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**Cultural Relativism in the Age of Modernity: Are Human Rights Still
up for Debate?**

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Cultural Relativism in the Age of Modernity: Are Human Rights Still up for Debate?

Abstract: *Modernity has given rise to the state as the primary unit in international relations moving away from the primacy of more traditional units such as the clergy, family, etc. Given this shift, the protections offered by these traditional units for individuals have shifted to the responsibility of the state. However, these protections are not a given. Individual rights can be compromised by the state for its overall benefit as states work to maintain and increase power in a globalized world.*

The concept of human rights has been a response to the primacy of the state, outlining what the state should not do to its citizens and what it is compelled to provide. Though most states have embraced modernity when it comes to the primacy of the state and globalized markets, many have not been so quick to implement human rights. Some leaders argue that these rights are an invasion of their sovereignty and impose Western values that don't fit in with their own cultures. While cultural arguments can be valid, they can also be used by human rights violators as an excuse not to implement human rights norms. While the facets of modernity (the strong state, globalization and capitalism) that benefit elites are readily accepted, the response to that same modernity (human rights) is sometimes rejected as a form of Western imperialism.

Various non-Western states many embraced some parts of modernity while rejecting others. Cultural relativism is often the reason for their rejection of human rights but sometimes it is just an excuse. China, Ghana, Iran and Japan all have embraced the modern international community as far as economics and global markets. However, some of these countries have issues with human rights abuses. How true are these arguments of cultural relativism given these states' embrace of other aspects of modernity?

Introduction

Many scholars view human rights as a logical result of modernity. The Enlightenment, which sparked the modern age in the Western world, has led to the primacy of the state over traditional institutions. With the move to a state-system, traditional institutions have been pushed aside isolating people from their communities. Modernity has also led to the adoption of globalized, capitalist markets. This has further alienated people from the traditional protections of the family, church, etc. as they move away from these communities to find employment. Combining this isolation with the unparalleled power of the state makes humans more vulnerable to abuse by their governments. The concept of human rights is a response to that vulnerability. Given the power of the modern state, it is both the most capable of abusing *and* protecting human dignity. This makes the state responsible for safeguarding citizens through protecting human rights. As such, human rights are seen by many as the best protector of human dignity in a modern state system. Though conceived of in the West, human rights are said to be useful wherever the perils of the modern state may be a threat to human dignity.

Still, some non-Western state leaders may argue against the universal applicability of human rights on the basis of culture. Given the plurality of cultures throughout the world, it would make sense that there might be a variety of conceptions of human dignity. With this in mind, human rights may seem to be a norm imposed on the rest of the world by the West. However, if human rights are indeed a response to the modern state, this argument loses its teeth. Most parts of the world, Western and non-Western alike, have accepted the modern state system. Many non-Western leaders and elites have in fact thrived in the age of the modern state and the globalized economy. All

of this makes it difficult to see where cultural relativism fits in. If the state system and capitalism apply to a culture, why wouldn't human rights? All three are products of modernity. This thesis will make the argument that since human rights are a response to modernity and most states have adopted the various characteristics of modernity, human rights apply to them regardless of culture.

Many who are skeptical of Western style human rights argue that they are too individualistic and not reflective of their non-Western values. However, the Universal Declaration of Human Rights (UDHR), the UN's most important treaty related to human rights, was signed by both Western and non-Western countries and drafted by representatives from all over the world. As such, both individualistic values and collectivistic values are represented. You can see this in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. While civil and political rights are seen as being more individualistic, economic, social and cultural rights are viewed as collectivistic. Though all of these rights are supposed to be indivisible, there is a clear tension between them and how they are prioritized by different states and cultures.

Modernity and Human Rights

The nation-state has become the “dominant societal paradigm” (Beck 2000, 80). This means that the state became the primary actor in the international system. Even as cooperation between states became more important, state sovereignty remained paramount. Individual rights are often tied to national sovereignty. A nation needed to be able to govern itself in order to be able to secure the human rights of its people (Parekh 2009, 23). This became dangerous in later centuries when multiple nations – ethnic groups, peoples, etc.—existed within the same state. For instance, Nazi Germany was able to take away the citizenship of Jewish citizens and therefore their human rights did not need to be respected by the state. The Nazis felt they were doing this in the interest of their 'nation' (23). In this way, state sovereignty can be a threat to human dignity as states are selective about which rights and whose rights are respected. What violates the human rights of some within the state may actually benefit the rest of its citizens. Violating some human rights to the benefit of others may also be in the interest of the state. However, human rights are not based on what is good for the state. Instead human rights represent something "over and above" sovereignty (41).

Much state cooperation takes place through globalized trade as capitalist markets have taken hold throughout the world. Though “the modern state is a product of modern Europe,” by the end of World War II, the state system had also been adopted by non-Western societies. This made it a near-universal concept (Pollis 1996, 321). In some cases, Western colonial powers had established the modern state in non-Western societies. In others, “earlier forms of governance were...transformed into modern states”

(321). These states, no matter how they were formed, have been involved in globalization and capitalism which has had many adverse effects on their citizens.

In many cases, globalization has not lead to an increase in equality. One of the characteristics of globalization, increased efficiency, has led to many around the world becoming increasingly marginalized (Lindgren Alves 2000, 484). In the modern age, the workforce “had to be maintained with minimal living conditions,” pushing people away from their traditional communities (484). With the breakdown of traditional communities, the concept of the autonomous individual was created. Modernity tore down old power structures such as the family and feudalism increasing the role of the individual. Individuals were “released from the fixed social status and rigid role-hierarchy of the pre-capitalist past” (Anderson 1984, 98). However, this new freedom also led to increased alienation and vulnerability to exploitation. People "could no longer rely on their place and station of birth to grant their identity" (Parekh 2009, 22). This rise in individualism also meant that social, familial and religious groups could no longer guarantee a person's natural rights. Less powerful individuals, without the protection of their community were subjected to even more repression by the state. At the same time, without the community’s protection human rights could only be guaranteed by the state. Capitalism further alienated the individual from his/her community allowing opportunities for suppression by the state (Berkday 1993, 117). As “powerful and penetrating (capitalist) markets and (sovereign, bureaucratic) states disrupted, destroyed or radically transformed ‘traditional’ communities,” human rights became necessary. As people were separated from their traditional protections, new threats to their human dignity arose (Donnelly 2007, 287).

Though values of human dignity have been found historically, the “practices that aim to realize those values” are fairly new (Donnelly 2007, 284). Human rights aim to outline how states should treat their citizens. Traditionally, both Western and non-Western societies lacked these rights. Human rights developed in the modern West as a response to modernity rather than due to any Western culture or ideals. The “spread of modern markets and states has globalized the same threats” that the West faced to peoples throughout the world (287). Thus, human rights are applicable wherever modernity has taken place, not just where Western culture has taken hold. Many of the Western liberal democracies of today were formerly medieval Christian societies. If these societies, which were quite reluctant to embrace human rights, can adopt and internalize human rights norms, it stands to reason that non-Western societies can do the same (Donnelly 2007, 290). Human rights remain the best way to “assure human dignity” in this world of modern states and globalized markets (Donnelly 2007, 288).

Downside of Development

While economic development can be positive, it can also be an instrument of oppression for many marginalized groups. Many developing states say that they will begin to respect human rights once economic development has been achieved. Some even say that Western-style democracy logically follows development (Jordan 1996, 217). However, there is not much evidence for this argument.

