

THE IMPACT OF CULTURE, RELIGION AND MORALITY ON HUMAN RIGHTS: AN APPRAISAL*

Abstract

Culture, Religion, Morality, and Human Rights are indispensable concepts in jurisprudence and international law. The essence of Universal Declaration on Human Rights is to ensure that everyone lives harmoniously, in spite of their divergent cultures, ethnic groups, religion or different moral beliefs. A society alone is likely to have different rules that make it difficult to know the exact impact of any one of them. Rights are a concept that embodies the current culture's ideas as to how people should be treated. Cultural rights should not be rejected because they differ from other human rights. This paper is an evaluation of the impact of culture, religion, and morality on human rights. The paper utilized secondary data such as textbooks, statutes, judicial decisions. It was the findings of this paper amongst others that culture, religion, morality, human rights are basic concepts in international law and universally. Furthermore, there are beneficial and adverse impacts of culture on human rights. Again, religions and human rights are intertwined; religion also impacts positively and negatively on human rights. Besides, moral rights/beliefs, existed before the statutes, and Constitution emerged. Moral rights are harmonious with human rights, as they impose an obligation on all and sundry to uphold as well as protect. Consequently, every person has a right to dignity. There should be a more appropriate and adequate framework for the implementation and enforcement of human rights. It was recommended that culture, morality, and religion should not be jettisoned completely. There should be pragmatic approach in harnessing them with human rights. As culture, religion, morality and human rights have inherent qualities with each other.

Keywords: Culture, Religion, Morality, Human Rights

1. Introduction:

Human Rights, culture, morality, religion, and reason all come from selective evolution.¹ Years and years ago, before the existence of Universal Declaration of Human Rights, people have lived their lives with reason, morality and culture. A society alone is likely to have various rules that make it impossible to know the exact impact of any one of them. The existence of Universal Declaration on Human Rights aims to make sure everyone is at peace notwithstanding their various cultures, ethnic groups, religion or different moral beliefs. Rights are a concept that embodies the current culture's ideas as to how people should be treated. In this case, we will look at the positive and negative impact of culture, religion and morality on Human Rights, the universality of Human Rights, concepts, and see if there is a way that Human Rights can co-exist with other people's way of life, and also which practices should remain. In examining the impact of culture, religion, and morality on human rights, it will be proper to approach it in this sequence viz. Concept of the universality of human rights, culture and human rights, positive impact of culture on human rights, adverse impact of culture on human rights, religion and human rights, beneficial impact of religion on human rights, negative impact of religion on human rights, morality and human rights, positive impact of morality on human rights, detrimental impact of morality on human rights as the Conclusion .

2. Concept of the Universality of Human Rights

The issue of universality of human rights and cultural, religious and moral diversity embraces a number of interrelated questions: are the human rights norms formulated at international level since 1948 universally valid, and to what extent does the cultural, religious or moral setting affect the way in which they are upheld by states around the world? In general terms, the foundations of today's human rights structure -in particular, the United Nations Charter ('UN Charter') of 1945 and the Universal Declaration of Human Rights ('Universal Declaration') of 1948- can be said to have been laid at a time when the norms in question were not yet considered universally valid in all areas. The Proclamation of Teheran, adopted after the two human rights covenants had been drawn up in 1966, is especially important, since Article 2 describes the Universal Declaration as: 'a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and ... an obligation for the members of the international community'. There are currently two main competing schools of thought in the current views on human rights: the deontological and the teleological views. The deontological school views human rights as 'universal' and believes in fixed moral rules that actions are inherently right or wrong regardless of time, place, or context.² The teleological school views human rights as 'culturally

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¹ Hayek F. The Fatal Conceit; The Errors of Socialism, 1981, p. 158

² Dolgoff, R., Loewenberg, F., & Harrington, D. (2005). *Ethical decisions for social work practice* (7th ed.). Belmont, CA: Brooks Cole.

relative'. Relativists believe that ethical decision making should be based on context and consequences. Relativists believe that each society should formulate their own human rights standards in their contexts.³

