

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

This PDF is auto-generated for reference only. As such, it may contain some conversion errors and/or missing information. For all formal use please refer to the official version on the website, as linked below.

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

<https://www.e-ir.info/2014/04/25/western-human-rights-in-a-diverse-world-cultural-suppression-or-relativism/>

ANON, APR 25 2014

The Western cultural construct of human rights provides inherent and inalienable rights to all, regardless of culture and tradition. Non-Western cultures do restrict the application of human rights, but only when these rights culturally and traditionally breach the rights of their members. These cultural traditions, such as Sharia law and female circumcision, challenge the cultural foundations of human rights by providing alternative means of understanding the individual and their role in the broader community. As such, cultural relativists who support each culture's right to variation, even if it grossly abuses the rights of its members, are wrong to suggest human rights is a form of cultural imperialism. Human rights provide a means of enabling all of humanity with inalienable rights without regard to differences or cultural traditions, and as such international human rights law is almost universally supported by states.

This essay will first examine why the concept of human rights is considered a Western cultural construct, how it has evolved from the West, and why it is now a universal standard for all cultures. The second section will demonstrate how international human rights law protects cultural diversity and how cultural relativist arguments are used by states to justify behavior which abuses the rights of its citizens and to claim non-required adherence. Thirdly, an examination of Sharia law and human rights will be undertaken, demonstrating how the Western construct of human rights clashes with the non-Western construct of Sharia limiting the application of human rights. Lastly, female circumcision will be used to demonstrate the complexities of individual rights, as established in human rights, and collective rights, as established in many traditional cultures. Human rights are a Western cultural construct. They provide all with inalienable and inherent rights, and cultures which dispute the validity of human rights are those which abuse the human rights of their members, and are those which should change their practices.

A universal standard

There are a plethora of philosophies and theories pertaining to the rights of men, of women, of communities and of humans in the world. Some are modern, and some are traditional. One such theory, modern human rights, is the continuation of a long philosophical and ideological tradition, evolving over time from the Enlightenment (Falk 1992, 45). Whilst no longer an exclusively Western creation, the tradition of human rights is, and its characteristics remain, distinctively Western (Pettman 2010, 133). Indeed, the legacy of the Enlightenment in the development of modern human rights supersedes all other cultural influences (Ishay 2004, 7).

Principally developed in the West (Howard 1995, 84; Falk 1992, 45), modern human rights have been directly inspired by, and evolved from, two pivotal Western Declarations (Brown 1999, 44). Prior to the formulation of modern human rights were the 18th Century French and US Declarations, both of which provided guided aspects of the language and content of the cornerstone of modern human rights, the Universal Declaration of Human Rights (UDHR) (Brown 1999, 43; Kobilá 2003, 102). The French and US Declarations, as well as the UDHR, are all constructs and manifestations of Western modernist culture (Douzinas 2000, 1-2). The French Declaration of the Rights of Man and Citizen and the US's Declaration of Independence provided the foundational concept of inherent, inalienable human rights, now cemented within modern society as a central component of the UDHR (Hunt 2007, 17-19). Inherent, in so much as rights are awarded to all humans simply for being human, and inalienable, because

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

being human can be not lost, stolen or forfeited (Donnelly 1998, 18). The French Declaration's influence on the inherent qualities of 'man' can be seen when we compare Article 1 of the UDHR, which reads, "All humans beings are born free and equal in dignity and rights" (UN 1948), and Article 1 of the 1789 French Declaration which reads, "Men are born free and equal in dignity and rights" (National assembly of France, 1789; Hunt 2007, 17-18).

Both of these documents, whilst distinctively different in their awarding of rights to 'Men' and 'All humans', focus on the individual. The foundational value of the rights of the individual, pivotal to modern human rights, is also traceable to the Enlightenment (Howard 1992, 94). Abdullahi An-Na'im (1992, 23) in addressing the construction of modern human rights, argues that because the culture of the West was embedded within the consciousness and identity of the makers of human rights, the subsequent foundations of human rights are strongly Western in culture. Subsequently, the modern international human rights system was created when the United Nations General Assembly unanimously voted in support of the Universal Declaration of Human Rights in 1948 (UDHR) (Donnelly 1998, 5). In the postwar climate, and in the shadow of the great atrocities committed against nations and the individual (Boersema 2011, 380; Morsnik 1999, 36; Bell, Nathan and Peleg 2001, 4), the United Nations (UN) moved to establish a declaration guiding states' treatment of their citizens (Brown 1999, 5; Falk 2000, 6).

The UDHR formulated a notion of human rights, which, being significantly more egalitarian than its historical predecessors (Nickel 1987, 6-7), belonged to all people on the basis of their humanity alone (Boersema 2011, 367). The inclusion of women's rights, rights of Indigenous peoples, and the right to political participation are all testament to this (Nickel 1987, 7-8). The modern human rights structure has moved beyond the exclusive Declarations of the past, and whilst foundational elements have been maintained (Brown 1999, 43), human rights are strongly universal in content (Ishay 2004, 3). Modern human rights are set on the non-exclusive value of the dignity awarded to all individuals (Hasson 2003, 83; Donnelly 2007, 3). They are a universal affair which enshrines the dignity and well-being of every human being (Baderin 2003, 12).

