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Colleen Good  
*Macalester College*

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## **Human Rights and Relativism**

*Colleen Good*

As a concept, human rights has a long history within Western thought. The term itself, however, only came into common usage beginning in the 20<sup>th</sup> century. It serves as both a legal and philosophical concept, and as such its definition is complex. By definition, human rights are supposed to be universally applicable. Some universalists argue that human rights as laid out by current human rights law embodies universal ideals and rights that are universally relevant and applicable to all people. However, some relativists have challenged this idea, pointing out that ethical systems develop in the context of local cultures and that universal applicability should not be assumed. Within relativism, there are two stances: first, the more extreme strong relativist view is that there is no such thing as universal human rights, as all beliefs and values are culturally relative and therefore apply only within certain cultures. Second, the less extreme weak relativist view states that, while ethical systems do come out of particular cultural settings, this does not mean that these ethical systems do not share some overlap—therefore a comprehensive human rights doctrine may be possible.

In this paper I will be evaluating the conflicting ideas of human rights as universal and human rights as relative. I will begin with a discussion of the concept of human rights. Then I will examine the term “cultural relativism” in general, followed by a discussion of what cultural relativism says about human rights. Next I will examine the different types of cultural relativism discussed in Fernando R.

Téson's article called "International Human Rights and Cultural Relativism."<sup>1</sup> I will evaluate the different types of relativism elaborated on by Téson, ultimately arguing that while strong relativism is unfeasible, weak relativism is something that we should take seriously and examine more closely in our discussion on human rights. Weak relativism not only allows for a human rights regime, but it also actually furthers the discussion on the applicability and content of human rights.

## Human Rights

Philosophically, human rights talk has its roots in western philosophical and political thought. Julia Ching characterizes the major influences on human rights as the following: liberal moral and political philosophy (in particular liberal English thought and the French enlightenment), international law, and the American and French revolutions of the late eighteenth century (Ching 68). The Universal Declaration of Human Rights (1948), whose main author was a Frenchman named René Cassin, was actually directly modeled after the values of the French Revolution, with the twenty-seven articles divided among the four pillars of "dignity, liberty, equality, and brotherhood" (Ishay 3). In her book *The History of Human Rights: from Ancient Times to the Globalization Era*, Micheline Ishay acknowledges that the modern conception of human rights is mostly European in origin. She also states that one of the largest debates within the human rights community is the universalist/ cultural relativist debate, and

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<sup>1</sup> Téson, Fernando R. "International Human Rights and Cultural Relativism" in *The Philosophy of Human Rights*, 409-423. ed. Patrick Hayden. St. Paul, MN: Paragon House, 2001.

that to communicate effectively within that discussion, one must properly know human rights' history and human rights' philosophic roots (Ishay 10-11). In Anthony Pagden's article "Human Rights, Natural Rights, and Europe's Imperial Legacy," Pagden argues that the concept of human rights comes from an understanding of natural rights with roots in the goal of justifying imperialist regimes, and that with the French Revolution, understandings of human rights became connected to the idea of citizenship (Pagden 171).

Legally, the three major modern human rights law documents are the following: the Universal Declaration of Human Rights (UDHR) 1948; the Covenant on Economic, Social, and Cultural Rights (1966); and the Covenant on Civil and Political Rights (1966). The UDHR is generally seen as the start and foundation of current human rights discourse and its political structure. The subsequent documents are seen as complementary to that document, adding to the rights listed in the UDHR, addressing rights not previously laid out in the UDHR. Therefore, I will be examining the issue of rights using these documents as the modern political authority on human rights. Because I am examining human rights in its current legal manifestation, looking at human rights as articulated by these three documents rather than only through arguments and statements given by specific philosophers is necessary.

The UN Office of the High Commissioner for Human Rights defines human rights as "rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all

interrelated, interdependent and indivisible.”<sup>2</sup> In addition, the Universal Declaration of Human Rights states that “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”<sup>3</sup>

International law’s role in the human rights discussion truly came into play with the creation of such human rights treaties, many formed under the United Nations, with many ratified by more than three quarters of the world’s countries.

