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# The Concept of Human Rights

Alison Dundes Renteln

**Abstract.** – This article examines some traditional Western views of rights and offers a critique of them. In particular it is shown that the case against the doctrine of logical correlativity is flawed. It is argued that rights and duties are always correlative, and that therefore duty-based moral systems can accommodate human rights. By expanding the standard view of rights, the author tries to provide a more solid foundation for a broader range of human rights. In addition, the presumed universality of human rights is called into question. The fact of cultural diversity reveals the inadequacy of traditional Western sources for human rights. [*Human Rights, Western and Non-Western Conception, Cultural Diversity*]

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There is considerable disagreement among theorists about both the nature and legitimacy of rights. Some of the theoretical issues raised by rights theorists are important for elucidating the notion of a human right. I will focus on the conceptual analysis of rights only insofar as it is relevant for understanding human rights.<sup>1</sup> I will show that the case against the doctrine of *logical correlativity*,<sup>2</sup> which associates rights of one person with the duties of another and vice versa, is flawed. If, as will be argued, rights and duties are always correlative, then duty based moral systems could accommodate human rights, the assertions of some commentators notwithstanding (e.g., Donnelly 1982). Next I will argue against some traditional categorizations of rights. I offer several observations motivated by the desire to expand the standard view of rights. By anticipating possible objections that rights theorists might raise to the assertion of particular universal human rights, I hope to make possible a more solid foundation for a broader range of human rights.

In the second part of the article I present some

classic definitions of human rights. I then discuss some of the traditional Western sources from which human rights are thought to be derived and find them lacking. The underlying reasons for their inadequacy are traced back to a deeply rooted belief in the presumed universality of Western moral notions. These same assumptions manifest themselves in some of the international human rights documents. It is clear from even the most cursory study of other cultures that their value systems differ from those of the West in significant ways, as can be seen in the cases of female circumcision and child labor.

## 1. The Nature of Rights

There are almost as many theories of rights as there are rights theorists. It is sometimes said that the only true rights are legal rights (Bentham in Bowring [ed.] 1843/II: 501; III: 221; Hart 1973: 171–201). Other scholars argue for a broader view of rights which would encompass moral rights as well. For the purposes of explaining the general character of rights, it will not be necessary to distinguish between them.

As is typical in the history of philosophy, what was once a simple notion is often transformed into a much more complicated structure. While this is sometimes useful (and indeed necessary) for certain concepts, it can obfuscate the essential features of an idea. Rights theories exemplify this tendency of rejecting more simple accounts in favor of more complex normative structures (Martin and Nickel 1980: 165). Some of the so-called simple characterizations of rights, however, do capture the essence of a right.

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1 For a more detailed exposition of rights theories see Dworkin 1977, Feinberg 1973, Flathman 1976, and Wellman 1978.

2 As opposed to the doctrine of *moral correlativity*; see below.

For many philosophical writers, a *right* is treated synonymously with a *claim* (Feinberg 1973: 64–66). The “Oxford English Dictionary” defines a right as a “justifiable claim, on legal or moral grounds, to have or obtain something, or to act in a certain way.” A leading proponent of this view is Joel Feinberg: “To have a right is to have a claim *to* something and *against* someone, the recognition of which is called for by legal rules or, in the case of moral rights, by the principles of an enlightened conscience” (1980: 159–160).

What distinguishes a right from a demand is that it is justified, either by appeal to pre-existing legal rules or to morality. Thus a right is a *valid* claim. McCloskey (1976) prefers to define a right as an entitlement rather than a claim. The view that rights can be explained as legitimate or reasonable claims is mistaken, according to McCloskey, because it is based on the premise that rights “. . . are and must always be rights against some other person or persons” (1976: 100). He rejects the duty definition as well: “What is common to all rights is not some duty or duty relationship but an entitlement” (1976: 104). Whereas the previous characterizations attempt to isolate a single concept underlying the notion of a right, a competing school of thought seeks to encompass all rights within a complex normative apparatus. Wesley Hohfeld’s classic work, “Fundamental Legal Conceptions” (1964), laid the foundation for much subsequent philosophical exegesis. He asserted that rights could be understood as belonging to one of four categories: claim, liberty, power, and immunity.<sup>3</sup> Hohfeld’s analysis had been used, among other things, to refute the logical correlativity doctrine. His framework has been adopted and extended by a number of philosophers (e.g., Wellman 1985 and Flathman 1976).

In contrast to these normative theories are functionalist accounts of rights, the most famous of which is that of Ronald Dworkin (1977; see also Scheingold 1974). According to this view, what is distinctive about rights is that they function as trumps over collective goals. This would seem to require that rights be individuated in order to distinguish them from what one might call “collective rights” (see Dinstein 1976, Garet 1983, Van Dyke 1980).

3 For cross-cultural research, Hohfeld’s intricate typology may have limited applicability. S. F. Moore advises legal anthropologists to read Hohfeld and then “. . . cheerfully do without him” (!) (Moore 1969: 343).

## 2. Rights and Duties

The view that rights and duties are correlative used to be the dominant one among philosophers (Lyons 1970: 45; Martin and Nickel 1980: 165). The principal idea is that to say that A has a right to X, is to say that B has a duty to insure that A can, in fact, obtain X. But further, to say that C has a duty to D with respect to E, is to say that D has a right to E vis-a-vis C. Many rights theorists, including Feinberg, Lyons, Martin and Nickel, and McCloskey, take varying stances against this position. Most of the arguments are based on the four Hohfeldian categories.

Lyons, for instance, contends that one set of rights, “active rights” (rights to do things), do not fit the pattern of correlativity (Lyons 1970: 48). The first example he offers involves the right of free speech.<sup>4</sup> Alvin speaks to a crowd from a soap box, decrying United States military involvement in Vietnam. During the course of pontificating, he is assaulted by private citizens and removed from his platform. For Lyons, the question is whether Alvin’s right to free speech (or the specific right to address the crowd) is “. . . equivalent to the assertion of correlative obligations incumbent on others” (1970: 50).

Lyons wants to say that Alvin’s right to free speech does not correspond to any duty: “The constitutional right of free speech is independent of, for example, the obligation not to assault that was breached by those who silenced Alvin” (1970: 51). According to Lyons, the listeners may be under a duty not to attack Alvin, but not under a duty to respect his free speech. But he goes on to conclude that Alvin’s right does not correspond to any duty on the part of Congress either: “These Constitutional rights exemplify what some jurists call ‘immunities’ for to assert them is to say that protected areas of speech *cannot be taken away*. Alvin’s constitutional right has a conceptual correlative: but it is not an obligation; it is a legislative ‘disability,’ the assertion of which says that Congress is not empowered to enact certain laws” (1970: 51).

The second example offered by Lyons is the right of a California motorist to turn right on a red light. Lyons tries to show that there is no clear duty associated with this right. But in fact he undermines his argument: “. . . it seems more plausible to say that this right imposes obligations on law enforcement officials not to interfere with one’s

4 This particular example was introduced at least as early as 1956 by Glanville Williams.

making a right turn (when allowed by the conditions of the right)" (1970: 55). He refuses, though, to concede the point: "A policeman may admittedly be under an obligation not to stop or disturb a private citizen without cause – but can we say that that obligation is 'correlative' with my right to make a right turn on a red light in California?" (1970: 55).

The crux of the argument against the logical correlativity doctrine seems to derive from the Hohfeldian interpretation of an immunity right, the correlative of which is a disability. According to Hohfeldian scholars, disabilities are associated with the absence of obligations. I would argue that this distinction is merely semantic. It is not simply that Congress is not empowered to enact legislation which restricts freedom of speech, but, also, that Congress is under an obligation not to enact such legislation, for to do so would violate the right. Furthermore, one could argue that there is a duty which "stands to" the right of freedom of speech "... just as Bernard's obligation to pay Alvin correlates with Alvin's right" in Lyons' paradigmatic example (1970: 50). The duty is that of the judiciary to protect the right to freedom of speech. I maintain that in every case in which Hohfeldian language is used, a correlative duty may always be found.<sup>5</sup>

McCloskey proposes another type of counterexample to the rights implies duties thesis, namely that of the conscientious objector (1976: 104). He asserts that the right to be a conscientious objector corresponds to no duty on the part of others. His argument revolves around a reformulation of the conflict between the individual and the state in terms of rights language rather than duty language: "Thus to assert that he has a right here is distinct from claiming that others have a duty to leave him free from interference. One can, with very good sense, assert that the state has a right to punish him for doing that to which he has a moral right" (1976: 104).

But if a right to be a conscientious objector is actually recognized as a valid moral right, then it stands to reason that the state has a duty not to interfere. The argument is part of a larger attempt by McCloskey to eliminate claim language in favor of entitlement language, but this program is unpersuasive.<sup>6</sup>

5 See also Brandt 1959: 434; Braybrooke 1972; Singer 1972; Hudson and Husak 1980; and Waldron (ed.) 1984: 11.

6 McCloskey's formulation has been criticized elsewhere as being "... not particularly illuminating or informative" (Martin and Nickel 1980: 170).

Philosophers have also challenged the logical correlativity doctrine by asserting the existence of duties without corresponding rights. Feinberg, for instance, says that duties of charity which "... require us to contribute to one or another of a large number of eligible recipients, no one of which can claim our contribution from us as his due" (1970: 244), shows the absence of a correlative right. Hart (1979) and others contend that while we have duties not to mistreat animals and babies, nevertheless, they have no rights against us (in part because they are not moral agents – see Lamont 1950: 93). Still others have claimed that the duty to rescue has no correlative right (Bedau 1968). It is even sometimes suggested that the man in André Malraux's novel, "La Condition Humaine" (1946), felt he had a duty to give his supply of poison to his fellow prisoners, though they had no right to it (Acton 1950: 108).

There are at least two objections which can be raised to arguments of the kind advanced by the above philosophers. The first is that, in the cases where we would agree that there are such duties, there is also a corresponding right. If society recognizes duties to be kind to animals and babies, for instance, then, indeed, those entities could be said to have rights.<sup>7</sup> The second is that, in those cases in which we are hesitant to assert the existence of a right, it is because the attribution of the duty seems dubious. Unfortunately, many persons do not recognize duties of charity, for example, perhaps because such duties give rise to something resembling economic rights. The reluctance of theorists to acknowledge the existence of rights corresponding to duties held by others, may stem from the fear that to do so would cheapen rights language by a proliferation of less significant rights (Hart 1979). But the problem does not lie in the correlation; it rests in the absence of some mechanism for justifying the assertion of particular rights/duties.

I take the view that rights and duties are flip sides of the same coin.<sup>8</sup> Brandt has said that the

7 Hart's argument against babies as right-holders follows a discussion of third-party rights. He observes that simply because someone stands to benefit from the carrying out of a duty by another does not mean that the beneficiary has a claim against that person. But imagine the case in which Hart stumbles across a starving baby (assume there was no pre-existing agreement between Hart and the baby's parents). If Hart is under a moral duty to assist the baby, then the baby could be said to have a moral right against Hart.