The historical traditions and cultural influences of human rights are important, not only because they are now the basis of the monolithic legal construct of modern human rights, but also because not all cultures and traditions share the same values. Indeed, the secular, individualistic and rationalist components of human rights, attributable to Western cultural influences (Zion 1995, 211; Pettman 2010, 133-134), are not universal in the great diversity of cultures, and as such these qualities have the potential to isolate and disengage cultures that are not individualistic, secular or rationalist. Whilst both the French Declaration and UDHR state the inherent equality of all humans, some cultures, such as Hindu cultures, do not share this belief (An-Na'im, Gort, Jansen and Vroom 1995, ix). For instance, Hindus believe that birth is determined by karma, the accumulation of good and bad deeds in previous lives, and as such Hindu's can only interpret these claims within their own religious framework (An-Na'im, Gort, Jansen and Vroom 1995, ix). Furthermore, the inherent right of 'all humans', and as such equality between genders, is disputed by a range of African, Islamic and Western societies (Renteln 1985, 534).

The individualism of human rights, presents a host of complexities in non-individualistic, communal cultures, where traditionalists argue that human rights of the individual are 'inappropriate and irrelevant' in a communal setting (Howard 1995, 87). Indeed, human rights law only pertains to individual rights, not group rights (Donnelly 1990, 43), so much so that the individual is provided the rights to challenge societal and community norms in the realisation of their own desired life. As such, human rights protect the individual against society (Howard 1995, 8). The complexity of these rights—specifically the individual within the community, and the historical tradition and subsequently enshrined cultural values—is that not all nations and states prescribe to them. Indeed, the cultural differences are said to be so great between human rights and non-Western cultures that some states argue human rights are juxtaposed to their indigenous, traditional values and as such are not applicable.

Cultural diversity and cultural relativism

Human rights, whilst a Western cultural product, receive broad international state-based support, and most international human rights treaties are ratified almost universally (Donnelly and Howard 1987, 4). Internationally, the principal mechanism for implementing and enforcing human rights was, and remains, the state (Donnelly 2001, 12). Indeed, human rights only become meaningful when given a political context (Hunt 2007, 20; Kohen 2007, 132-133).

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

As such, they only exist when a state decides to implement them (Kobila 2003, 106).

It is important to note that pivotal human rights treaties receive broad, cross-cultural, support from the international community. The Convention on the Rights of the Child has 193 Parties (UN Treaty Collection (1) 2012), the Convention on the Elimination of All Forms of Discrimination Against Women has 187 parties (UN Treaty Collection (2) 2012) and the Convention on the Elimination of all Forms of Racial Discrimination has 175 state parties (UN Treaty Collection (3) 2012). All are ratified by a majority of states and as such demonstrate a general acceptance of the content and concept of human rights by states in the international community (Donnelly and Howard 1987, 4). As such, the UDHR continues to receive near universal formal acceptance by governments as a 'standard of control' to determine the acceptability of state behavior (Alston 1990, 7).

Importantly, despite the claims of Western cultural dominance within human rights, cultural rights are enshrined as a core component of the broader human rights construct (Thamilmaran 2003, 146). Underpinning these cultural rights is Article 27 of the UDHR, which states, "everyone has the right to freely participate in the cultural life of the community" (UN 1948). Furthermore, twenty years after the UDHR, the UN adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Although they were not ratified till 1976, both further established the role of cultural rights in the broader context of human rights (Thamilmaran 2003, 146).

It is important to note that these three documents are considered to form the International Bill of Human Rights (de Waart 1995, 45; McChesney 1992, 232), as they all establish and reinforce the importance of cultural rights, not just for majority culture but minority culture also, implying that no culture has the right to dominate another's culture (Office for the High Commissioner for Human Rights, 2012). Indeed, Article 27 of the ICCPR states that "in those States with ethnic, religious or linguistic minorities, persons belonging to such minorities shall not be denied the right to enjoy their own culture, to profess and practice their own religion, or to use their native language" (UN 1966). The importance of cultural rights is reinforced and given great contextual relevance when referenced in other UN treaties, such as Article 13(c) of the Convention on the Elimination of all Forms of Discrimination Against Women, which refers to a woman's "right to participate in recreational activities, sports and all aspects of cultural life" (UN 1979). Human rights and local culture are not incompatible. Human rights relate to a great diversity of cultures and assist communities to address concerns of great importance (Alston 1990, 7). Yet whilst these rights are essential in providing a host of cultures a means of protection and a means of articulating their concerns, they do not deconstruct the Western values of human rights, nor does it provide human rights with broad cultural legitimacy (An-Na'im 1992, 7).

