How to Study Human Rights and Culture (...Without Becoming A Relativist)

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Few people seem to be disturbed by the view that the idea of human rights is (to use a stock phrase) ‘a product of the culture of the West.’ Truisms, however, often hide problems and this one is no exception. One of the main problems - one that is seldom recognized - is this: How can we even begin to understand a supposed relation between a culture and a doctrine?

Obviously the claim that human rights theories were first developed in the West is trivial and certainly not sufficient to establish a relation between the West as a culture and the doctrine that is supposed to have originated in it. Imagine just how exotic it would sound if someone were to claim that Darwin’s theory of evolution is a western construct on account of the fact that it was developed by someone in the West. Yet many supporters of the thesis that human rights are a western conception have done just this: they have tried to show that the conception was absent in other cultures (supposedly, one is inclined to add, until the West brought ‘its’ values of human rights, freedom and democracy). Often this argument is supported by further details about the lack of a term to denote human rights (“Surely if a language lacks the term to denote something, the conception cannot have been present”) or by a more general description of the culture that is supposed to lack the concept of human rights. It is no wonder that defenders of human rights have been all but troubled by these objections. They have aptly responded that human rights were for a long time absent in the West as well, and indeed that only recently the doctrine has gained wide support even in the West.

Another route that has been taken in order to make sense of the relation between human rights and culture is to consider the ideological context in which human rights theories are supposed to operate. Accordingly the idea of human rights is sometimes associated with a special (perhaps an excessive) concern for the inviolability of individual rights at the expense of communal welfare, and with individualism as opposed to shared values. Whether the frequent reliance on rights language is only the outcome of a culture having become imbued with individualism or whether the rise of the idea of human rights is also a cause of cultural change is evidently important. But either way it is unlikely that an investigation of the relation between the idea of human rights and a supposed individualism in western culture would support the conclusion that human rights are ‘only relevant in the West.’ The appropriate question is to ask whether the rise of individualism is an improvement. If it is, it ought to be universally promoted, if not it ought to be contested in the West as well.
I take it that the relation between human rights and culture is routinely construed along these lines, so that it implies a kind of relativism. But relativism, at least ‘vulgar relativism,’ as the view was identified by Bernard Williams, is notoriously inconsistent. The view consists of three propositions, ‘that ‘right’ means (can only be coherently understood as meaning) ‘right for a given society,’ that ‘right for a given society’ is to be understood in a functionalist sense; and that, therefore, it is wrong for people in some society to condemn, interfere with, etc., the values of another society.’ Thus in its third proposition it uses ‘right’ in a non-relative sense not allowed for in the first proposition (Williams 1972: 43). But if relativism is so obviously wrong, why does the ‘debate’ over relativism never come to an end? With a little exaggeration one could say that there is an almost unanimous agreement among scholars that relativism as a position is untenable. Compared to the thousands of articles and books written in defense of the universality of human rights, there are very few defenses of relativism. What, then, is everybody arguing about?

The answer is of course that it is not so much a scholarly debate as it is a scholarly attempt to restrain the attraction that relativism seems to have on so many of us. We are all well aware that large portions of the human race seem to sanction arranged marriages, child labor and discrimination of women. Many are uneasy with having ‘our values’ enforced on these societies, even if they think the practices are wrong. Partly this is a matter of prudence: even if we would want to enforce ‘our values,’ and even if we would have the power to do so, it would probably be wiser to try to convince people instead of forcefully imposing a normative framework on them to which they have not voluntarily consented. However, if prudential considerations are kept aside there still seems to be an important difference between holding that some norms should be universally respected and being prepared to enforce them. Some of this is explained by moral indifference towards events in distant societies. But there is also an anxiety involved towards what could be taken as a moral reproof of whole nations. Since ‘we’ know these practices to be wrong - not just wrong but at variance with basic human rights - and ‘they’ seem to lack this knowledge, it seems that we cannot avoid the conclusion that we are (at least in this sense) morally superior. Not everyone is equally impressed by the charge of being guilty of ‘cultural imperialism’ but few people are entirely undisturbed by it. The remark that it is only recently that human rights norms have become widely accepted in the West does little to reduce a latent feeling of embarrassment, since it only converts ‘superior’ into ‘more advanced.’