As stated earlier, the idea of human rights came from Western philosophical and political thought, and modern human rights discourse has its roots in these western ideas. The same ideas that influenced documents such as the Declaration for Independence, with its emphasis on the ideals of individualism and freedom, can be found in the foundational ideas of human rights (Ching 68). With these roots, it is clear that the language found in human rights discourse is culturally specific to the West. This is not to say that other cultures do not have any ideas that could be compatible with some sort of human rights framework, but it is important to acknowledge that in its current form, human rights discourse is not necessarily framed in a way that all cultures would identify with or find acceptable.

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<sup>2</sup> United Nations Office of the High Commissioner for Human Rights, “What are human rights?” United Nations High Commissioner for Refugees,

<sup>3</sup> UN General Assembly, “Universal Declaration of Human Rights.” United Nations High Commissioner for Refugees, 10 December 1948, 217 A (III), <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>.

Some argue that the philosophic roots of human rights are insignificant: as human rights are universal, so are the ideas upon which they are founded (Ching 70). However, human rights were not even portrayed as universals in the West until relatively recently. Documents that are cited as espousing older human rights ideals, such as the Magna Carta or the American Declaration of Independence, exclude many, giving explicit rights only to men. In addition, before the seventeenth century, rights were given to rulers and religious figures, while the common people only had duties to their superiors (Ching 68). As ideas of human rights developed in the West, eventually both Western philosophic and political circles agreed that human rights should be universal. However, this same gradual development of ideas did not occur in other areas of the world. This lack of historic parallels to ideas of universal human rights in the non-Western world is part of the reason for opposition to assertions of its universalism.

According to current human rights philosophical and legal discourse, human rights are argued to be by nature universal, in part to justify and ensure their universal application. Human rights are supposed to be rights that we possess by virtue of being human. As all humans worldwide share in their humanness, it is thought they must also share their right to human rights. However, even if there were an agreement on having human rights apply universally, it would not mean that there was universal agreement on the *content* of those rights. Some take the very existence of human rights documents and treaties as an indication of international agreement on the content of human rights. However, when one looks at where these rights are primarily articulated (the United Nations), the problems with this assertion become clear.

While the United Nations does claim to be an organization that, due to its collaborative nature, speaks for the countries of the world without regional prejudice, due to the United Nations' history and structural organization, this is not always the case. Looking at the world political stage at the time when the United Nations was founded reveals that there existed a decidedly Western political bias in the world political arena. Due to power politics at play then (and now), it can hardly be said that views espoused under discussions within that body realistically reflect the true views of the governments involved let alone the people represented by those governments. Looking at the Permanent Five in the Security Council, Western interests are disproportionately represented: the US, the UK, France, and Russia are veto-carrying members, while the only non-Western representative with veto power is China. With no veto-members from South America or Africa, and a disproportionate representation by the west, the Security Council can hardly claim balance.<sup>4</sup>

With power politics taken into consideration, the question emerges: are current human rights treaties voicing primarily Western values and political concerns without properly taking into account the concerns of other groups? Or, even worse, is the current human rights regime another less direct form of colonialism, giving Western states an excuse to meddle in the political affairs of other nations? While I will not be arguing anything as extreme as the

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<sup>4</sup> While it is true that at the time the United Nations was formed, Russia was decidedly different from much of the rest of the Western world, historically it still has strong Western roots and has interacted primarily with the Western world. However you count Russia, the West still has a disproportionate number of permanent members in the Security Council.

second point in this paper, it deserves to be mentioned that this point has been argued.

Taking into account the fact that different civilizations may have different conceptions of human rights, one question that may be asked is how a consensus can be reached on this issue. In “A World Consensus on Human Rights?” Charles Taylor argues that one of the first obstacles to a consensus on human rights is the language used. As he says “rights talk has roots in Western culture. This is not to say that something very like the underlying norms expressed in schedules of rights don’t turn up elsewhere. But they are not expressed in this language” (Taylor 15). He continues by stating that we run into problems of terminology, with terminology being either too culturally specific or too vague to be useful, giving the examples of “dignity” as a Western-based term, and “well-being” as a more widely culturally applicable term that is too vague.