Some argue that despite these reoccurring developments in cultural rights, the Western cultural components of human rights are incompatible with national practices rooted in indigenous, non-Western cultures (Kobila 2003, 103; Afshari 2001, 3). As such, some states do not support human rights law on the grounds that it suppresses and damages their own, non-Western culture (Afshari 2001, 3). Some cultural differences, such as equality between men and women and equal access to education, have restricted the degree to which both the ICCPR and the ICESCR have been ratified (Thamilmaran 2003, 148). Indeed, a range of Governments in Asia have argued that their states' cultural traditions and values, including family over the individual and welfare over freedom, are incompatible with human rights (Bell, Nathan and Peleg, 2001, 7). This sentiment was echoed by former Iranian representative to the UN, Said Rajai-Khorasani, who argued that as a Western construct, the UDHR was inappropriate for Muslims because it failed to recognise their cultural requirements, and as such Iran would have no hesitation to violate its provisions (Mayer 2007, 9).

The ratification of international human rights treaties has been restricted by the perceived cultural exclusivity of human rights (Thamilmaran 2003, 147). As such, Abdullahi An-Na'im (1992, 2), whilst not agreeing with the justification of the non-application of human rights within states, suggests that a 'cross-cultural approach to human rights may explain the discrepancies between theory and practice'. This argument of cultural relativism is on occasion cited to explain the non-applicability of human rights in non-Western states. Yet, equally as important, this same argument is also used by societies which continue to abuse the rights of their members.

Such is the case with some societies that practice Sharia law and justify their neglect of human rights on cultural

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

grounds (Baderin 2003, 11; Hoods 2001, 115). In Reza Afshari's (2003, 3) examination of human rights in Iran, he suggests that 'the argument of cultural relativism is strongest when the traditional patriarchal systems of authority is being challenged' suggesting that cultural relativism is often a smokescreen for the justification of a system that favours the powerful. This opinion was echoed by Iranian human rights lawyer and Noble Peace Laureate, Shirin Ebadi, (2004) who stated that 'the argument of cultural relativism is simply an excuse to continue to disregard and violate human rights'. An-Na'im (1992, 4) supports both of these statements, suggesting caution over the use of cultural relativism, ensuring that it is not used to excuse the abuses of human rights.

To demonstrate the dangers of cultural relativism, we need look no further than the Second World War. Even though an attempt use to cultural relativism as justification for atrocities, specifically those committed by the Germans, seems absurd, it would have been plausible in some cases (Droogers 1995, 80). Cultural relativism is, primarily, an ethical stance which assumes that no one culture can, or should, dominate the customs and beliefs of all others (Howard 1995, 52). Yet when taken to an extreme, relativists are critical of any outsider which passes judgment on a practice that is culturally grounded, and as such do not believe that human rights are relevant to cultures which do not share Western cultural values and beliefs (Howard 1995, 52-53).

Whilst cultural relativism may indeed act as a smokescreen for the ongoing exploitation of the many by the few, it is often more complicated than this and remains an important argument against the culturally Western human rights. Indeed, many non-Western philosophies and religions retain a strong community focus, with an emphasis on duties arising from strong social responsibilities, instead of inherent rights, none of which were part of the early development of modern human rights (Douzinas 2009). The ethical non-Western conceptions of human rights as non-individualistic, non-egalitarian and community based are juxtaposed to Western thinkers who view human rights as necessarily liberal, egalitarian, and individualistic (Chavret 1998, 524). As such, relativists reject many of the fundamental human rights as culturally naïve, ahistorical and even imperialistic (Bell, Nathan and Peleg 2001, 5). Indeed some argue that human rights are simply "Western values masquerading as universal concepts" (Bell, Nathan and Peleg 2001, 5). Whilst providing for cultural variation within large international human rights treaties and conventions, human rights are ultimately a construct embedded within Western culture. As such, in some societies, such as Islamic societies that operate under Sharia law, modern human rights are not compatible with important components of the traditional society, specifically those relating to punishment and gender equality.

Sharia law

Not all cultures prescribe to all the rights established within the UDHR and supporting international human rights law. Indeed, some cultural traditions include components that are juxtaposed to the rights provided within the modern human rights system. Societies that operate under Islamic Sharia law are one such example (An-Naim 1984, 75). This is not to say that Islam or the Koran are non-compatible with human rights. They are (Jawad 1998, 5; An-Naim 1984, 75), but the conditions imposed on women and the means of punishment against offenders for a range of crimes under Sharia law are not compatible with modern human rights (Kobila 2003, 104). In the centuries following the prophet Muhammad's death a set of laws were developed that were intended to organise Islamic authority (Dalacoura 2003, 43). These laws, which are combination of religious, historical and social factors, form Sharia law (Mayer 2007, 114; Dalacoura 2003, 43-46; An-Na'im 1992, 33). Sharia law and human rights, on specific issues, greatly diverge and are indeed non-compatible (Mayer 2007, 2). This includes equality between genders, which is explicitly denied by Sharia law (Dalacoura 2003, 46), so much so that even states with liberal interpretations of Sharia law are reluctant to support human rights treaty's pertaining to gender equality (Cook 1990, 688).