8 Western theorists sometimes assert that a right is prior to a duty (Lamont 1950: 94). Others, however, have defended the "... logical priority of duties over rights" (Pappu 1982: 24).



difference between a right and a duty is similar to the difference between the active and passive voice (1959: 434). While this observation is not a new theory of rights, Waldron regards the simple association of a duty to a right as capable of forming the basis for a “more satisfactory” account than some of the more elaborate ones: “Thus the right of free speech, for example, is understood in terms of recognition that an individual’s interest in self-expression is a sufficient ground for holding other individuals and agencies to be under duties of various sorts rather than in terms of the detail of the duties themselves” (1984: 11).

The importance of demonstrating the logical correlativity of rights and duties does not lie so much in any explanatory power it has for Western rights theories, but rather in the flexibility it affords the formulation of international human rights standards. Correlativity is crucial because it means that the framing of moral claims in terms other than rights is not necessarily problematic. The recognition of an obligation may well signify the presence of an implicit right.

The misleading separation of rights from duties has led philosophers to make distinctions between right-based, duty-based, and goal-based theories (Dworkin 1977: 169–173). It is noteworthy that Kant’s famous duty-based theory has been employed as a basis for theories of rights (Waldron 1984: 13). This suggests that just because a moral theory is couched in the language of duty does not imply that it cannot be a vehicle for the advancement of rights. Mackie (1978) goes so far as to argue that any moral theory is necessarily right-based, even if rights can only be identified as implicit.

### 3. Observations on Rights

In this section I seek to enlarge the scope of the notion of a right. Traditional rights theorists have constructed a framework which is unduly restrictive. An examination of some of the common classifications reveals several artificial distinctions. The removal of these conceptual obstacles should facilitate the formulation of a broader and more accurate concept of human rights.

#### a) The Doctrine of Moral Correlativity

The idea that to hold rights one must be capable of and willing to perform duties, is known as the doctrine of moral correlativity (Feinberg 1973:

61–62). It is sometimes asserted that a right, in order to be a right, must be unconditional. But this is demonstrably false. Consider the case of the prisoner, some of whose rights are suspended because he has not fulfilled his duties (Feinberg 1973: 62).<sup>9</sup> Here we would agree that it is appropriate to make rights contingent on duties. One could go so far as to argue that, for adults at least, *all* rights are contingent on duties. Even the right to life, for example, could be said to be contingent on the duty to respect other lives. On the other hand, if babies and animals have rights, then they have them irrespective of their capacity to perform duties. So the doctrine of moral correlativity appears to be contingent. As a consequence, societies in which rights depend on the performance of duties can still be said to have rights.

#### b) Positive versus Negative

Philosophers have traditionally divided rights into two categories: positive and negative. If a citizen has a right to freedom of speech, for example, then the state has a duty of non-interference. This so-called negative right allegedly imposes no burdensome or costly duty upon the state. The standard view of the positive right holds that welfare rights require extensive governmental action. It is worth pointing out that the views above are those of Western philosophers who are sympathetic to civil and political rights but not to economic rights. Therefore, the positive/negative rights classification simply reflects the values of the political culture in which the philosophers live.

The allegation that positive rights demand elaborate state action has been criticized by philosophers such as Sidney Hook (1970) and Henry Shue (1980). In “Basic Rights” Shue challenges the premise that only positive rights require a vast expenditure of funds. Opponents of positive rights might argue, for example, that providing a food stamp program would involve a costly and unwieldy bureaucratic network. The right to food thus appears to be an expensive right.

But some of the ‘negative’ rights, for instance, the right to a trial by jury, certainly necessitate the existence of an elaborate (and expensive) criminal justice apparatus. The maintenance of civil and political rights depends on the existence of police,

<sup>9</sup> Some might argue that the prisoner is not deprived of rights but only privileges. But among the most fundamental rights is (supposedly) the right to liberty (Hart 1979).

courts, and a plethora of other institutions. This reappraisal suggests that the emphasis placed on particular rights is a matter of political preference rather than simple economic calculations.

### c) Legal versus Moral

A second distinction that is often drawn is that between moral and legal rights. Legal positivists claim that a right exists only if it is enforceable. Legal rights which exist by virtue of legislative enactment, common law, and so on, are, therefore, the only type of rights possible.<sup>10</sup> Other theorists, such as natural law/rights theorists, hold that moral rights are prior to and independent of legal rights.

The distinction can be quite crucial when, for example, a legal system makes no provision for a particular right. The argument that the system should be modified to incorporate the right will be fortified by the demonstrated existence of a moral right. Without moral rights it would be considerably more difficult to bring about changes in law. The validity of legal rights can be based partly on the extent to which they correspond to moral rights.<sup>11</sup>

### d) Individual versus Group

In the Western political tradition, only individual adult moral agents have been accorded the privilege of holding rights. But there is nothing inherent in the notion of a right which logically requires this restriction. Nonetheless, some Westerners deny the existence of group rights, and their reluctance to grant such rights may stem from a fear that such rights are merely expressions of utilitarian goals. Since one of the main purposes of rights is to limit the arbitrary exercise of governmental power, utilitarian goals masquerading as group rights would perhaps seriously undermine the power of rights as trumps.

Not all group rights, however, need be opposed to individuals' rights, e.g., the right to self-determination. The United Nations has, in fact,

recognized community rights, the rights of peoples, and the rights of groups, in addition to the rights of individuals (Ramcharan 1983: 278). The advantage of admitting group rights is that there may be certain rights which people ought to be able to claim, which cannot be easily expressed in individualistic terms. One could make the case, for example, that some of the rights articulated in the "African Charter on Human and Peoples' Rights," specifically Articles 19–24, which pertain to colonialism, require the language of group rights rather than individual rights (Anonymous 1983).

## 4. Human Rights and the Presumption of Universality

The emergence of rights in political thought is generally regarded as a new development. There are those who maintain that rights did not exist in ancient civilizations and those who argue that rights are not to be found in non-Western moral systems. Any historical study of rights reveals how hazy the philosophical charting of the evolution of rights has been. Based on what little evidence is presented, it is astonishing that anyone should offer decisive conclusions about the role of rights in other epochs and cultures. The absence of any consideration of moral notions comparable to rights makes the *presumed* universality of human rights dubious at best. If we are to save human rights from the charge of cultural imperialism, which I believe is possible, then it is necessary to reinforce their underpinnings. In the remainder of this article I identify some of the weaknesses in the foundations of human rights, as put forward by (mostly Western) philosophers.

### a) Definitions

The classic definition of a human right is a right which is universal and held by all persons: "A human right by definition is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he is human" (Cranston 1973: 36). One of the definitions cited most often is that of Wasserstrom (1979). Any true human right, it is said, must satisfy at least four requirements: "First, it must be possessed by all human beings, as well as only by human beings. Second, because it is the same right that all human beings possess, it

10 Of course, it is still possible to identify a legal right even if it is not enforced.

11 Of course, other factors are relevant, such as whether or not the legal right was promulgated according to correct procedure. Ultimately, however, the content of the right should resonate with prior moral rights if it is to be regarded as legitimate within the society in question.

must be possessed equally by all human beings. Third, because human rights are possessed by all human beings, we can rule out as possible candidates any of those rights which one might have in virtue of occupying any particular status or relationship, such as that of parent, president, or promisee. And fourth, if there are any human rights, they have the additional characteristic of being assertable, in a manner of speaking, 'against the whole world'" (1979: 50).

As one can see from the definitions, human rights are presumed to be universal in character. This would not in itself be problematic (indeed it is desirable), except that the philosophical foundations are never adequately demonstrated. The failure to ground human rights, as will be discussed below, has much to do with their historical antecedents, in particular natural law and natural rights, with which human rights are assumed by many philosophers to be synonymous (Donnelly 1985: 10; Pappu 1969: 44; Wasserstrom 1979).

#### b) Traditional Western Sources

For many centuries natural law played a dominant role in Western political theory. Natural law was considered to be the standard against which all other laws were to be judged. To contest the injustice of a man-made law, one could appeal to the higher authority of God or natural law (Sophocles 1974). Eventually natural law evolved into natural rights, which are considered to be the modern manifestations of natural law. The change reflected a shift in emphasis from society to the individual. Whereas natural law provided a basis for curbing excessive state power, natural rights offered a means by which an individual could press claims against the government.<sup>12</sup>

Natural law/rights theorists have asserted the existence of specific rights such as the right to liberty (Hart 1979), the right to life (McCloskey 1975), the right to self-preservation (Hobbes), the right to property (Locke), the right to freedom from torture (Nickel 1982), and the right to participate (Stackhouse 1984). Because they take the validity of the rights to be a self-evident proposition, there has traditionally been little room for debate. One might expect to encounter difficulties when various proponents defend different and sometimes conflicting rights based solely on the claim that the rights are self-evident. Not

surprisingly, philosophers have not welcomed discussions of competing moralities, largely because they take their own values to be obviously correct. Strangely enough, Waldron notes that natural rights "... seemed peculiarly vulnerable to ethical skepticism" but concludes that "... it would be wrong to suggest that the discussion of human rights has been seriously impeded by these difficulties" (1984: 3).

Though the contemporary notion of human rights may be the offspring of natural rights, there are, nonetheless, differences between them. The most important of these is the extent of the moral universe to which they lay claim. Whereas natural rights were not widely contested because they were asserted in a universe of shared values, human rights have been highly controversial. Consider Locke's assertion of the natural right to property, the validity of which was taken for granted in England, but which might require argumentation in some socialist countries (to say the least). The presumption of universality no longer serves "universal" rights well.<sup>13</sup>

In the past, attempts to ground human rights were not successful. The best known and most celebrated efforts employed the vague concepts of human nature and rationality to establish particular rights. It could be argued that it is nonsensical to separate the two insofar as rationality is, in some regions, regarded as integral to human nature. Other conceptual devices which have provided tentative bases for human rights include: the ability to use language, reciprocity, the capacity to conform to moral requirements, self-motivated activity, self-consciousness, and purposive agency (Husak 1984: 128).

Increasingly, justification for human rights is coming to depend less on human nature and rationality and more on the concepts of basic human needs and human dignity. These strategies, however, are subject to the same weaknesses as their predecessors. How theorists derive specific human rights from needs or dignity remains entirely obscure. Just as some philosophers began to challenge the assumption that human nature could give rise to specific human rights (Blackstone 1968: 624), others (e.g., Donnelly 1985: 28–30) question the ability of basic needs theorists to delineate in the abstract those needs which should

<sup>12</sup> For detailed accounts, see L. Strauss (1953), M. Roshwald (1959), R. Tuck (1981), and J. Donnelly (1985).

<sup>13</sup> Another major difference between natural law and human rights is that, according to international human rights lawyers and the United Nations community in general, human rights accommodate other types of rights in addition to civil and political.

give content to the idea of human rights. Presumably, adherents to this approach would not advocate the establishment of rights based on *all* needs. Someone must decide what needs are truly basic, and inasmuch as different judges will perceive different needs as taking highest priority, this approach does not circumvent the challenge of diversity.

