Can and Should Human Rights Be Universal?

In recent decades, a widely contested debate over the universality of human rights has emerged. Rights are certainly not universally-applied today, with oppression, torture and various atrocities committed in many parts of the world. This paper will focus on the notion that both in the Third-World and the West, states have used human rights discussion as a political tool, which has weakened arguments for its universality. This perspective will be utilised to break down arguments made against universal human rights before presenting alternative conceptions of universal human rights and identifying developments which may ensure they can be universally applied and respected.

It is important to first define the theoretical basis of 'universal' human rights. Universal conceptions argue human rights are inalienable, self-evident and applicable to all human beings (Donnelly, 2003, 10). These arguments are often linked to origins in Western philosophy and natural law, developed from philosophers such as John Locke (Langlois, 2009, 12). Many scholars maintain that human rights are 'pre-political', thus unchangeable and unaffected by cultural or political variation. Donnelly identifies the Universal Declaration of Human Rights as the basis in establishing the "contemporary consensus on internationally recognised human rights" (2003, 22). Human rights hold universal values which should be adopted by states worldwide.

A common challenge to this view is the concept of cultural relativism. What the West may consider universal norms in human rights are not applicable in other cultures. Human rights are argued to have developed from Western culture and thus they are inappropriate in application to other cultures (Langlois, 2009, 19). It has been argued that only Western philosophy places such importance on the individual (O'Byrne, 2003, 42). Claims based on universal human rights are therefore at risk of being a "weapon of cultural hegemony" (Ibid). The most clear embodiment of this challenge are Asian values, where following the incredible economic success of a number of East/South-East Asian states, leaders and academics pointed to an alternative, more authoritative standard of rights, stemming from Asian conservative cultural values (Freeman, 2008, 363). Western origins of human rights and the incompatibility of its imposition are argued to prove human rights should not and cannot be universally applicable.

There are arguments that economic development must precede human rights, believing that human rights are too expensive and too risky for poor countries (Freeman, 2008, 359). In poor states – particularly with ethnic divisions – human rights can "subvert social order and thus hinder development" (Ibid). Advocates of this view again cite Asian 'Tiger' economies where strong economic growth is credited to authoritative rule (Ayittey, 2011, 18). This is a clear argument suggesting human rights should not be made universal, as many states are not ready.

A serious obstacle for universal human rights is the claim that it is a new form of imperialism, or as Rengger describes, "a mask for Western interests" (2011, 1173). During the Cold War, the West dismissed human rights, supporting 'friendly' regimes notorious for abuses, such as Mobutu, Moi, Selassie (Adar, 1998, 35). Real concern for human rights emerged only "occasionally" (Adar, 1998, 34). Samir Amin identifies the human rights agenda as shallow rhetoric disguising the promotion of US interests (2004, 78). The human rights discussion surrounding the 2003 invasion of Iraq has justified the fear that human rights are a tool of neo-imperialism, particularly as the US has not promoted human rights in Kuwait despite years of presence there (Amin, 2004, 77). The US rejects criticism regarding questionable domestic policies on the grounds that it is "their way" (Franck, 2001). Third-World states accordingly argue 'rights' are used to undermine their sovereignty according to the whims of the West.

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Western double standards and "narrow-minded and ham-handed" (Donnelly, 2003, 99) policies have been a key reason for cultural relativist and imperialist arguments persisting. Western aid to authoritarian states has consolidated their hold on power (Coyne & Ryan, 2009, 27). These factors have culminated in reducing the West's capacity to promote human rights. Ayittey believes charges of imperialism have prevented the West from criticising authoritarian states (2005, 422). African governments have become adept at suckering in the West to play "diplomatic ping-pong" (Ibid), cultural and anti-imperialist arguments provide effective cover.

Critique of These Positions

These arguments are often made by minority/elite groups, unrepresentative of the populations they supposedly represent. The political use of these arguments has deterred international and domestic criticism of atrocious abuses of human rights. New Tactics show there is often a lack of political will to enact human rights (2010), not because rights are unsuitable for populations, but are "politically unacceptable to the rulers" (Mahmud, 1993, 495). Amartya Sen argues promises and claims by authoritative leaders are given too much respect (1999, 147). Leaders may manipulate discussion of human rights, adopting self-serving positions to prevent changes to the status quo.

Scholars argue the appeal to cultural relativist arguments such as Asian values is an "ideological attempt to justify authoritarian government" (Freeman, 2008, 363). Sen argues that Asian (authoritarian) values appear to stem "almost exclusively" (1999, 246) from those in power, stating, "to see Asian history in terms of a narrow category of authoritarian values does little justice to the rich varieties of thought in Asian intellectual traditions" (Sen, 1999, 248). Cultural relativist arguments consistently under-represent women, supposed spokespersons of 'culture' ensure that women are persistently under-represented (Phillips, 2001, 13), falsely presenting a culture of "male dominance" (2001, 14). This shows us that cultural relativist arguments are often a shallow tool used to impede the application of human rights.

Unrepresentative manipulation of human rights arguments can be clearly seen in anti-imperialist rhetoric. In Zimbabwe, this argument is made constantly to deflect criticism from repressive domestic policies, hiding brutal oppression "behind the language of anti-imperialism" (Phimister & Raftopolous, 2004, 387). This rhetoric garnered support from African states, "in a misplaced sense of Pan-Africanist solidarity" (Phimister & Raftopolous, 2004, 399), clouding criticism of human rights abuses (Coyne & Ryan, 2009, 27). The brutality, corruption and "utter ruination" (Pham, 2008, 132) under Mugabe's regime makes it difficult to respect the legitimacy of his anti-imperialist argument.