Within Sharia law women receive only minimal rights, far less than men do, and a great inequality exists between the genders (Dalacoura 2003, 46). A man can use physical force against his wife if he so chooses; in a separation the man has exclusive rights over children; and in court the testimony of a man is equal to that of two women (Dalacoura 2003, 46). Gender-based violence is considered a violation of human rights (Felice 1996, 32) yet they are all are a breach of a woman's human right to equality. Indeed, some Iranian Islamic feminists argue that 'throughout history men inappropriately defined the parameters of Sharia law, in an effort to keep women secluded and subordinate' (Afshari 2001, 255).

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

In 1981 and in accordance with Sharia law, the Islamic Council developed the Universal Islamic Declaration of Human Rights (UIDHR). Distinctively different from the UDHR, which is founded on individualism, the UIDHR is founded on the divine qualities of humans, as is the Muslim perception of humanity, and is collective and sacred (Pettman 2010, 133-134). Farhat Haq (2001, 249) in 'Negotiating Culture and Human Rights' argues that 'it is not possible to develop an adequate human rights construct from Sharia law, as Sharia law is non-individualistic and focuses on duties rather than rights'. As such the UIDHR fails to adequately resolve the unequal rights between men and women, specifically Articles 19 and 20, which address the rights of family and married women, both of which are stipulated to be in accordance with sharia law and both of which fail to provide adequate rights to women (Dalacoura 2003, 51). Furthermore, Article 6 (b) encapsulates the rights of women within the contexts of family and religion, providing women with only their collective right (Baderni 2003, 60) and failing to provide them with inherent, inalienable rights. As such the rights provided to women in the UIDHR also fail to replicate the rights enshrined within international law, such as those in ICCPR (Mayer 1994, 330).

Islamic human rights schemes have used Islamic law and criteria, embedded in restrictive patriarchal values, to restrict women's rights (Mayer 2007, 113). Another issue of divergence between human rights and Sharia law is the treatment of individuals who are convicted of illegal practices under Sharia law. This treatment breaches human rights conditions pertaining to cruel or inhumane treatment or punishment, which is prohibited by regional instruments (An-Na'im 1992, 30) and by Article 5 of the UDHR (UN 1948), the ICCPR, CEDAW and the Convention against Torture (Kao 2011, 94). Under Sharia law, offenders of theft, unlawful sexual intercourse and other crimes can be sentenced to whipping, stoning and exact retribution (an eye for an eye) (An-Na'im 1992, 32-4), carried out by state Sharia courts (Kao 2011, 94). Whilst some Muslim states, such as Afghanistan and Egypt, have ratified conventions pertaining to cruel, inhuman or degrading treatment or punishment, the definition of cruel, inhuman or degrading treatment or punishment differs greatly depending on a community's observance of Sharia law (An-Na'im, Deng, Ghai and Baxi 2009, 86). In so much as those that follow Sharia law do not necessarily share the western cultural understanding of cruel, inhuman or degrading treatment or punishment, primarily because punishment sanctioned by Sharia law absolves the offender of more punishment in the next life (An-Na'im, Deng, Ghai and Baxi 2009, 88; An-Na'im 1992, 35).

Furthermore, human judgment of the appropriateness or cruelty of actions enabled under Sharia is simply not socially or religiously permissible (An-Na'im 1992, 35). However, the sheer severity of criminal punishments under Sharia law, obviously and unavoidably infringes human rights law (Mayer 1993, 47; An-Na'im, Deng, Ghai and Baxi 2009, 87). As such some Western analysts have argued that Sharia law fails to provide basic provisions for human rights, citing these severe punishments as example, have argued that Sharia law and the values of human rights are not compatible (Baderin 2003, 10). The modern human rights construct does not exist under Sharia law, and given the cultural divide it cannot (Mayer 2007, 117). Sharia law provides a significantly different perspective, and an incompatible perspective, from the modern human rights construct. The difference in culture is so pronounced that unless there is a significant shift in the understanding of Sharia law then innate and inalienable rights, such as those developed in human rights, will not be realized within Sharia societies. Profound cultural differences between non-Western cultures and the Western human rights often revolve around the role of the individual within community, a difference well demonstrated through the example of female circumcision.

Individual vs. collective rights: female circumcision

The Western construct of human rights is based on the principle of inalienable, innate rights that are awarded to all individual human beings. Human rights are founded on the rights of the individual, and as such individuals, not groups, have internationally recognized human rights (Donnelly 1990, 43). This presents a point of difference for societies whose traditions emphasise community rights and not the individual (Bell, Nathan and Peleg 2001, 5).