While the Western-oriented language of the human rights discourse is recognized, some question this fact’s significance. As a larger question, is the difference only in the language, or are the very conceptions of human rights different, or even incompatible? Are there non-Western conceptions of human rights that are distinct from Western conceptions, and if so, how do we use them to further the discussion on human rights?

Relativists were among the first to bring up these issues. By examining relativism and the relativist-universalist debate more closely, we will be able to see the roots of these debates, and can question the significance of them more effectively. The very basis of the relativist-universalist debate is the significance of cultural variation in human rights discourse. So, to answer the question of

compatibility, we will first examine the idea of cultural relativism. Before beginning this section, it is important to note that, while cultural relativism is now recognized as a philosophical concept, its origins lie in the field of anthropology, and so my examination of cultural relativism begins with an examination of its anthropological roots.

## **Cultural Relativism**

Discussions of cultural relativism first began in 1901 with Franz Boas's work in the field of anthropology with the publication of the article "The Mind of Primitive Man."<sup>5</sup> In this article, Boas argued that anthropology as a discipline must change how it goes about doing ethnography in order to allow anthropologists to better understand the cultures they study. He stated that anthropologists should try to strip themselves of all traces of cultural influence from the area in which they were born in order to better place themselves within the mindset of the people of the culture they were studying. He also stated that the differences between cultures were not biological, which helped further arguments against colonialism and ideas of Western cultural superiority. While the claim that one could strip away one's cultural identity was quickly dismissed, Boas's ideas caused anthropologists to examine their own cultural identities and preconceptions more critically before studying other cultures, and created the idea that all beliefs are culturally relative and should not be judged outside of their own cultural realm.

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<sup>5</sup> Boas, Franz: "The Mind of Primitive Man." *Science*, Vol. 13, No. 321 (Feb. 22, 1901): 281-289.

Modern cultural relativism comes in many different forms, from claims which are more extreme to less so. Some cultural relativists claim that all beliefs and ethical systems are culturally relative, and that therefore there are no universal moral ideals. Some then argue that no one can be judged outside of their ethical system, while others just argue that we should try to be more aware of the fact that, while we can criticize others, we are doing it from within our own cultural ethical framework, without a higher justification for our views. This creates issues for those who want to be able to make objective criticisms of a culture's actions.

Without being able to objectively criticize other cultures' ethical practices, the worry that many of Boas's contemporaries expressed was that no one could be justified in doing anything about atrocities such as those committed by the Nazi's. Margaret Mead, one of Boas's students, argued that because Nazism did not survive as a culture for three generations, it did not count as a culture. But this argument seems less than satisfactory, and brings up the difficult question: what exactly is a "culture"? How do we distinguish between different cultures? And with the continuing fragmentation and overlap of identities and cultures created by an increase in inter-global travel and communication, how do we weigh these different cultures, and is a comprehensive dialogue about these cultures coherent at all? Some aspects of these questions will be examined later in this paper, particularly as they relate to Asia, but essentially what it boils down to is proper definition. While it is true that any definition of a group of people is ultimately a simplification (and possibly arbitrary), as long as that definition is properly outlined, defended, and consistently used, the problem becomes less overwhelming.

## **Cultural Relativism and Human Rights**

### *Cultural Relativism and Anthropology*

The first time when cultural relativism and human rights intersect seems to be the “Statement on Human Rights” given by the Executive Board of the American Anthropological Association to the United Nations (per their request) in 1947, one year prior to “the Universal Declaration of Human Rights” developed by the United Nations. In this statement, it becomes clear that there was a lot of skepticism within the American Anthropological Association (AAA) as to the political intent behind human rights. In the statement, the need for the respect of the differences among cultures is emphasized, and the statement warns of the dangers of stressing absolute values, as this can lead to doctrines like the “white man’s burden”—a concept used for centuries to excuse Western countries’ colonization and exploitation of countries around the world. The 1947 AAA statement is very entrenched in its times; during this period, the negative effects of colonialism were still very fresh in the common consciousness. The idea that some cultures were more “advanced” than others was used to excuse oppression by Western governments. Therefore, the AAA tried to emphasize the merits found in different cultures, while at the same time stressing that an appeal to universal ideals could be dangerous, if exploited in the same ways as modernization and social Darwinism by Western governments during the colonial period.