In order to prevent and to address discrimination and oppression, clearly identified, enumerated, and agreed upon rights are imperative. However, individuals do not exist in a vacuum; they live among groups and communities, some of which have very deep cultural traditions. Brems suggested a 'rights limitation' approach, which views one interest as a right and the other as an acceptable ground for a limitation of that right. This approach is applied in the UDHR that states that 'in the exercise of his/her rights and freedoms, every person shall be subject only to such limitations as are determined by law, solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.'⁴Xanthaki suggested that the UDHR in its Article 4 prefers individual over cultural rights, as can be understood from its contention that 'no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.'⁵ Human Rights are universal, indivisible, and related to each other. It has been influenced by culture, religion and morality. As different as they might be, there are some similarities between them when it comes to fundamental principles. For example, all religions, philosophies and cultures condemn murder, theft, torture and deceit, and all acknowledge people's right to food or health. Support for human rights has grown more widespread over the years, and it has become increasingly clear that human rights norms are in principle compatible with the leading ethical, religious and philosophical traditions. The universality of human rights norms is therefore seldom disputed in the political arena.

3. Culture and Human Rights

It is extremely difficult to define 'culture' in a few sentences. Over the years anthropologists have made countless attempts to define the term. The following broad definition has been adopted for the purposes of this report: 'Culture means the entire set of customs, institutions, symbols, conceptions and values of a group. Culture includes not only learned behavior, but also language, and hence whatever can be thought and uttered.'⁶'No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor limit their scope.'⁷ The Universal nature of human rights is clearly established as International law in the UN Charter. The approach of UNESCO, through all of its cultural conventions, is firmly grounded on this principle. The emphasis is on acknowledgement, understanding and tolerance of other cultures on the basis of a binding global ethic founded on universal values and mutual respect across cultural boundaries. It should be borne in mind that cultural rights are human rights. For decades cultural rights have been considered 'a neglected category of human rights.' Some of the reasons for such a consideration are the following: First, cultural rights are 'traditionally' less justiciable than civil and political rights. Secondly, a legal definition of the content of cultural rights has been difficult to develop. Finally, one cannot forget the traditional reluctance of States to recognize some of these cultural rights, in which they have seen a risk to their integrity.⁸ Fortunately, nowadays the situation is different. Two developments within the United Nation system are increasingly helping to determine the content of cultural rights, giving guidelines for a human rights approach to cultural policies. Human rights include many very important cultural rights, which should be given equal attention, such as the right to participate in cultural life, enjoy one's culture, and more. Even these however, are not unlimited. In accordance with International Law, the right to culture is limited at the point at which it infringes on another human right.⁹

4. Positive Impact of Culture on Human Rights

One of this is the observance of polygamy. Although it occurs throughout the world, African males, traditionalists in particular, maintain multiple partnerships, especially in areas with scarce environmental resources. Polygamy is believed to increase productivity and survival among children, to provide economic security to women, and to maintain strong religious values. Yet it also represents a highly contested debate between those who uphold the societal norms of traditional African communities, and those who call for implementing human rights norms. Another impact is traditional faith healing practices. There is an estimated twenty-thousand traditional healers in South Africa, and other countries in Africa, who use religious methods such as prayer and spiritual techniques to

³ Healy, L. M. (2007). Universalism and cultural ethics in social work ethics. *International Social Work*, 50(11), 11-26.

⁴ Brems, E. (1997). Enemies or allies? Feminism and cultural relativism as dissident voices in human rights discourse. *Human Rights Quarterly*, 19(1), 136-164.

⁵ Xanthaki, A. (2010). Multiculturalism and international law: Discussing universal standards. *Human Rights Quarterly*, 32(1), 21-48.

⁶ From Peter Kloos, 'Culturele antropologie, een inleiding' ('Cultural anthropology, an introduction') Assen; Van Gorcum (1991), 5th revised edition (1991), pp. 15 ff.

⁷ UNESCO 2001 Universal Declaration on Cultural Diversity

⁸ SYMONIDES, J. (1998) Cultural Rights: A Neglected Category of Human Rights, *International Social Sciences Journal*

⁹ Culture for Sustainable Development www.unesco.org/new/en/culture/themes/culture-and-development/the-future-we-want-the-role-of-culture/culture-and-human-rights/

prevent illness, cure disease, and improve health. These healers treat around eighty percent of the population in the African nation of Uganda and play an arguably fundamental role in both the physical and spiritual health of individuals in regions across the continent. Some of these healers use natural plants to heal their patients, which actually work well for them, and it is a part of their culture that should not be stopped. Every healer, traditional or western play a large role in making sure people are treated well, and free from ailments.