Female circumcision is one such important cultural tradition (Gallo, Tita & Vivani 2006, 50). The term female circumcision is the collective name given to several different traditional practices, all of which include cutting of the female genitals (Rahman and Toubia 2000, 3) for religious or other non-therapeutic reasons (Fineschi and Turillazzi 2007, 98). The practice in some African cultures is an indispensable prerequisite to marriage and an essential component of a women's traditional role within her community (Gallo, Tita & Vivani 2006, 50). The tradition is a highly

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

contentious one, as many Western women view the act of female circumcision as a 'brutal perpetuation of patriarchal domination of women' (Fraser 1994, 148). As such, Ashley Montague (1991, 1) in her article 'Mutilated Humanity' argues that female circumcision is an 'archaic ritual mutilation that has no justification and no place in civilized society'. Indeed some view female circumcision as an act of such terrible violence against women that it is indistinguishable from murder, rape, physical abuse and forced prostitution (Abusharaf 2006, 10).

It is also considered to be a breach of human rights (Rahman and Toubia 2000, 3), violating three pivotal protections: the rights of the child, the right to health and the integrity of the body (CRLP 2002, 69-80). As such, a total of seven international human rights documents are argued to be infringed by the act of female circumcision. These include the UDHR, The United Nations Declaration on Violence Against Women and the United Nations High Commission on Refugees Statement Against Gender-Based Violence (Abusharaf 2006, 10). Opponents of female circumcision believe it to be a form of child abuse, and as such a breach of the rights established within the Declaration of the Rights of the Child, specifically the right of a child to 'develop physically in a normal and healthy manner' (Boulware-Miller 1986, 164). Furthermore, the UN have recognized female circumcision to be an act of sexual assault, and as such believe it to be a form of torture and a violation of the individual's human rights (Boyle 2001, 8).

Yet the practice of female circumcision is no longer isolated to traditional communities, and now present in a host of Western nations (Fineschi and Turillazzi 2007, 98). Some of these nations have now developed legislation banning the act of female circumcision, such as in Germany where the act is also ground for asylum (Boyle 2001, 8). Importantly, and juxtaposed to the views of traditionalists (Howard 1995, 4), Section 2(2) of the 1985 Act to prohibit female circumcision in Great Britain stated that the Parliament was not persuaded by arguments that female circumcision was somehow mandated by custom, and thus deserving of some special status (Fraser 1994, 148). This Western understanding of the individual's role within a community conflict with the traditional African understanding of rights, which were founded on the community, on collective rights, where the individual interacted with the community on the basis of obligations and duties (Ibhawoh 2004, 32). This is a tradition that appears incompatible with the rule of the Parliament of Great Britain.

Within modern human rights, the fundamental unit of society is not, nor can it be, the family or community but rather must be the individual (Ibhawoh 2004, 31). Human rights do have important collective dimensions and rights, as demonstrated earlier, but human rights, by their very nature, are rights of the individual (Felice 1996, 19; Donnelly 1990, 39). Whilst some human rights, such as rights to assembly (Burger 1990, 72), can only be exercised collectively, it is the individual's rights which remain the subject of dispute, not the collective's (Donnelly 1990, 44; Burger 1990, 72). Indeed, collective rights may be viewed as important, as in the Universal Islamic Declaration of Human Rights, but according to international human rights law they remain meaningless if they disregard individual human rights (Dalacoura 2003, 6). Individuals may hold rights both as an individual and as a member of a community; such as cultural rights which are held by members of that culture, or family rights, which are held by members of a family (Donnelly 1990, 43). But the culture or family as collectives do not possess rights.

The same can be said for rights awarded to religious or linguistic minorities to preserve their religion and language (Burger 1990, 72). These rights are collective in nature, but the beneficiary is the individual (Triggs 1988, 156). As such the priority of human rights is to preserve the rights of the individual, and thus communities that are not based on the free and equal participation of all sane, adult members, and thus violate the human rights of its members are in need of change (Howard 1995, 8). This emphasis on the individual is a continuation of the historical Western cultural influence on human rights (Pettman 2010, 132-134). Traditionalists however, despite the foundations of human rights, do not believe that traditional societies, which maintain the values of an orderly society by violating human rights, should be required to change (Howard 1995, 4). Thus the argument of collective and traditional rights are interwoven into the arguments surrounding female circumcision. Whilst some may argue that Western civilization does not have the moral right to establish its values and rights into a universal standards, by which all others must abide (Milne 1986, 4). It is inescapable that the rights developed within human rights are provided to all equally and thus no one can, or should, without a just judicial decision, be denied enjoyment of those rights (Howard 1995, 1). Furthermore, human rights are awarded to all regardless of whether or not they fulfill their community obligations (Howard 1995, 1). As such, arguments pertaining to moral hegemony or cultural damage resulting from human rights are insufficient, as community obligations that exist on the grounds of a gross abuse and violation of another's human

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

rights do not deserve moral or international protection (Howard 1995, 8).