Another statement was given by the Association in 1999 that seems to depart from the original 1949 statement in many ways, foremost in its *support* of human rights. Karen Engle suggests in “From Skepticism to Embrace: Human Rights and the American Anthropological Association from

1947- 1999” that, while attitudes about human rights had changed within the AAA between 1947 and 1999, attitudes about relativism had not. Engle suggests that human rights had proven to have less negative consequences than the AAA had originally thought. With less government corruption evident than the corruption the AAA had witnessed in the early to mid twentieth century, the AAA was able to feel more comfortable backing a human rights system, while still cautioning against discrimination based on the diversity of other cultures.

Engle states that anthropologists must figure out where to place the limits on the tolerance advocated through cultural relativism. Engle does recognize the importance of cultural protection and tolerance advocated by the relativist stance, but believes steps should be taken to reconcile it with the universalist human rights position.

### *Cultural Relativism and Philosophy*

While anthropologists may have started many aspects of the discussion on relativism and human rights, philosophers have also written a great deal on the subject. It is important at this point to make distinctions among the different types of relativism, as some are more useful than others in furthering the discussion on human rights.

### **Fernando R. Téson: the Case for International Human Rights Law**

With that in mind, this paper will now examine the arguments put forth by Fernando R. Téson in his article “International Human Rights and Cultural Relativism.” Téson states that cultural relativism is not a legal term, but is

instead historically derived from anthropology and moral philosophy (as we have previously discussed). He acknowledges that cultural relativism can take multiple forms and states that he will attempt to anticipate arguments that could be made by any of a variety of types of cultural relativism.

For the purposes of the debate about international human rights, Tésou defines cultural relativism as the following: “the position according to which local cultural traditions (including religious, political, and legal practices) properly determine the existence and scope of civil and political rights enjoyed by individuals in a given society” (Tésou 380). He then states that relativists believe that there are no “transboundary legal or moral standards” (380), the result being that substantive human rights standards vary, reflecting the conventions of each culture. An alternative relativist view, he states, says instead that although a substantive human rights doctrine could exist as customary or conventional international law, the meaning of this human rights doctrine would vary from culture to culture.

The difference between these two relativist stances is great, as the second will allow for a human rights doctrine while the first will not. The first relativist stance not only does not allow for transboundary standards, it does not even seem to allow for any kind of substantive international law. This is a very problematic stance to take in our current international political culture, and seems to question the meaning and significance of international treaties on smaller scales as well. By contrast, the second relativist view allows for human rights doctrine, but simply wishes to emphasize tolerance for different cultural interpretations of that doctrine.

Later in his article, Téson spells out three additional types of relativism. These types are not specifically linked to human rights discourse, but to relativism in general, and are a different way of dividing relativist ideas.

The first type is descriptive relativism. It states that different societies have different ideas of right and wrong. This view, he says, is mainly supported by relativist anthropologists. For the sake of the argument he is going to give, he is willing to accept descriptive relativism as valid. Looking at the many variations in legal and ethical traditions worldwide, I think descriptive relativism clearly holds some truth. Even *within* cultures, we have debates on the ethics of particular situations, so clearly we are not in universal agreement over ethics.

Metaethical relativism is the second type, and it states that it is impossible to discover moral truth. A milder form, he says, would argue that there is no valid means of moral reasoning that could argue to be as well justified as the scientific method. This form is in some ways arguing against universalism, though it is saying that it is impossible to *discover* moral truth, not specifically that such truth does not exist at all.

