary legal network of human rights as such, even if we do not take into account domestic interpretations of this law, is not efficient. Some rules are not clearly elaborated to be obeyed, because they imply different interpretations. The most famous example of the difficulties in the reading of human rights rules is the right to self-determination. International lawyers still have not come to an agreement about the interpretation of this rule. The main question is still on the agenda: is self-determination a right of a statehood?

It can be assumed, however, that some weak rules of international law in the sphere of human rights will be more properly elaborated in the future, and new precedents on this or that debated question will assist in the creation of a common understanding of these rights. Indeed, international law provides some examples in this field. For instance, thousands of cases considered within the frameworks of the European Convention on Human Rights contributes to the creation of the so-called margin of appreciation principle, which obliges the European Court to take into account cultural differences between European countries (e.g. the prohibition of abortion in Poland and the heavily restrictive law on divorce in Ireland were not considered to be human rights abuses). The European Convention, however, was ratified by countries with similar cultural traditions and this pattern could not be implemented in other regions of the world. Cultural differences remain the main obstacles on the path toward human rights implementation in all parts of the world.

#### Human Rights as Basic Rights

One of the attempts to solve the contradictions between the universality of human rights rules in international law and the specificity of cultural differences was undertaken by supporters of the so-called basic human rights doctrine. The main representatives of this attempt are Barrington Moore and Alan Gerwirth. This doctrine considers human rights to be "core rights," and implies that there is a core of basic human rights that is common to all cultures, despite their divergent interpretations and theories. The doctrine contains many approaches, some of which are mutually exclusive.

The concept of the primacy of political rights (as basic rights) over economic and social rights was especially popular in the USA during the time of the "Cold war." In Western political writings that are devoted to human rights issues, economic and social rights were traditionally considered to be the core rights of the communist theory of human rights. To some extent, these economic and social rights, together with collective rights, can be considered to be prevalent within human rights concepts emanating from the developing world. According to such concepts, economic and social rights are not universal in the pure sense, because they impose duties only on particular

governments and regimes. In contrast, civil and political rights are universal in a broader sense. They are the most important for both the domestic social system and the international order. "Plainly, the right to life is superior to that of holidays with pay."<sup>4</sup> Widespread dissident movements in the former socialist bloc countries also supported the concept of basic or core rights such as political and civil rights. Dissidents stressed the importance of the implementation of these core rights; they considered their regimes to be abusive toward human rights despite holding a good record on some social rights. Economic and social rights were recognized by supporters of "core rights conception" as the secondary ones, not only theoretically, but also because of the ideological struggle between two social systems and two superpowers. This concept was restored in the end of 1980s, when the process of democratization in the former authoritarian and totalitarian states required that attention be given to international public opinion regarding political and civil rights. Within this concept, the list of basic political and civil rights was reduced by some theorists to one right to life (as it is in Hobbesian tradition), or to three basic rights such as the right to life, right to security, and right to be free. These rights are essential to the enjoyment of all other rights.<sup>5</sup> This approach stresses the biological basis of human morality, and can be placed in a natural rights tradition. The most controversial among the above mentioned rights is the right to be free. It has been a difficult task to attempt to establish any consensus among different cultures on the basis of this right. The attempts to understand this right as a right of freedom from slavery and racial discrimination do not make sense in terms of general right to be free. The rights to life and to security can be combined as rights against torture and premeditated murder. In the latter case, it seems more evident that the contradiction between universality of human rights and interstate cultural differences can be solved. The approach to human rights as "core" rights might be based on "some sociological hypothesis like B. Moore's notion of the unity of human misery, according to which general opposition to human suffering is a standpoint that transcends differences of place and time."<sup>6</sup> Or it might be based more on the refinement of inductive generalizations, as in a concern to "distill from the multiplicity of philosophies and ideologies and their divergent values any universal that may exist."<sup>7</sup> The attempts to find generalities in different cultures on the base of "core" rights do not give attention to historical continuities. For instance,

---

<sup>4</sup> Rubin, Barry, ed. 1978. *Human Rights Reader*. Ottawa: Meridian, p. 17.

<sup>5</sup> Gerwirth, Alan. 1987. *Human Rights Essay on Justification and Application*. Chicago: The University of Chicago Press, p.7

<sup>6</sup> Moore, Barrington Jf. 1972. *Reflections on the Causes of Human Misery and Upon Certain Proposals to Eliminate Them*. London: Allen Lane, p. 11. Cited in Vincent, R. 1. *Human Rights and International Relations*, p. 49.