The problem with all of these approaches which aim at anchoring human rights by another concept is that they cannot demonstrate their necessary connection to human rights. The interpretation of basic needs, for example, falls prey to the same hermeneutical weakness of natural law/rights. There is no way to prove the validity of any particular interpretation because no procedure is established by which the legitimacy of particular human rights can be judged. Indeed, there is some consensus among philosophers that up until the present, all attempts to provide solid philosophical foundations for human rights have failed (e.g., Feinberg 1973: 90).

In the absence of a satisfactory grounding for human rights, theorists are compelled to fall back upon mere assertions as to the self-evident nature of particular human rights. In view of the diversity of moral systems in the world, it is difficult to understand why the presumption of universality could endure so long without being seriously questioned. The answer lies in the psychological predisposition of human beings to generalize from their own perspective. Western philosophers in particular seem to be prone to projecting their moral categories on others. As a consequence, the presumption of universality is deeply ingrained in Western moral philosophy.

### c) "Everyone Thinks the Same"

Two of the best known examples of these tendencies are Immanuel Kant and John Rawls (1971). Their conceptual devices, the categorical imperative and the original position, respectively, presuppose the existence of a set of universal moral principles. Many philosophers employ Kantian notions as a vehicle to advance human rights. As Feinberg has observed, however, he claims that human beings are "ends in themselves" or "sacred" or "of infinite value" are themselves in need of a foundation (1973: 92). Kantian moral theory assumes the existence of a single pattern of moral reasoning. The abstract rational process is presumed to bear a single and universal result, irrespective of cultural differences.

The device of the original position developed by John Rawls (1971) provides another illustration of the universalistic premise. The idea is that individuals behind the "veil of ignorance," stripped of their identity, will select principles of justice by which society should operate. One could make a strong case that the contractarian scenario which Rawls has devised is rigged. For example, Rawls requires that persons in the original position be risk-averse and not be envious.<sup>14</sup> By imposing constraints such as these, Rawls insures that individuals in the original position will agree to the principles he advocates. Thus, the device provides an *ex post facto* justification for his own personal moral convictions.

It is plausible that individuals from the same culture might agree to the same principles. Americans conceivably would designate Rawls' principles as their own. But if one transposes the scenario of the original position to an international setting (Beitz 1979), it becomes doubtful whether all the participants will acquiesce. The presupposition is that individuals stripped of their cultural and political heritage would be pure rational beings and would thus dutifully select liberal democratic principles of justice. The premise that individuals could negotiate for fundamental principles in the absence of culture is quite fantastic. And this is precisely the root of the problem: underlying the presumption of universality is the belief that all peoples think in a similar fashion.

The most remarkable example of a scholar assuming that there is a single correct pattern of moral reasoning can be found in the work of Lawrence Kohlberg. His stage theory of moral development is perhaps the most blatantly universalistic moral theory one could imagine. Those surveyed who did not reason according to preconceived styles were considered to have retarded powers of moral reasoning. Among other things, his work has been challenged as failing to take into account gender differences (Gilligan 1982). Its cross-cultural validity is still hotly debated. But the astounding nature of Kohlberg's presumption of universality is typified by his conclusions in an article about capital punishment (Kohlberg and

14 The reason for the risk-averse requirement is that otherwise people might prefer less egalitarian distributive principles. Because they are risk-averse, they worry that without such principles they might end up as the poor. – The explanation for the non-envy requirement has to do with the avoidance of socialism. Since Rawls allows for some inequalities through the difference principle, the existence of envy might lead the participants in the original position to prefer a more strictly egalitarian system.



Elfenbein 1975). On his view, reaching the highest stage of moral development entails rejection of the death penalty. Even though Kohlberg never reveals his own convictions, it seems clear that these conclusions may reflect his own values. Kohlberg's moral theory represents a classic example of the fallacies which accompany the presumption of universality. Needless to say, in the event one disagrees with Kohlberg, e.g., on the defensibility of the death penalty, one's abilities in moral reasoning are called into question. This kind of thinking typifies the universalist position, namely that alternative patterns of thought are dismissed from the outset.

#### **d) Problems with International Human Rights Documents**

Instead of facing the reality of moral diversity from the beginning, those who participated in drafting international human rights standards avoided the issue. To circumvent fundamental disagreement, the individuals involved took the tack of including a wide range of rights in the Universal Declaration of Human Rights. To have some understanding of the nature of the problems which international human rights have encountered, it is necessary to review briefly the universal rights set forth in some of the main international human rights instruments.

As should be clear by now, it is only within a universe of shared values that the presumption of universality encounters no difficulties. Various international human rights instruments have remained controversial, however, precisely because they contain values which are not shared on a worldwide basis. Several provisions from the Universal Declaration of Human Rights should demonstrate the extent to which the presumed universality of some human rights provisions is called into question.

Article 17 provides that "Everyone has the right to own property alone as well as in association with others" and that "no one shall be arbitrarily deprived of his property." The value underlying this standard is hardly universal. One commentator refers to the problem with Article 17 as one of cultural imperialism because it "... seeks to impose free enterprise and capitalism on the rest of the world" (Zvobgo 1979: 95). Another human rights analyst rejects the universality of Article 17 (1): "The community ideology does not admit of private property, except in consumer goods" (Sinha 1978: 144).

Some of the articles concerning elections reflect a preference for a particular kind of political system. Articles 18, 19, and 20 provide for rights to freedom of thought, religion, and association. Article 21 guarantees the right to participate in government, equal access to public service, and free elections. In Article 21 (3) the ideological basis of the human right standard is made manifest: "The will of the people shall be the basis of the authority of government: this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures." While these articles clearly embody the preferred set of political devices of Western liberal democratic regimes, the provisions may not be universally accepted. From the Third World perspective, Article 21 seeks to "universalize Western-style elections" (Zvobgo 1979: 95), which are obviously not universal: "Monarchies, dictatorships, single-party rules, or single-candidate elections are not non-existent in today's world" (Sinha 1978: 144). Of course, one cannot infer from the existence of these political regimes that the people themselves prefer them to Western-style democracies. But it is ethnocentric to assume that Western electoral procedures are unanimously favored.

It is not only in the political realm that human rights seem not to be expressions of universal values. Some of the rights concerned with social life may also be unrepresentative of the entire world. For instance, Article 16 provides for the right to marry and to found a family. Article 16 (2) stipulates that marriages shall be entered into only with the free and full consent of the intending spouses. And finally, Article 16 (3) specifies that the family is the natural and fundamental unit of society, and is entitled to protection by society and the state. It is not clear if the fundamental unit is the nuclear family or whether the Article might allow for the kinship group instead. The phraseology suggests that only the immediate family can be understood to be the basic unit, which would appear to be insensitive to the many societies which have different patterns of social organization. The provision guaranteeing voluntary choice of marriage partners runs counter to the practice of arranged marriages, which is an integral part of many value systems of the world. Even the first clause holding that there is a right to marry and found a family may be problematic when one considers that there have been many restrictions on the right to marry and procreate, which were at one time regarded as moral by Americans, e.g.,

compulsory sterilization, prohibition of homosexual marriages, and anti-miscegenation laws.

Some believe that the reason why many of the values in the Universal Declaration of Human Rights appear to be Western is that the Third World did not participate in great numbers when it was drafted. Zvobgo (1979: 95) maintains that, were the Declaration to be debated again in the General Assembly, the final draft would differ significantly from what was adopted in 1948. Others, while acknowledging that the United Nations human rights debate took place at a time when the great majority of Third World nations were still under colonial rule, still maintain that the contribution of the Third World was "by no means negligible" (Alston 1983: 61; 1987: 59–60). Among the most active participants were Chile, China, Cuba, India, Lebanon, and Panama. At the General Assembly in 1948, Egypt, Ethiopia, Liberia, Afghanistan, the Philippines, Thailand, India, and Pakistan, as well as all of the Central and Latin American States were among the 48 voting in favor of the Declaration. Saudi Arabia, South Africa, and the Eastern European nations were the eight abstentions; no one voted against (Alston 1983: 61).

Since there is still considerable reason to believe that the Declaration bears a Western imprint, this suggests that the role of government elites at international settings may not be indicative of the traditional value systems which they are supposed to represent. The problem with the particular configuration of rights found in the Universal Declaration is that some of the rights may not be compatible with the diverse value systems of the world. Consequently, the promulgation of the Universal Declaration appears to many countries as the imposition of an alien value system: "Thus, to the extent these kinds of rights are concerned, we have the scenario of one particular culture, or one particular ideology, or one particular political system claiming to be imposed upon the entire world . . . . It is self-defeating for the human-rights movement to take the latter approach and say, force private property upon the Soviet Union or China, or abolish arranged marriages in India, or force general elections in Saudi Arabia, and then – and here is the greatest danger of all – retire in the smug delusion that having done that, justice has thereby been achieved for the individual" (Sinha 1978: 144, 159).

Sinha attacks the single catalogue approach because it does not take into account cultural variability. He advocates an approach which is

culture based. By making a distinction between the catalogue and the concept of human rights, he wants to allow for the development of particular rights standards for different social systems. Instead of "the catalogue of one particular society being rammed down the throat of another under the crusadic [sic] disguise of human rights" (1978: 159), Sinha prefers to let societies devise their own means of paying homage to human rights standards. But while his theory is culturally sensitive, it cannot provide any universals. Hence it is no longer a theory of *human* rights but rather a theory of *cultural* rights.

### 5. Non-Western Conceptions of Human Rights

The international documents are not sufficient, in and of themselves, to resolve the question of whether the human rights which they enumerate are Western or universal. Of course, it is possible that they could contain some rights which are universal and some which are not. To decide which rights are *truly* universal, some have sought to characterize the concept of human rights according to various geographical, cultural, religious, and ideological perspectives. It is important, however, to be aware of the limitations of this literature.

First, there do not even exist articles on the concept of human rights in all societies. Whether or not those about which nothing is written have well-defined concepts of human rights we do not know. Second, the articles that do exist tend to focus on what is distinctive about the concept in the country or religion in question. So the result may be to afford insight into the distinctive features of the concept rather than to provide any indication about what aspects might be consistent with the values embodied in the international documents. The point is that the emphasis is on what is distinctive rather than what is common. Third, we cannot tell whether or not to rely on the characterizations provided. Analysts, even when speaking of the same culture, sometimes give radically different interpretations to the concept and oftentimes formulate conclusions on the basis of misleading evidence. Discussions of human rights in China, for example, tend to focus on what rights Chinese officials have granted rather than on what the traditional values are. Fourth, no systematic comparative analyses of human rights have ever been undertaken.

In the process of evaluating non-Western perspectives, one is struck by the lack of appropriate documentation. What there is is generally not

well substantiated and is often so vague that it is not possible to tell whether the society really supports particular rights or not. Moreover, the focus is on legal and religious texts from which we cannot glean the information necessary to tell what the cultural norms are. By drawing almost exclusively from the written materials of the elites, they give us no way of determining whether indigenous perceptions of morality include human rights.

The following is a representative selection of the kinds of articles on non-Western conceptions of human rights which are available at present:

### African

#### Adegbite, L. O.

1968 African Attitudes to the International Protection of Human Rights. In: A. Eide and A. Schou (eds.), *International Protection of Human Rights*; pp. 69–81. New York: Interscience Publishers.