The third type is called normative relativism, and states that what a person ought to do and what rights that person has are culturally dependent. He states that metaethical relativists, unlike normative relativists, have the option of attempting to adopt a “reflective equilibrium,” as argued by John Rawls, by checking moral intuitions against moral principles. In addition, Téson argues that descriptive and metaethical relativism do not logically entail normative relativism. Normative relativism is the type of relativism that Téson discusses in the rest of his paper (384).

Téson argues that relativists must respond to the argument for universalizability in one of two ways. First, a relativist could state that being a part of a different community is a “morally relevant circumstance” (386), giving the relativist the ability to claim that universalism is still being maintained, just counting culture as a part of the circumstance of the situation.

He states the relativist would use this to argue that, with this being true, universalizability would still hold, even while granting different individuals from different cultures different basic rights. He also states that some relativists would claim that the difference here is between abstract and concrete rights, with the relativist position serving as an attack on abstract rights.

His argument against this is simple: being a part of a particular social group or community isn't a morally relevant circumstance because where someone is born and their cultural environment are not related to their moral worth or entitlement to human rights. No one chooses where they are born. “If the moral conditions are not morally distinguishable, the requirements of universalizability fully applies to statements about individual rights, even where agents are immersed in different cultural environments” (387). Finally, he states that relativists confuse the circumstances under which one learns moral concepts with the concepts' meaning.

While his statement that it shouldn't matter where someone is born may seem compelling, it could be argued that, in part, the phrasing of his comment is to blame. His statement reflects the American idea of everyone being able to achieve what they want regardless of starting circumstance, or the “American Dream.” However, this argument seems to water-down the arguments made by

relativists. His argument seems to assume a universal set of rights, with relativists arguing that some people have more of this ultimate list than others.

A relativist would have a more nuanced view of rights, with no universal ultimate list. Instead, people from different circumstances would give different rights different implications, and different groups could have lists that looked radically different, or strikingly similar. There would not be more or less participation in a universal human rights ideal, as there wouldn't *be* a universal human rights ideal (at least, in the version of relativism he is arguing against here).

In addition, his statement that relativists confuse circumstances with meaning seems to miss the nuances and complexity found in relativist discourse. The meaning of any term has different connotations depending upon language, cultural heritage, and personal experience. To water this down to a simple initial learning condition seems to dilute the true difference in meaning found among different cultures in regards to terminology and vocabulary.

An example of this more specifically within human rights discourse would be the idea of "liberty" or even the idea of a "person." Depending on the cultural connotations given to the words (given the words' use historically within the culture, and connotations that result from lingual similarities to other words), the words may have very different meanings and ethical implications.

He states that the second objection a relativist would raise against universalism is a logic-based one. He states that a relativist would argue that (a) the relativist's only principle states that culture determines human rights and (b) that principle (a) is universal. Téson then counters this argument by saying that (a) is not a substantive moral statement, and that the requirement of universalizability only applies to

substantive moral statements. While it is true that strong relativists would claim that culture determines human rights, I don't know that all forms of relativist would, or that this is necessarily what we should take from the relativist stance. A more important thing to take from it is that culture helps determine the initial concepts and ideas upon which human rights are founded, and that these ideas and the differences between them should be taken into consideration in attempts to identify a truly universal system of human rights.

Next, Téson argues against normative relativism by stating that normative relativism does not follow the idea that “persons have moral worth *qua* persons and must be treated as ends in themselves, not as functions in the ends of others” (388). In the paragraph following that statement, Téson argues that we should not allow cultural standards of oppressive authoritarian regimes to limit human rights.

In this argument, Téson seems to take the relativist position as the relativist position as argued by repressive governments. However, this seems an unfair characterization. If one looks at the history of relativism and the other ideas espoused by it, the most important part of relativism seems to be its commitment to tolerance. This does not necessitate a defense of abusive practices by governments—again as seen in the history of relativism and human rights, this is something that relativists have spent a good deal of energy actively trying to avoid. It seems his argument was begging the question, using a form of relativism that few relativists would recognize as such, instead of critiquing forms of relativism that are more difficult to argue against.