The relativist position is even more problematic. When tutoring students, I discovered that most students professed themselves to be relativists, but that none of them sustained their relativism when asked to apply it to situations regarding which they held strong moral beliefs. I doubt that anyone can maintain sincerely that public execution of adulterous women is tolerable on the condition that it is approved in the culture where they are executed. Such a position is not only ethically misguided, but it is simply incompatible with our moral experience. Our moral outlook does not allow one to seriously ‘have’ a moral conviction and at the same time deem it to be only valid for oneself or the community in which one happens to live. Another way of putting this would be to say that to doubt that human rights are ‘truly universal’ is a contradiction in terms. If there exist human rights at all, these rights are universal by definition. On the whole, it is one of the most basic truths about moral rules that they are universally valid. They may not be absolute in the Kantian sense, but they are universal in the sense that if we think female genital mutilation to be a violation of a woman’s right to physical integrity, then it is simply contradictory to say that it is not wrong in another country because the people there have different standards.

Unease with both full-blown universalism and full-blown relativism has induced efforts to find a middle way between the two I will use ‘human right’ and ‘natural right’ interchangeably (see e.g. Milne 1993; Raes 1994; Brems 2001). The common strategy in these attempts is to find a core of ‘truly universal’ human rights and to allow for a ‘cultural interpretation’ of what is considered to be the periphery of human rights values. However, these compromises are only accomplished on the level of pragmatic application. Moreover, the attempts only succeed in achieving universality at the cost of reducing the substantive content of human rights discourse. Thus they find themselves on the horns of a dilemma. The more they leave room for cultural ‘interpretation,’ the less significant human rights become. The more they leave fundamental human rights intact, the less they can leave room for real disagreement about the substantive content of these rights. In the end none of these theories succeed in presenting a plausible way to accommodate apparently conflicting intuitions.

Perhaps we can formulate the predicament that haunts the universalism-relativism debate as follows. There exists a vague feeling that cultures really are different and that cultural differences in
some way must be ethically relevant as well, but unless we become relativists it is not so clear how we could “take differences seriously.” I would like to suggest that a way to do this - i.e. to take differences seriously without being trapped into relativism - would be to scrutinize the theories that claim to ground human (or natural) rights. Obviously, today it has become rather unfashionable to think that rights can be grounded theoretically. Nevertheless, it is fair to say that our intuitive understanding of human rights is partly shaped by the history of natural rights theories. Human rights, such used to be the chestnut, are grounded in human nature. But if human rights are grounded in a specific way of understanding human nature, then to ask whether they are ‘universal’ is either to ask whether the account of human nature in which these rights are grounded is a correct one, or - and this is where difficulties begin to emerge - whether human beings are in the relevant respects the same beings across cultures. If human rights turn out to be grounded in a ‘culturally specific’ way of understanding human nature, then to criticize human rights as ‘western’ would not imply relativism at all. This is the course I would like to consider.

Interlude: essentialism

Before we consider how such an inquiry might be undertaken, let me first deal with a possible objection that, if legitimate, would amount to the conclusion that the whole undertaking is misguided from the beginning. The objection I have in mind is seldom clearly expressed, perhaps because the difficulties involved in it become clearer the more it is thought through. It is sometimes formulated as a critique of “cultural essentialism” (see e.g. Bielefeldt 2000) but it is more often encountered in passing remarks. A citation may serve to illustrate this kind of assessment:

While the idea of subjects as bearers of rights existed in a sketchy fashion in premodern history of Europe, these ideas were developed by a specific historical trajectory to produce the modern conception of a civil society and civic rights. Indeed, one danger of reading this too deep into the European past is that this encourages essentialist thinking. Achievement of a civil society then gets associated with a mysterious and indefinable feature of European culture or “Western spirit,” which proves before the debate has begun

that it is beyond the cultural means of other societies to create similar institutions (Kaviraj 1993: 81).

