

## **HUMAN RIGHTS AND CROSS-CULTURAL DIALOGUE**

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Much has been written recently about the diversity of our moral languages and the state of fragmentation and dissent we live in as a result of the pluralistic world we inhabit.<sup>1</sup> And yet in the midst of this pluralism, when many cultures and religious traditions co-exist and in some cases interact, there is one document that has acquired the status of a secular scripture—the *Universal Declaration of Human Rights* (hereafter UDHR), adopted by the General Assembly of the United Nations on December 10, 1948, and endlessly discussed ever since. The Nobel Laureate Nadine Gordimer describes it as “the essential document, the touchstone, the creed of humanity that surely sums up all other creeds directing human behavior,”<sup>2</sup> while UN Secretary General Kofi Annan suggests that it is the “yardstick by which we measure human progress.”<sup>3</sup>

These encomiums are on the whole well-deserved and accurate. It is true that human rights (hereafter HR) discourse seems to provide a common language in which a great many grievances can be articulated, from genocide and torture to sweatshops and child labor. It is also true that even those countries and traditions that voice skepticism about the validity and scope of HR nonetheless take the accusations of violations of these rights sufficiently seriously to come up with criticisms of the notion. Thus, in the celebrated case of Tiananmen Square when the Chinese government ruthlessly suppressed the peaceful protest mounted by local students, the government felt that it had to defend its actions by explicitly denying the applicability of HR instruments to the Chinese situation on the grounds of “cultural imperialism.” This response attests to the universality that is claimed for HR. And indeed, since the landmark adoption of the UDHR in 1948, several new conventions and declarations have been built on it.<sup>4</sup> All these instruments indicate both a deepening and a broadening of HR discourse.

With that evolution, however, there have also surfaced a number of criticisms, as one would expect when a moral language claims to speak in the name of humanity at large. For the purposes of this essay, I want to focus on two such criticisms as a way both of highlighting some of the difficulties involved in the ideas and principles underlying the UDHR and of suggesting a way forward. One is a critique coming from a broadly religious standpoint, without entering into the specific criticisms issuing from particular traditions; the other is a cultural judgment about the supposedly “Western bias” of UDHR, with a view to seeing how this bias, if it exists, may be corrected and a more cross-cultural approach could be adopted. These issues also happen to be at the forefront of much contemporary HR discussion. The first part of this essay will touch on these critiques. In the second section, I will discuss some difficulties associated with the idea of moral universality, and then in the third, propose and comment upon some models of cross-cultural dialogue.

### **Two Critiques of the UDHR**

There is first of all the calling into question of the predominantly secular character of the Declaration. A cloak of silence was thrown over the question of religion, not only because of reasons of universal appeal, but also because of the vast diversity of religious sentiment and the complications of having to deal with it. When the Declaration was drafted, it was generally felt that religions by their exclusive and absolute nature tend to be divisive and conflict-producing forces. Not only was there a difference of opinion among the drafters as to whether HR ought to be regarded as sacred, there was also dissension as to the grounds of any purported sacredness. As a way of abstracting from such debates, the preamble to the Declaration indicates that “human dignity” was chosen as the foundational concept on which the notion of HR was based, without further inquiries into where that dignity came from and why that dignity ought to be protected with rights. On what grounds do human beings have rights in the first place? And if it is argued that human rights are not intrinsic but merely instrumental entitlements that humans carry, why should we take them at all seriously? In recent times, these questions have been asked not just by Islamic traditionalists, who are very skeptical of Western notions of human autonomy and of the secularism that goes along with it, but also by

religious thinkers in the West. Thus, for example, Michael Perry argues that the idea of human rights is “ineliminably religious” in so far as it rests on the belief of the sacredness of persons, a sacredness which warrants the protection of human dignity by rights.<sup>5</sup> And Max Stackhouse contends that “without the impetus of theological insight, human rights concepts would not have come to their current widespread recognition and that they are likely to fade over time if they are not anchored in a universal, context-transcending metaphysical reality.”<sup>6</sup> To the extent to which the Declaration makes man the measure of all things while nature and God are completely ignored, these thinkers see disturbing evidence of idolatry, a situation of humanity worshipping itself.