#### Akpan, J. E.

1980 The 1979 Nigerian Constitution and Human Rights. *Universal Human Rights* 2: 23–41.

#### Asante, S. K. B.

1968–1969 Nation Building and Human Rights in Emergent African Nations. *Cornell International Law Journal* 1/2: 72–107.

#### Bello, E.

1981 Shared Legal Concepts Between African Customary Norms and International Conventions on Humanitarian Law. *Indian Journal of International Law* 21: 79–95.

#### Cobbah, J. A. M.

1987 African Values and the Human Rights Debate: The African Perspective. *Human Rights Quarterly* 9: 309–331.

#### Gittleman, R.

1982 The African Charter on Human and Peoples' Rights: A Legal Analysis. *Virginia Journal of International Law* 22: 667–714.

#### Haile, M.

1984 Human Rights, Stability, and Development in Africa: Some Observations on Concept and Reality. *Virginia Journal of International Law* 24: 575–615.

#### Hountondji, P. J.

1986 The Master's Voice—Remarks on the Problem of Human Rights in Africa. In: UNESCO; pp. 319–332. Paris: UNESCO.

#### Howard, R.

1983 The Full Belly Thesis: Should Economic Rights Take Priority Over Civil and Political Rights? Evidence from Sub-Saharan Africa. *Human Rights Quarterly* 4: 467–490.

1984a Evaluating Human Rights in Africa: Some Problems of Implicit Comparisons. *Human Rights Quarterly* 6: 160–179.

1984b Women's Rights in English-Speaking Sub-Saharan Africa. In: C. E. Welch Jr. and R. I. Meltzer (eds.), *Human Rights and Development in Africa*; pp. 46–74. Albany: State University of New York Press.

#### Howard, R. E.

1986 *Human Rights in Commonwealth Africa*. Totowa, N. J.: Rowman and Littlefield.

1986 Is there an African Concept of Human Rights? In: R. J. Vincent (ed.), *Foreign Policy and Human Rights*; pp. 11–32. Cambridge: Cambridge University Press.

#### Kannyo, E.

1980 *Human Rights in Africa: Problems and Prospects*. New York: International League for Human Rights.

1984 The Banjul Charter on Human and People's Rights: Genesis and Political Background. In: C. E. Welch Jr. and E. I. Meltzer (eds.), *Human Rights and Development in Africa*; pp. 128–151. Albany: State University of New York Press.

#### Kunig, P.

1982 The Protection of Human Rights by International Law in Africa. *German Yearbook of International Law* 25: 138–168.

#### Legesse, A.

1980 Human Rights in African Political Culture. In: K. Thompson (ed.), *The Moral Imperatives of Human Rights*; pp. 123–138. Washington, D. C.: University Press of America.

#### Marasinghe, L.

1984 Traditional Conceptions of Human Rights in Africa. In: C. E. Welch Jr. and R. I. Meltzer (eds.), *Human Rights and Development in Africa*; pp. 32–45. Albany: State University of New York Press.

#### M'Baye, K.

1982 Human Rights in Africa. In: K. Vasak and P. Alston (eds.), *The International Dimensions of Human Rights*; vol. 2: 583–600. Westport, Conn.: Greenwood Press.

#### Mojekwu, C. C.

1980 International Human Rights: The African Perspective. In: J. L. Nelson and V. M. Green (eds.), *International Human Rights*; pp. 85–95. New York: Human Rights Publishing Group.

#### Neff, S. C.

1984 Human Rights in Africa. *International and Comparative Law Quarterly* 33: 331–347.

#### Okafor, F. U.

1985 Human Right and Justice: The African Perspective. *Philosophy and Social Action* 11 (3): 25–33.

#### Okoli, E.

1982 Toward a Human Rights Framework in Nigeria. In: A. Pollis and P. Schwab (eds.), *Toward a Human Rights Framework*; pp. 203–222. New York: Praeger.

#### Takirambudde, P. N. (ed.)

1982 *The Individual Under Africa Law*. Proceedings of the First All-Africa Law Conference, Oct. 11–16, 1981. University of Swaziland, Department of Law. Private Bay, Kwaluseni, Swaziland.

#### Turack, D. C.

1984 The African Charter of Human and Peoples' Rights: Some Preliminary Thoughts. *Akron Law Review* 17: 365–381.

#### Umzurike, U. O.

1983 The African Charter on Human and Peoples' Rights. *American Journal of International Law* 77: 902–912.

**Wai, D. M.**

- 1979 Human Rights in Sub-Saharan Africa. In: A. Pollis and P. Schwab (eds.), *Human Rights: Cultural and Ideological Perspectives*; pp. 115–144. New York: Praeger.

**Weinstein, W.**

- 1976 Africa's Approach to Human Rights at the United Nations. *Issue 6*: 14–21.

**Wiseberg, L.**

- 1976 Human Rights in Africa: Toward a Definition of the Problem of a Double Standard. *Issue 6*: 3–13.

**Asian****Burks, A. W.**

- 1985 Japan: The Bellwether of East Asian Human Rights? In: J. C. Hsiung (ed.), *Human Rights in East Asia*; pp. 31–53. New York: Paragon House Publishers.

**Chang, C. C.**

- 1946 Political Structure in the Chinese Draft Constitution. *Annals. American Academy of Political and Social Science* 243: 67–76.

**Cheng, C.**

- 1979 Human Rights in Chinese History and Chinese Philosophy. *Comparative Civilizations Review* 1: 1–19.

**Edwards, R. R.**

- 1986 Civil and Social Rights: Theory and Practice in Chinese Law Today. In: R. R. Edwards, L. Henkin, and A. J. Nathan (eds.), *Human Rights in Contemporary China*; pp. 41–75. New York: Columbia University Press.

**Edwards, R. R., L. Henkin, and A. J. Nathan (eds.)**

- 1986 *Human Rights in Contemporary China*. New York: Columbia University Press.

**Goldman, M.**

- 1983 Human Rights in the People's Republic of China. *Daedalus* 112: 111–138.

**Henkin, L.**

- 1986 The Human Rights Idea in Contemporary China: A Comparative Perspective. In: R. R. Edwards, L. Henkin, and A. J. Nathan (eds.), *Human Rights in Contemporary China*; pp. 7–39. New York: Columbia University Press.

**Hsiung, J. C. (ed.)**

- 1985 *Human Rights in East Asia: A Cultural Perspective*. New York: Paragon House Publishers.

**Huang, M.**

- 1979 Human Rights in a Revolutionary Society: The Case of the People's Republic of China. In: A. Pollis and P. Schwab (eds.), *Human Rights: Cultural and Ideological Perspectives*; pp. 60–85. New York: Praeger.

**Inagaki, R.**

- 1986 Some Aspects of Human Rights in Japan. In: UNESCO; pp. 179–192. Paris: UNESCO.

**Kim, I.**

- 1985 Human Rights in South Korea and U. S. Relations. In: J. C. Hsiung (ed.), *Human Rights in East Asia*; pp. 55–75. New York: Paragon House Publishers.

**Lee, M.**

- 1985 North Korea and the Western Notion of Human Rights. In: J. C. Hsiung (ed.), *Human Rights in East Asia*; pp. 129–151. New York: Paragon House Publishers.

**Leng, S.**

- 1980 Human Rights in Chinese Political Culture. In: K. Thompson (ed.), *The Moral Imperatives of Human Rights*; pp. 81–107. Washington, D. C.: University Press of America.

**Lo, C.**

- 1948 Human Rights in the Chinese Tradition. In: UNESCO, *Human Rights*; pp. 186–190. London and New York: Allan Wingate.

**Nathan, A. J.**

- 1986a Political Rights in Chinese Constitutions. In: R. R. Edwards, L. Henkin, and A. J. Nathan (eds.), *Human Rights in Contemporary China*; pp. 77–124. New York: Columbia University Press.  
1986b Sources of Chinese Rights Thinking. In: R. R. Edwards, L. Henkin, and A. J. Nathan (eds.), *Human Rights in Contemporary China*; pp. 125–164. New York: Columbia University Press.

**Scoble, H. M., and L. Wiseberg (eds.)**

- 1985 *Access to Justice*. London: Zed Books.

**Sutter, R. B.**

- 1978 *Human Rights in China*. Washington, D. C.: Congressional Research Service, Library of Congress.

**Tai, H.**

- 1985 Human Rights in Taiwan: Convergence of Two Political Cultures? In: J. C. Hsiung (ed.), *Human Rights in East Asia*; pp. 79–108. New York: Paragon House Publishers.

**Wilson, R. W.**

- 1985 Rights in the People's Republic of China. In: J. C. Hsiung (ed.), *Human Rights in East Asia*; pp. 111–126. New York: Paragon House Publishers.

**Woo, P. K. Y.**

- 1980 A Metaphysical Approach to Human Rights from a Chinese Point of View. In: A. Rosenbaum (ed.), *The Philosophy of Human Rights*; pp. 113–124. Westport, Conn.: Greenwood Press.

**Yamane, H.**

- 1982 Asia and Human Rights. In: K. Vasak and P. Alston (eds.), *The International Dimensions of Human Rights*; vol. 2: 651–670. Westport, Conn.: Greenwood Press.

**Soviet****Anonymous**

- 1986 The Concern for Human Rights: Real and False. Moscow: Novosti Press Agency Publishing House.

**Blaser, A. W.**

- 1984 The Rhetoric, Promise, and Performance of Human Rights: Soviet and American Perspectives. *Journal of Applied Behavioral Science* 20: 471–489.

**Blishitsenko, I. P.**

- 1973 Human Rights Practice in the USSR and Its International Impact. Berlin: GDR Committee for Human Rights.

Anthropos 83.1988



**Chalidze, V.**

1974 *To Defend These Rights: Human Rights and the Soviet Union*. New York: Random House.

**Chernenko, K. U.**

1981 *Human Rights in Soviet Society*. New York: International Publishers.

**Dean, R. N.**

1980 *Beyond Helsinki: The Soviet View of Human Rights in International Law*. *Virginia Journal of International Law* 21: 55–95.

**Kadarkay, A.**

1982 *Human Rights in American and Russian Political Thought*. Washington, D. C.: University Press of America.

**Kartashkin, V. A.**

1977 *Convenants on Human Rights and Soviet Legislation*. *Revue des Droits de l'Homme* 10: 97–115.

**Kennan, E. L.**

1980 *Human Rights in Soviet Political Culture*. In: K. Thompson (ed.), *The Moral Imperatives of Human Rights*; pp. 69–79. Washington, D. C.: University Press of America.

**Koldayev, V.**

1976 *Soviet Citizen: Their Rights and Duties*. Moscow: Novosti Press Agency Publishing House.

**Kudryavtsev, V. N.**

1986 *Human Rights and the Soviet Constitution*. In: UNESCO; pp. 83–94. Paris: UNESCO.

**LaPenna, I.**

1977 *Human Rights: Soviet Theory and Practice*. *Conflict Studies* 83: 1–15.

**Lee, S. H.**

1985 *The Status of the Debate on Rights in the USSR*. *Studies in Soviet Thought* 30: 149–164.

**Leonidov, E.**

1982 *Democracy – True and False*. *International Affairs* (Moscow) 11: 3–10.