Characteristic of these charges is, first, that it is deemed to be patently obvious that essentialism is indeed wrong. In fact, it is not even considered necessary to argue that it is flawed to imagine that ‘something’ (a “mysterious and indefinable feature”) in European culture continues to feed its attachment to the idea of human rights. Furthermore the suggestion that this ‘something’ might be absent in other cultures is considered wrong not by virtue of an argument, but simply because it is considered morally depraved even to consider the thought (who would want to deny other societies the cultural means to create similar institutions?). Another widespread line of reasoning that is also present in the above citation is the argument that the historical growth of rights language was a contingent (meaning not a necessary) development. This is often perceived as a repudiation of the thesis that there might be some intrinsic link between the culture in which this development occurred and the ideas that developed in it. Of course whether the birth of human rights language was necessary, given the culture in which it eventually developed, is an elusive question that in the end probably cannot be fully answered. But this by itself does not rule out the possibility of unearthing cultural premises at the basis of these theories.

What then is wrong with essentialism? Since we cannot rely on an accepted understanding of the phenomenon, let us first consider some basic examples of what can be taken to be unproblematic cases of ‘essentialist’ thinking. In the natural sciences we often resort to propositions that could in a sense be considered ‘essentialist.’ A human being is ‘essentially’ an organism with a certain genetic code; the color of a certain body is ‘essentially’ its propensity to reflect light rays with a certain frequency, etc. None of these practices of isolating properties from complex phenomena to be able to examine regularities and even predict future behavior strikes us as fundamentally wrong. Indeed it could well be argued that this is what science normally does. Would it be wrong to do the same if the phenomenon under consideration is a culture? Some think that it would indeed be wrong to do so. But, again, the reasons are more often than not unclear. Sometimes the type of disagreement is voiced by saying that cultures are not monolithic, or by pressing that they are not static entities - that they evolve over time. Yet natural sciences also study objects that evolve over time and they study e.g. ecosystems which can hardly be considered
monolithic entities. It is true that we have few examples of theories that have been successful in the field of culture or cultural difference. All too often ad hoc explanations have been presented as serious theories, and this probably accounts for much of the intuitive appeal of warnings against ‘essentialism.’ However, this is not something that is inevitably related to the domain under consideration. For centuries, before the rise of modern medicine, people have drawn on equally “mysterious and indefinable features” to explain disease. That they have done so does not in itself prove it to be illegitimate to attempt, nor impossible to generate scientific theories in medicine. Surely we do experience cultural differences, and surely there must be some way to investigate scientifically what causes this experience of differences.⁷

The fact that we are compelled to conceive of such an abstract entity as ‘a culture’ to account for differences between cultures is another reason, I think, for a general reluctance towards the enterprise. Many will say that no such entity exists, and certainly there is no point in denying that the thing we are dealing with is, in a sense, a theoretical construct. But then most of the objects of science are equally theoretical, so unless one has an extremely naïve conception of scientific theorizing this cannot be held as a serious objection against an attempt to develop a theory of cultural differences. We can speak intelligibly about culture and cultural differences even if the only things we can see are individuals and their creations.⁸ This is not to say that we have no special reasons to be cautious in trying to develop a theory of a cultural phenomenon. In any domain of scientific theorizing we can only be sure that we are dealing with a serious theory - and not just an ad hoc explanation of some isolated phenomenon - if we are able to generate more consequences from the theory than those facts which the theory was designed to explain. But if the object of our study is a cultural phenomenon, these consequences cannot be detailed predictions of beliefs or behaviors of every single individual living in a certain geographical area.

There are different reasons for this. First, even if this is often overrated, it is obviously true that cultures neither are, nor have ever been, ‘completely isolated entities.’ Again the fact that cultures are being influenced by other cultures (even to the extent of becoming mixed and forming a new culture) does not exclude the possibility of speaking of cultural differences. Indeed, it is only useful to speak of different cultures influencing each other if there are differences between them. Second, given the fact that people gradually, by means of different mechanisms - for example, but not exclusively, through education - become part of a culture, it is only reasonable to allow for some people to be more typical members of a particular culture than others. Thirdly, if it is true that cultures evolve over time, it is likely that some parts of a culture will have evolved faster than others. In any case a theory of a cultural phenomenon will have to leave room for these kind of uncertainties in the prediction of events. But it is important to underline that these uncertainties are not essentially different from the uncertainties we have to deal with in our attempts to predict the weather. Consider for example an Ethiopian boy who grew up in Ethiopia until he was adopted at the age of ten by an American couple. If we had a firm theoretical understanding of both cultures in which the boy grew up, it would perhaps be perfectly feasible to determine empirically to what extent he is an embodiment of any of the two cultures in which he grew up. The point is that any decent theory will have consequences, even if it starts from a relatively ideal-typical description of the investigated phenomenon. Insofar as a theory offers a reliable way to translate these consequences in more or less precise statements about the culture under consideration, it will also be possible to falsify the theory. Of course, none of this proves that such an entity as ‘western’ or even ‘American’ culture really exists, nor that a decent theory that describes (part of) such a culture is feasible. It only indicates that it is not sufficient to throw words such as ‘essentialism’ to prove that it is wrong to try to build it.