<sup>7</sup> Vincent, R. J. *Human Rights and International Relations*, p.49.

there were many cultures in the world that did not guarantee the right to life, even in a minimal understanding of this term (e.g. there was no such right in cannibalistic tribes).

Analyzing African history, A. Bozeman comes to the conclusion that "yet nothing in Black African millennial history suggests that peace was included in this constellation of values and norms. The record indicates, rather that conflict was accepted on all levels and violence was endemic everywhere."<sup>8</sup> It is understood that in the contemporary world, different societies are in different stages of development and even the general process of modernization could not overcome these differences. In this regard, drawing up a list of basic human rights to satisfy everyone only adds varieties together. Even the rights that are ostensibly the same might be understood in completely different ways both because of varied national interpretations of the international law (which does not clearly define some human rights rules) and because of various cultural-historical backgrounds.

However, the concept of basic human rights properly describes the tendency toward the creation of international consensus. Such a consensus should allow the possibility of reducing contradiction among states in the sphere of human rights and of making international law really active, not only the "soft." The definition of basic rights as cross-cultural rights has given rise to some progressive features in the investigation of human rights in world politics.

#### Human Rights and a Society of States

A more sophisticated analysis of this issue was elaborated within the English school of international relations by R. Vincent. He believes that "'human rights in international law' and 'human rights in cultural perspective' can be brought together through the level of analysis of the society of states."<sup>9</sup> The concept of international society or society of states is different both from the projects of universal humankind and from state system concepts. "By an international society we mean a group of states (or, more generally, a group of independent political communities) that do not merely form the system, in the sense of that the behavior of each is a necessary factor in the calculations of the others, but also have established the dialogue and consent common rules and institutions for the conduct of their relations, and recognize their common interest in maintaining these arrangements."<sup>10</sup>

R. Vincent developed H. Bull's idea of international society in relation to human rights in international politics. The main questions of this analysis are the following: What kinds of barriers exist that prevent the establishment of universal rules for human rights by states, which are -

---

<sup>8</sup> Bozeman, Adda. 1992. "International Order in a Multicultural World." In Bull, Hedley and Adam Watson, eds. *The Expansion of International Society*. Oxford: Clarendon Press, p. 389.

<sup>9</sup> Vincent, R. 1. *Human Rights and International Relations*, p.48.

<sup>10</sup> In: Introduction to "The Expansion of International Society," p. 1.

defenders of particular cultures, and are there any ways to overcome these barriers? From Vincent's point of view, one of the possible solutions of this problem can be defined in terms of the values of a particular society. In other words, the enjoyment of human rights might result only from participation in a real community, and not from some abstract connection to human society as a whole. To be human is to be Japanese or Ghanaian. Human rights exist in varieties, not similarities.<sup>11</sup> There is no real basis for preference of one concept over another, which is why human rights can be guaranteed only by a particular state. R. Vincent is right when he names this approach as a surrender to the universality of particularism.<sup>12</sup> This approach tries to diminish the significance of the international rules of law to the profit of this or that state, and solves the contradiction between cultures in the sphere of human rights by merely demolishing one of the sides, namely universal rights. The attempt to connect human rights only with citizenship or even with participation in a certain community is not only theoretically controversial (human rights are by definition universal), but also inconsistent with the contemporary realm of world politics. So, at present a number of refugees—people who are forced to migrate—is increasing. The world is facing a new Babylonian confusion in some regions. It does not mean that millions of people who have no citizenship, or even a particular country in which to live, have no opportunity to enjoy basic human rights.

In this context, it should be taken into account that within social thought there have been theories that propose methods to reconcile the concept of citizenship as a basis for the realization of human rights with the growing number of people without citizenship, refugees, the displaced, and stateless people. The first theorist to speak about the necessity to create a new understanding of citizenship and a new social contract applied to the protection of the human dignity was Hannah Arendt. Analyzing the experience of the Holocaust, she comes to the conclusion that national sovereignty—and citizenship based on this sovereignty—cannot grant protection of human rights.<sup>13</sup> The experience of World War II demonstrated that the unrestricted understanding of national sovereignty and the fight to defend national interests led in the long run to human rights violations not only of the stateless nations but also of the titled nations.

Analysis of the origins of human rights is the logical basis of the Arendt's new understanding of citizenship. Developing the ideas of her teacher Karl Jaspers, she holds that human rights are not natural or rationally universal. Diversity of cultures does not provide sufficient basis for the creation of global religion, philosophy or form of government. She asserts that human rights consist of fragile agreements between people, and arise out of

---

<sup>11</sup> Vincent, R. 1. Human Rights and International Relations, p. 8.

<sup>12</sup> *ibid.* P. 48.