The Right to Development (DRD) was established by the UN in 1986. It indicates that individual citizens should benefit from their country’s development. However, it does not give individuals much of a role in deciding the direction of that development (Jordan 1996, 220). Instead that role is handed over to the state. Though

human rights tend to focus on the individual, the DRD is skewed towards the rights of the state. As long as the state is acting in its interest of development, individuals need not participate in its decisions. This leaves vulnerable populations, such as women, in precarious situations where their needs can be disregarded for the sake of development. Many states like China who have been reluctant to sign onto other human rights treaties, have gladly supported the DRD. This ardent support by China would seem to complicate the assumption that the DRD was only meant to “clarify the meaning of the human right to development” (223). If this was the case, China might have been more enthusiastic about the other UN treaties on human rights.

All of the UN human rights treaties start with the premise of capitalism and go on from there. There really is no questioning of this type of development. In fact, it is assumed that states must adopt capitalism in order to develop (Jordan 1996, 224). As such, all citizens will have to engage with capitalism in order to survive. Given this reality, actions must be taken to put all people on an equal playing field despite the ills of capitalism. Human rights address these ills and identify how the playing field can be made fairer.

The downsides of modern development are not merely in the abstract. We can see a clear example by turning to the developing world. In the push for development, many states turn to the international realm for foreign investment. As domestic markets become more entangled with international ones, states have less control over their individual economies (Fairbrother & Mccorquodale 1999, 738). In turn, this can have effects on state sovereignty as states are subject to the ebbs and flows of the international economy. States are not the only major actors in the international economy either, as 51

of the world's 100 largest economies are transnational corporations (Fairbrother & Mccorquodale 1999, 738). While outside influence on domestic economies is not a novel concept, the degree to which the international economy has an influence has grown.

Economic growth can be seen as conducive to economic rights. After all, a state that is doing well economically will be better able to provide its citizens with economic necessities such as jobs, food and a place to live. However, economic growth in the developing world is not always this straight forward. For instance, much of Africa depends on foreign investment for economic growth. This means that African governments must cater to the whims of foreign investors in order to achieve growth. Foreign investors tend to finance projects geared towards infrastructure rather than projects geared towards economic rights such as healthcare (Fairbrother & Mccorquodale 1999, 743). Some of the projects foreign investors fund may even cause harm to citizens in developing countries by blocking access to clean water or taking away land needed for farming (744).

Investors, even those from reputable organizations such as the World Bank and International Monetary Fund (IMF), may make decisions without considering the well-being of people on the ground. Since many African states depend on this investment, they may be more subject to the short-sighted decision-making of these investors. For instance, international economic institutions such as the IMF invest money in Africa. However, these investments come with harsh stipulations. These stipulations sometimes include cutting back on government spending. Unfortunately, in many African countries the government is the state's largest employer, so this would mean cutting back on government jobs. It can also mean cutting back on educational programs that were

formerly funded by the government. In turn, the economic rights of those losing their jobs and education are being violated as a result of foreign investment (Fairbrother & Mccorquodale 1999, 746). Economic globalization can be a breeding ground for exploitation. While the state may experience economic growth as a whole, this may be to the detriment of the actual citizens.

The power of the IMF to dictate how a government runs also infringes upon that state's sovereignty. States are supposed to be responsible for ensuring that their citizens' human rights are being respected. The effects of foreign investment essentially take this power away from the state. The IMF and other international economic institutions tend to see the state only through the prism of economics. A state is only as successful as its economic markets in their view. The reforms these institutions suggest define success in terms of their groups' "own economic philosophies, rather than in terms of the social welfare or the protections of human rights of the people in the [s]tate" (Fairbrother & Mccorquodale 1999, 748).

However, modernity does not just consist of the market economy and capitalism. When a state imports modernity, there are widespread effects for society as a whole. When developing countries "import" Western capitalism and consumerism, they are also importing some of the problems that come along with it. These problems may already exist in a country but capitalism can be an exacerbating factor (Jordan 1996, 233). Since capitalism tends to be beneficial to elites, it continues to be imported (233). It also gets imported in ways that perpetuate the existing class structures to keep elites in power and allow them to gain the most from the new economic system. In an ideal world, the benefits accrued by the elites would trickle down to the poor, but this does not always

happen in reality. Elite groups tend to get these economic benefits before others and then work to make sure they keep them.

Citizens within the state are forced to "alter their traditional lifestyles radically" which changes the societal dynamic (Jordan 1996, 268). These changes can have positive effects, but they are often quite negative. The only way to avoid these negative effects would be for developing states to demand that foreign investors adjust their tactics to the local culture before they are allowed to enter. Given the competition for investment in the developing world, however, this is highly unlikely. A first step, however, can be to acknowledge the negative role that development has played in the lives of marginalized groups. Rather than emphasizing how people can be enveloped into development, more can be done to examine how development is actually occurring to make sure that human rights violations are not inherent in the developing process.

Much is made of the benefits of development and modernization. However, this development has led to further exploitation of citizens, especially those at the margins of society (racial minorities, women, etc.). Indigenous elites take advantage of development to entrench their already significant advantages. International economic institutions and transnational corporations take advantage of developing states' dependence on their aid and investment to encourage policies that harm citizens in the name of economic development. Governments focus on economic development and neglect other types of human rights. In chasing after foreign investment, they allow and even encourage the exploitation of their citizens. Some may argue that development, modernization and capitalism themselves are the problem and that human rights are merely treating the symptoms of these systems rather than curing the disease. They may say that a new

international system itself is needed. Whether or not that is so goes beyond the scope of this paper. The argument here is whether or not, given the widespread prevalence of modernization and the market economy, human rights are applicable wherever this economy has taken hold, no matter the culture of a state.

Cultural Relativism

While the modern state system has spread throughout the world, the Western concept of human rights has failed to proliferate in the same manner. Sovereignty remains the key characteristic of the modern state. While new states may sign onto human rights treaties, they often violate the tenets of these treaties and make arguments of sovereignty when others criticize them (Pollis 1996, 321). These states may also claim that “cultural distinctiveness” means that Western human rights do not apply to them (322). Herein lies the contradiction of using the Western construct of the modern state’s sovereignty while negating the Western construct of human rights.

Contradiction notwithstanding, it is true that the push for human rights can be seen as a challenge to sovereignty. This challenge becomes more evident as intervention into domestic affairs by foreign governments becomes more acceptable for human rights motives (Beck 2000, 82). In a way, a government that violates human rights “forfeit(s) the recognition of its sovereignty” as well (82). Of course, this shift is limited to those times when other countries are willing to intervene. However, this scrutiny by other states is also something to which states have consented. International law is binding because it is consented to by ratifying states. Only those that consent can be fully held accountable to international law on human rights. Likely, a state would only consent to scrutiny of its human rights practices if they already fit within the standards defined by international law which the state had a hand in drafting (Binder 1999, 211). State authority is also argued to be derived from the consent of its individual citizens. So, it is ultimately at the behest of these citizens that international law is enacted (213).

The Universal Declaration of Human Rights (UDHR) is international law's most important treaty related to international human rights. Before the UDHR, the protection of human rights was solely the responsibility of the state. After the atrocities committed during WWII, there was a push to change this. The UDHR was a recognition that there was a "tendency of states to abuse absolute power," so international human rights protections were necessary (Zechenter 1997, 319). The original adoption of the UDHR was not completely consensual since 8 states abstained from voting on it. States who later signed onto the Declaration had no role in drafting it and complained that it was a product of the West (Lindgren Alves 2000, 481). However, these states' *citizens* quickly began using the language of the UDHR in their own struggles for freedom. At the World Conference on Human Rights in Vienna in 1993, representatives from 170 countries also voted by consensus for the implementation of human rights norms. This has made the case for universal human rights even stronger (482).

