



Universal Human Rights and Cultural Diversity

By Hilde Hey

A review of Human Rights: New Perspectives, New Realities, edited by Adamantia Pollis and Peter Schwab. Boulder, CO: Lynne Rienner, 2000. 259pp.

The debate as to whether human rights should be considered universal or culturally relative has come a long way. In 1947, when the Commission on Human Rights considered proposals for formulating a declaration on basic human rights, the American Anthropological Association submitted a statement expressing concern about the universality of the proposed declaration. The association's main argument was that ideas about rights and wrongs and good and evil that exist in one society are incompatible with the ideas of rights and wrongs and good and evil in many other societies. Since then, however, significant advances have been made in narrowing the gap between advocates of universality and cultural relativism. In 1993, with the adoption of the Vienna Declaration and Programme of Action at the World Conference on Human Rights, a start was made with integrating culture into the universality of human rights. Paragraph five of the Vienna Declaration reads:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. (United Nations 1993)

A similar trend can be seen in the academic literature. Adamantia Pollis and Peter Schwab, who in their earlier collections took strong issue with the universality of human rights (Pollis and Schwab, 1979; Schwab and Pollis, 1982), are presently coming to new perspectives on human rights, incorporating cultural elements into a universal concept of human rights, rather than directly challenging the notion of universality. Such an approach to human rights opens new areas of research and enables more attention to be paid to cultural, economic, political and social differences and their implications for implementing internationally recognized human rights.

In their new edited book Human Rights: New Perspectives, New Realities, Pollis and Schwab argue that a new universalism is emerging because of globalization. What, though, do they mean by a new universalism? In their introduction Pollis and Schwab claim, that “significant developments have taken place, both theoretically and politically, with regard to human rights.” (p. 1) They argue that in practice social, economic and cultural rights, and civil and political rights are now seen as interdependent. At the same time, however, they argue that that “there is a growing recognition of cultural diversity and hence of varying concepts of rights,” (p. 2) within this new universalism.

In the first chapter, Pollis argues that developments such as the international criminal tribunals in the Netherlands and in Tanzania and the attempts made to try General Pinochet in Chile, Spain and the United Kingdom “reflect an emerging consensus on international responsibility and accountability for the most heinous crimes against humanity, thereby restricting the claim of state sovereignty. The precedents established are potentially of great consequence for the universalization of human rights.” (p. 26) She claims that although these examples involve the right to life, the “research agenda...has its premise in the belief that it will lead to a reconstructed universalism, which extends beyond the right to life and will have salience for all societies and cultures.” (p. 26-27) But this chapter, under the title “A New Universalism,” neglects to provide the reader with a definition of the central term. It is unclear how this vision differs from the “old” universal notion of human rights advocated by, for example, Jack Donnelly (1989). Thus an important opportunity to push the debate forward is missed.

The claim to be dealing with “new realities” is also problematic. The authors of chapters 2 to 9, rather than deal with ‘new realities’ or new human rights issues, (p. 3) actually focus on the problems that arise when dealing with human rights implementation within specific political or cultural settings. The topics vary from peasant justice in Peru, to human rights in post-communist Russia, to women’s rights in Islam, to constitutionalism and Asian values. This diversity, and the reflections on particular settings, provides much of the interest in the book. The insight provided into the ways in which local cultural, economic, political and social particularities affect human rights implementation¹ is the principal contribution of the book.

John Gitlitz in his chapter, “Peasant Justice and Respect for Human Rights: Peru,” explains how communities in the Peruvian Andes, in the absence of a local police force, organized local patrols (*rondas*) to administer justice. According to Gitlitz, *ronda* justice, although effective, quick, fair and compassionate, has elements of abuse similar to the state judicial system. As a result of their use of force, the *rondas* have come under criticism from the state judicial system and from elements within the local community. This criticism, however, has provoked an internal discussion in the *rondas* that has led to an internal human rights debate. (p. 54) The case of the *rondas* thus provides an interesting

¹ Michael Freeman's chapter, “Liberal Democracy and Minority Rights,” is one that does not fit within this pattern. His approach is primarily philosophical, addressing the problem of accommodating minority rights within the liberal democratic thinking of human rights. Although a most interesting chapter, it is the only one that does not address the implementation of human rights within a local setting.

example of an isolated community with little or no access to state institutions developing and implementing human rights norms as a means to regulate rights and wrongs within their community.