<sup>13</sup> Arendt, Hannah. 1973. *The Origins of Totalitarianism*. New York: Harcourt.

the existence of mutual human life.<sup>14</sup> From her point of view, people, through the use of common sense and analysis, developing mutual communication, eventually create agreements on human rights and fight for these rights, often

demonstrating real heroism. Arendt states that human rights can be realized only in politics by the civic initiatives of those vulnerable to the vagaries of world politics and those who in solidarity with them. This activity should be accomplished in so-called limited communities in forms of national, ethical and regional identities. In this respect, she proposes that local, regional, and global citizenships are equally possible and equally real.<sup>15</sup> Rejecting the possibility of the creation of a world government, Arendt insists any civic initiatives will have limited effect without the will of the state to restrict their sovereignty partially in the context of a step-by-step creation of a world democratic federation. These ideas inspired the theorists of federalism. This conception is having an increasing influence on the process of the European integration and the development of the most effective instruments of human rights protection within the frameworks of the European Convention of Human Rights.

#### Globalization or Westernization

Another possible solution to the contradiction between human rights, international laws, and cultural differences was proposed by the global cosmopolitan approach. According to this concept, universal or global human rights are related to a single cosmopolitan culture, which is spread in the contemporary world across all indigenous cultures. "This is the common culture of modernity which has touched all societies in virtue of the rise of a global economy."<sup>16</sup> In this respect, human rights are part of a world social process, the institutional expression of which is the international law of human rights. And if international law is to some extent an inter-cultural law as well, it is an evidence for the existence of universal standards of human rights. The creation of the cosmopolitan culture can be caused not only by the rise of a global economy, but also by the general evolution of culture in terms of the enlargement of the concept of human dignity. In these circumstances, the philosophy of human rights can be described as a "natural response to changing conditions, a logical and necessary evolution of the means for realizing human dignity."<sup>17</sup>

---

<sup>14</sup> Issac, Jeffrey. 1996. "A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights." *American Political Science Review*. 90/1, p.69.

<sup>15</sup> Issac, Jeffrey. 1996. "A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights." *American Political Science Review*. 90/1, p.71.

<sup>16</sup> Vincent, R. *Human Rights and International Relations*.

<sup>17</sup> Donnelly, Jack. 1982. "Human Rights and Human Dignity: An Analytical Critique of Non-Western Concepts of Human Rights." *American Political Science Review* 76,

An economic explanation of the universality of human rights did not take into account the fact that the processes of modernization and elaboration of human rights run both in theory and in international and municipal law do not overlap historically. On the other hand, the process of modernization might be said to produce two different cultures, one of which is central and the other peripheral. The latter is related to the dual economies of developing countries, when industrial sectors, and even postindustrial sectors, coexist with traditional ones. Moreover, modernization affects each country in a

different way. This implies that there is more than one culture correlated with the process of modernization, making it impossible to support an argument about the universality of human rights. The argument that international law is a reflection of cross-cultural processes has been criticized both in American and British schools of international relations. What is called the "international law of human rights," a seemingly neutral title, is in fact a machine for widening and deepening the legitimacy of Western conceptions of human rights. This implies that implementation of a Western approach to human rights is considered to be cultural imperialism. According to this point of view, the Third-World conceptions of human rights must be presented as different conceptions if they play any part in the strategy to break away from Western dominance. On the other hand, the process of the Third-World emancipation may require to some degree an authentic indigenous conception of human rights "in order" to confront any attempts of cultural imperialism. However, as it was mentioned above, these conceptions are for the most part derived from the Western ones: "Even the most influential doctrine of self-determination was elaborated within Western conceptions of human rights. In addition to the right to be independent (or right to self-determination), there is even more reason to underline the existence of a common moral world in which the principle of sovereignty is the most essential and the weak can make demands on the strong to some point. Although the principles of self-determination and sovereignty have been added in the Third World by economic interpretations, these doctrines remain Western ones. Moreover, both universal values of human rights and nationalist ideology are originally Western ones. This is why it might be suggested that the emergence of new states associated with the revival of suppressed cultures has not in fact meant the refusal of Western doctrine. It is rather the use of Western concepts against their authors.

R. Vincent continues this main theme in *The Expansion of International Society*. He agrees with H. Bull and A. Watson that the expansion of European international society was followed by the revolt against Western dominance.<sup>18</sup> This can be especially relevant to individual human rights. The process of modernization, which may be described as a process of Westernization of non-Western societies, could not provide the entire picture of the contradiction between universality of human rights and cultural variances. This process can be also understood as individualization of

---

p. 312. Cited in Vincent, R. *Human Rights in International Relations*, p. 50.

