

UNIVERSALITY VS. CULTURAL RELATIVISM: RE-EXAMINING THE FOUNDATIONS OF INTERNATIONAL HUMAN RIGHTS LAW

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Abstract

International Human Rights Law (IHRL) is founded upon the principle that human rights are universal, inalienable, and inherent to all human beings. This claim of universality, however, has been consistently challenged by cultural relativism, which argues that moral values and rights are culturally contingent and must be understood within specific social, historical, and cultural contexts. The tension between these two perspectives has shaped the evolution, interpretation, and enforcement of international human rights norms. This paper undertakes a comprehensive re-examination of the philosophical, historical, and legal foundations of universality and cultural relativism in international human rights law. It traces the origins of universal human rights from natural law and Enlightenment philosophy to post-World War II international instruments, particularly the Universal Declaration of Human Rights. Simultaneously, it analyses cultural relativist critiques emerging from Asia, Africa, and the Islamic world, highlighting concerns of Western dominance and cultural imperialism. The paper critically evaluates the strengths and limitations of both approaches and argues that neither absolute universality nor extreme cultural relativism provides an adequate framework for protecting human dignity. It proposes a reconciliatory model of contextual universalism, which recognises core universal human rights while allowing culturally sensitive modes of implementation. The study concludes that such a balanced approach is essential for enhancing the legitimacy, inclusiveness, and effectiveness of international human rights law in a culturally pluralistic world.

Key Words: Universality, Cultural Relativism, International Human Rights Law, Human Dignity, UDHR, Contextual Universalism

1. INTRODUCTION

International human rights law represents one of the most ambitious normative projects undertaken by the global community. It seeks to regulate the conduct of states towards individuals by establishing minimum standards of dignity, freedom, and equality. At its core

lies the assertion that human rights are universal—that all human beings, regardless of nationality, culture, religion, or political system, are entitled to the same fundamental rights.

Despite its moral appeal, the universality claim has been the subject of sustained criticism. Cultural relativists argue that human rights norms are not value-neutral but reflect Western liberal traditions, particularly individualism and secularism. According to this view, the universal application of human rights disregards cultural diversity and risks imposing external values on non-Western societies.

The universality versus cultural relativism debate is not merely academic; it has significant implications for treaty interpretation, state compliance, enforcement mechanisms, and the legitimacy of international human rights institutions. This paper seeks to re-examine the foundations of international human rights law through a critical analysis of this debate. It explores whether universal human rights can coexist with cultural pluralism and how international law can balance respect for cultural diversity with the protection of fundamental human dignity.

2. PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHTS UNIVERSALITY

2.1 Natural Law Theory

The intellectual roots of universality lie in natural law theory, which posits that certain rights and moral principles are inherent in human nature and exist independently of positive law. Classical thinkers such as Aristotle and Cicero conceived of natural law as a universal moral order governing human conduct.¹

In the modern era, natural law theory was developed by philosophers such as Hugo Grotius, who argued that natural law would retain its validity even in the absence of divine authority.² This secularisation of natural law laid the foundation for modern human rights discourse by grounding rights in human rationality and moral equality.

2.2 Enlightenment Philosophy and Individual Rights

Enlightenment thinkers played a decisive role in shaping the concept of universal human rights. John Locke argued that individuals possess natural rights to life, liberty, and property, which pre-exist the state and limit its authority.³ These ideas profoundly influenced constitutional developments in Europe and America.

Jean-Jacques Rousseau's concept of popular sovereignty and social contract further reinforced the idea that political authority derives from the consent of free and equal individuals. The Enlightenment emphasis on reason, autonomy, and equality contributed to the universalist claim that rights belong to all human beings by virtue of their humanity.

¹Cicero, *De Legibus* (c. 52 BC).

²Hugo Grotius, *De Jure Belli ac Pacis* (1625).

³John Locke, *Two Treatises of Government* (1689).

2.3 Kantian Ethics and Human Dignity

Immanuel Kant provided a powerful moral foundation for universality through his concept of human dignity. Kant argued that human beings possess intrinsic worth and must always be treated as ends in themselves, never merely as means.⁴ This categorical imperative transcends cultural and political differences, reinforcing the idea that certain moral obligations are universally binding.

3. HISTORICAL DEVELOPMENT OF UNIVERSALITY IN INTERNATIONAL HUMAN RIGHTS LAW

3.1 The Impact of World War II

The modern human rights movement emerged in response to the atrocities committed during World War II, including genocide, war crimes, and crimes against humanity. These events exposed the dangers of absolute state sovereignty and highlighted the need for international standards to protect individuals from state abuse.

The establishment of the United Nations in 1945 marked a turning point in international law. The UN Charter affirmed faith in fundamental human rights and the dignity and worth of the human person, signalling a shift from state-centric to individual-centric international law.⁵

3.2 Universal Declaration of Human Rights

The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 represents a landmark achievement in the history of international law. Article 1 of the UDHR proclaims that “all human beings are born free and equal in dignity and rights.”⁶ The Declaration encompasses civil, political, economic, social, and cultural rights, reflecting a comprehensive vision of human dignity.

Although the UDHR is not legally binding, it has acquired immense normative authority and is widely regarded as customary international law. It serves as the foundation for subsequent human rights treaties and national constitutions.

3.3 Treaty-Based Universality

The universality principle was further institutionalised through binding treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together with the UDHR, these instruments form the International Bill of Human Rights.