The chapters by Michael Davis on Asian values and Zehra Arat on women's rights in Islamic societies develop parallel critiques of relativistic arguments. The arguments that human rights do not coincide with Asian values and that women's rights need to be restricted in Islam are presented as doctrines advocated by leaders or the authorities rather than by the people in these societies. Arat further argues that if Islamic societies are to implement human rights there is a need for what Davis calls the indigenization of human rights (a topic to which we will return below).

Barbara Rose Johnston in her chapter, "Human Environmental Rights," explores a very different sort of intersection between local and international forces in the implementation of human rights. She points out that around the world, environmental issues with human rights ramifications (for example, the link between clean drinking water and the right to health) have led to social movements playing an increasing role in the politics of human rights. Environmental issues are leading people to demand respect for their rights and in that process to become politically more aware and better organized. Furthermore, while these social movements are placing environmental issues on political agendas, their members are indirectly implementing their right to political participation.

The chapters by Peter Juviler ("Political Community in Postcommunist Russia"), Juan Méndez and Javier Mariezcurrena ("The Consolidation of Democracy and Human Rights in Latin America") and Michael Davis ("Human Rights, Political Values and Development in East Asia") are linked by the argument that failures to implement internationally recognized human rights cannot be explained by indigenous cultural beliefs that reject human rights norms. Rather, Juviler claims that "the slowly fading legacy of the collapsed Soviet political community" hampers the implementation of human rights and not a "primordial culture." (p. 132) Similarly, Méndez and Mariezcurrena argue that, in contrast to the International Bill of Human Rights, democracy has always been part of the original documents of the Inter-American System. Latin American countries have failed in their implementation of human rights because of their poor democratic systems, not a cultural rejection of democracy. Leaders have not addressed issues of economic and social exclusion, which has led to political exclusion and enhanced poverty, (p. 176) thus weakening democratic institutions.

Davis in his chapter on the concept of Asian values, as was noted above, introduces the notion of indigenization. He argues that in many Asian contexts, "[c]onstitutionalism serves both as a conduit for sharing international and local human rights and political values and the embodiment of those values." (p. 147) In other words, constitutions need not be seen so much as constraints on the government but rather as a means for enabling international norms to become indigenized and thereby more adequately implemented. It is unfortunate that the editors did not pick up on this notion of indigenization, because it is a common thread that runs through many of the chapters of the book. For example also the chapter by Roger Clark, "How International Human Rights Law Affects Domestic Law," examines the influence of international human rights norms on the local implementation of human rights law.

Schwab and Pollis must be commended for the different articles they brought together. But it is disappointing that they did not pursue the theme of indigenization in their conclusion. Rather Schwab and Pollis in that chapter turn to the impact of globalization and consider globalization in a rather narrow economic sense, in contrast to the broader notion Pollis uses in her introductory chapter. They would have done well to define explicitly the different ways in which they use the term globalization, and then pursue its differing impacts on human rights. Instead they devote too much space to the history of (economic) globalization and much to little on the actual relation between economic globalization and human rights violations.

The volume is also disappointing because Pollis and Schwab do not delve very deeply into the topic of universality, nor do they explore in much depth the relationship between human rights theory and human rights practice. The book thus leaves the reader wanting more on how they understand the relationship between the universality of human rights norms and the cultural diversity of human rights implementation more explicitly. The notion of a 'new universality' thus remains intriguing, and worth further exploration, but unfortunately underdeveloped.

References

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