That this critique is not just a theological nicety, but one that has serious practical consequences, may be seen by revisiting the Salman Rushdie affair. This controversy played out in the West, by and large, as a straightforward instance of a clash of secular freedom versus religious authoritarianism, a case of fundamental freedom of expression thwarted by theocratic rule. But this characterization is a simplistic and quite unsatisfactory account of the issues involved. For one thing, it puts religious sensitivities unqualifiedly in the camp of theocracy and authoritarianism, ignoring the fact that many religious Muslims who found *The Satanic Verses* deeply offensive nonetheless decried the harshness of Ayatollah Khomeini’s *fatwa*, or death warrant. For another, it absolutizes the notion of artistic freedom of expression and allows that freedom in all cases to trump religious sentiment relating to the sacredness of texts and figures. From an HR standpoint, it may be asked why the freedom of expression of one individual ought to be given priority over the spiritual sensibilities and feelings of an entire religious group numbering more than one billion people.

That these are not ephemeral matters was demonstrated yet again in the recent case involving the publication of incendiary cartoons about the Prophet Mohammed in a Danish newspaper. There are significant differences between the two cases: Rushdie is a Muslim himself, and the offensive passages in *The Satanic Verses* constituted a very small segment of a large novel and were justified by him as being necessary for his artistic purposes. By contrast, the publication of the cartoons by non-Muslims was entirely gratuitous and deliberately intended to provoke and perhaps to offend. In Islam, representations of all prophets are forbidden as a way of safeguarding the transcendence

of the Divine. To organize a competition for satirical cartoons of the Prophet and then to publish the most offensive entries is to pervert the principle of freedom of speech and to overlook the fact that this freedom is by no means unqualified even in the West. It is beyond the scope of this essay to the complexities of the nature and limits of the principle of free speech, but it is widely accepted, even in the most liberal circles, that the right to freedom of expression is not absolute. In cases where speech or expression causes harm or offence to others, as in “hate speech,” the consensus of opinion is that some form of regulation or censorship is justified. Nonetheless, secular opinion generally seems to hold that the original publication of the cartoons and their subsequent reproductions in other media outlets are justified on the grounds of freedom of expression, and regards all protests as marks of religious extremism.

To raise these questions is by no means to agree with or condone the *fatwa* or the recent violence. The important consideration in our context is that within the prevailing secularist and individualistic cast of the Declaration, there is no adequate space for such questions to be satisfactorily discussed. Enlightenment conceptions of freedom, such as those found in the U.S. Constitution’s Bill of Rights, are not necessarily prescriptive for non-Western peoples, although these concepts play a large role in the underlying justification of HR in the Declaration. To think that these ideals are prescriptive is to be guilty not only of a form of cultural imperialism but also of a form of secular fundamentalism.

If the secular nature of the declaration is one area of criticism and protest, the Western origin and cast of both the legal forms of right and the underlying individualism that is seen to ground them have also been strenuously objected to. Perhaps the clearest form of this challenge is the so-called “Asian Values” debate. In the interest of summarizing a wide-ranging and multi-faceted discussion, I will cite a famous set of remarks by Lee Kwan Yew, the former Prime Minister of Singapore, as a way of highlighting both the tone and substance of the criticism: “I find parts of [the American system] totally unacceptable: guns, drugs, violent crime, vagrancy, unbecoming behavior in public—in sum the breakdown of civil society. The expansion of the right of the individual to behave or misbehave as he pleases has come at the expense of orderly

society. In the East the main object is to have a well-ordered society so that everybody can have maximum enjoyment of his freedoms.”<sup>7</sup>

The basic notion here is that Western rights practice is seen as deficient and unsuitable for other societies, in particular East Asian ones. Western versions of HR suppose that individuals are the possessors of rights and encourage them to go out and aggressively make good their rights claims. But this assumption has a number of undesirable consequences. First of all, it focuses people on their rights (what they can claim from society and others), rather than on their responsibilities and duties (what they owe to the whole community or to its members). Thus, this account of HR encourages people to be self-regarding, self-centered, and acquisitive, leading to an atrophied sense of belonging and community. This behavior, in turn, leads to a higher degree of social conflict.

I am quite aware that Lee Kwan Yew is a debatable choice as a spokesperson for the “Asian Values” perspective. All too often, corrupt or authoritarian rulers use the excuse of cultural difference to justify the oppression and abuse that they either perpetrate or allow. Nonetheless, whatever the dubious reasons behind Lee Kwan Yew’s rhetoric, in the substance of its critique, it certainly articulates a discomfort that many have with at least *one form* of HR discourse: the highly individualist, acquisitive version, which the Canadian political theorist C. B. MacPherson once called “possessive individualism.” Thus, a communitarian like Charles Taylor, the Canadian philosopher, can say of Yew’s criticism: “It seems to have elements of truth...in fact, there is a long tradition in the West warning against pure rights talk outside a context in which the political community has a strong positive value. This ‘communitarian’ theorizing has taken on a new urgency today because of the experience of conflict and alienation and the fraying of solidarity in many Western democracies.”<sup>8</sup>