Claims of cultural relativism are often made, but these ignore the ability of culture to change as well as the prospect of variation within culture (Zechenter 1997, 327). Cultural relativism can also overemphasize group rights to the detriment of the individual (328). Elites in many developing countries have "recognized the political usefulness of [cultural] relativism" and have used it as an excuse to repress their citizens (Zechenter 1997, 338). While universal human rights need not be uniform, they are useful as a "floor below which no society can stoop in the treatment of its citizens" (Zechenter 1997, 341).

There can also be translation between different cultures. The language of the human rights regime is taken from the international realm and translated so that it is

meaningful on the local level. This process is called vernacularization. The people who translate are known as intermediaries who understand both the international human rights regime as well as the local situation (Merry 2006, 39). Vernacularization can be both positive and negative. While it can make human rights more applicable to local citizen's lives, it can also completely whitewash the original intent of human rights.

Intermediaries must make the case that human rights are not as foreign as locals may think. However, if they make the case *too* well, people may think that their cultural practice may not have to change so much after all (Merry 2006, 41). Intermediaries can be distrusted by those on either side as they may be accused of misrepresenting what they are translating. Intermediaries may also face pushback from local authorities and elites who wish to maintain the status quo. In the end, the work of intermediaries is extremely important as they translate local issues into the more powerful language of international human rights. Once translated, other states may be more apt to respond to these issues. They also translate the international human rights regime into language that can be more easily understood and locally applicable. This illustrates that human rights need not be limited to the cultures within which they originated. They can be translated into terms that make sense to people all over the world. Though the process is not fool-proof, this does not mean that it is futile.

While the relativity of cultures is a fact, cultural relativism can underestimate the effect of international human rights norms. There is no longer any "pure culture", untouched by the West in existence. Most societies have been "subject to change and distortion by external influence" (Tharoor 1998, 3). This change includes human rights norms. Just because a tradition is practiced within a culture does not automatically make

it morally valid. Cultures are capable of “moral learning or adaptation” causing them to change over time (Donnelly 2007, 295). Even members within the same society struggle over culture and what is right and wrong. Culture should not be “accorded the status of a metanorm which trumps rights” (Alston 1994, 20). Some cultural practices (child slavery, female infanticide) cannot be reconciled even within the bounds of culture. Often cultural relativists refrain from criticizing practices in other cultures that they would object to within their own cultures. Specifically looking at gender inequality, they are “willing to accept and rationalize male domination...just because it takes place in a different culture” (Berkday 1993, 120).

Many of the cultural norms that non-Western leaders claim to be protecting were imposed by Western invaders during colonial times. For example, in pre-colonial Africa, women had avenues to express themselves and play a role in society. In post-colonial Africa, newly implemented taxation meant men were forced to work outside the home to generate income. Women were relegated to roles around the home and in the production of food. Community structures were replaced with imperialistic ones which implemented and reinforced strict gender roles. Colonists invested in educational programs which reinforced European gender roles where women were relegated to domestic responsibilities (Berger 2016, 47). When women began moving into urban centers leading to equal proportions of women and men in cities, colonists saw “greater female independence” as a societal ill (47). Colonists created traditions which further imposed Western gender roles on colonized Africans. Even the territorial boundaries in Africa were drawn up by colonists not on the basis of the situation on the ground, but for the convenience of the colonial powers. The culturally arbitrary ways these boundaries were

drawn has led to cultural conflict in Africa up to the present day (Ibhawoh 2000, 845-846). Many of the ‘traditions’ described above are used in cultural relativism arguments today (Penna & Campbell 1998, 13-14). This just goes to show that culture is created and as such can change over time.

While the nation state may have been imposed by colonists, its structure has remained in place even when those colonists left. The modern state has been imposed “cutting across tribal boundaries and conventions” in various non-Western countries (Tharoor 1998, 3). Therefore, it is difficult to make the argument that “tribal traditions should be applied to judge the human rights conduct” of a modern state rather than utilizing international human rights norms (Tharoor 1998, 3). Many times, the post-colonial state is run by those who have been educated in the West and are elites far-removed from their ‘traditional’ societies. This means that there are multiple cultural structures operating at once within a country and there “may be no national culture” at all (Binder 1999, 220). In the absence of a national culture, how can human rights be applied in a culturally sensitive way?

Human rights need not be implemented uniformly as there is space for local particularity. Human rights are the best protection not only against the modern state but also against all power structures in general (family, church, etc.). They protect us from the “arbitrary or unwarranted use of power to control or interfere in people’s lives” (Goodhart 2008, 190). In this view, human rights can be used for anyone facing any type of oppression. This is what makes human rights legitimate, not their universality. Arguments of universality can allow excuses for human rights violators. Rather it is the global appeal of human rights that make them universal and applicable to anyone battling

oppression. As human rights become more widely inclusive, the more people they are bound to appeal to which increases their legitimacy. Though we are not all the same or equal, through human rights we come together and mutually agree to treat each other equally. Rather than being natural, human rights are created. They are a 'political or intersubjective' commitment that we make to each other (Parekh 2009, 34). Ideally, human rights should be a promise that we make to each other based on our shared world and humanity rather than just a shared culture.

Nowadays, arguing against human rights solely based on cultural relativism has become less relevant for non-Western leaders. Now governments excuse human rights violations by saying they are responding to domestic turmoil (Lindgren Alves 2000, 483). Similarly, non-Western leaders may argue that they are violating human rights in the interest of development. Leaders may say that they are temporarily violating political and civil rights in order to exercise the state's right to develop. In turn, they will be able to provide for their citizens' economic and social rights. They may argue that without these economic and social rights, political and civil rights don't mean much (Habermas 1998, 166). The conflation of development with authoritarianism can be exacerbated by international financial institutions such as the WTO and the IMF.

International economic institutions may seem to push for democratic governance before they invest, but what they really look for is "political stability" and the rule of law (Fairbrother & Mccorquodale 1999, 754). Strong governments are often the most able to meet the stipulations that institutions place on funding. These governments also tend to be more authoritarian than democratic (755). Authoritarian governments are not as accountable to their citizens and so can implement the harsh policies of investors without

facing backlash from citizens. This type of government does not guarantee development, however, despite the IMF and WTO's practices. There are many policies that experts have agreed on that aid in economic development and authoritarianism is not one of them. Human rights are also not an antithesis to development. Thus, there is no real reason to prioritize economic rights over political and civil rights. Additionally, while some developing countries that violate human rights may be successful, there is often the case of successful states that do not violate human rights (Tharoor 1998, 5).

Case Studies

The Universal Declaration of Human Rights was drafted in the wake of the Holocaust and on the heels of "anti-colonialist struggles" for self-determination (Afshari 2015, 857). Anti-colonialist leaders pushed to abandon traditional markers of their cultures in an attempt to install the institutions of the modern state. However, they argued against the concept of universal human rights viewing them as an imposition of the West. In this way, they embraced the modern state without implementing the "needed safeguards" against modern state abuses (Afshari 2015, 858-859). Especially for the developing world the "experiences gained from living under the modern state system have been both traumatic and customs-shattering" (861). This is in large part due to developing countries having to adopt the institutions of the modern state more quickly than their developed counterparts. Many also did so, initially, at the prompting of their colonizers.

In dealing with the modern state and market economy that are ever-shifting, the modern concept of culture was created by the West to be a steadying force (Afshari 2015, 867). As such this concept is fairly new being embraced by states as they adopted the modern state. Looking specifically at four non-Western states – Iran, Ghana, China and Japan – it is interesting to see how they have approached and reacted to modernity as it relates to human rights in very different ways.