In his paper, Téson sets out two assumptions he is making about human rights law (which he says have their foundations in international law): (1) he states that human

rights are a part of international law not only by treaty but also by customary law, and (2) he states that within human rights law there exists an obligation to “respect the cultural identities of peoples, their local traditions, and customs” (382).

He states that his main thesis also has two parts: (i) “If there is an international human rights standard—the exact scope of which is admittedly difficult to ascertain—then its meaning remains uniform across borders” (381) and (ii) “if there is a possibility of meaningful moral discourse about rights, then it is universal in nature and applies to all cultural beings despite cultural differences” (382).

He then states that a “core” human rights law can be found by looking at a combination of human rights treaties and diplomatic practice. He calls human rights treaties’ uniformity “surprising” (382). He states that one large challenge for human rights remains the balance between human rights law and state sovereignty. While strict enforcement measures do not really exist, political pressure has gotten “remarkable results” (383).

Before continuing with the rest of Tésou’s article, I would like to comment on his basic assumptions and goals. First, Tésou believes that, as human rights discourse has been going on for many decades, it can now be said to be a part of customary law. I don’t know that one could really argue this to be the case. Customary international law is defined by the International Committee of the Red Cross as unwritten law that is shown to be reflected in state practice. It must be shown that the international community views this practice as “required as a matter of law.”<sup>6</sup> If some

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<sup>6</sup> International Committee of the Red Cross, “Customary international humanitarian law,” *International Review of the Red Cross*,

countries have contrary practices, the practice can still count as customary law if that “contrary practice is condemned by other states or denied by the government itself.”<sup>7</sup>

Looking at the many occurrences world-wide of events which would be classified as human rights abuses under the current system, and the general lack of unified legal international response to these events, I would say that governments hardly treat human rights law as “customary,” but instead as a thing to be worried about at their convenience (not a priority, unless it includes political or economic gain). Just talking about human rights does not make the current human rights framework customary law: action must also occur, and more consistently than it has so far. This very lack of consensus through the *actions* of the international community seems to suggest that the current human rights framework should be more closely evaluated.

Second, while it is true that the human rights documents do attempt at respect for local cultures and customs, the concern remains that the very language used in the documents (derived as it is from western ways of thinking) imposes culturally specific, insensitive ideas under the guise of claims to universality. As Taylor argued in his aforementioned article, word choice is very important, and words can convey more than intended, and can (intentionally or not) cut certain people and ideas out of the conversation. Disagreements exist on concepts even as basic as what the human person is, and should be further examined to ensure that when we discuss human rights, we are all talking about the same thing.

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[http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section\\_ihl\\_customary\\_humanitarian\\_law](http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section_ihl_customary_humanitarian_law).

<sup>7</sup> Ibid.

Next, Tésou also states that any international human rights standard must have uniform meaning across borders, and that to have a meaningful moral discourse on rights, rights must be universal and apply universally. As the point of human rights does seem to require that they be universally applied, this appears to make sense. However, without a careful examination of the ideas and language used, the idea that different cultures would interpret these documents the same way (let alone that they would agree with all of the ideas espoused by those documents) seems premature. The United Nations, with all of the squabbles over specific word use, would likely recognize the importance of word use in the application of documents (though perhaps, due to political power and imbalance, it may not be the best place for a truly equal discussion on rights to take place).

Throughout history, the importance of word choice in legal documents has been shown in the differences found in different cultures' interpretations of documents. One (perhaps extreme) example is the differences in ideas of ownership of land found between the Europeans and the Native Americans. While many abuses by the Europeans (and eventually Americans) were knowingly perpetrated against Native Americans, in the early years of contact there were also some honest misunderstandings over land treaties due to different definitions of land ownership.