The human rights approach to culture builds on the claim that culture is in fact a quality possessed exclusively by the individual, and that which affects his or hers ability to enjoy the rights awarded to them, on the grounds of being human (Almqvist 2006, 8). Thus protection of the individual is indeed protection of the culture. Cultural traditions which do not award the equal protection of all of the cultures participants are not cultural traditions which should be protected. Regardless of the importance of traditional cultural norms, modern human rights provides protection to all members of all cultures equally, and thus is not limited by its own historical cultural influences.

Conclusions

Human rights are a Western cultural concept. The implications of this for non-Western cultures is, at times, significant. Despite international human rights law receiving almost universal ratification by states, non-Western and Western, diverse cultural traditions limit the application of human rights. Sharia law and the cultural beliefs associated with punishment of certain crimes demonstrates the cultural complexities surrounding human rights. The difficulties of enforcing an individualistic rights system in communities that believe in collective rights can be seen in the issues surrounding female circumcision. The argument advanced by many of these cultural traditions, cultural relativism, is a complex argument which carries some worth. However, cultural traditions that restrict or violate the rights of its members, such Sharia law, often claim cultural relativism as justification for human rights abuses.

This is insufficient. Cultures which violate the rights of their members and claim tradition are, as demonstrated by female circumcision and Sharia, often oppressive, patriarchal cultures whose members are in need of human rights. As such, inherent and inalienable rights are provided to all humans, regardless of which cultural tradition they are born into, and cultures which violate these rights behind the cloak of cultural relativism are deserving of cultural intrusion by human rights. Despite the complexities surrounding the application of human rights in a culturally diverse world, it remains that the rights awarded to the individual, within modern human rights, remain paramount, and no cultural variation can transcend their importance.

Bibliography

Abusharaf, R. (2006) 'Introduction'. In R. Abusharaf (ed) *Female Circumcision: Multicultural Perspectives*. University of Philadelphia Press, Philadelphia.

Afshari, R. 2001. *Human Rights in Iran: The Abuse of Cultural Relativism*. University of Pennsylvania Press. USA.

Almqvist, J. 2006. *Human rights, culture, and the rule of law*. Hart, Michigan.

Alston, P (1990) 'The Fortieth Anniversary of the Universal Declaration of Human Rights: A Time More for Relection than for Celebration'. In J. Berting, P. Baehr, L. Burger, C. Flinterman, R. Kroes, B. de Klerk, C. van Minned and K. Vanderwal (eds) *Human Rights in a Pluralistic World: Individuals and Collectives*. Meckler, London.

An-Naim, A (1984) 'A Modern Approach to Human Rights in Islam: Foundations and Implications for Africa'. In C. Welch and R. Meltzer (eds), *Human Rights and Development in Africa*. State University of New York Press, New York.

An-Na'im, A (1992) 'Introduction'. In A. An-Na'im (ed) *Human Rights in a Cross Cultural Perspective: A Quest for Consensus*. University of Pennsylvania Press, Philadelphia.

An-Na'im, A. (1992) 'Towards a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment'. In A. An-Na'im (ed) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. University of Pennsylvania Press, Philadelphia.

An-Na'im, A, Gort, J, Jansen, H and Vroom, H (1995) 'Preface'. In A. An-Na'im, J. Gort, H. Jansen and H. Vroom

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

(eds) *Human Rights and Religious Values: An Uneasy Relationship?* Eerdmans Publishing, Michigan.

An-Na'im, A, Deng, F, Ghai, Y & Baxi, Y (2009) Human Rights Southern Voices. In W. Twining (ed) *Law in Context*. Cambridge University Press, Cambridge.

Baderin, M. 2003. *International Human Rights and Islamic Law*. Oxford University Press, Oxford.

Beitz, C. R. (2001) 'Human Rights as a Common Concern', *American Political Science Review*, 95, 269-282.

Bell, L. Nathan, A and Peleg, I (2001) Introduction: Culture and Human Rights. In L. Bell, A. Nathan and I. Peleg (eds) *Negotiating Culture and Human Rights*. Columbia University Press, New York.

Boersema, D. 2011. *Philosophy of Human Rights*. Westview Press. USA.

Boulware-Miller, K (1985) 'Female Circumcision: Challenges to the Practice as a Human Rights Violation'. *Harvard Women's Law Journal* 8, 155-177

Boyle, G (2001) 'Ending the Forced Genital Cutting of Children and the Violation of their Human Rights'. In G. Denniston, F. Hodges and M. Milos (eds) *Understanding Circumcision: A Multi-disciplinary Approach to a Multi-dimensional Problem*. Kluwer Academic Publishers, New York.

Brown, C. (1999) *Universal Human Rights: A Critique*. In T. Dunne and N. Wheeler (eds) *Human Rights in Global Politics*. Cambridge University Press, Cambridge.

Burger, J. (1990) The Function of Human Rights as Individual and Collective Rights. In J. Berting, P. Baehr, J. Burger, C. Flinterman, R. Kroes, B. de Klerk, C. van Minned and K. Vanderwal (eds) *Human Rights in a Pluralistic World: Individuals and Collectives*. Meckler, London.