At first, Iran adopted the state system quickly and tried to shed the cultural markers of its past in order to join the West. This initial push led them to ignore human rights in service of the economic development of the state. After the Islamic Revolution of 1979, however, this changed slightly. The new Islamist leaders continued to push for

economic development, but this time they ignored human rights in service of Islamic culture. They use this ‘culture’ to rebel against Western norms while continuing to benefit from institutional structures that originated in the West, such as the modern state.

Ghana, similar to many African states, had the state system imposed upon it by European colonizers. Capitalism has also been foisted upon Africa. In the case of Ghana, much of this capital came from the IMF via their Structural Adjustment Program. These programs have been implemented in many developing countries throughout Africa. As capitalism allows for the “freer movement of capital,” African states compete with one another by slashing standards and workers’ rights in order to attract foreign investors (Mohan & Holland 2001, 191). However, development without consideration of adverse effects can be disastrous for everyday Africans. Development must be “tempered by the prevailing social and political conditions” (Mohan & Holland 2001, 183). While Ghana’s GDP did increase under the SAP, so did political and civil repression by an authoritarian government. These economic advantages also did not trickle down to everyday Ghanaians.

China has forged a different trajectory. The Chinese government continues to push back against traditional cultural markers in the interest of development. Human rights are said to be not important to citizens, because they are too busy to worry about them. They are supposedly more concerned with the development of the Chinese economy. China’s deeply integrated economic relationship with the West often allows them to slip out from any pressure regarding their human rights violations. Any criticism they may receive related to human rights, is argued to be a Western imposition designed to impede Chinese economic development.

Japan, different from many East Asian countries, has managed to successfully adapt to the modern state and globalization. They have done so by recreating the traditional communities of the past within the modern workplace. Since their citizens are suffering less than others from the isolation of modernity, human rights have not been as necessary in Japan. They have signed onto human rights treaties and don't seem to violate them. However, the adaptations they've made to modernity seem to have prevented many Japanese people from reacting negatively to the modern state. Therefore, it is difficult to tell if Japan is violating human rights by repressing dissent or if its citizens never felt the need to dissent in the first place.

Iran

Before the rise of the Islamic Empire in the middle East, Iran was a part of the Persian empire (Strong 1997, 129). In 651 A.D., Muslim Arabs conquered Iran bringing their religion to the region. However, Iran retains cultural vestiges of its Persian origins to this day. We can see this in the push and pull between the secular and religious sectors of the Iranian population (Strong 1997, 130). From the 14th century on, there was a power balancing act between the Shah, the secular governmental leader, and the *ulama*, or the Muslim clergy (130). As time went on, the influence of these religious leaders only grew. During the Constitutional Revolution of 1906, the *ulama* helped depose the Shah and bring a new family into power (131). Though they did not manage to curtail the shah's powers at this point, support for their position was increasing.

In 1925, the *ulama* chose a new shah, Reza Khan, to take charge. Shah Reza, however, promoted secularist reforms that many Iranians were not ready to embrace. Many of his reforms related to women's rights such as allowing women to vote. Shah

Reza felt that women's inclusion in society was necessary for Iran "to compete as a world player" (Miller 1996, 782). However, many Iranians, even women, rejected these changes as challenging their religious beliefs. Eventually Shah Reza was deposed and replaced by his son Shah Mohammed. However, Shah Mohammed continued many of the practices began by his father. So, when a cleric named Sayyid Ruhallah Khomeini began speaking out against the actions of the Shah, this religious leader gained a large following. When Shah Mohammed was also deposed, Khomeini held a referendum asking whether Iran should become an Islamic Republic. The referendum was supported by a majority of Iranians leading to the Iranian Constitution of 1979 (Strong 1997, 133).

Though Iran has three branches of government (executive, legislative and judicial) similar to many democracies, it also has a fourth, referred to as the Council of Guardians. The other three branches can be overruled if the Council decides their actions are out of line with Islamic principles. Ultimately all four of these branches have the main goal of monitoring, legislating and enforcing Islamic principles. Members of the government must also take oaths that they will uphold these principles (Strong 1997, 141-143). Above even the Council of Guardians is the Supreme Jurisprudent or Supreme Leader who is "uniquely infallible" and holds the highest authority in both the political and religious realms (144). Khomeini was the Supreme Leader from 1979 until he died in 1989.

As an Islamic Republic, the Iranian state does quite a bit to ensure that Iranians are adhering to their interpretation of Islam. For example, during the time of the revolution, women were seen as the "symbols of decadence and consumerism" that was prevalent under the shah (Razavi 2006, 1225). Women are also said to have "lost their

female identity” as a result of globalization (Berkday 1993, 121). As such they had to be brought back in line. As soon as Khomeini came into power, he revoked many of the laws written under the Shah that had encouraged women's rights. Instead, these laws were replaced by requirements for women to wear the veil. Women could also no longer work in jobs where they might encounter men (Miller 1996, 784).

Leaders in Iran argue against the applicability of Western human rights, including women’s rights, on the basis that they don’t fit in with their Islamic culture. However, Islam is not a monolithic religion. Most Iranians are Shi’a Muslims while most of the world’s Muslims are Sunni Muslims (Strong 1997, 125). Therefore, even within Islam, Iran is an outlier. There is no single way for Islam to be practiced as illustrated by the various denominations within the religion. Additionally, Khomeini’s position as Supreme Leader was created under the 1979 Constitution. When Khomeini came to power and began persecuting his opposition, even his supporters were surprised (134). This shows that the powers exercised by Khomeini did not have any ancient traditional basis nor did they have the universal support of the pious Muslims who had brought him to power in the first place.

It is important to note that human rights were not highly respected before the 1979 Revolution when there was a focus on the “liberation of the nation over individual liberties” (Afshari 1994, 235). However, after the Iranian Revolution of 1979, the human rights situation for Iranians, especially women, became even worse. Where the shahs had overemphasized nationalism to the detriment of human rights, the clerics overemphasized religion. “Islamization programs, imposing Islamic limits on rights, became repressive instruments in the hands of the clerics” (Afshari 1994, 238). Instead of being a respite

from the secularism that modernity caused in the Muslim world, Islamism used the instruments of modernity to create a “new ‘clergy capitalism’” (Afshari 1994, 238). They have imposed a "modern-style conformism" designed to give the appearance of authenticity and devout piety without giving too much concern to the underlying spirituality (Afshari 2015, 870-871). While Iranians may feel pressure from the government to maintain the traditions of Islam, they also know that “a secular outlook and values” are what they need to be successful in a modern world (Afshari 1994, 239-240). So, both realities – Islamist and secularized – exist simultaneously in Iran.

Islamists hold fast to their idea of religion in the interest of holding onto their power. Conservative Islamists may argue against human rights for reasons of cultural relativism (Afshari 1994, 246). However, it is widely established that human rights are for the “protection of individuals in the contemporary world of the modern states and capitalist, market economies” (249). Given the fact that Iran has adopted many of the institutions of the modern state and continues to engage in the market economy, the cultural relativism argument loses its relevancy. Islamism has “failed to alter these modern characteristics” in Iran (249). Therefore, the modern world continues to pose a risk to Iranians. Though the motives for potential state abuse to the individual has shifted from nationalism to religion, the potential for abuse remains. This would not be an issue if the Islamists created an Islamic alternative to human rights. However, given the opportunity to create alternatives to human rights within Islam, the Islamists have failed to create any human rights standards that would protect citizens in the real world (Afshari 1994, 249).