⁴Immanuel Kant, *Groundwork of the Metaphysics of Morals* (1785).

⁵Charter of the United Nations, 1945, Preamble.

⁶Universal Declaration of Human Rights, 1948, Art. 1.

These treaties impose legally binding obligations on states and establish monitoring mechanisms to ensure compliance, reinforcing the idea that human rights transcend national and cultural boundaries.

4. CULTURAL RELATIVISM: CONCEPTUAL FRAMEWORK

4.1 Meaning and Origins

Cultural relativism is rooted in anthropological theory, which emphasises the importance of understanding cultures on their own terms. Anthropologists such as Franz Boas argued that moral values and social practices are culturally specific and cannot be evaluated using external standards.⁷

Applied to human rights, cultural relativism contends that rights and moral norms are socially constructed and reflect particular cultural contexts. Therefore, universal human rights standards are seen as inappropriate or illegitimate when imposed on culturally diverse societies.

4.2 Cultural Relativism in Human Rights Discourse

In the human rights context, cultural relativism challenges the universality claim by arguing that international human rights law reflects Western liberal values. Critics point out that the UDHR was drafted primarily by Western powers and embodies concepts such as individual autonomy and secularism, which may not align with non-Western traditions.

4.3 Asian, African, and Islamic Perspectives

Non-Western critiques of universality often emphasise community, harmony, and collective responsibility. In Asia, the “Asian values” debate argues that social order and economic development should take precedence over individual civil and political rights.⁸

Similarly, African scholars highlight the communal orientation of African societies, which prioritise collective rights and duties. Islamic critiques argue that human rights must be interpreted in accordance with Sharia law, reflecting divine rather than secular authority.⁹

5. CULTURAL RELATIVISM AND STATE PRACTICE

5.1 Sovereignty and Cultural Justifications

Cultural relativism is frequently invoked by states to justify deviations from international human rights obligations. Governments often claim that certain rights are incompatible with their cultural or religious traditions, thereby asserting sovereignty over international norms.

⁷Franz Boas, *The Mind of Primitive Man* (1911).

⁸Amartya Sen, “Human Rights and Asian Values,” *New Republic* (1997).

⁹Abdullahi Ahmed An-Na’im, *Islam and the Secular State* (2008).

5.2 Treaty Reservations

Reservations to human rights treaties provide a practical manifestation of cultural relativism. Several states have entered reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), citing conflicts with religious or customary law.¹⁰ Such reservations raise concerns about the fragmentation and weakening of universal human rights standards.

6. CRITIQUE OF CULTURAL RELATIVISM

6.1 Risk of Abuse

A major criticism of cultural relativism is that it can be used to legitimise human rights violations. Practices such as female genital mutilation, honour killings, and discrimination against women are often defended on cultural grounds, despite causing severe harm.

6.2 Internal Diversity and Power Structures

Cultures are not homogeneous. Cultural relativism often ignores internal dissent and power imbalances within societies. Marginalised groups, including women and minorities, may challenge dominant cultural norms and seek protection through universal human rights standards.

6.3 Universalism as Minimum Protection

Universal human rights can be understood as minimum standards necessary to protect human dignity, rather than as a comprehensive moral code. This perspective allows for cultural diversity while rejecting practices that violate fundamental rights.

7. Critique of Absolute Universality

While universality provides a strong moral foundation, rigid universalism has its own limitations. Critics argue that it risks cultural imperialism by imposing Western norms on diverse societies. Moreover, a one-size-fits-all approach may fail to account for social, economic, and historical differences affecting the realisation of rights.

8. TOWARDS CONTEXTUAL UNIVERSALISM

8.1 Concept and Rationale

Contextual universalism seeks to reconcile universality with cultural diversity. It recognises that certain core rights—such as the right to life, freedom from torture, and equality before the law—are universal, while allowing flexibility in their interpretation and implementation.

¹⁰CEDAW Reservations Database, United Nations.

8.2 Margin of Appreciation Doctrine

The margin of appreciation doctrine, developed by the European Court of Human Rights, allows states a degree of discretion in implementing human rights obligations based on cultural and social contexts. This doctrine demonstrates how international law can accommodate diversity without abandoning universal principles.

8.3 Dialogue and Participatory Interpretation

Contextual universalism emphasises dialogue and participation. Engaging local communities, civil society, and indigenous groups in the interpretation of human rights norms enhances their legitimacy and effectiveness.

9. ROLE OF INTERNATIONAL AND REGIONAL INSTITUTIONS

9.1 United Nations Mechanisms

UN treaty bodies and the Human Rights Council play a crucial role in interpreting and applying human rights norms. Through constructive dialogue and periodic review, these institutions promote contextual application while maintaining universal standards.

9.2 Regional Human Rights Systems

Regional human rights systems demonstrate the adaptability of universal norms. The African Charter on Human and Peoples' Rights incorporates collective rights and duties, reflecting African cultural values while adhering to universal principles.

10. CONCLUSION

The debate between universality and cultural relativism lies at the heart of international human rights law. While universality provides a moral and legal foundation for protecting human dignity, cultural relativism highlights the importance of respecting diversity and avoiding cultural imperialism.

This paper argues that neither absolute universality nor extreme cultural relativism offers a satisfactory framework. Instead, contextual universalism provides a balanced approach that recognises core universal rights while allowing culturally sensitive implementation. By re-examining the foundations of international human rights law through this lens, the international community can move towards a more inclusive, legitimate, and effective human rights regime in an increasingly pluralistic world.