Both the criticisms I have mentioned, the first against the secular tone of the Declaration, the second against its supposedly Western character, highlight philosophical and religious difficulties. The special historical circumstances prevailing at the time of the drafting of the Declaration enabled its creators to smooth over and contain these rough edges. Today, when universalisms of various kinds are being questioned and particular identities being affirmed in a so-called “politics of difference,” that

containment is no longer possible. What, then, does the present debate around universalism and particularity as it pertains to HR discourse look like?

### **Moral Universality Under Siege**

It was not as if the dialectic of moral universality and cultural particularity was completely ignored by the drafters of the Declaration. In 1947 they received a long memorandum from the American Anthropological Association, which expressed worries about ethnocentrism—the tendency to pass off the particular values of one’s own culture as normative for other cultures. It asked, “How can the proposed Declaration be applicable to all human beings and not be a statement of rights conceived only in terms of values prevalent in the countries of Western Europe and America?”

That there is a whole set of culturally biased assumptions in the Declaration cannot be denied. This conclusion is simply unavoidable. The very notion of HR rests on the basis of a supposedly universal human nature common to all peoples. In fact, however, the UDHR was composed by a small group of Western-oriented men and women when the great majority of Afro-Asian nations were still under colonial rule. Those nations played little part in the drafting of the Declaration. Spelling out now the cultural biases and assumptions of the UDHR, and indeed acknowledging that many of these assumptions are Western in origin and nature, does not, however, necessarily vitiate its normativity. Historical contingency and cultural diversity are brute facts, not answers to normative questions.

Anticipating the concerns of organizations like the American Anthropological Association, UNESCO recruited some of the leading thinkers and philosophers of the day for a committee to investigate the theoretical bases of HR. The general approach of the committee, and subsequently of the drafters of the Declaration, was to distinguish sharply between practical and theoretical matters. In response to the question, “How is agreement conceivable among men and women who come not only from different cultures and civilizations, but also from sometimes antagonistic schools of thought?” the committee members concluded that even people who seemed to be far apart in theoretical and cultural outlook could agree on a few practical norms. As they put it, such people can agree “that certain things are so terrible in practice that no one will publicly approve

them, and that certain things are so good in practice that no one will publicly oppose them.” Torture, rape, child prostitution, and blatant racism, for example, were thought to be universally abhorred, while survival, liberty, security, personal integrity, and equality were seen as universally commended. What mattered was the agreement on practical matters, even if the philosophical and cultural justifications differed widely.

This “solution” to the problems of cultural diversity and relativism, of opting for a universalism at the practical level, while allowing for pluralism at the theoretical, was nonetheless made possible by an ethical idealism that might be considered utopian today. In order to show this particular idealism, I want to contrast two answers to the central philosophical question of how to understand the “human” of human rights, the *humanum*. Charles Malik, perhaps the deepest philosophical mind on the drafting committee, proposed four principles to guide the work of the Commission. First, the human person is more important than any national or cultural group to which he or she may belong. Second, a person’s mind, conscience, and inherent dignity are his or her most sacred and inviolable possessions. Third, any pressure from the state, church, or any other group aimed at coercing consent is unacceptable. Fourth, since groups as well as individuals may be right or wrong, the individual’s freedom of conscience must be supreme.<sup>9</sup>

Compare that conception of the human being with this one taken from the contemporary human rights thinker, Michael Ignatieff: “What it means to be a human being, what defines the very identity we share as a species is the fact that we are differentiated by race, religion, ethnicity, and individual difference. These differentiations define our identity, both as individuals and as a species. No other species differentiates itself in this individualized abundance. A sense of otherness, of distinctness is the very basis of the consciousness of our individuality, and this consciousness, based in difference, is a constitutive element of what it is to be a human being.”<sup>10</sup>

We have here two moral and idealistic definitions of a human being, but the abstractness of the first stands in marked contrast to the concreteness of the second. HR, like many other moral questions of our day, are balanced, stably at some times and unstably at others, between the two poles of an abstract universalism and a concrete particularism, tilting in one direction or the other. The UDHR is not a finished or a frozen document. Charles Malik believed that over time, the Declaration’s principles would