The Islamist regime has also not worked to reverse Iran's engagement in the world economy or to end its consumption of goods produced in the developed world. Instead they have pushed their brand of Islamization through cultural practices (Afshari 1994, 257). In a sense, they are "overcompensating for their guilt in embracing modernity" (Afshari 1994, 258). These Islamist leaders are using Islam as the antidote to Westernization. In Iran, Islam is supposed to be a "resistance against modern rationalism and power based on science and technology" (122). However, elites in Iran continue using this modern science and technology for their own means. As a matter of fact, Iran has continued to trade with the Western world. In 1994, its leading trade partner was even the United States (Miller 1996, 805). In 1990, Iran accepted a loan from the World Bank (Miller 1996, 808). In these ways, Iran is actively engaging in the modernity which it claims to despise.

The Islamists' doctrine is also not universally accepted in Iran as reformists risk persecution to voice their opposition. Iranian feminists have emerged and some have spoken out against the state's treatment of women (Razavi 2006, 1231). The Iranian women's magazine, *Zanan*, presents a diversity of female voices, giving even conservative feminists space to share their views (1231). From 1997 to 2003, there were reformist politicians voted into office in Iran. Unfortunately, many of these candidates were unable or unwilling to provide results for their constituents and so were later voted out of office (1233). In 2005, conservatives took back power with the election of Mahmoud Ahmadinejad. However, the fact that voters were interested in a reformist agenda does bode well for the future. These reformists have the opportunity to succeed where the Pre-Revolutionary shahs did not. The Shahs tried to push an overtly secularist

agenda grounded in Western norms which offended the religious sensibilities of many Iranians. Modern-day reformists can ground human rights in Iranian culture to make them more culturally legitimate to Iranians (Miller 1996, 830).

The Iranian Revolution in 1979 affected not just Iran but the Muslim world as a whole. There was then “pressure on governments to prove how Islamic they were” (Johnston 2015, 122). During the drafting of the Universal Declaration of Human Rights, there was input from many Muslim states (119). In the 1970’s, however, their opinions on human rights changed (121). These states, including Iran, offered religious reasons for the change, but it may have had more to do with domestic politics. Pushing back against the Declaration, the Muslim world has created several “Islamic versions of the UDHR” (Johnston 2015, 121). These include the Universal Islamic Declaration of Human Rights (1981), Cairo Declaration of Human Rights in Islam (1990) and the Arab League’s Arab Charter on Human Rights (2004). Though each of these declarations tends to skew more progressive and closer to the original UDHR, they do represent a move to separate the Muslim world from the international human rights regime and create their own.

Islamist leaders in Iran (and other parts of the Muslim world) continue to benefit from the modern state system and the globalized capitalist economy. So, it is interesting that they would question the validity of human rights which are said to be a result of this modernity. "None of the traditional bonds" of community are able to "protect the individual from the naked forces of the centralized state and the rickety market economy." So, human rights are argued to become the most viable option for protection from the state - "the principle violator and essential protector of human rights" (Afshari

2015, 881, 907). While “culturally rooted norms” would seem to ensure greater compliance with human rights, “states [like Iran] have failed to advance their own cultural alternatives” (An-Na’im 1987, 3). Until reformists can present a more culturally relevant system, international human rights remain relevant.

Ghana

Traditionally, African cultures are said to have a “sense of community obligation” to provide economic necessities that can be overlooked in Western ideas about human rights (Cobbah 1987, 311). “[G]roupness, sameness and commonality” are emphasized (Cobbah 1987, 320). Rather than the nuclear family of the West, the extended family is the focus in Africa. Rather than individual rights, the individual must consider the group’s needs. However, the individual also knows that as a member of the group, other individuals within the group will be considering their needs as well. Similar to the individual’s role in a family, each family also plays an important role in the traditional political structure (Cobbah 1987, 322). In recent years, however, the family and community, which have been so important in many African societies, can no longer play the economic roles they used to. They have been replaced by the modern state. Unfortunately, many African states are not yet able to pick up the slack. “Cultures are no longer able and constitutions are not yet able” (Ibhawoh 2000, 854). This means that the state cannot yet be over-relied on to guarantee human rights. Instead, a mix of cultural and familial protection is important.

In the first 30 years after African independence from colonial rule, no governmental regime stepped down without force (Haynes 1991, 408). Instead transfers of power have occurred by way of coups, often led by the military. Human rights have

also failed to be recognized by these leaders. Even in states where democratic institutions have begun to take root, human rights violations have persisted. Ghana is a prime example of this reality.

Before the 1990's, power transfers between Ghanaian leaders took place by way of violent military coups. With each coup, came a new constitution. Ghana's first constitution upon independence contained no language regarding human rights. Its second constitution in 1960 only required that the Ghanaian president promote the liberty of Ghana's citizens (Oquaye 1995, 561). The 1969 constitution did, however, promote human rights in many forms including freedom of speech and assembly as well as property rights. Ghana's 1979 Constitution contained these rights as well and added economic rights to the mix. In 1979, Flight Lieutenant Jerry Rawlings took power and established the Armed Forces Revolutionary Council (AFRC). After the elections in June of that year, the AFRC decided there would be a three-month delay before the candidates took power. This was supposed to allow the AFRC time to clear out corruption (Adedeji 2001, 2). This meant that though the new Constitution mentioned human rights, most of these rights were de facto stripped away (not that they had ever been successfully implemented in the first place).

During those three months, three former heads of state were executed by the AFRC. After the elections were held, Rawlings declared that he approved of the result and the winning candidate, Dr. Hilla Limann would be seated as president. This transfer of power took place in September 1979. By December 31, 1979, Rawlings had changed his mind and pushed out the Limann administration. Rawlings and his Provisional National Defense Council (PNDC) quickly took several actions to maintain their power.

The judiciary was gutted and replaced with public tribunals made up of non-professionals. These tribunals were made up of five to ten people and only 1 member had to be a lawyer with more than 5 years of experience (Haynes 1991, 414). Beyond this, citizens had little recourse to have a say in the direction of their country (409). The PNDC had decided to push for economic rights and more or less disregard political rights. Socioeconomic rights were greatly improved as rural areas saw a rise in infrastructure development and primary health care and access to education was provided. Customary laws that took away property rights from widows and families were also eliminated (Oquaye 1995, 562). However, this economic success did not translate to human rights for everyday Ghanaians (Haynes 1991, 409).

Civil society spoke out against the PNDC but dissenters were treated like "subversives whose aim was to destabilize the state" (Haynes 1991, 410). Dissenters were killed, disappeared and assaulted by the PNDC regime and its allies. Personal property was seized by the regime as a form of punishment. Laws were created to curtail the courts from investigating or punishing human rights violations committed by the regime (Oquaye 1995, 563). Torture was also used on political dissenters (Oquaye 1995, 564). Even under African customary law, arbitrary killing and imprisonment were not acceptable (Oquaye 1995, 560). Modern ideas of personal property may not have been in place historically, but "whatever a person cultivated became his personal property" (560). Freedom of speech was also allowed in traditional African society where advisors and even commoners could speak their minds about leaders. This makes claims of maintaining tradition a poor excuse for the PNDC's practices.

The PNDC came to power on a promise of 'revolution' for the people. They had no use for the Western imports of human rights. However, in 1983, Ghana began implementing the IMF/World Bank structural adjustment program (SAP). Though the PNDC frowned upon Western influence, they were willing to implement Western organizations' SAP policies in order to receive capital (Haynes 1991, 420). They were "unhesitatingly submitting to dictates from the IMF/World Bank" (410). From 1984-1990, Ghana's GDP had grown by 5% each year. Though Rawlings touted the economic success under the SAP, its benefits were not felt by many everyday citizens. While Ghana's GDP did indeed go up, so did inflation making necessities hard to afford. Educated people such as doctors and teachers left the country in droves and did not return to Ghana even when the transition to democracy began (Haynes 1991, 423).