Center for Reproductive Law and Policy, 2002. *Bringing Rights to Bear: An Analysis of the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights*. New York.

Chavret, J 1998, 'The Possibility of a cosmopolitan Ethical Order based on the Idea of Universal Human Rights', *Journal of International Studies*, 27, 523-541

Cook, R (1990) 'Reservation to the Convention on the Elimination of All Forms of Discrimination Against Women', *Virginia Journal of International Law*, 30.

Dalacoura, K. 2003. *Islam, Liberalism and Human Rights: Implications for International Relations*. I. B. Tauris, London.

De Waart, P (1995) 'International Order and Human Rights: A Matter of Good Governance'. In A. An-Na'im, J. Gort, H. Jensen and H. Vroom (eds) *Human Rights and Religious Values: An Uneasy Relationship?* Eerdmans Publishing, Amsterdam.

Donnelly, J. (1990) 'Human Rights, Individual Rights and Collective Rights'. In J. Berting, P. Baehr, J. Burger, C. Flinterman, R. Kroes, B. de Klerk, C. van Minned and K. Vanderwal (eds) *Human Rights in a Pluralistic World: Individuals and Collectives*. Meckler, London.

Donnelly, J. (2001) 'The Universal Declaration Model of Human Rights: A Liberal Defense', *Human Rights Working Papers*, Graduate School of International Studies, University of Denver.

Donnelly, J. 2007. *International Human Rights: Dilemmas in World Politics (Third edition)*. Westview Press.

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

Donnelly, J & Howards, R (1987) 'Introduction', In J. Donnelly and R.Howards (eds) *International Handbook of Human Rights*, Greenwood press, New York.

Douzinan, C. 2000. *The End of Human Rights: Critical Legal Thought at the Turn of the Century* . Hart Publishing, Oxford.

Douzinan, C. 2009. *Are Rights Universal?* The Guardian, London, viewed on 17 May 2012. <http://www.guardian.co.uk/commentisfree/libertycentral/2009/mar/11/liberty-central-deconstructing-rights>

Droogers, A (1995) 'Cultural Relativism and universal Human Rights?' In A. An-Na'im, J. Gort, H. Jensen and H. Vroom ' *Human Rights and Religious Values: An Uneasy Relationship?*' Eerdmans Publishing, Amsterdam.

Falk, R (1992) 'Cultural Foundations for the International Protection of Human Rights'. In A, An-Na'im (ed) *Human Rights in a Cross Cultural Perspective: A Quest for Consensus*. University of Pennsylvania Press, Philadelphia.

Felice, W. 1996. *Taking Suffering Seriously: The Importance of Collective Human Rights* . State University of New York Press, New York.

Fineschi, V and Turillazzi, E (2007) ' Female genital mutilation: the ethical impact of the new Italian law. *Journal Med Ethics* 33, 98-101.

Fraser, D (1994) 'Heart of darkness: the criminalisation of female genital mutilation', *Current Issues in Criminal Justice*, 6 (1), 148-151.

Gallo, P. Tita, E & Vivani, E (2006) ' At the Roots of Ethnic Female Genital Mutilation: Preliminary Report'. In G. Denniston, P. Gallo, F. Hodges, M. Milos and F. Vivani (eds) *Bodily integrity and the politics of circumcision: culture, controversy and change*. Springer, New York.

Haq, F (2001) 'Jihad Over Human Rights, Human Rights as Jihad: Clash of Universals'. In L. Bell, A. Nathan and I. Peleg (eds) *Negotiating Culture and Human Rights*. Columbia University Press, New York.

Hasson, K. 2003. 'Religious Liberty and Human Dignity: A Tale of Two Declarations'. *Harvard Journal of Law & Public Policy* 27 (1), 81-92.

Hood, S (2001) Rights Hunting in Non-Western Traditions. In L. Bell, A. Nathan and I. Peleg (eds) *Negotiating Culture and Human Rights*. Columbia University Press, New York.

Howard, R (1992) ' Dignity, Community and Human Rights'. In A. An-Na'im (ed) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. University of Pennsylvania Press, USA.

Howard, R. 1995. *Human Rights and the Search for the Community*. Westview Press, United States of America.

Hunt, L. 2007. *Inventing Human Rights: A History*. WW. Norton & Company, New York.

Ibhawoh, B (2004) 'Restraining Universalism: Africanist Perspectives on Cultural Relativism in the Human Rights Discourse'. In. P. Zeleza and P. McConnaughay (eds) *Human Rights, the Rule of Law, and Development in Africa* . University of Pennsylvania Press. Philadelphia.

Ishay, M. 2004. *The History of Human Rights; From Ancient Times to the Globalisation Era* . University of California Press. London

Jawad, H. 1998. *The Rights of Women in Islam: An Authentic Approach*. Macmillan Press, Great Britain.