“either bring to light an implicit agreement already operative, perhaps dimly and unconsciously, in the systems and ways of life of the various peoples, or consciously and creatively advance further the area of agreement.”<sup>11</sup> The UDHR serves as a framework for such ongoing cross-cultural conversation, which is its very lifeblood. My focus in the final section will be to suggest how such conversation might most fruitfully be conducted

### **Three Models of Cross-Cultural Dialogue**

I want to propose three models of cultural exchange which I will call the supra-cultural, the super-cultural, and the inter-cultural. The supra-cultural model, as exemplified in the natural rights tradition, for example, attempts to rise above or transcend the realm of the cultural by invoking some divine or natural essence that is alleged to be the true mark of our humanity. Quite aside of the category mistake involved in thinking that a theological construct can do the work of a political one, there is the problem that even a divine essence has to be mediated through human and cultural understanding with all its context-boundedness. There is thus no escaping the challenge of culture. The same argument applies *a fortiori* to an attempt to define the human at some purely biological level. The derivation of social norms from biological data is also culturally mediated.

If the supra-cultural model is unviable, the temptation is to go to the super-cultural, which is, in fact, very often done. Making this move essentially implies that HR thinking represents an advanced state of cultural evolution, which not all cultures have achieved. In actuality, it is Western culture alone which is alleged to have done so, and the universal nature of HR means, in effect, that non-Western cultures now have to embark on the same journey and path of modernization as the West. Just as, for example, the West moved “beyond” its religious heritage to arrive at a “mature” secular outlook that could serve as the proper basis for human rights, other cultures must be expected to do the same. Universality, in other words, is seen in this model as an emulation, a mimesis, of the West, which provides the universal standards. Universality is here confused with uniformity. Talk of a “common humanity,” however, in no way implies that one way of life is best for everyone.



Sometimes this super-cultural conclusion is argued not in terms of cultural evolution but in terms of normativity. Of course, one can claim that the Western origin of HR should not be used to invalidate its universal applicability. It is true that one should not confuse genesis with validity, or the context of discovery with the context of justification. But a stronger claim is being made in the super-cultural model, and that is that the notion of HR, as it is understood in the West, provides the best, if not the only, notional understanding on which universality should be achieved. This is no longer a *descriptive* assertion about origins, which are after all historically contingent, but a *prescriptive* claim, which is quite debatable.

It is debatable because the universalizability of the Western notion of human rights is an attempt to universalize what is in fact a very particular idea, which has meaning and validity within a particular cultural context. The underlying ideas of the individual, of individual autonomy, of human dignity separate from solidarity with all of life, and of rights isolated from duties—ideas which are used to ground HR in the West—are not only *not* shared in the non-Western world in general, but are seen as highly problematic.

It is not just that the super-cultural model represents a form of cultural imperialism, of imposing a particular ethnocentric standard on the rest of the world by assuming a universality that, in fact, is not present but has yet to be achieved. It is also a form of epistemological blindness, where one lacks the imagination, or the will, or both, to recognize that the dominant Western way of conceiving human rights represents only *one way* of looking at things, one particular language and understanding, and that there are other ways that ought at least to be considered. Truth is indeed universalizable, or else it would be no different from opinion. But the expression of truth in specific concepts and symbols is ineluctably perspectival. To say this is not necessarily to agree with Nietzsche that truth is reducible to interpretation. It is rather to point to the inevitable partiality of interpretation and to suggest that truth emerges out of the encounter and dialogue of different interpretations.

It is this dialogic encounter that opens up the space for the third model—the intercultural one. Here one starts from the humble premise that one's culture is only one among many, with diverse strengths and achievements but also partialities and blind

spots. This model, which I am advocating, attempts neither to transcend cultural differences, nor to finesse these differences by making one culture superior and normative for the others. It rather takes the other cultures as seriously as it takes itself and attempts an open-minded, meaning-and-truth-seeking dialogue.

I cannot here spell out the methodology of this cross-cultural hermeneutic (which I have done elsewhere), a hermeneutic that attempts to cross epistemological and ontological boundaries.<sup>12</sup> Let me rather conclude this essay by suggesting how such a model might actually work in the area of HR dialogue. In order to do this, I am going to adopt a distinction made by Charles Taylor. He distinguishes in HR discourse between moral norms, legal forms, and background philosophical and religious justifications: “What we are looking for, in the end, is a world consensus on certain norms of conduct enforceable on governments. To be accepted in any given society, these would in each case have to repose on some widely acknowledged philosophical justification, and to be enforced, they would have to find expression in legal mechanisms. One way of putting our central question might be this: what variations can we imagine in philosophical justifications or in legal forms that would still be compatible with a meaningful universal consensus on what really matters to us, the enforceable norms?”<sup>13</sup>

This tripartite distinction between norms, legal mechanisms, and justifications provides the framework within which cross-cultural dialogue proceeds and in this context how it may be possible to move beyond western ethnocentrism. It allows for the recognition and acceptance of the fact that there are many HR cultures around the world, even if HR is not necessarily the term these cultures would use in self-description. In many of them the relations between morality, positive law, and world views are differently articulated than in the West.