For the most part, it was businessowners who gained from the structural adjustments of the SAP. Higher cash crop prices resulted in higher profits for farmers in rural areas. However, these gains for rural dwellers were felt by urban Ghanaians who had to pay higher prices for necessities and due to the shrinking public sector, many government workers lost their jobs in the bureaucracy (Adedeji 2001, 6). "External creditors and foreign companies" also benefitted from the changes as they were now able to take profits back to their home countries (7). All of these changes were taking place in an authoritarian country where civil society was unable to speak out about the negative effects the SAP was having on their daily lives. Modern markets were embraced by the PNDC while human rights were pushed aside.

When the transition to democracy was announced in 1991, it is clear to see that Ghana was not a beacon of democratic governance. The transition started with the

National Commission for Democracy (NCD). Given the rampant human rights violations, the PNDC regime dominated these proceedings and opposition parties had little recourse to go against them. Seminars began being held across the country to make plans for the transition (Haynes 1991, 420). While the government did allow some opposition groups a place in the proceedings, they used the state-owned media to tarnish these groups' reputations (421). Civil society had also been severely repressed so there were few intellectual leaders or journalists able to speak out or share dissenting views.

The resulting 1992 constitution "granted blanket immunity to the regime for all misdeeds" by the PNDC (Oquaye 1995, 568). As election rules began to be drafted, they also tended to be in the PNDC's favor. Though the opposition took the matter to the High Court, they ruled that the state could not question PNDC laws (Oquaye 1995, 570). Demands to increase fairness for opposition parties (such as equal access to state media) were denied by the regime. During the actual campaign, the PNDC continued to violate political and civil rights by beating up political opponents, not allowing opposition parties to enter certain areas and even purporting to "help" illiterate citizens vote (Oquaye 1995, 570). The press enjoyed increased freedom after the NCD, but these media outlets were usually only in urban areas. The press also continued to face accusations of libel by the PNDC.

In the end, Rawlings won the 1992 presidential election. He was especially popular in rural areas (Oquaye 1995, 571). It has been argued that Rawlings was able to win the elections despite his human rights abuses, because he attended to collective economic rights rather than individual or political ones (Oquaye 1995, 559). Given the cloud of human rights violations, however, Rawlings win was not without controversy.

Rawlings also won a second term in office in 1996 via another democratic election. In 2000, after Rawlings had served his last term in office based on the constitution, he peacefully stepped aside. His party lost in the election and a new party was able to take over without incident.

This party, the New Patriotic Party, NPP, ran on a platform of holding reconciliation hearings over the atrocities committed in former administrations (Ameh 2006, 85). Though some Ghanaians wanted retributive justice with past perpetrators going to jail, the 1992 constitution had granted the most egregious actors (the PNDC) amnesty (Ameh 2006, 99). Retribution was also likely to stir up old animus from these perpetrators leading to further violence. Furthermore, any compensation paid would most likely have gone to the state rather than the victims. For these reasons, reconciliation was the best option for dealing with the human rights violations of the past.

In Ghana, we see a clear example of a state taking advantage of Western financial institutions without adopting Western human rights. In the case of the SAP, adopting human rights or getting consent from Ghanaians before the SAP's implementation was not a requirement of the IMF/World bank (Haynes 1991, 424). This type of development not only allowed authoritarianism to reign, it almost encouraged it. On a more positive note, we also see the example of a state who has worked to adopt human rights norms as time went on. Ghana has adopted and maintained democratic elections. By holding reconciliation hearings, Ghana is working to address past human rights abuses head on. Many authoritarian leaders claim that human rights will come after development is achieved. Ghana's leaders seem to actually have lived up to that claim.

China

China is a very different case than Iran and Ghana. Leaders in modern-day China began by trying to replace traditional loyalty to family with loyalty to the government. In more recent years, the government has tried to revive traditional loyalties to family but these efforts have been largely ineffective. Instead modern values such as globalization, capitalism and consumerism have taken root (Afshari 2015, 873-874). Therefore, it is interesting how "the Chinese are enthusiastically embracing anything Western" but calls for human rights still beget arguments of cultural relativism (Afshari 2015, 876).

The push for human rights is often fought on political grounds. For example, states that usually respect human rights may support human rights abusers if it benefits them economically. Inversely, states may criticize the abuses of their rivals while overlooking their own human rights violations (Le 2016, 207). This serves to confuse the issue of human rights since support for it is often politically motivated rather than a genuine push for human dignity. This is clearly the case between the West and China.

Human rights in China have been subordinated to the back-burner as the West becomes more interested in engaging with the Chinese economy. However, as Chinese corporations begin to compete with the West in Africa, calls for human rights have been ramped up. In the post-Mao era, the West hoped that increasing economic openness in China would result in less political oppression. The West hoped to encourage this openness and so held off on criticizing China's human rights abuses. While the Communist party has maintained their stranglehold on power, there has been a growing allowance of 'personal space' outside of the party (Breslin & Taylor 2008, 60). There has also been evidence of back-sliding of respect for human rights with the tragedy in

Tiananmen Square being a clear example. However, the West's attention to human rights in China, did not last for too long even after this tragedy.

Within China, the arguments against Western meddling on the basis of human rights were initially waved away with claims that human rights had nothing to do with China. Human rights were liberal, irrelevant to Chinese socialism. Eventually, these arguments began to shift to those of cultural relativism. The West had developed human rights to respond to "state-society relations" under the capitalist economy (Breslin & Taylor 2008, 61). In China, they had achieved state-societal "harmony under Confucianism" meaning that there was "no need for individual guarantees for protection from the state" (61). They also argued that rights had developed slowly in the West as Western states developed. Developing states could not be expected to adopt these rights immediately. As such, "human rights [are] a cynical tool...to keep China and the others from developing" (62).

It is true that the West's pressure on China regarding human rights did decrease with less and less resolutions condemning China's record being brought before the UN Human Rights Council. To a degree, this did result in bringing China further into the human rights fold. After the EU declined to sponsor a UN resolution condemning China, China later signed the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. They later began to more intently collaborate with EU states on economic issues (Breslin & Taylor 2008, 62-63).

Putting aside the push for human rights led to economic gain for the West and in some cases led China to join into the human rights regime. However, the strength of the Chinese state's influence, led the issue linkage between human rights pressure and

economic collaboration to be worrying. For example, “Chinese authorities tended to reward and punish private commercial interests based on national economic considerations” (Breslin & Taylor 2008, 63). Only companies from countries with favorable policies to the Chinese government could do business there further discouraging states from applying pressure to the Chinese. As China became more enmeshed into the global economic system, justification for collaborating with them despite their human rights record became less important. NGOs, however, keep these issues on the agenda and critique the West for not speaking out against China’s human rights record (65).

As China begins to assert their economic power in Africa, their “non-interference policy and...lack of interest in human rights situations in the African states...provide Chinese corporations with a competitive advantage” over their Western counterparts (Breslin & Taylor 2008, 66). This competition has resulted in the West once again being concerned about human rights and China. Many of the same practices that the West overlooks in China (“low wages and environmental standards”) are now unacceptable when exploited by the Chinese in Africa (66).