<sup>18</sup> Vincent, R. "Order in International Politics." In *Order and Violence*. Hedley Bull and *International Relations*, p. 55.

traditional societies by the general Western conception of human rights. According to this perception of the concept of human rights, "such phrases as 'right of man' or 'the dignity of man' are meaningless unless one remembers that 'man is an individual' and has been carefully detached from such indeterminate generic references as 'mankind' or 'humanity' "<sup>19</sup>

#### Human Rights and Cultural Relativism

Describing the different interpretations of human rights, 1. Donnelly argues that during the Cold War there were three standard perceptions of human rights in the world (in other words, there are "three worlds" of human rights). The Western (First-World) approach emphasizes civil and political rights and the right to private property.

The socialist (Second-World) approach emphasizes economic and social rights. The Third-World approach emphasizes self-determination and economic rights.<sup>20</sup> Furthermore, both the socialist and the Third World conceptions are held to be group-oriented, in contrast to the individualism of the Western approach. From Donnelly's point of view, these approaches do not work either during the era of the strong ideological struggle between different political systems or in the contemporary world. For example, in the Western world, economic and social rights are generally well-guaranteed. In the former soviet bloc, citizens, given the opportunity, have demanded their political and civil rights. And the dismal state of the economies of Central and Eastern Europe shows that the sacrifice of civil and political rights in the name of socialism has not resulted in the long-term realization of economic and social rights. The Third World is not entirely uniform; for instance, African and Islamic conceptions of human rights also have significant differences. However, in the practice of international politics, the Third-World countries are usually inclined to act in a similar way (e.g. in international organizations). This is why we can assume that there is general approach to human rights in the developing world, and it remains the last obstacle in order to refuse entire conceptions about "three worlds" (or at present about "two worlds") of human rights.

It should be noted that the developing world was Westernized to some degree, as a result of the domination of Western culture in recent years; this process was clearly described in the famous book *The Expansion of International Society*.<sup>21</sup> However, this degree of the Westernization did not mean that universal human rights standards of international law were adopted in practice throughout the world. In the sphere of human rights, cultural differences play a key role. Theorists of international relations on the both sides of Atlantic ocean, who were skeptical about universal concept of human rights, have tried to find the solution to this problem, elaborating a concept of cultural relativism.

---

<sup>19</sup> Bozeman, A. "International Order in Multicultural World, p. 388.

<sup>20</sup> Donnelly, 1. 1993. *International Human Rights*. Boulder, Colorado: Westview Press, p.35.

<sup>21</sup> Bull, H. and Watson, A., eds. *The Expansion of International Society*.

Cultural relativism proposes a general basis for the reconciliation of the contradictions between different groups of rights such as individual and collective, political and economic, civil and social, and between cultural variations and universal norms of human rights. The concept of cultural relativism asserts that human rights rules as well as codes of morality vary in different places and regions of the world and that they should be understood within their particular cultural contexts.

This concept views culture as the source of all values. Cultural

relativism argues that there is no human right to which everyone is entitled, simply as a human being. In this respect, the Universal Declaration should be considered as an imperialist success, and international human rights law as "pure" declarations. The main aim of this doctrine was to provide a theory which could be consistent with the new international agenda of 1970s, which was characterized by the growth of developing world international cooperation and activity. As in the case of different concepts of basic human rights, however, the concept of cultural relativism was also elaborated within the Western tradition of political theory. So, as early as the XVIII century, E. Burke wrote that "the language of rights deepened the antagonism of political opponents while raising their expectations, and made more difficult the task of the statesman, which was to bring them together."<sup>22</sup> Cultural relativism opposes the attempt to introduce universal standards of human rights, which will always come into contradiction not only with different perceptions of these rules, but also with the main task of foreign policy decision-makers and diplomats such as that of the provision of communication between states. According to this approach, "there is no internationally accepted standard of morality to which the government could act in the name of moral principles."<sup>23</sup>

The concept of cultural relativism was a reply to the contradiction between international law and the practice of world politics. Human rights were violated cruelly by a significant number of states that had signed a majority of international Conventions, Conventions and Protocols. Human rights, however, have been a prominent part of political theory for centuries. French philosophers of the Enlightenment and founders of the United States in the eighteenth century, British and American liberals in the nineteenth century, and the majority of political thinkers in the twentieth century place human rights in the core of their social theories. Cultural relativism as a simple rejection of these normative aspects of theory was later modified into more moderate forms. In order to solve the contradiction between the universalism of human rights and plurality of cultures, the concept of weak relativism was introduced. Weak relativism is the conception in which human rights are held to be largely universal. They are subject only to secondary cultural

---

<sup>22</sup> Burke, Edmund. 1872. *Reflections on the Revolution in France*. London: Bell and Daldy, vol. 2, p. 283. Cited in R. 1. Vincent, *Human Rights and International Relations*, p. 28.