5. Adverse Impact of Culture on Human Rights

One area in which the issue of cultural diversity plays an important part in day-to-day practice is the extent of freedom of opinion and freedom of expression. The freedom to express views is inherent in the democratic decision-making process, and is essential to individual self-fulfillment. People cannot develop and fulfill themselves socially in accordance with their own wishes if they have no opportunity to express themselves. The right to freedom of expression cannot be monopolized and must be protected against all ideologies, western or otherwise, which seek to defend the traditions of certain communities by excluding divergent views about the value or significance of those traditions. Another example of an ancient cultural practice that violates specific human rights is female genital mutilation (FGM). It is noted that FGM has been practiced for over 2,500 years. There are different forms of FGM; the most common are Type I and Type II. In Type I, part or the entire clitoris is removed, whereas in Type II, part or the entire clitoris and labia are removed. Type III is considered to be the most debilitating as it surgically closes the vagina, leaving just a small opening for urination and menstruation, to be reopened after marriage, sometimes by a husband through cutting or forceful penetration.¹⁰ According to UNICEF, FGM occurs mainly in countries along an area from Senegal in West Africa to Somalia in East Africa and to Yemen in the Middle East. It is also practiced in some parts of Southeast Asia. FGM is performed in order to control women's attitudes toward sex and sexuality and to ensure virginity for marriage, as the practice is expected to take away all sexual desire. FGM victims often experience pain, trauma, hemorrhaging, difficulty urinating, painful menstruation, painful sexual intercourse, sexual dysfunctions, infections resulting from unsterilized instruments, unintended labia fusion, proliferation of scar tissue at the site, and infertility. Opponents of FGM maintain that the practice can damage marital relationships and lead to estrangement due to the lack of enjoyment of sexual relations and difficulty with penetration. Therefore, FGM is perceived as violating girls' and women's right to health, life, liberty, sexual autonomy, and security as protected by international human rights laws.¹¹

Another controversial cultural practice considered to violate human rights is forced marriages. Forced marriages are differentiated from arranged marriages that are facilitated by the families and both parties give their full and free consent to the marriage.¹² In forced marriages, one or both parties are coerced into a marriage against their will.¹³ Forced marriages occur both in peace and war times; however, during war times, this practice is usually much more prevalent and brutal. Forced marriages in Sierra Leone, during their 11-year-long civil war, were prime examples of the extent of the brutality of such practice during war time. During this period, approximately 41 percent of women and girls were forcibly taken and 3 percent were forcibly married to members of the rebel group.¹⁴ Although with their 'husbands,' these women suffered forced labor, physical violence, repeated rape and other forms of sexual violence including forced pregnancy. Due to the brutality of their experiences, it has been suggested that conflict-related forms of forced marriages should be categorized as sexual slavery and a gross violation of human rights.

Although there are great similarities between the various cultures when it comes to human rights, acceptance of the universality of human rights norms does not mean that they have to be applied uniformly in all cases. The degree of latitude available to states largely depends on the amount of space which is left by international conventions and the associated supervisory mechanisms. It must therefore always be possible to call states to account for the way in which they apply human rights within their territories.

¹⁰Sharmon, L. (2010). Patriarchy: Perpetuating the practice of female genital mutilation. *Journal of Alternative Perspectives in the Social Sciences*, 2(1), 160–181.

¹¹Nnamuchi, O. (2012). 'Circumcision' or 'mutilation'? Voluntary or forced excision? Extricating the ethical and legal issues in female genital ritual. *Journal of Law & Health*, 25(1), 83–119.

¹²Uddin, P. & Ahmed, N. (2000). A choice by right: The report of the working group on forced marriage. London: Home Office Communications Directorate. Retrieved from <http://www.fco.gov.uk/resources/en/pdf/a-choice-by-right>

¹³Foreign and Commonwealth Office (2006). Forced marriages: A wrong not a right – summary of responses to the consultation on the criminalization of forced marriage. London, UK: Foreign and Commonwealth Office. Retrieved from <http://collections.europarchive.org/tna/20080205132101/fco.gov.uk/files/kfile/05062006%20final%20fm%20report%20nja,0.pdf>

¹⁴Palmer, A. (2009). An evolutionary analysis of gender-based war crimes and the continued tolerance of 'forced marriage'. *Northwestern Journal of International Human Rights*, 7(1), 133–159.