When it comes to culture and human rights, the Chinese have “sought national independence from Western influence” (Breslin & Taylor 2008, 68). However, when it comes to issues of the economy, the Chinese seek to “‘catch up’ with the West and modernize the economy through ever-deeper integration with the capitalist world market” (68). At the same time, critiquing China’s human rights record in Africa while encouraging its practices when they benefit the West is also hypocritical.

Looking at the economic rise of China and the larger Southeast Asian region, we can see the dynamics of pushing for development on par with the West's development whilst ignoring the Western conception of human rights. There was a push for Asian exceptionalism or the "Asian way," which similar to other exceptionalism myths "over-emphasize the positive aspects of a country and under-examine its negative deeds" (Le 2016, 208). This Asian way permitted human rights violations by the governments of the region in the interest of development. Asians were apparently 'tolerant' of being led by the "government father figure" since they were too busy to pay attention to political and civil rights. As such governments could put off implementation of these rights to focus on "national security and development matters" (Le 2016, 208). The Asian way serves to maintain the status quo in favor of the governments. The issue with this is that it can only be maintained if security and development stay on pace. If the state does not provide the promised security and economic growth, the stability of the status quo may not hold (209).

Asian governments also argue that Asian culture is more collectivistic than the West which makes individual human rights inapplicable. The problem with the collectivistic argument is that it includes the state as part of that collective or community. Thus, speaking out against the state is speaking against your community which can have dire consequences. This argument also "denies the existence of conflicting interests between the state...and communities" (Li 1996, 21). This collapsing of all communities into the state legitimates the dissolution of any groups whose goals are interpreted to be contrary to those of the state.

Despite Asian governments attempt to gain international recognition for Asian values during the 1993 Vienna United Nations Conference on Human Rights, Asian NGOs gathered to speak against these supposed values (Cmiel 2004, 117). As a matter of fact, close study of Chinese debate, shows that discussions in China regarding human rights were being had as early as the 1890's (Cmiel 2004, 124). Some Chinese intellectuals were arguing that only those loyal to the Chinese nation were worthy of having their human rights recognized (Cmiel 2004, 124). Even within the Chinese communist party, there has been varied positions on human rights.

In current decades, more human rights NGOs have been popping up in China. They have also been more active in international debates regarding human rights. However, this does not necessarily guarantee that they will be more likely to respect their citizens human rights. It might be a "means of deflecting international criticism as it is moving to a more humane plateau," where instead of actually respecting human rights, they put on a façade to placate the international human rights regime (Cmiel 2004, 131). Given Western economic interests in China, it is likely that the West will be more willing to overlook human rights violations in China if this façade is in place.

Japan

Western style democracy and human rights were imported to Japan by the American Occupation at the end of World War II. In fact, the Japanese constitution is heavily influenced by the United States' constitution. In recent decades, Japanese courts have increasingly limited the ability of the government to curtail constitutional rights (Davis 1998, 143). Human rights norms are actually being implemented into Japanese life. This is not to say that this implementation has been completely voluntary, however.

Japan tends to be passive when it comes to the issue of human rights in the United Nations. They err on the side of national sovereignty. Due to international and domestic pressure, however, the leading party in the Japanese government has been forced to engage more openly with the international human rights regime. The United Nations Bureau (UNB), which is the UN facing part of Japan's Ministry of Foreign Affairs, has been forced to hire more staff related to human rights (Peek 1992, 218). As the UN adopts resolutions and laws, the Japanese government is pushed by its citizens to follow suit. This is especially true of women's rights issues where women's rights groups in Japan steadfastly push their government to ratify and implement measures adopted by the UN (Peek 1998, 227). For example, after the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) was passed by the UN, Japanese women pushed the government to ratify it. Though the Japanese government tried to delay signing on, domestic and international pressure became so great they changed tactics and ratified the convention. Additionally, a few years later, the Japanese government took it a step further and passed a domestic equal opportunity law (Peek 1992, 228).

Many East Asian states have continuously argued against Western-influenced human rights on the basis of culture (Pollis 1996, 332). The example of Japan illustrates that these arguments may actually hold some validity. As previously discussed, Japan has actually supported human rights. However, while Western human rights tend to focus more on individual autonomy, Japanese culture is more collectivistic and centered on community. While Japan has a good human rights record, this may be more a result of culture. The government does not really need to repress its citizens since they are less

likely to dissent in the first place (Pollis 1996, 332). Japan's traditions, rather than being stamped out by modernity, have adapted to modernity. The community, formerly the family or the village, is now "the factory, the bureaucracy, the business enterprise" (Pollis 1996, 334).

Additionally, despite having free elections and the peaceful transfer of power, Japanese citizens have chosen by way of popular vote to keep a single party in power for decades (Maki 1990, 80). This party, the Liberal Democratic Party (LDP), has continuously been in charge of Japan's legislature. The maintenance of a single party in power is an unusual characteristic for a liberal democracy with free and fair elections. This would more typically be seen in authoritarian states or states that are democracies in name only. However, the Japanese public's hitherto loyalty does not render the LDP exempt from accountability to their voters. In recent decades, the LDP has been charged with a number of scandals causing voters to turn against the party. In 1989, the party suffered "unprecedented losses" due to these scandals (Maki 1990, 80). This is another illustration of how Japan seems to be doing human rights and democracy in their own way. It may not match the traditional Western model as originally imposed by the American Occupation, but it is still legitimate and seems to work for the Japanese people.

Japan also offers an interesting counterpoint to China and other repressive East Asian regimes. Many of these governments claim to have a tradition of Confucianism which focuses more on collectivism and "respect for hierarchy" (Davis 1998, 118). Some East Asian leaders have even gone so far as to import Confucian tenets from other cultures in order to prop up their leaders. This flies in the face of cultural relativism as culture is being imported for political means. Japan has a similar background with

political Confucianism. However, it was largely tossed aside in favor of democracy by the Japanese people. Political Confucianism is said to be “government by consensus” (Davis 1998, 119). However, too often this consensus translates to coercion or corruption. This type of governance has been frowned upon by the Japanese public as corrupt politicians have been embroiled in scandal and voted out of office. In this way, we see the Japanese rejecting claims of political Confucianism. Additionally, much of the practices described as consensus by East Asian leaders, are not “Confucian nor desirable in East Asia” (Davis 1998, 119). Consensus generally involves input from various parties including dissenters. When dissenters are given a voice, as they are in Japan, this kind of governance is not typically acceptable to the general public.

Other East Asian states, though diverse in background, have a shared past of colonialism just like Japan. The modern state was imposed on these states by their colonizers (Pollis 1996, 335). However, these states did not adapt to modernity in the same way as Japan did. Rather, they used the mechanisms of the modern state as a tool of repression and used cultural distinctiveness as an excuse for this repression (336). The adaptation that took place in Japan has not been replicated elsewhere in Asia. Instead, adaptation has been forced on populations from powerful elites. Tradition has been trampled on by modernity and “traditional rights and obligations...are insufficient and inadequate in dealing with people’s life experiences” (Pollis 1996, 337). As such, the case of Japan may be more of an argument for the variation in the implementation of human rights norms rather than against the universality of human rights as a concept. As the Japanese were deftly able to adapt to the modern state, they are less likely to be victimized by the state’s power. By utilizing a broader view, Japanese citizens can also

use human rights as protection against other powerful institutions including those communities created to adapt to the modern world. Japan offers an interesting example of a non-Western state that was able to successfully adopt human rights as well as the modern state on their own terms.