<sup>23</sup> Kennan, G. 1985-86. "Morality and foreign policy. In *Foreign Affairs* 64 (Winter), p.207.

Modifications.<sup>24</sup> Weak relativism differs not only from strong and radical relativism but also from universalism or radical universalism. From the point of view of Donnelly, the traditional cultural relativist conception can be called "radical relativism." In the contemporary world, the viewpoint that a culture is the source of all values is an extreme one. Strong relativism was described by Donnelly as the conception in which human rights are principally, but not entirely, determined by culture. According to the strong relativist conception, universal human rights serve as a check on culturally specific values. The following table represents these concepts:

Universalism (or Radical Universalism)	Weak Relativism	Strong Relativism	Radical Relativism
Human rights are entirely universal. There is no way to modify them in the light of cultural and historical differences.	Human rights are held to be largely universal. They are subject only to secondary cultural modifications.	Human rights are principally, but not entirely, determined by culture. Universal human rights serve as a check on culturally specific values.	Culture is the source of all values. There is no human right that everyone is entitled to equally, simply as a human being.

The weak relativist approach proposes a good basis for a consensus in the sphere of human rights, but it tries to find the solution again on the basis of cross-cultural similarities. It does not take into account the issue of international interdependence. In the contemporary world, the frontiers between states as well as cultural differences are becoming less clear, and they were not so clear in the cultural context even in the past. At present these boundaries even disappeared in some sectors (e.g. in the spheres of mass communications and ecology). This is why possible objections to the concept of cultural relativism can be found in the general process of increasing interdependence in the world. On the other hand, if we imply that culture is a source of all values, then we should distinguish different cultures within one society. In the same society, one dominant culture could come into contradiction with other, probably suppressed, cultures. Therefore, in the former socialist bloc countries, the so-called "socialist doctrine of human rights" and the so-called "socialist culture" coexisted together with the pro-Western perception of basic human values. We can assume that the underestimation of these factors by the doctrine of cultural relativism proposes an inadequate analysis for the situation in some developing countries as it was in the case of the socialist cases. However, it should be said that

---

<sup>24</sup> Donnelly, 1. International Human Rights, p. 36.

cultural difference in a historical context between "the First" and "the Second worlds" can be neglected, because both "worlds" were separated ideologically only several decades and coexisted together in the same European culture or cultures for many centuries. But it is not possible to do so in the case of cultural differences in so-called developing countries.

Cultural relativism tries to propose a path in accordance with which the issue of international inequality can be solved. It is understood that if human rights are not entirely universal, and they are the subject of state sovereign affairs, then countries are equal to one another, if only in the sphere of culture. On the other hand, it is difficult to speak about equality of different cultures, because this subject can not be estimated in such terms.

However, there is always a danger that a certain state will propagate global or regional superiority and insist on cultural domination. "If local value is to assert global superiority-that is to say, inequality-then no argument from cultural relativism can be mounted against it."<sup>25</sup>

Cultural relativism failed to explain the situation of a particular country's propagation of its cultural superiority (e.g. racism) or aspiration to expand its territory by military action (sometimes in order to support an internal order). It should be noted that international human rights laws are not devoted to war crimes, terrorism, or gangland violence; however, it can be historically evident that the existence of regimes that are involved in human rights abuses engage in such violations of international law. This is why general international legal doctrine cannot work without a minimum support of the rules of international human rights.

The regimes that abuse human rights cruelly might possess nuclear weapons. This does not necessarily lead to international conflict (e.g., the former USSR as a nuclear power and regime abusive of human rights coexisted with the rest of world and did not engage in any significant international military conflict after the Second World War). This coexistence, however, was characterized by a strong balance of power, which was mostly a bilateral one. On the contrary, the contemporary situation in world politics can not be characterized by such stability and the process of nuclear proliferation is not yet under the full control of the international community. It should be noted that the modest achievements of the Cold War in the case of nuclear deterrence could not presuppose future stability.

The radical understanding of an international non-intervention doctrine such as cultural relativism comes into contradiction with the requirements of international security in the case of massive violations of human rights. Foreign policy decision-makers should pay attention to the fact that cultural differences are real and contested ones, but on the other hand they cannot avoid paying particular regard to the most cruel human rights violations, at least in a minimum content of this concept.

---

<sup>25</sup> Vincent, R.1. Human Rights and International Relations, p. 54.