**Medvedev, F., and G. Kulikov**

1981 *Human Rights and Freedoms in the USSR*. Moscow: Progress Publishers.

**Szymanski, A.**

1984 *Human Rights in the Soviet Union*. London: Zed Books.

**Tchechko, B.**

1948 *The Conception of the Rights of Man in the U. S. S. R. Based on Official Documents*. In: UNESCO, *Human Rights*; pp. 158–176. London and New York: Allan Wingate.

**Webster, A. F. C.**

1983 *Human Rights in the USSR: Two Views of Socialist Reality*. *Religious Humanism* 17: 14–21.

**Soviet/American****Berman, H. J.**

1965 *Human Rights in the Soviet Union*. *Howard Law Journal* 11: 333–341.

1979 *American and Soviet Perspectives on Human Rights*. *Worldview* 22 (11): 15–21.

**Blaser, A. W.**

1984 *The Rhetoric, Promise, and Performance of Human Rights: Soviet and American Perspectives*. *Journal of Applied Behavioral Science* 20: 471–489.

**Kelley, R.**

1984 *Comparing the Incomparable: Politics and Ideas in the United States and the Soviet Union*. *Comparative Studies in Society and History* 26: 672–708.

**McWhinney, E.**

1962 *“Peaceful Co-Existence” and Soviet-Western International Law*. *American Journal of International Law* 56: 951–970.

**Somerville, J.**

1948 *Comparison of the Soviet and Western Democratic Principles, with Special Reference to Human Rights*. In: UNESCO, *Human Rights*; pp. 152–155. London and New York: Allan Wingate.

**Socialist****Cavoski, K.**

1982 *The Attainment of Human Rights in Socialism*. *Praxis International* 1: 365–375.

**Egorov, A. G.**

1979 *Socialism and the Individual – Rights and Freedoms*. *Soviet Studies in Philosophy* 18: 3–51.

**Gjoliku, L.**

1984 *The Socialist Order Is the Most Democratic*. *Albania Today* 3 (76): 46–51.

**Heuman, S. E.**

1979 *A Socialist Conception of Human Rights: A Model from Prerevolutionary Russia*. In: A. Pollis and P. Schwab (eds.), *Human Rights: Cultural and Ideological Perspectives*; pp. 44–59. New York: Praeger.

**Kartashkin, V.**

1982 *The Socialist Concept of Human Rights*. In: K. Vasak and P. Alston (eds.), *The International Dimensions of Human Rights*; vol. 2: 631–643. Westport, Conn.: Greenwood Press.

**Kataio, N. L.**

1981 *The Rights and Duties of Young People*. In: *Human Rights in Socialist Society*; pp. 90–101. Moscow: Novosti Press Agency Publishing House.

**Nielsen, K.**

1982 *Capitalism, Socialism, and Justice*. In: T. Regan and D. Van DeVeer (eds.), *And Justice for All*; pp. 264–286. Totowa, N. J.: Rowman and Littlefield.

**Patyulin, V.**

1981 *The Socialist Conception of Human Rights*. In: *Human Rights in Socialist Society*; pp. 7–23. Moscow: Novosti Press Agency Publishing House.

**Przetacznik, F.**

- 1977 The Socialist Concept of Human Rights: Its Philosophical Background and Political Justification. *Revue Belge de Droit International* 13: 238–278.

**Spasov, B.**

- 1981 The Political and Civil Rights of the Individual Under Socialism. In: *Human Rights in Socialist Society*; pp. 72–89. Moscow: Novosti Press Agency Publishing House.

**Tay, A.**

- 1978 Marxism, Socialism, and Human Rights. In: E. Kamenska and A. Tay (eds.), *Human Rights*; pp. 105–112. London: Edward Arnold.

**Tay, A. E.**

- 1981 Socialism and Human Rights. In: A. E. Tay (ed.), *Teaching Human Rights*; pp. 73–76. Canberra: Australian Government Publishing Service.

**Marxist****Buchanan, A. E.**

- 1981 The Marxian Critique of Justice and Rights. *Canadian Journal of Philosophy* 7: 269–306.

**Hirszowicz, M.**

- 1966 The Marxist Approach. *International Social Science Journal* 18: 11–21.

**Kolakowski, L.**

- 1983 Marxism and Human Rights. *Daedalus* 112: 81–92.

**Lukes, S.**

- 1982 Can a Marxist Believe in Human Rights? *Praxis International* 1: 334–345.

**Macfarlane, L. J.**

- 1982 Marxist Theory and Human Rights. *Government and Opposition* 17: 414–428.

**Markovic, M.**

- 1982 Philosophical Foundations of Human Rights. *Praxis International* 1: 386–400.

**Islamic****Ahmed, M. K.**

- 1956 Islamic Civilization and Human Rights. *Revue Egyptienne de Droit International* 12 (2): 1–21. [in Arabic]

**Bassiouni, M. C. (ed.)**

- 1982 The Islamic Criminal Justice System. London: Ocean Publications Inc.

**Coulson, N. J.**

- 1957 The State and the Individual in Islamic Law. *International and Comparative Law Quarterly* 6: 49–60.

**Dudley, J.**

- 1982 Human Rights Practices in the Arab States: The Modern Impact of Shari'a Values. *Georgia Journal of International and Comparative Law* 12: 55–93.

**El Naiem, A. A.**

- 1984 A Modern Approach to Human Rights in Islam: Foundations and Implications for Africa. In: C. E. Welch Jr. and R. I. Meltzer (eds.), *Human Rights and*

Development in Africa; pp. 75–89. Albany: State University of New York Press.

**Gazzali, M.**

- 1962 Human Rights in the Teaching of Islam. Cairo: Al makhtabat al-Tjariyah.

**Haider, S. M.**

- 1978 Islamic Concept of Human Rights. Lahore: The Book House.

**Hakim, K. A.**

- 1955 Fundamental Human Rights. Lahore: The Institute of Islamic Culture Publications.

**Hassan, R.**

- 1982 On Human Rights and the Qur'anic Perspective. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 51–65. New York: Pilgrim Press.

**Ishaque, K. M.**

- 1974 Human Rights in Islamic Law. *Review of the International Commission of Jurists* 123: 30–39.

**Kabir, H.**

- 1948 Human Rights: The Islamic Tradition and the Problems of the World Today. In: UNESCO, *Human Rights*; pp. 191–194. London and New York: Allan Wingate.

**Khadduri, J.**

- 1946 Human Rights in Islam. *Annals. American Academy of Political and Social Science* 243: 77–81.

**Khadduri, M.**

- 1984 The Islamic Conception of Justice. Baltimore: Johns Hopkins University Press.

**Malik, J. I.**

- 1981 The Concept of Human Rights in Islamic Jurisprudence. *Human Rights Quarterly* 3: 56–67.

**Mawdudi, A. A.**

- 1976 Human Rights in Islam. London: The Islamic Foundation.

**Nasr, S. H.**

- 1980 The Concept and Reality of Freedom in Islam and Islamic Civilization. In: A. Rosenbaum (ed.), *The Philosophy of Human Rights*; pp. 95–101. Westport, Conn.: Greenwood Press.

**Nawaz, M. K.**

- 1965 The Concept of Human Rights in Islamic Law. *Howard Law Journal* 11: 325–332.

**Piscatori, J.**

- 1980 Human Rights in Islamic Political Culture. In: K. Thompson (ed.), *The Moral Imperatives of Human Rights*; pp. 139–167. Washington, D. C.: University Press of America.

**Rabbath, E.**

- 1959 La théorie des droits de l'homme dans le droit musulman. *Revue Internationale de Droit Comparé* 11: 672–693.

**Rahman, S. A.**

- 1978 The Qur'an and Fundamental Human Rights. *Hamdard Islamicus* 1: 71–85.

**Said, A. A.**

- 1979a Human Rights in Islamic Perspectives. In: A. Pollis and P. Schwab (eds.), *Human Rights: Cultural and Ideological Perspectives*; pp. 86–100. New York: Praeger.

1979b Precept and Practice of Human Rights in Islam. *Universal Human Rights* 1: 63–79.

**Said, A. A., and J. Nassar**

1980 The Use and Abuse of Democracy in Islam. In: J. L. Nelson and V. M. Green (eds.), *International Human Rights*; pp. 61–83. Stanfordville: Human Rights Publishing Group.

**Sinaceur, M. A.**

1986 Islamic Tradition and Human Rights. In: UNESCO; pp. 193–225. Paris: UNESCO.

**Tabandeh, S. H.**

1970 A Muslim Commentary on the Universal Declaration on Human Rights. London: F. T. Goulding and Co. Ltd.

**Talhami, G.**

1985 The Human Rights of Women in Islam. *Journal of Social Philosophy* 16: 1–7.

**Taperell, K.**

1985 Islam and Human Rights. *Australian Foreign Affairs Record* 56: 1177–1184.

**Zakaria, F.**

1986 Human Rights in the Arab World: The Islamic Context. In: UNESCO; pp. 227–241. Paris: UNESCO.

## Hindu

**Mitra, K.**

1982 Human Rights in Hinduism. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 77–84. New York: Pilgrim Press.

**Puntambekar, S. V.**

1948 The Hindu Concept of Human Rights. In: UNESCO, *Human Rights*; pp. 195–198. London and New York: Allan Wingate.

**Sastry, K. R. R.**

1966 Hinduism and International Law. *Recueil des Cours* 117: 507–614.

**Thapar, R.**

1966 The Hindu and Buddhist Traditions. *International Social Science Journal* 18: 31–40.

## Buddhist

**Inada, K. K.**

1982 The Buddhist Perspective on Human Rights. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 66–76. New York: Pilgrim Press.

**Jayatilleke, K. N.**

1967 The Principles of International Law in Buddhist Doctrine. *Recueil des Cours* 120: 445–464.

**Niset, J.**

1977 La doctrine du Bouddha et les droits de l'homme. *Revue des Droits de l'Homme* 10: 5–13.

## Judaic

**Henkin, L.**

1976 Judaism and Human Rights. *Judaism* 100: 435–446.

**Polish, D. F.**

1982 Judaism and Human Rights. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 40–50. New York: Pilgrim Press.

**Sidorsky, D.**

1979 Contemporary Reinterpretations of the Concept of Human Rights. In: D. Sidorsky (ed.), *Essays on Human Rights*; pp. 88–109. Philadelphia: Jewish Publ. Society of America.

## Catholic

**Baum, G.**

1979 Catholic Foundation of Human Rights. *Ecumenist* 18: 6–12.

**Henle, R. J.**

1980 A Catholic View of Human Rights: A Thomistic Reflection. In: A. Rosenbaum (ed.), *The Philosophy of Human Rights*; pp. 87–93. Westport, Conn.: Greenwood Press.

**Hollenbach, D.**

1979 Claims in Conflict: Retrieving and Renewing the Catholic Human Rights Tradition. New York: Paulist Press.

1982 Human Rights and Religious Faith in the Middle East: Reflections of a Christian Theologian. *Human Rights Quarterly* 4: 94–109.

**Langan, J.**

1982 Human Rights in Roman Catholicism. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 25–39. New York: Pilgrim Press.