6. Religion and Human Rights

Religion is the feelings, acts, and experiences of individual men in their solitude; so far as they apprehend themselves to stand in relation to whatever they may consider the divine.¹⁵ Even though all human beings seek Human Rights, there have been some arguments about the origin of these rights. While some scholars have argued that human rights originated in the West, others have challenged that conception. Lauren argues that human rights do not have a single geographical or temporal origin but rather developed in all cultures and religions around the world. At various times philosophers, prophets, and spiritual leaders developed the concept of human rights. Lauren suggests that all the major religions express the belief that human beings have an inherent dignity.¹⁶ While various religious texts suggest that we have duties to others, they often also incorporate ideas and concepts which are incompatible with the notion of human rights. In fact, many religious texts have offered their believers a variety of conflicting propositions to follow. Yet, despite the limitations in Lauren's argument concerning religion's ability to provide a foundation for the conceptual development of international human rights, various religious leaders, individuals, and organizations have contributed to the legal development and protection of human rights. The importance of the role of religious organizations in the work of human rights bodies has been recognized by several international organizations. As part of this framework, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has included religions in the promotion of human rights, and the High Commissioner has stressed the importance of religious leaders as human rights actors due to their potential to influence millions of people.¹⁷ However, it is also acknowledged that a number of potential problems need to be negotiated, notably around which religions or representatives within individual religions are able to participate in dialogues and initiatives, and how conflicting views between faith-based and other human rights actors should be addressed.

7. Beneficial Impacts of Religion on Human Rights

Pope John Paul II brought his ideas about human rights, solidarity, and peace to Eastern Europe and affected the transformation from communism there. He argued for and supported civil society in Poland. He also criticized communism for its destruction of community and civil society throughout the world. His ideas and his support encouraged many living in authoritarian regimes to peacefully oppose their oppressors. The Catholic Church also has the power to mobilize its adherents towards issues of justice and peace. This often occurs through pastoral letters and public statements from bishops. In the 1970s and 1980s, the world saw a movement towards democracy in various regions of the world. In diverse places, grassroots movements pushed for and achieved the transformation of their political system to a democratic polity. Huntington attributes this to the fundamental changes stemming from Vatican II and the role of the pope and other clerics in supporting the opposition movements.¹⁸

8. Negative Impacts of Religion on Human Rights

While religious organizations can help promote human rights, at times religious beliefs and religious associations have violated human rights and have caused tensions and controversies. There are concerns about terrorism undertaken in the name of religion. Whether Islam or Christianity, religions have seen terrorist actions taken in their name and based on their religious texts. This has been true historically and in contemporary times. Unfortunately, this is not the only issue pertaining to religious violations of human rights.¹⁹ There is a concern that religious groups may act as interest groups and oppress others by having their religious beliefs codified in law. The Christian Right in the U.S. has been lobbying for various religious positions, including the posting of the Ten Commandments in classrooms, school prayer, prayers before sporting events and securing religious freedom (evangelical proselytism) around the world. If there is a way to encourage individuals who are being denied basic human rights (political freedoms, religious freedoms, economic opportunities, etc.) to focus on the positive duties towards others instead of the justification for violence and revenge found in many religious traditions, the world will be a better place.

9. Morality and Human Rights

Moral rights are individual and concrete rights which are said to exist even before the statutes and constitution codify them. As moral rights, human rights are held by all human beings on the basis of some normative justification, and irrespective of whether they live under a government which recognizes those rights. All human rights are moral rights, but not all human rights are legal rights. As such, the essential ingredient of human rights

¹⁵ James George Frazer, *The Golden Bough*.

¹⁶ *Visions Seen*, Paul Gorden Lauren: In the Evolution of International Human Rights

¹⁷ Ziebertz, H-G. and Crpic, G.; *Religion and Human Rights: An International Perspective*, Springer, 2015.

¹⁸ Huntington, Samuel. 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press.