Conclusions

Looking at the cases of Iran, Ghana, China and Japan, makes it clear that non-Western states are taking part in the modern state system. They are developing economically from the global economy. However, in the cases of Iran and China, they continue to argue against the need for human rights. These governments are also using the state apparatus to repress dissenters within their populations. They are relying on culture and development to defend them from the need for human rights. Ghana has become more democratic in recent years, but their democracy grew out of an authoritarian regime. The echoes of that regime and others continue to play a role in the present day. Ghana does, however, offer an example of a country able to move from violating human rights on the basis of development to one that respects human rights and development at the same time. In the case of Japan, the government has slowly embraced human rights perhaps because they do not face much dissent from their population. However, Japan is also an interesting example of a human rights alternative. Is it possible to replicate the new “traditional communities” that the Japanese created to cope with modernity in other countries? How effective are these communities anyway and do they negate the need for human rights? Or maybe they just necessitate a broader conception of human rights that looks at human rights as a protector of human dignity from all power structures, not just the government? It would also be interesting to examine other examples of human rights alternatives around the world to see if they are effective.

Applying these case studies more broadly, it is clear that elites in the non-Western world apply Western concepts as they benefit their cause. Elites in many non-Western countries are educated in and influenced by the West while the people that they

rule over are not. These elites may abuse human rights in the interest of development or just to hold onto power. In either instance, arguments of cultural distinctiveness would not apply (Pollis 1996, 329). The application of the modern state itself undermined traditional cultures. However, “state supremacy provides legitimacy for reprehensible state actions,” so it has stayed in place since it is a benefit to these elite state leaders (Pollis 1996, 323). While claims of cultural distinctiveness cannot be dismissed outright, these claims are often made by state elites who are far removed from ordinary citizens within their societies. Cultural distinctiveness cannot be a blanket excuse for leaders who abuse human rights to block dissenters.

As in the cases of Iran, Ghana and China, state leaders are all too happy to benefit from modernity when it works for them but quick to ignore the results of modernity when they are a hindrance. They have written off human rights as an imposition of the West that is inapplicable to their local cultures. However, culture does not exist in a vacuum. It is subject to influence from abroad. It can change over time due to external influences. There can also be variation even within a culture. You can see that this variation is present by the fact that there are dissenters for leaders to repress in the first place. Calls for cultural relativism can promote one variation of a culture to the detriment of others.

Additionally, some cultural markers are not as ubiquitous as leaders may try to make them seem. In some cases, they were originally imposed on non-Western states by the West during colonial times. In others, the importance of a tradition may be hyperbolized to the point that the original intent may be lost. You can see the former in the case of Western gender roles being imposed on the non-West in colonial times and then propped up by non-Western elites in modern times. Shari’ah law is a prime example

of the latter. Today, it is seen as the “final and ultimate formulation of the law of God” and not open to reinterpretation. However, Shari’ah was the “understanding of the early Muslims of the sources of Islam” (An-Na’im 1987, 10). In fact, these same early Muslims were adjusting to the situations and problems that they faced at the time when developing Shari’ah. As times have changed, these “historical answers ceased to be valid” (10). This means that as times changed and understandings of Islam changed, so did Shari’ah. Yet and still, modern Islamist leaders prop up Shari’ah law as unalterable in the interest of maintaining power.

Human rights also have the consent of states all over the world. Societies all over have consented to the UDHR and have adapted its articles into their own domestic laws and social movements. Even citizens of those states who did not originally draft the UDHR continue to invoke its tenets in their everyday lives. This is evident in the case of Japanese women’s groups pressuring their government to ratify and implement UN human rights treaties.

A state's power is exercised by the enforcement of its laws. However, a law is only as powerful as it is seen as being legitimate (Habermas 1998, 157). Law often places "constraints on individual liberties" (Habermas 1998, 158). This means that laws should be composed in ways so that they are followed not just because they are the law but also because they are legitimate (Habermas 1998, 158). Human rights are legitimate both in the West and beyond because they are an "attempt to answer the specific challenges posed by a social modernity" that has swept the world (Habermas 1998, 163). These challenges are posed in all states embracing modernity, no matter the culture.

Human rights can also be translated by intermediaries so that they are applicable to the unique challenges faced by each culture.

Despite arguments of cultural particularism, it is difficult to deny the legitimacy of human rights in addressing the challenges of modernity. One can consider that cultures in Asia and Africa tend to be more collectivistic than the individualistic West. Human rights, as developed in the West, do tend to emphasize individual rights over group rights. However, given the isolation from the collective that has resulted from modernity, this emphasis may be justified (Habermas 1998, 165). In order to "participate in capitalistic modernization" as many non-Western states do, they are also forced to participate in "an individualistic legal order" (Habermas 1998, 165). While traditional mechanisms of conflict resolution should continue to be considered, human rights have emerged as the most universally applicable means of dealing with modernization (Habermas 1998, 166).

Human rights, however, need not exclude non-Western ideas in order to be effective. The African Commission on Human and People's Rights (ACHPR) has made strides to expand on UN human rights conventions such as the UN Convention on the Rights of the Child (Murray 2006, 197). It has also tried groundbreaking cases that have furthered the causes of economic rights as well as peoples' rights (Murray 2006, 198). The ACPHR also allows for individuals and organizations to bring cases before it *without* the backing of a state which is different than the UN (Murray 2006, 198). NGO's can also participate in ACHPR sessions, not just as observers or consultants as in other organizations, but as active participants. Some of the suggestions by these groups have even been adopted by the Commission (Murray 2006, 199). The ACHPR Committee

also has a diverse group with 6 of the 11 members being women (ACHPR). While it is by no means a perfect organization, Western organizations can certainly learn from the ACPHR.

If we accept that modernity and development have been the impetus for human rights, we must acknowledge their role in causing human rights violations. Human rights violations such as violence against women are often blamed on culture which stretches back to pre-modernity rather than being blamed on development (Jordan 1996, 231). If only a state could modernize, some argue, these problems of the past would cease to exist. It is not considered that modernity itself has led to the proliferation of these problems. Human rights in its current form deals with modernity on its own terms rather than seeking to change the factors that make human rights necessary in the first place. Doing this “leaves dominating relations of power intact” (Otto 1997, 15). The egalitarianism inherent in modernity advocates for equal participation in and protection by existing systems of power but does not challenge these systems themselves (Otto 1997, 22). Not all states face the challenges of modernity in the same way that modern egalitarianism assumes. Therefore, it is necessary to change the way human rights is thought of in order to meet these diverse challenges (Otto 1997, 25). It may even be necessary to reconsider whether some elements of modernity such as capitalism can coexist with respect for human rights at all.

The trappings of modernity (including the sovereign state system, globalization and capitalism) have allowed for the isolation and abuse of human beings by the state. While some states have found ways to adapt to the modern state that do not necessarily require human rights (e.g. Japan), this adaptation is not the norm. In the absence of better

alternatives, human rights are seen as the best option for coping with the side effects of the modern state. Any society that adopts the modern state would be susceptible to these side effects. Therefore, human rights are applicable anywhere the modern state has been instituted. Since the modern state exists in both Western and non-Western societies, human rights would be applicable in both. Cultural relativism fails to take into account the factors that make human rights necessary in the first place. There are many arguments against cultural relativism, but perhaps modernity is the strongest. While it is important to consider imperialism when discussing the universality of *specific* human rights, it is hard to argue against the universal *utility* of human rights given the ubiquity of modernity. Human rights are useful wherever modernity has taken hold. Since modernity is universally accepted, it should follow that human rights are universally applicable. Cultural difference may account for differences in the implementation of modernity and may do so for human rights as well. No matter their implementation, human rights are useful everywhere, not just in the Western world.

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