On the relation between a doctrine and a culture

Let me start with some commonplaces about culture. The fact that there are differences between various traditions is in itself not controversial. Any tourist immediately perceives relatively superficial differences such as difference in clothing, cooking, music, architecture, etc. Then there are the more ‘profound’ differences that have been studied by anthropologists, such as differences in social institutions, cosmological ideas, conceptions of commonsense psychology, etc. On a more general level we can study the way certain elements of a cultural tradition have influenced other facets. For example, it is generally acknowledged that legal thought in the West has, for better or for worse, been deeply influenced by Christianity.⁹ It seems obvious that if we want to describe how a culture differs from other cultures, we have to do more than just examine different elements in a tradition in isolation. Instead we need to study the way more or less stable elements in that tradition have influenced each other and consequently formed

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a sort of coherence. As an illustration, suppose you read a book on Theravada Buddhism and consequently you become convinced that Buddhism makes much more sense than Christianity. As a result you start reading more and more about Buddhism, you start practicing some of its rituals, you even learn to sing mantras in Sanskrit. After some years you consider yourself a practicing Buddhist. The question is, have you become part of another culture because of that? It would seem that your ‘conversion’ is not enough reason to say that you have changed one culture for another. We cannot simply equate cultural identity with religious allegiance, not only because religion is only part of a culture, but also because it does not seem to have any relation to any culture as soon as it becomes isolated from it. Even if one is convinced that Christianity has been an important element in the formation of the West as a culture and that Buddhism has played a similar role in the formation of Indian culture, its formative role is only understood if we know how it has shaped the culture that is considered to be influenced by it. The mutual influence between various parts of a cultural tradition is both an indispensable focus of any study of cultural differences, and one of the more formidable obstacles for that study. These difficulties, however, also contain a solution to our problem.

Part of the production of any cultural tradition are beliefs that people have about the world: commonsense psychology, basic ontological distinctions, scientific theories, ethical norms, religious convictions, etc. Some of these beliefs will be readily susceptible to falsification (or verification), while others will be much harder or even impossible to falsify. Further it will be readily accepted that some of these beliefs (in very different ways) ground practices: people’s behavior will be influenced by different kinds of beliefs, for example beliefs about what will make them happy or what kind of moral obligations they have. Certainly in ethics (but not only in ethics) many of these beliefs will, on a more basic level, be structured by other beliefs. For example, ethical beliefs are constrained by beliefs - often implicit - of what it is to be a moral agent, which things belong to the moral domain (e.g. what kind of actions can be subject to moral praise or blame), under what conditions an agent can be held morally responsible for an act of her, etc. It is essential to realize that many of these basic premises are often extremely difficult to isolate, because they are often not even acknowledged by the people whose actions are guided by them. But suppose we would be able to isolate some of these basic assumptions. In that case it would be tempting to hope that some of these beliefs can be shown to be misguided, or even plainly false. Though perhaps a comical oversimplification, it is nevertheless attractive to think that one could argue that cultural differences are in some cases due to misguided (because unscientific) beliefs that have nevertheless acquired the status of metaphysical truth in that they continue to guide the actions of those brought up in it.