## Christian and Comparative

**Abraham, K. C.**

1982 Human Rights – Indian Christian Expressions. *Religion and Society* 29 (2): 2–12.

**Cahill, L. S.**

1980 Toward a Christian Theory of Human Rights. *Journal of Religious Ethics* 8: 277–301.

**Deats, R. L.**

1978 Human Rights: An Historical and Theological Perspective. *Engage/Social Action* 6: 10–14.

**Harakas, S. S.**

1982 Human Rights: An Eastern Orthodox Perspective. In: A. Swidler (ed.), *Human Rights in Religious Traditions*; pp. 13–24. New York: Pilgrim Press.

**Schall, J. V.**

1981 Human Rights: The “So-Called” Judaeo-Christian Tradition. *Communio* 8: 51–61.

**Stackhouse, M. L.**

1984 Creeds, Society, and Human Rights: A Study in Three Cultures. Grand Rapids, Mich.: William B. Eerdmans Publishing Co.

**Swidler, A. (ed.)**

1982 *Human Rights in Religious Traditions*. New York: The Pilgrim Press.

**UNESCO**

1979 Meeting of Experts on the Place of Human Rights in Cultural and Religious Traditions (SS-79/Conf. 607/1-9). Paris: UNESCO.

**Miscellaneous****(Third World)****Arat, Z. F.**

1986 Human Rights and Political Instability in the Third World. *Policy Studies Review* 6: 158-172.

**Ferguson, J. A.**

1986 The Third World. In: R. J. Vincent (ed.), *Foreign Policy and Human Rights: Issues and Responses*; pp. 203-226. Cambridge: Cambridge University Press.

**Tyagi, Y. K.**

1981 Third World Response to Human Rights. *Indian Journal of International Law* 21: 119-140.

**Zvobgo, E. J. M.**

1979 A Third World View. In: D. P. Kommers and G. D. Loescher (eds.), *Human Rights and American Foreign Policy*; pp. 90-106. Notre Dame: University of Notre Dame Press.

**(First vs. Third World)****Farer, T. J.**

1979 On a Collision Course: The American Campaign for Human Rights and the Antiradical Bias in the Third World. In: D. P. Kommers and G. D. Loescher (eds.), *Human Rights and American Foreign Policy*; pp. 263-277. Notre Dame: University of Notre Dame Press.

**Hauser, R. E.**

1979 A First World View. In: D. P. Kommers and G. D. Loescher (eds.), *Human Rights and American Foreign Policy*; pp. 85-89. Notre Dame: University of Notre Dame Press.

**(India)****Baxi, U.**

1978 Human Rights: Accountability and Development. *Indian Journal of International Law* 18: 279-283.

**Buultjens, R.**

1980 Human Rights in Indian Political Culture. In: K. Thompson (ed.), *The Moral Imperatives of Human Rights*; pp. 109-122. Washington, D. C.: University Press of America.

**Johnson, W. G.**

1986 Human Rights Practices in Divergent Ideological Settings: How Do Political Ideas Influence Policy Choices? *Policy Studies Review* 6: 58-70.

**Khanna, H. R.**

1978 Future of Human Rights in Contemporary World. *Indian Journal of International Law* 18: 133-138.

Anthropos 83.1988

**Kumar, S.**

1981 Human Rights and Economic Development: The Indian Tradition. *Human Rights Quarterly* 3: 47-55.

**Nanda, V. P.**

1976 From Gandhi to Gandhi-International Legal Responses to the Destruction of Human Rights and Fundamental Freedoms in India. *Denver Journal of International Law and Policy* 6: 19-42.

**Noorani, A. G.**

1978 The Judiciary and the Bar in India During the Emergency. *Verfassung und Recht in Übersee* 11: 403-411.

**Pandeya, R. C.**

1986 Human Rights: An Indian Perspective. In: UNESCO; pp. 267-277. Paris: UNESCO.

**Thapar, R.**

1978 The Ramifications of Human Rights. *Indian Journal of International Law* 18: 274-278.

**(Latin America)****Quesada, F. M.**

1986 Human Rights in Latin America. In: UNESCO; pp. 301-317. Paris: UNESCO.

**Wiarda, H. J.**

1978 Democracy and Human Rights in Latin America: Toward a New Conceptualization. *Orbis* 22: 137-160.

**(American)****Henkin, L.**

1979 Rights: American and Human. *Columbia Law Review* 79: 406-425.

1981 Economic-Social Rights as "Rights": A United States Perspective. *Human Rights Law Journal* 2: 223-236.

**Marshall, T.**

1968 Human Rights: An American View. In: K. J. Keith (ed.), *Essays on Human Rights*; pp. 45-48. Wellington: Sweet and Maxwell.

**Sellers, J.**

1979 Human Rights and the American Tradition of Justice. *Soundings* 62: 226-255.

**(Human Rights and Regime Type)****Berger, P.**

1977 Are Human Rights Universal? *Commentary* 64: 60-63.

**Hoffmann, S.**

1981 *Duties Beyond Borders*. Syracuse: Syracuse University Press.

**Howard, R., and J. Donnelly**

1986 Human Dignity: Human Rights and Political Regimes. *American Political Science Review* 80: 801-817.

**(Human Rights and Capitalism)****Rimlinger, G. V.**

1983 Capitalism and Human Rights. *Daedalus* 112: 51-79.



## (Western)

**Claude, R. P.**

1977 The Western Tradition of Human Rights in Comparative Perspective. *Comparative Juridical Review* 14: 4–66.

**Cranston, M.**

1973 *What Are Human Rights?* (2nd ed.) London: Bodley Head.

**Raphael, D. D.**

1966 The Liberal Western Tradition of Human Rights. *International Social Science Journal* 18: 22–30.

1967 Human Rights. Old and New. In: D. D. Raphael (ed.), *Political Theory and the Rights of Man*; pp. 101–118. Bloomington: Indiana University Press.

## (Regional)

**Hannum, H.**

1984 *Guide to International Human Rights Practice*. Philadelphia: University of Pennsylvania Press.

## (Attempted Comparisons)

**Bozeman, A. B.**

1971 *The Future of Law in a Multicultural World*. Princeton: Princeton University Press.

**Donnelly, J.**

1982 Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights. *American Political Science Review* 76: 303–316.

1985 *The Concept of Human Rights*. New York: St. Martin's Press.

**Khushalani, Y.**

1983 Human Rights in Asia and Africa. *Human Rights Law Journal* 4: 403–442.

**Okere, B. O.**

1984 The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems. *Human Rights Quarterly* 6: 141–159.

**Pollis, A., and P. Schwab**

1979 Human Rights: A Western Construct with Limited Applicability. In: A. Pollis and P. Schwab (eds.), *Human Rights: Cultural and Ideological Perspectives*; pp. 1–18. New York: Praeger.

**Sinha, S. P.**

1978 Human Rights Philosophically. *Indian Journal of International Law* 18: 139–159.

**Tomuschat, C.**

1981 Is Universality of Human Rights Standards an Outdated and Utopian Concept? In: R. Bieber und D. Nickel (Hrsg.), *Das Europa der zweiten Generation: Gedächtnisschrift für Christoph Sasse*; vol. 2: 585–609. Strassburg: Engel Verlag, Kehl am Rhein.

**6. The Reality of Cultural Diversity**

Since it is not possible to conclude that all cultures do share the same concept of human rights on the basis of evidence currently available, this means that cultural differences may raise significant problems. The presumption of universality begins to totter when it confronts divergent interpretations of humanitarian standards.

**a) The Case of Female Circumcision**

There are two types of female circumcision. F. P. Hosken, one of the leading opponents of the practice, offers the typology:

1. Sunna Circumcision: removal of the prepuce and/or tip of the clitoris.

2. Excision or Clitoridectomy: excision of the entire clitoris with the labia minora and some or most of the external genitalia.

3. Excision and Infibulation (Pharaonic Circumcision): This means excision of the entire clitoris, labia minora, and parts of the labia majora. The two sides of the vulva are then fastened together in some way either by the thorns . . . or sewing with catgut. Alternatively the vulva are scraped raw and the child's limbs are tied together for several weeks until the wound heals (or she dies). The purpose is to close the vaginal orifice. Only a small opening is left (usually by inserting a slither [sic] of wood) so the urine or later the menstrual blood can be passed (Hosken 1976: 30; see also Huelsman 1976).

Women who live in societies where the practice of circumcision continues must undergo surgery throughout life. Women who are infibulated have to be opened to permit intercourse and to be cut open further for the delivery of a child (Daly 1978: 157). Sometimes women are sewn up again after delivery depending on the wishes of their husbands.

Female genital mutilation occurs in certain tribes in the following countries: Kenya, Tanzania, Ethiopia, southern Egypt, Sudan, Uganda, northern Zaïre, Chad, northern Cameroun, Nigeria, Dahomey, Togo, northern Ghana, Upper Volta, Mali, northern Ivory Coast, Liberia, Sierra Leone, Guinea, Guinea Bissau, the Gambia, Senegal, and Mauritania (Hosken 1976: 22). Excision in small girls still takes place in Yemen, Saudi Arabia, Iraq, Jordan, and Syria. The operation is also performed in Europe when members of tribes emigrate (Anonymous 1984a). It is difficult to pinpoint the precise number of girls who undergo the surgery

because the operation is usually performed in secret. The Minority Rights Group report states: "The total number of women affected is in any case unknown, but without any doubt involves several tens of millions of women" (McLean and Graham 1983: 3). A more scholarly article cites figures of between thirty and seventy-four million women as being currently circumcised in at least twenty African countries (Boulware-Miller 1985: 156).

There are various justifications offered for female circumcision. The main one is the preservation of the moral purity of women. The operation supposedly insures the fidelity of wives. In 1938 Dr. Allan Worsley analyzed the reasons given for the practice: "Although it is often denied, the preservation of virginity lies at the root of this custom" (Worsley 1938: 686–691). Daly notes that "A basic belief that justifies all, erasing all responsibility is of course that these rites keep women faithful" (Daly 1978: 160). It complicates the issue further that the operation is performed by women, which might make it appear that men bear no responsibility for perpetuating the practice. In fact, both men and women insure the continuation of the practice.

In the past, international organizations have been unwilling to get involved because of professed respect for the cultural traditions of others. And perhaps their reluctance is reasonable, since the custom is accepted as moral and legitimate in the societies in which it occurs. Those who do not undergo the surgery are ostracized. Apparently, no one will marry uncircumcised girls. In one study, conducted by means of a detailed questionnaire administered to 3210 females and 1545 males in the Sudan, it was shown that the ratio of those who favored continuing the practice to those who did not was 5 to 1 for women and 7 to 1 for men, though the majority was against the most severe Pharaonic type (El Dareer 1983).

There is a tendency among current writers to speak of female circumcision not as morally abhorrent or acceptable but rather in terms of the health problems that it causes. Warning that female circumcision may well be hazardous to the health of young girls initially seems to avoid the pitfalls of the moral dilemma. For this reason this is increasingly the sort of position that international organizations such as WHO and UNICEF are taking. Perhaps the best discussion of female circumcision along these lines, within the framework of human rights, is an article by Kay Boulware-Miller (1985). Here she discusses three major human rights arguments challenging female circumcision as (1) a violation of the rights of the

child, (2) the right to sexual and corporeal identity, and (3) the right to health. Her conclusion is that: "Although the right to health argument may not bring immediate results, it is likely to have the most success because it considers the practice from the perspective of the Africans . . . [it] integrates the issues of physical, mental, and sexual health as well as child development" (1985: 176–177).