In Europe (especially England) a great deal of importance was placed on private property, with a lot of England's legal doctrine stemming from the idea of the primacy of private property rights. Native Americans did not have this idea, especially in respect to land use. Some of

these differences came out of different styles of land use.<sup>8</sup> The result of these different ideas was that when forming treaties about land ownership, the two groups were not even having the same conversation. The fact is that things that may seem small, like the definition and implications of “owning” land, can in fact have far-reaching consequences in the implementation and creation of treaties. Especially in a conversation with such big implications as human rights has, word use should be examined carefully, and the implications of different terms should be investigated.

Finally, the fact that Tésou finds the universality of human rights treaties surprising is something that *I* find surprising. When dealing with an international arena with particular international priorities and pressures, why is it surprising that documents created under those politically-pressured systems are similar in type? In addition, once a discourse is started with a particular focus, it can be difficult to change that focus (see most discourse on personal identity as an example of this phenomenon). In addition, looking solely at legal human rights documents seems limiting. Many other avenues for discussion exist which can give a more complete discussion and evaluation of the human rights regime.

In the end of Tésou’s paper, he argues that there are two negative “by-products” of relativism: namely, elitism and conspiracy. Elitism from relativism, he says, states that “one can appropriately honor human rights in certain

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<sup>8</sup> Merchant, Carolyn, editor. *Major Problems in American Environmental History* (Boston: Houghton Mifflin Company, 2005), 27. For more information about differences in ideas of ownership and interactions with land, see “The Ecological Indian” by Shepard Krech II and “Ecological Imperialism: The Biological Expansion of Europe, 900-1900” by Alfred W. Crosby.

societies, usually the most sophisticated ones, but not in others, on account, for example, of the latter's insufficient economic development" (389). He states that elitism then necessarily follows from relativism. In the second, conspiracy, he says states that "the law of human rights results from a conspiracy of the West to perpetuate imperialism" (389). This, he states, neither inevitably follows from, nor is required by, cultural relativism.

To the first point, it again seems that Téson is making an unfair characterization of relativism. In his defense of this view, Téson states that some believe "human rights are good for the West, but not for much of the non-Western world." He claims that these well-intentioned proposals result in deference to tyrannical governments.

First, this argument seems to assume a universal human rights regime. If he is trying to argue against the strongest form of relativism, which it seems that he is, they would deny the existence of such a universal framework, and therefore would *not* state that Western states can participate in human rights while non-Western ones cannot. Instead, it seems more likely that they would argue that a universal human rights discourse cannot exist, and instead that human rights would be different in different societies, but not in the sense of people from different places *deserving* more or less rights, but in people from different cultural traditions finding different rights and nuances of rights important, and taking the implications of these rights in different directions. In addition, again looking at history, it seems unlikely that relativists who really had an in-depth conception of their ideas would take this view. As the point of relativism is again tolerance and equal treatment of societies, it seems unlikely that such a Western-centric viewpoint would be logically *necessitated* by relativism.

The second implication, conspiracy, Tésou says does *not* necessarily follow from relativism. I agree with him on this point: the idea of human rights as a vehicle for the continuation of imperialism does not necessarily follow from relativism. While the conspiracy argument can be used to excuse the violent or neglectful actions of authoritarian governments, it does point out a worry for human rights. Because of the fact that human rights are meant to be universal, by definition, and because of the fact that such rules are meant to supersede state sovereignty, this is a legitimate fear (though not a reason to avoid participating in the human rights discussion altogether). Looking at the fact that human rights is historically a Western-based discourse, and that it came right after the dissolution of colonialism, seemingly giving Western states yet another reason to interfere in the affairs of others, it seems understandable that this fear exists. A way to counter this fear is to make sure that discussions on human rights, both in law and action, bring everyone to the table. If human rights law is truly agreed upon, and if human rights law is invoked more often than (as some could argue it is today) whenever the West feels it will be beneficial (politically or financially) for them, then we will be closer to dispelling these fears.