For instance, the classical Indian moral universe is pervaded by the notion of *dharma*, a concept which some Indians invoke in the context of HR discussion. *Dharma* is a multivocal concept signifying morality, religion, truth, justice, and much else. But it does not start with the individual, whose rights it is concerned to protect from the encroachments or oppression of society and the state. From the *dharmic* standpoint, human reality is not incarnated in the individual only but in the social whole, and the social whole in turn is an expression of a cosmic order whose integrity *dharma* tries to

protect. From such a perspective, many of the assumptions underlying Western HR discourse would be disputed. In addition to a critique of individualism, the tradition of *dharma* would also criticize the idea of rights being separated from responsibilities and the idea of rights applying to humans alone.

In adducing this example, I am not concerned with conducting a full-fledged dialogue between these two moral universes, which would require an essay unto itself. I only wish to suggest that each tradition might have something to contribute to the development of a global HR culture. The discussion in this essay about cross-cultural HR dialogue has been, for the most part, formal; suggesting both the desirability and the usefulness of such interaction. I have deliberately not gone into the possible content of such dialogues, because the interplay between secularism, religion and HR is complex and also merits separate treatment.<sup>14</sup> Extensive HR discussions since the ratification of the Declaration in 1948 have tried to address some of these complexities, but it remains true that the prevailing consensus still hides serious cultural and ideological differences. It seems clear that the further evolution of HR discourse needs to go beyond the limits of its original Western-oriented formulation for both conceptual and pragmatic reasons and welcome the contributions of non-Western traditions. HR discussions must also temper the secular and individualistic slant of the UDHR by balancing it with religiously-inspired ideas of responsibility, interdependence and cosmic solidarity. Only then will HR move toward the universality which the UDHR prematurely proclaims, but whose actual achievement lies in the future.

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<sup>1</sup> See, among others, Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2<sup>nd</sup> ed. (Notre Dame, IN: University of Notre Dame Press, 1984).

<sup>2</sup> Nadine Gordimer, "Reflections by Nobel Laureates" in Yael Danieli et al., *The Universal Declaration of Human Rights: Fifty Years and Beyond* (New York: Baywood Press, 1999), viii.

<sup>3</sup> *Ibid.*, ii.

<sup>4</sup> For the list of documents, see Ted Stahnke and J. Paul Martin, eds., *Religion and Human Rights: Basic Documents* (New York: Center for the Study of Human Rights, Columbia University, 1998).

<sup>5</sup> Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York: Oxford UP, 1998), 11-41.

<sup>6</sup> Max Stackhouse, "Why Human Rights Need God: A Christian Perspective" in Elizabeth M. Bucar and Barbara Barnett, eds., *Does Human Rights Need God?* (Grand Rapids, MI: Eerdmans, 2005), 25-40.

<sup>7</sup> Joanne Bauer and Daniel Bell, eds., *The East Asian Challenge of Human Rights* (Cambridge: Cambridge UP, 1999), 111.

<sup>8</sup> Charles Taylor, "Conditions of an Unforced Consensus on Human Rights," in Bauer and Bell, 124-44.

<sup>9</sup> See Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001), 39-44.

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<sup>10</sup> Michael Ignatieff, “The Danger of a World Without Enemies: Lemkin’s Word” in *The New Republic*, 21 February 2001, 28-33.

<sup>11</sup> Glendon, 222-23.

<sup>12</sup> See my introduction, “Lost in Translation: Panikkar’s Intercultural Odyssey” in Joseph Prabhu, ed., *The Intercultural Challenge of Raimon Panikkar* (Maryknoll, NY: Orbis Books, 1996), 1-21. See also Raimon Panikkar, *Myth, Faith and Hermeneutics: Cross-Cultural Studies* (New York: Paulist Press, 1979).

<sup>13</sup> Taylor, 136.

<sup>14</sup> See the interesting article by Abdullahi Ahmed An-Na’im, “The Interdependence of Religion, Secularism and Human Rights: Prospects for Islamic Societies,” *Common Knowledge* 11, no. 1 (2005): 56-80.