Unfortunately, the health argument is subject to at least two telling criticisms. First, the peoples whose way of life is criticized, whether on health or moral grounds, may not see a difference between the two types of argument. That is, even if the argument based on health is on its face more sensitive to cultural differences, those practicing the custom may suspect that the real argument is that Westerners object to it on moral grounds. Moreover, the argument is rendered even less effective by the fact that operations of this type are now carried out in hospitals under thoroughly antiseptic conditions.

The fact that many women in the society perpetuate the custom is one which must be squarely faced. The presumption of universality cannot alter the reality that the practice is accepted as moral by members of the culture.

#### **b) The Case of Child Labor**

The spectre of relativism also rears its head in the case of child labor. Today anywhere from 52 to 150 million children (under age 15) work throughout the world. The conditions are often exploitative and unhealthy. As a consequence, many in the international community have focussed their energies towards the complete eradication of all forms of child labor. This goal of abolition is justified in absolutist terms: "a necessary evil" (Dogramaci 1985: 11; Mendelievich [ed.] 1979: 55; Blanchard 1983: 23; Rodgers and Standing [ed.] 1981: v; Boudhiba 1982: 11), "an affront to our conscience" (Blanchard 1983: 6), "a scourge" (Valcarengi 1981: 12, 23), "unnatural" (Mendelievich [ed.] 1979: 48), "tragic" (Dogramaci 1985: 10), and "a moral indictment on our society" (Chan 1980: 78). Francis Blanchard, the Director-General of the International Labor Organization, has said that the goal of the international community should be ". . . ultimately, the elimination of child labor" (1983: 6), which is justified on the basis of "universal values" (1983: 20). In its 1984 report on child labor, the Anti-Slavery Society for the Protection of Human Rights acknowledged the Western bias in international legislation but, nonetheless, con-

cluded that UNICEF should make “a specific commitment to the eradication of child labour in all its forms” (Anonymous 1984b: 46, 57). Another glaring example of the universalist presumption is found in the international edition of *Newsweek* in its special report entitled “All Work and No Play – The World’s Youngest Laborers *Sacrifice* their Childhood in Days of *Endless Toil*” (Smolowe et al. 1983; emphasis added). The language and melodramatic tone reflect the deeply ingrained Western way of thinking about childhood. They also convey the message that the proper goal ought to be the complete abolition of child labor.

Despite the presumption that child labor is entirely wrong, it is an economic necessity. In many societies, children are expected to help with the family business or to bring home a substantial portion of the family income. It is an accepted part of the way of life in much of the world, and is perceived as natural and moral: “In most agrarian societies, children’s work is not only highly prized for its economic utility but as representing the highest ideals of the culture, viz. obedience, respect, or filial piety. Serving those above one in the domestic hierarchy of age statuses is conceptualized as moral duty, often as a sacred obligation” (LeVine 1984: 3).

The ethnocentric assumption in the literature leads to a narrow-minded solution which is not only unworkable, but which is also undeniably a form of cultural imperialism. Since the concept of childhood varies across cultures, as do ideas about work, it is not wise to adopt an absolutist abolitionist approach, even as a long-term objective. Children’s work is an essential part of the family’s survival; and unless that is taken into account when policies are formulated, the viability of international standards to protect children will be uncertain. By no means does this imply that we should turn a blind eye to the problem. It is simply that outright condemnation is ineffective and, indeed, counterproductive. Greater cultural sensitivity would permit the formulation of more globally acceptable strategies.

## 7. Conclusion

I have tried to show that, properly interpreted, the concept of human rights is compatible with moral systems that are centered on concepts other than rights. This would remove the objection that duty-based systems cannot accommodate human rights. But even if human rights, in the abstract, may be possible in any moral system, we cannot

presume that all moral codes contain the same or similar values. Women’s rights and children’s rights are problematic because societies do not all believe that these groups deserve special status. So, to assert the existence of universal standards for them is ethnocentric. The recognition of moral diversity calls into question the presumption of universality and leaves human rights vulnerable to the apparent dangers of relativism.

## References

- Acton, H. B.**  
1950 Rights. *Aristotelian Society Supplementary Volume*, 24: 95–110.
- Alston, P.**  
1983 The Universal Declaration at 35: Western and Passe or Alive and Universal? *International Commission of Jurists Review* 31: 60–70.  
1987 The United Nations and the Elliptical Notion of the Universality of Human Rights. In: *Is Universality in Jeopardy?*; pp. 51–64. New York: United Nations.
- Anonymous**  
1983 Human Rights Documents. Committee on Foreign Affairs. Washington, D. C.: United States Government Printing Office.  
1984a The Unkindest Cut. *Nursing Times* 80 (Jan. 18): 8–10.  
1984b Children in Especially Difficult Circumstances. London: Anti-Slavery Society. [Study prepared for UNICEF]
- Bedau, H. A.**  
1968 Rights as Claims, Reasons, and Needs. *International Congress of Philosophy; Proceedings* 3: 132–136.  
1982 International Human Rights. In: T. Regan and D. V. DeVeer (eds.), *And Justice for All*; pp. 287–308. Totowa, N. J.: Rowman & Littlefield.
- Beitz, C.**  
1979 *Political Theory and International Relations*. Princeton: Princeton University Press.
- Bilder, R. B.**  
1969 Rethinking International Human Rights: Some Basic Questions. *Human Rights Journal* 2: 557–608.
- Blackstone, W. T.**  
1968 Equality and Human Rights. *The Monist* 52: 616–639.
- Blanchard, F.**  
1983 Report of the Director-General; Part 1: Child Labour. International Labour Conference, 69th session. Geneva: International Labour Office.
- Boudhiba, A.**  
1982 *Exploitation of Child Labour*. New York: United Nations.
- Boulware-Miller, K.**  
1985 Female Circumcision: Challenges to the Practice as a Human Rights Violation. *Harvard Women’s Law Journal* 8: 155–177.
- Bowring, J. (ed.)**  
1843 *The Works of Jeremy Bentham*. London: Simpkin, Marshall & Co.

- Brandt, R.**  
1959 *Ethical Theory*. Englewood Cliffs: Prentice-Hall.
- Braybrooke, D.**  
1972 The Firm but Untidy Correlativity of Rights and Obligations. *Canadian Journal of Philosophy* 1: 351–363.
- Chan, P.**  
1980 The Forgotten Little People: A Study of Urban Child Labour in a Developing Economy. *Asian Economics* 35: 67–79.
- Cranston, M.**  
1973 *What Are Human Rights?* (2nd ed.) London: Bodley Head.
- Daly, M.**  
1978 *Gynecology: The Metaethics of Radical Feminism*. Boston: Beacon Press.
- Dinstein, Y.**  
1976 Collective Human Rights of Peoples and Minorities. *International and Comparative Law Quarterly* 25: 102–120.
- Dogramaci, I.**  
1985 Child Labour: An Overview. In: P. M. Shah (ed.), *Child Labour: A Threat to Health and Development*; pp. 7–12. Geneva: Defense for Children International.
- Donnelly, J.**  
1982 Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights. *American Political Science Review* 76: 303–316.  
1985 *The Concept of Human Rights*. New York: St. Martin's Press.
- Dworkin, R.**  
1977 *Taking Rights Seriously*. Cambridge: Harvard University Press.
- Edwards, R. R., L. Henkin, and A. J. Nathan (eds.)**  
1986 *Human Rights in Contemporary China*. New York: Columbia University Press.
- El Dareer, A.**  
1983 Attitudes of Sudanese People to the Practice of Female Circumcision. *International Journal of Epidemiology* 12: 138–144.
- Emerson, R.**  
1974–1975 The Fate of Human Rights in the Third World. *World Politics* 27: 201–226.
- Feinberg, J.**  
1966 Duties, Rights, and Claims. *American Philosophical Quarterly* 3: 137–144.  
1970 The Nature and Value of Rights. *Journal of Value Inquiry* 4: 243–257.  
1973 *Social Philosophy*. Englewood Cliffs: Prentice-Hall.  
1980 *Rights, Justice, and the Bounds of Liberty: Essays in Social Philosophy*. Princeton: Princeton University Press.
- Flathman, R. E.**  
1976 *The Practice of Rights*. Cambridge: Cambridge University Press.
- Flew, A.**  
1979 What is a Right? *Georgia Law Review* 13: 1127–1141.
- Frankena, W. K.**  
1952 The Concept of Universal Human Rights. Symposium: Science, Language, and Human Rights; pp. 189–207. Philadelphia: University of Pennsylvania Press.
- Friedman, L. M.**  
1971 The Idea of Right as a Social and Legal Concept. *Journal of Social Issues* 27: 189–198.
- Fuchs, A. E.**  
1981 Taking Absolute Rights Seriously. World Congress on Philosophy of Law and Social Philosophy, 10th, II., Mexico.
- Garet, R.**  
1983 Communitality and Existence: The Rights of Groups. *Southern California Law Review* 56: 1001–1075.
- Gilligan, C.**  
1982 *In a Different Voice*. Cambridge: Harvard University Press.
- Golding, M. P.**  
1968 Towards a Theory of Human Rights. *Monist* 52: 521–549.  
1978 The Concept of Rights: A Historical Sketch. In: E. and B. Bandman (eds.), *Bioethics and Human Rights*; pp. 44–50. Boston: Little, Brown.
- Gros Espiell, H.**  
1979 The Evolving Concept of Human Rights: Western, Socialist, and Third World Approaches. In: B. G. Ramcharan (ed.), *Human Rights: Thirty Years after the Universal Declaration*; pp. 41–65. The Hague: Martinus Nijhoff.
- Hart, H. L. A.**  
1973 Bentham on Legal Rights. In: A. W. B. Simpson (ed.), *Oxford Essays on Jurisprudence* (2nd series); pp. 171–201. Oxford: Clarendon Press.  
1979 Are There Any Natural Rights? In: D. Lyons (ed.), *Rights*; pp. 1–25. Belmont, Cal.: Wadsworth Publishing Company.
- Hevener, H. K. (ed.)**  
1981 *The Dynamics of Human Rights in U. S. Foreign Policy*. New Brunswick and London: Transaction Books.
- Hohfeld, W. N.**  
1964 *Fundamental Legal Conceptions*. New Haven: Yale University Press.
- Hook, S.**  
1970 Reflections on Human Rights. In: H. E. Kiefer and M. K. Munitz (eds.), *Ethics and Social Justice*; pp. 252–281. Albany: State University of New York Press.
- Hosken, F. P.**  
1976 *WIN News: Women's International Network* (Lexington, MA) 2/1: 30–44.
- Hudson, S. D.**  
1979 A Note on Feinberg's Analysis of Legal Rights in Terms of the Activity of Claiming. *Journal of Value Inquiry* 13: 155–156.
- Hudson, S. D., and D. N. Husak**  
1980 Legal Rights: How Useful is Hohfeldian Analysis? *Philosophical Studies* 37: 45–53.