## **Conclusion**

In conclusion, strong relativism does not make sense in a human rights framework, as human rights are supposed to be, by definition, universally applicable. In addition, strong relativism has troubling implications for international law as a whole, and the ability of different cultures to participate in constructive dialogue. However, the fact that strong relativism is not helpful to the conversation does not

mean that the problems and challenges to human rights pointed out by relativist discourse as a whole are insignificant. Instead of looking to strong relativism, we should look at the points made by weak relativism: that different cultures have different cultural and ethical histories, and that these histories should not be brushed aside and ignored, but should instead be examined closely to allow us to further intercultural dialogue on subjects such as human rights. By examining these differences we will be able to ensure that greater agreement is reached and decrease instances of cross-cultural misunderstandings.

In order to ensure that human rights law in its current form represents the universal human rights ideals in a truly universal way, a detailed examination of the ideas and terminology must be undertaken. Because of the complexities of meaning of various terms and the importance that word use has on implications for the implementation of human rights treaties, it is evident that this investigation would be helpful in furthering the human rights discussion, allowing more non-Western cultures to come to the table. Looking at the ideas that come out of weak relativism, it is clear that changes must be made. In a further paper, I will argue that an overlapping consensus model is the best option for furthering the discussion on human rights. However, for this paper I will simply state that intercultural dialogue and examination of concepts used in human rights documents must take place. For supporters of the overlapping consensus model, an investigation of the ideas found in human rights documents will allow for an attempt at an overlapping consensus system for human rights. For those who believe that human rights in its current form is truly universal, such an investigation will only serve

to solidify their stance (if the results are as they expect), so they have nothing to lose from such an enterprise.

## **Bibliography**

- Boas, Franz. "The Mind of Primitive Man." *Science*, Vol. 13, No. 321 (Feb. 22, 1901): 281-289.
- Ching, Julia. "'Human Rights': A Valid Chinese Concept?" In *Confucianism and Human Rights*, edited by Wm. Theodore de Bary and Tu Weiming, 67-82. New York: Columbia University Press, 1998.
- Crosby, Alfred W. *Ecological Imperialism: The Biological Expansion of Europe, 900-1900*. Cambridge: Cambridge University Press, 1986.
- Engle, Karen: "From Skepticism to Embrace. Human Rights and the American Anthropological Association from 1947-1999." *Human Rights Quarterly*, Vol. 23, No. 3 (Aug., 2001): 536-559.
- The Executive Board, American Anthropological Association. "Statement on Human Rights." *American Anthropologist*, Vol. 49, No. 4, Part 1 (Oct. - Dec., 1947): 539-543.
- Hatch, Elvin. "The Good Side of Relativism." *Journal of Anthropological Research*, Vol. 53, No. 3 (Autumn, 1997): 371-381.

International Committee of the Red Cross. *Customary international humanitarian law*. International Review of the Red Cross.  
[http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section\\_ihl\\_customary\\_humanitarian\\_law](http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section_ihl_customary_humanitarian_law) (accessed December 10, 2009).

Ishay, Micheline R. *The History of Human Rights: from Ancient Times to the Globalization Era*. Berkeley, Ca: University of California Press, 2004.

Kretch II, Shepard. *The Ecological Indian: Myth and History*. New York: W.W. Norton & Co., 1999.

Merchant, Carolyn, editor. *Major Problems in American Environmental History*. Boston: Houghton Mifflin Company, 2005.

Pagden, Anthony. "Human Rights, Natural Rights, and Europe's Imperial Legacy." *Political Theory*, Vol. 31, No. 2 (April, 2003): 171-199.

Taylor, Charles. "A World Consensus on Human Rights?." *Dissent* (Summer, 1996): 15-21.

Téson , Fernando R. "International Human Rights and Cultural Relativism" in *The Philosophy of Human Rights*, 409-423. ed. Patrick Hayden. St. Paul, MN: Paragon House, 2001.

UN General Assembly. "Universal Declaration of Human Rights." United Nations High Commissioner for Refugees, 10 December 1948, 217 A (III).

<http://www.unhcr.org/refworld/docid/3ae6b3712c.html> (accessed 10 November 2009).

United Nations Office of the High Commissioner for Human Rights. "What are human rights?" United Nations High Commissioner for Refugees. <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx> (1 December 2009).