One of the reasons why this approach will often turn out to be unfeasible - or will only be effective to an extremely limited degree - is precisely that our basic beliefs indeed inform our practices. Insofar as they do, they sometimes become true simply by virtue of the fact that we consider them to be true. An example will be useful to clarify this. One of the basic assumptions in economic theory is that people will usually act rationally, i.e. that they are guided by considerations of self-interest. Once this assumption is clearly identified it becomes all the more surprising that it is so seldom noticed that it is just plainly false - at least if it is taken, as it often is, to offer us a general maxim about human behavior. Surprisingly, or perhaps not so, economists have found, not only that economists behave self-interestedly to a larger extent than non-economists, but also that the differences in cooperativeness are caused in part by training in economics (see e.g. Frank et al., 1993). Thus, repeated and intensive exposure to a model that predicts that people will defect in prisoner dilemmas increases the likelihood that those who have this experience will fail to cooperate. In other words, the theory that people generally act according to their perceived self-interest in a way becomes “more true” (or less false) simply by being accepted as a true account of human action.

Is it possible that a culture has become so pervasively influenced by an account of human nature that it is almost impossible to recognize that the account is a false one? I would suggest that this is indeed what happened, although it is far beyond the scope of this paper to argue for it. Exactly how much our moral world is determined by these theories is impossible to determine. In order to do so, we would have to be able to draw a firm line “between what we think and, what we merely think that we think” (Williams 1993: 7). This is one way in which theories of human rights may be found deceptive: to a certain extent they merely make us believe that our moral experience is structured in a certain way. Before coming to a conclusion, I would like to present just two brief indications of how such a critique of human rights theories might proceed.

First, one of the characteristics that is supposed to set human beings apart from other
creatures, is that they have a free will. Today, many would perhaps discard the belief in such a faculty as obscure or unscientific. Yet it is obvious that the belief that we are capable of freely deciding between different courses of action is still in many ways fundamental to ‘our’ moral life. The notion is also central to certain theories of human rights - for example it is often regarded as a condition for being a rights subject. Now it may not be feasible to disprove empirically that free-will exists, but we can try to come to a fuller understanding of the function of free will in human rights theories. Once we do this, I am confident that we will find that its function in these theories is such that it cannot be part of any plausible account of human relations.

Secondly, since any account of human behavior relies not on actions as such, but on descriptions thereof, cultural diversity might perhaps be related, not only to expectations regarding other people’s behavior (as in our economists example), but to the way actions are being described. Human rights theories typically represent persons as beings with a capacity to live their life according to a self-chosen conception of the good. And this, I would suggest, is related to a tendency to conceive of actions as typically caused by previous decisions. Such a description cannot be shown to be obviously false. But it is also not obviously true. Rather, it seems that we have no clear idea what would be involved in refuting it because we simply have no clear conception of what it means to make a decision.

This is all very speculative, but doubts regarding the viability of such a project should not have a bearing on the central claim of this paper - which is that we can make sense of a non-trivial relation between human rights theories and culture without having to accept relativist implications. If theories of human rights rely on a provincial account of human nature, to come to a better understanding of the reasons why they are not easily accepted in other cultures is also to understand why we should perhaps be more reluctant towards them.

**Notes**

1. A good overview of arguments against cultural relativism can be found in John Tilly (2000).
3. Of course not all people are embarrassed so quickly: in the wake of 9/11, I heard some scholarly experts in a radio program seriously discussing the causes for the fact that Islam had “missed out on the Enlightenment.”
4. Relativists would probably reply that relativism doesn't require an actual endorsement of practices approved in cultures. It merely says that there can be no trans-cultural standard to judge different norms. But on these terms, relativism becomes an epistemological doctrine (akin to a general skepticism) with little or no practical relevance.
5. I have argued this in detail in my 1998 paper.
6. I will use ‘human right’ and ‘natural right’ interchangeably.
7. Even if our experience of cultural differences would in the end be proven to be imaginary, it should in principle be possible to explain why we did or do have these illusions.
8. There would perhaps be no point in underlining this, were it not the case that I have repeatedly experienced in discussions that such a naïve conception of scientific theorizing continues to hold sway among students and even among some scholars. See Vermeeersch (1977) for an insightful discussion of cultural artifacts.
9. The best general treatment of this is Berman (1983).
10. The extent to which practices are guided by beliefs may not be invariable across cultures.
11. For a classic critique, see Sen (1972). It could be argued that this assumption is also at work in much commonsense morality: people will usually act rationally, unless their behavior is effectively constrained by a moral rule.
12. For a defense, see Pink (1996).
13. I am aware that this is obscure. I can only refer the interested reader to my forthcoming paper on libertarianism.
14. Some problems are reported in Williams (1995).

**Works Cited**