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

- Kao, G. 2011. *Ground Human Rights in a Pluralist World*. Georgetown University Press, Washington.
- Kobila, J (2003) 'Comparative practice on human rights: North South'. In J. Coicaud, M. Doyle and A. Gardner (eds) *The globalization of human rights*. United Nations University Press, Hong Kong. 89-116
- Kohen, A. 2007. *In Defence of Human rights: A non-religious grounding in a pluralistic world*. Routledge. Oxon.
- Mayer, A (1993) 'A Critique of An-Na'im's Assessment of Islamic Criminal Justice'. In T. Lindholm and K. Vogt (eds), *Islamic law Reform and Human Rights: Challenges and Rejoinders*.
- Mayer, A (1994) 'Universal viruses Islamic Human Rights: A Clash of Cultures or a Clash with a Construct' *Michigan Journal of International Law*, 15.
- Mayer, A. 2007. *Islam And Human Rights: Tradition and Policts (4th edition)*. Westview Press, USA.
- McChesney, A (1992) 'Aboriginal Communities, Aboriginal Rights, and the Human Right System of Canada'. In A. An-Na'im (ed) *Human Rights in a Cross Cultural Perspective: A Quest for Consensus*. University of Pennsylvania Press, Philadelphia.
- Milne, A. 1986. *Human Rights and Human Diversity: An Essay in the philosophy of Human Rights*. State university of New York Press. Hong Kong.
- Montague, A (1995) 'Mutilated Humanity'. *The Humanist*, 55(4).
- Morsnik, J. 1999. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. University of Pennsylvania Press. Philadelphia.
- National Assembly of France (1789) *Declaration of the Rights of Man*. Viewed on 3 June 2012. http://avalon.law.yale.edu/18th_century/rightsof.asp
- Nickel, J. 1987. *Making Sense of Human Rights: Philosophical Reflection on the Universal Declaration of Human Rights*. University of California Press, London.
- Office for the High Commissioner for Human Rights, 2012. Universal Declaration of Human Rights: In six cross-cutting themes. View on 10 June 2012. www.ohchr.org/EN/UDHR/Pages/CrossCuttingThemes.aspx
- Pettman, R. 2010. *World Affairs: An Analytical Overview*. World Scientific. Singapore.
- Rahman, A and Toubia, N. 2000. *Female Genital Mutilation: A Guide To Laws and Policies Worldwide*. Zed Books. London
- Remarks made by Shirin Ebadi (2004), *The Progressive*, September. Viewed on 16 June 2012. http://www.progressive.org/mag_intv0904
- Renteln, A (1985) 'The Unanswered Challenge of Relativism and the Consequences for Human Rights'. *Human Rights Quarterly* 7(4).
- Sachedina, A. 2009. *Islam and the Challenges of Human Rights*. Oxford University Press, New York.
- Thamilmaran, T (2003) Cultural Rights in International Law. In A. Goonaskera, C. Hamelink, V. Iyer (eds) *Cultural Rights in a Global World*. Eastern University Press, Singapore.
- Triggs, G (1988) 'The rights of 'Peoples' and Individual Rights: Conflict or Harmony?' In J, Crawford (ed) *The Rights*

Western Human Rights in a Diverse World: Cultural Suppression or Relativism?

Written by anon

of Peoples. Clarendon Press, Oxford.

United Nations 1969. International Convention on the Elimination of all Forms of Racial Discrimination. Office of the United High Commissioner for Human Rights, viewed on 12 June 2012. <http://www2.ohchr.org/english/law/cerd.htm>

United Nations 1989. Convention on the Rights of the Child. Office of the United High Commissioner for Human Rights, viewed on 12 June 2012. <http://www2.ohchr.org/english/law/crc.htm>

United Nations 1979. Convention on the Elimination of all Forms of Discrimination against Women. Division for the Advancement of Women, viewed on 12 June 2012. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

United Nations 1966. International Covenant on Civil and Political Rights. Office of the United High Commissioner for Human Rights, viewed on 12 June 2012. <http://www2.ohchr.org/english/law/ccpr.htm>

United Nations Treaty Collection 2012. International Convention on the Elimination of All Forms of Racial Discrimination. United Nations, viewed on 10 June 2012. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en

United Nations Treaty Collection 2012. Conventions on the Rights of the Child. United Nations, viewed on 10 June 2012. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

United Nations Treaty Collection 2012. Convention on the Elimination on All Forms of Discrimination against Women. United Nations, viewed on 10 June 2012. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

Zion, J (1995) 'North American Indian Perspectives'. In A. An-Na'im (ed) *Human Rights in a Cross Cultural Perspective: A Quest for Consensus*. University of Pennsylvania Press, Philadelphia.

—

Written by: author wishes to remain private

Written at: University of Melbourne

Written for: Juliet Rogers

Date written: July 2013

About the author:

The author/s of this content have been verified by E-international Relations, but wish to remain anonymous.