- Huelsman, B. R.**  
1976 An Anthropological View of Clitoral and Other Female Genital Mutilations. In: T. P. Lowry and T. S. Lowry (eds.), *The Clitoris*; pp. 111–161. St. Louis: Warren H. Green, Inc.
- Husak, D. N.**  
1984 Why There Are No Human Rights. *Social Theory and Practice* 1: 125–141.  
1985 Why There Are Human Rights. *Social Theory and Practice* 2: 235–255.
- International Commission of Jurists**  
1976 *Human Rights in a One-Party State*. London: Search Press.
- Kaplan, A.**  
1980 Human Relations and Human Rights in Judaism. In: A. Rosenbaum (ed.), *The Philosophy of Human Rights*; pp. 53–85. Westport, Conn.: Greenwood Press.
- Kearns, T. R.**  
1975 Rights, Benefits, and Normative Systems. *Archiv für Rechts- und Sozialphilosophie* 61: 465–483.
- Khatchadourian, H.**  
1985 Toward a Foundation for Human Rights. *Man and World* 13: 219–240.
- Kohlberg, L., and D. Elfenbein**  
1975 The Development of Moral Judgments Concerning Capital Punishment. *American Journal of Orthopsychiatry* 45: 614–640.
- Lamont, W. D.**  
1950 Rights. *Aristotelian Society Supplementary Volume*, 24: 83–94.
- LeVine, R. A.**  
1984 Ethical Relativism and Child Labor. Paper presented at the Symposium on Ethical Relativism, American Anthropological Association.
- LeVine, R. A., and M. I. White**  
1986 *Human Conditions: The Cultural Basis of Educational Development*. London: Routledge & Kegan Paul.
- Lopatka, A.**  
1979 On the Notion of Human Rights. *GDR Committee for Human Rights Bulletin* 4: 5–11.
- Lyons, D.**  
1969 Rights, Claimants, and Beneficiaries. *American Philosophical Quarterly* 6: 173–185.  
1970 The Correlativity of Rights and Duties. *Nous* 4: 45–57.
- Lyons, D. (ed.)**  
1979 *Rights*. Belmont, Cal.: Wadsworth Publishing Company.
- Lyons, H.**  
1981 Anthropologists, Moralities, and Relativities: The Problem of Genital Mutilations. *Canadian Review of Sociology and Anthropology* 18: 499–518.
- Machin, T. R.**  
1980 II. Some Recent Work in Human Rights Theory. *American Philosophical Quarterly* 17: 103–115.
- Mackie, J. L.**  
1978 Can There Be a Rights-Based Moral Theory? *Midwest Studies in Philosophy* 3: 350–359.
- Malraux, A.**  
1946 *La condition humaine*. Paris: Gallimard.
- Martin, R.**  
1979 The Nature of Human Rights. *Archiv für Rechts- und Sozialphilosophie Supplementa*, 1: 379–393.  
1980 Human Rights and Civil Rights. *Philosophical Studies* 37: 391–403.
- Martin, R., and J. W. Nickel**  
1978 A Bibliography on the Nature and Foundations of Rights, 1947–1977. *Political Theory* 6: 395–413.  
1980 Recent Work on the Concept of Rights. *American Philosophical Quarterly* 17: 165–180.
- McCloskey, H. J.**  
1965 Rights. *Philosophical Quarterly* 15: 115–127.  
1975 The Right to Life. *Mind* 84: 403–425.  
1976 Rights – Some Conceptual Issues. *Australasian Journal of Philosophy* 54: 99–115.
- McLean, S., and S. E. Graham**  
1983 *Female Circumcision, Excision, and Infibulation: The Facts and Proposals for Change*. Report # 47. London: Minority Rights Group.
- Melden, A. I.**  
1952 The Concept of Universal Human Rights. Symposium: Science, Language, and Human Rights; pp. 167–188. Philadelphia: University of Pennsylvania Press.
- Mendelievich, E. (ed.)**  
1979 *Children at Work*. Geneva: International Labour Office.
- Meron, T.**  
1984 *Human Rights in International Law: Legal and Policy Issues*; 2 vols. Oxford: Clarendon Press.
- Meyers, D. T.**  
1981 Human Rights in Pre-Affluent Societies. *Philosophical Quarterly* 31: 139–140.
- Milne, A. J. M.**  
1986 *Human Rights and Human Diversity: An Essay in the Philosophy of Human Rights*. Albany: State University of New York Press.
- Moore, S. F.**  
1969 Comparative Studies. In: L. Nader (ed.), *Law in Culture and Society*; pp. 337–348. Chicago: Aldine Publishing Co.
- Morris, H.**  
1981 The Status of Rights. *Ethics* 92: 40–56.
- Mower, A. G., Jr.**  
1976 Human Rights in Africa: A Double Standard? *Revue des Droits de l'Homme* 9/1: 39–70.
- Nickel, J. W.**  
1982 Are Human Rights Utopian? *Philosophy and Public Affairs* 11: 246–264.  
1987 *Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights*. Berkeley: University of California Press.
- Novak, M.**  
1986 *Human Rights and the New Realism*. New York: Freedom House.
- Pagels, E.**  
1979 Human Rights: Legitimizing a Recent Concept. *Annals. American Academy of Political and Social Science* 442: 57–62.

- Panichas, G. E.**  
1985 The Structure of Basic Human Rights. *Law and Philosophy* 4: 343–375.
- Panikkar, R.**  
1982 Is the Notion of Human Rights a Western Concept? *Diogenes* 120: 75–102.
- Pappu, S. S. R. R.**  
1969 The Idea of Human Rights. *International Review of History and Political Science* 6: 44–54.  
1982 Human Rights and Human Obligations: An East-West Perspective. *Philosophy and Social Action* 8: 15–28.
- Perelman, C.**  
1982 The Safeguarding and Foundation of Human Rights. *Law and Philosophy* 1: 119–129.
- Perry, T. D.**  
1977 A Paradigm of Philosophy: Hohfeld on Legal Rights. *American Philosophical Quarterly* 14: 41–50.
- Pocklington, T. C.**  
1982 Against Inflating Human Rights. *Windsor Yearbook of Access to Justice* 2: 77–86.
- Pollis, A.**  
1982 Liberal, Socialist, and Third World Perspectives of Human Rights. In: A. Pollis and P. Schwab (eds.), *Toward a Human Rights Framework*; pp. 1–26. New York: Praeger.
- Ramcharan, B. G.**  
1983 The Concept of Human Rights in Contemporary International Law. *Canadian Human Rights Yearbook*: 267–281.
- Rawls, J.**  
1971 *A Theory of Justice*. Cambridge: Harvard University Press.
- Reddaway, P. B.**  
1979 Theory and Practice of Human Rights in the Soviet Union. In: D. P. Kommers and G. D. Loescher (eds.), *Human Rights and American Foreign Policy*; pp. 115–144. Notre Dame: University of Notre Dame Press.
- Rodgers, G., and G. Standing (eds.)**  
1981 *Child Work, Poverty, and Underdevelopment*. Geneva: International Labour Office.
- Roshwald, M.**  
1958–1959 The Concept of Human Rights. *Philosophy and Phenomenological Research* 19: 354–379.
- Scheingold, S. A.**  
1974 *The Politics of Rights: Lawyers, Public Policy, and Political Change*. New Haven: Yale University Press.
- Schildkraut, E.**  
1980 Children's Work Reconsidered. *International Social Science Journal* 32: 479–489.
- Shah, P. M. (ed.)**  
1985 *Child Labour: A Threat to Health and Development*. Geneva: Defence for Children International.
- Shue, H.**  
1980 *Basic Rights: Subsistence, Affluence, and U. S. Foreign Policy*. Princeton: Princeton University Press.
- Singer, M.**  
1972 The Basis of Rights and Duties. *Philosophical Studies* 23: 48–57.
- Sinha, S. P.**  
1978 Human Rights Philosophically. *Indian Journal of International Law* 18: 139–159.
- Smolowe, J. et al.**  
1983 All Work and No Play: The World's Youngest Laborers Sacrifice their Childhood in Days of Endless Toil. *Newsweek* (January 24) (International edition): 20–25.
- Sophocles**  
1974 *Antigone* [originally written 442–441 B. C.]. In: *The Theban Plays*. Harmondsworth: Penguin Books.
- Stackhouse, M. L.**  
1984 *Creeds, Society, and Human Rights: A Study in Three Cultures*. Grand Rapids, Mich.: William B. Eerdmans Publishing Co.
- Stavropoulos, P.**  
1984–1985 Human Rights and the Sovereign State. *Melbourne Journal of Politics* 16: 35–52.
- Strauss, L.**  
1953 *Natural Right and History*. Chicago and London: University of Chicago Press.
- Szabo, I.**  
1968 The Theoretical Foundations of Human Rights. In: A. Eide and A. Schou (eds.), *International Protection of Human Rights*; pp. 35–45. New York: Interscience Publishers.  
1982 Historical Foundations of Human Rights and Subsequent Developments. In: K. Vasak and P. Alston (eds.), *The International Dimensions of Human Rights*; vol. 1; pp. 11–42. Westport, Conn.: Greenwood Press.
- Tomuschat, C.**  
1985 Human Rights in a World-wide Framework: Some Current Issues. *Zeitschrift für Ausländisches öffentliches Recht und Völkerrecht* 45/3: 547–584.
- Tuck, R.**  
1981 *Natural Rights Theories: Their Origin and Development*. Cambridge: Cambridge University Press.
- UNESCO**  
1948 *Human Rights: Comments and Interpretations*. London and New York: Allan Wingate.  
1986 *Philosophical Foundations of Human Rights*. Paris: UNESCO.
- Valcarengi, M.**  
1981 *Child Labour in Italy*. London: Anti-Slavery Society.
- Van Dyke, V.**  
1980 The Cultural Rights of Peoples. *Universal Human Rights* 2: 1–21.
- Waldron, J. (ed.)**  
1984 *Theories of Rights*. Oxford: Oxford University Press.
- Wasserstrom, R.**  
1979 Rights, Human Rights, and Racial Discrimination. In: D. Lyons (ed.), *Rights*; pp. 46–57. Belmont, Cal.: Wadsworth Publishing Company.
- Wellman, C.**  
1978 A New Conception of Human Rights. In: E. Kamenka and A. Tay (eds.), *Human Rights*; pp. 48–58. London: Edward Arnold.

1985 *A Theory of Rights: Persons Under Laws, Institutions, and Morals*. Totowa, N. J.: Rowman & Allanheld.

**Williams, G.**

1956 The Concept of a Legal Liberty. *Columbia Law Review* 56: 1129–1150.

**Worsley, A.**

1938 *Infibulation and Female Circumcision: A Study of a*

Little-Known Custom. *Journal of Obstetrics and Gynaecology of the British Empire* 45: 686–691.

**Zvobgo, E. J. M.**

1979 A Third World View. In: D. P. Kommers and G. D. Loescher (eds.), *Human Rights and American Foreign Policy*; pp. 90–106. Notre Dame: University of Notre Dame Press.