¹⁹ Juergensmeyer, Mark. 2000. *Terror in the Mind of God: The Global Rise of Religious Violence*. Berkeley: University of California Press.

is their moral basis. Moral rights accord closely with human rights practice. This claim is in stark contrast to the position of recent proponents of political conceptions of human rights. Joseph Raz has argued that moral accounts of human rights, ‘...offer a way of understanding their nature which is as remote from the practice of human rights as to be irrelevant to it.’ Moral rights go well with our ordinary understanding of the term. In particular it allows us to use human rights to criticize those that fail to uphold them. This is in contrast with ‘positivist’ theories of human rights which deny that human rights can be derived from normative justification alone. These positivist theorists argue that in order for a human right to be a human right, it must be morally valid and socially recognized and enforced by law. Moral rights impose a moral obligation on actors to uphold and protect them. It is important to remember that our obligations in respect of human rights are primarily moral, and this is worth remembering for three reasons. First of all, it reminds us that our obligations in respect of human rights may not correspond exactly with our legal obligations. Secondly, by conceiving of our obligations in respect of human rights as primarily moral, we are reminded that legally institutionalizing those rights is not sufficient to fulfill our moral obligations. Human rights activists often regard the legal recognition of rights as a victory, but it is a pretty shallow victory if it does not result in those rights being upheld and protected in practice. Finally, by conceiving of our obligations in respect of human rights as primarily moral we are further reminded that legal institutionalization is not the only tool at our disposal to fulfill our moral obligations. It is too easy for human rights advocates to concentrate solely on the goal of legal institutionalization: to conflate human rights protection with their entrenchment in some constitutional document or international treaty.

10. Positive Impacts of Morality on Human Rights

Everyone has a right to dress the way they want without interference from anybody. A woman especially should be free to dress anyway she wants. For instance, a Muslim woman has a right to dress exactly how she wishes and if that includes covering of all her body, it is her moral obligation to do so. We all know it is morally wrong for a woman to dress wearing revealing clothes, but that does not mean it is a crime that is punishable. So also, a woman who has decided to be morally decent is simply observing her rights. Another impact is the Right of a person to commit suicide. We all know that this right has been given to us by God and he is the only one who can take it, but what about people who are in serious pain and really wish to die. For instance, a very seriously ill patient who is in severe pain and is probably also confined to his sick bed and has lost the use of his limbs, he has to be catered for constantly since he lacks the ability to care for himself; he is no doubt living, he is merely existing and without dignity. He has the right to die with dignity. Euthanasia is legal in a lot of countries now, and even if it was not, he would not be morally wrong in getting Voluntary Euthanasia and die with dignity. Talking about same sex marriage, we all know that a lot of them are condemned today because of what the act seemingly represents, but should that stop them from getting married legally like men and women do? It is morally right to allow two people who are in love conduct a legal marriage ceremony so far they are of age and not under duress to do so.

11. Detrimental Impact of Morality on Human Rights

It is morally right for a Muslim woman to wear a veil, hijab or burqa since it covers her modesty and expresses her religion. What is morally wrong about this is using that veil to commit acts of terrorism. Because of this, Muslims face a huge challenge nationwide due to the acts of terrorism committed by people who are mistaken into thinking they are doing what is right by doing these derogatory and appalling acts, whereas, they are not doing anything moral, just committing murder and suicide bombing under the guise of the hijab. Another instance is that it is morally wrong to kill especially when this is done without purpose. Armed robbers, hired assassins, kidnappers kill people when they feel it is necessary to, and for money. Situations where it is still okay that murder was committed is when it is done in self-defense or through Voluntary Euthanasia, or where an accused was sentenced to death on the charges of Murder. The very first fundamental human right is the Right to life. Taking the life of another person is wrong morally and legally.

12. Conclusion

Everyone has a right to dignity, but universality is not a ‘one size fits all’ prescription. Variations within each society demonstrate the need for a more adaptive framework that translates to each unique language and setting. Implementing human rights through force is like trying to fit a circular block into a square slot—it just will not succeed. Instead of pushing against steadfast opposition, advocates must get to the root of why universal policy conflicts with cultural, religious and moral ideologies in the first place. Cultural rights should not be rejected primarily because they conflict with other human rights. However, they also should not be enjoyed without limitations. Everyone has a right to their beliefs, cultures, morals and ethics, it is their way of life, and is an embodiment of who they are. It is wrong to impose a Western law for everybody to obey. It cannot be easy to change the detrimental impacts that culture, religion and morality has on human rights, but a gradual change can be made. By eradicating our culture, religions and beliefs, it becomes a complete disaster, and it completely negates the idea of human rights. From the totality of the foregoing, it can be safely contended that culture, religion, morality and human rights are invaluable universal concepts in jurisprudence and international law.