Alternative Basis for Universal Human Rights

It is clear shallow arguments appealing to culture and sovereignty, as well as Western clumsiness and hypocrisy, have shielded human rights abuses from scrutiny. Donnelly argues both 'radical' cultural relativism and 'radical' universalism are misguided (1984, 403). Radical cultural relativism gives too much potential for abuse, with those in power able to dictate what determines 'culture' to hide abuses of power (Freeman, 2011, 120). Radical universalism is also a weak notion, dismissing culture entirely (Donnelly, 1984, 403). Cultural differences and the right to self-determination must be taken into account for human rights to be applicable (Mutua, 2008, 34), otherwise they will be irrelevant or rejected as imperialism (Ibid). Truly universal human rights require a theoretical basis which does not embrace 'radical' perspectives.

For human rights to be universal, it is crucial for them to be compatible with cultural differences. Universal human rights should not constitute a 'fixed' approach (Rengger, 2011, 1173); rights and community (culture) can and should "mutually constitute one another" (Ibid). Freeman argues there is no necessary incompatibility between communal values and individual rights (2011, 120). Globalisation has been key in generating a multi-culturalisation of human rights, making it a "truly universal project" (Mutua, 2007, 4). The human rights movement has been able to re-focus attention onto social and economic rights, giving it more legitimacy in the Third-World (Ibid). It is crucial for human rights to gain legitimacy by incorporating cross-cultural perspectives.

Dershowitz argues that existing theories of human rights do not aptly explain the wide-ranging promotion of rights

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seen today (In: Ramcharan, 2008, 16). The basis of rights need not have cultural or philosophical origins, but instead be a response to common injustices humanity has seen (Ramcharan, 2008, 17). Ramcharan believes Dershowitz's argument shows "humanity's collective experience with injustice constitutes a fruitful foundation on which to build a theory of rights" (Ibid). O'Byrne describes a modified Kantianism, with rights based on fundamental dignity "inherent in human beings, without distinction or exception" (2003, 42). All cultures have common histories of injustices, demands for human rights from oppressed populations often drive reform (Mahmud, 1993, 495). When the basis of rights is presented in these terms, it is fundamentally clear that they should be universally applied.

How Human Rights Can Be Universal

This forms a strong case for the universality of human rights, certain key factors could ensure this conception can be applied universally. An existing basis in international law provides legitimacy to the human rights movement and a tool to hold governments to account. The UDHR was formed with major influence from Non-Western states (Glendon, 2003, 38), giving it legitimacy as a universally-applicable document. This has allowed the UDHR to achieve "wide acceptance among diverse cultures" (Glendon, 2003, 27). The creation of the International Criminal Court is a major development in human rights law, being able to independently investigate and charge individuals for serious human rights violations (Cassese, 1999, 161). By ratifying the Rome Statute, states accept the Court's jurisdiction, thus showing moral and legal acceptance of the ICC's ideals (Plessis, 2008, 11). The legitimacy of the Court is grounded in its formulation by states and NGOs from every region, which Plessis believes shows "the existence of a social system built on universal respect for the idea of human rights" (2002, 115). The Court enjoys grass-roots support in Africa, where it is most active (Human Rights Watch, 2011). International agreements are a universal source of human rights standards, empowering civil society.

The international community, and specifically the West, can play a far more positive role in ensuring human rights are respected. The ending of the Cold War has removed "many impediments to more effective international human rights policies (Donnelly, 2003, 172), leading to numerous democratisations in Africa (Miguel, 2011). The West has played a more positive role in holding governments to account (Bujra, 2002, 37). Western embassies, UN agencies and NGOs play a significant role in monitoring human rights abuses (Ibid). Ayittey believes that the renewed push for human rights worldwide has, "[served] notice to tyrants that they can no longer butcher their people and hide it from the international community" (2005, 413). Bujra shows that authoritarian governments appear more constrained following enhanced foreign oversight (2002, 44). The international community can play a strong role in holding governments to account, providing legitimacy to domestic campaigns for human rights.

Civil society has played a crucial role in pushing for human rights worldwide. Civil society represents a legitimate conduit for human rights. Mahmud argues rights are better respected if they came from populations, not isolated leaders or foreign imposition (1993, 497). Following the Cold War, civil society has grown stronger and played a more influential role (Mutua, 2007, 4). Ayittey identifies the development of the 'Cheetah generation', a critical and reformist civil society, supporting accountability and human rights (2011, 236). Ghana is an example where civil society has put human rights on the agenda (Ayittey, 2011, 259). Civil society's scrutinising role has increased in influence; following election violence in Kenya, civil society pushed for a constitution grounded in human rights in 2010 (Greste, 2010): activist John Githongo stated, "the Kenyan people have imposed a constitution upon their rulers" (Royal African Society, 2010). Civil society represents the most legitimate and effective route for human rights to be universally realised.

In conclusion, conceptions of human rights based on collective histories of humanities' injustices make a strong case for the value of universal human rights, particularly in light of damaging manipulation to mainstream human rights theory. It is clear civil society will play a fundamental role in promoting and protecting human rights. If the international community maintains a positive, critical role and domestic pushes for human rights are legitimised by international law, human rights have the potential to be universal.

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