

IS THE NOTION OF HUMAN RIGHTS A WESTERN CONCEPT?¹

We should approach this topic with great fear and respect. It is not a merely “academic” issue. Human rights are trampled upon in the East as in the West, in the North as in the South of our planet. Granting the part of human greed and sheer evil in this universal transgression, could it not also be that Human Rights are not observed because in their present form they do not represent a universal symbol powerful enough to elicit understanding and agreement?

No culture, tradition, ideology or religion can today speak for the whole of humankind, let alone solve its problems. Dialogue and intercourse leading to a mutual fecundation are necessary. But sometimes the very conditions for dialogue are not given, because there are unspoken conditions which most partners cannot meet. It is a fact that the present-day formulation of Human Rights is the fruit of a very partial dialogue among

¹ This paper is an expanded and revised version of the presentation at the “Entretiens de Dakar,” Senegal, to the annual session of the Institut International de Philosophie on *Philosophical Foundations of Human Rights*, a summary of which will appear in the Proceedings.

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the cultures of the world. It is only recently that this question has been acutely felt.²

I shall not enter into the details of the history of Human Rights, nor into an analysis of their nature. I shall confine myself to the interrogation implied in the title: are Human Rights a universal invariant?

I. THE METHOD OF INQUIRY

1. *Diatopical Hermeneutics*

It is claimed that Human Rights are universal. This alone entails a major philosophical query. Does it make sense to ask about conditions of universality when the very question about conditions of universality is far from universal? Philosophy can no longer ignore this inter-cultural problematic. Can we extrapolate the concept of Human Rights, from the context of the culture and history in which it was conceived, into a globally valid notion? Could it at least *become* a universal symbol? Or is it only one particular way of expressing—and saving—the *humanum*?

Although the question posed in the title is a legitimate one, there is something disturbing in this formulation as it was given to me. At least at first glance, it would seem to offer only one alternative: either the notion of Universal Human Rights is a Western notion, or it is not. If it is, besides being a tacit indictment against those who do not possess such a valuable concept, its introduction into other cultures, even if necessary, would appear as a plain imposition from outside. It would appear, once again, as a continuation of the colonial syndrome, namely the belief that the constructs of one particular culture (God,

² Cf. probably the first Symposium of its kind convened by UNESCO at Bangkok in December 1979, *Meeting of Experts on the Place of Human Rights in Cultural and Religious Traditions*, where nine major schools of religious thought discussed the issue and recognized “that many of them have not paid sufficient attention to human rights... (And that) it is a task of the different religions of the world to deepen and eventually to enlarge and/or reformulate the urgent and important issue of human rights.” § 116 g of the Final Report SS-79/CONF. 607/10 of 6 February, 1980. The entire report is worth reading.

Church, Empire, Western civilization, science, modern technology, etc.) have, if not the monopoly, at least the privilege of possessing a universal value which entitles them to be spread over all the Earth. If not, that is, if the concept of Universal Human Rights is not exclusively a Western concept, it would be difficult to deny that many a culture has let it slumber, thus again giving rise to an impression of the indisputable superiority of Western culture. There is nothing wrong in admitting a hierarchy of cultures, but this hierarchical order cannot be assumed as the starting point, nor can one side alone lay down the criteria necessary for establishing such a hierarchy. There is then a prior question implied by asking whether the notion of Human Rights is a Western concept. It is the question regarding the very nature of Human Rights, and it directly submits this notion to cross-cultural scrutiny.

Our question is a case in point of *diatopical hermeneutics*: the problem is how, from the *topos* of one culture, to understand the constructs of another.³ It is wrong-headed methodology to begin by asking: Does another culture also have the notion of Human Rights?—assuming that such a notion is absolutely indispensable to guarantee human dignity. No question is neutral, for every question conditions its possible answers.

2. *The homeomorphic equivalent*

I was once asked to give the Sanskrit equivalents of the twenty-five key Latin words supposed to be emblematic of Western culture. I declined, on the grounds that that which is the foundation of one culture need not be the foundation for another. Meanings are not transferable here. Translations are more delicate than heart transplants. So what must we do? We must dig down to where a homogeneous soil or a similar problematic appears: we must search out the *homeomorphic equivalent*—to

³ By diatopical hermeneutics I understand a thematic reflection on the fact that the loci (*topoi*) of historically unrelated cultures make it problematic to understand one tradition with the tools of another, and the hermeneutical attempt to bridge such gulfs. Cf. R. Panikkar, *Myth, Faith and Hermeneutics*, New York, Paulist Press, 1979. pp. 8 sq.

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the concept of Human Rights in this case. "Homeomorphism is not the same as analogy; it represents a peculiar functional equivalence discovered through a topological transformation." It is "a kind of existential functional analogy."⁴

Thus we are not seeking merely to transliterate Human Rights into other cultural languages, nor should we be looking for mere analogies; we try instead to find the homomorphic equivalent. If, for instance, Human Rights are considered to be the basis for the exercise of and respect for human dignity, we should investigate how another culture satisfies the equivalent need—and this can be done only once a common ground (a mutually understandable language) has been worked out between the two cultures. Or perhaps we should ask how the idea of a just social and political order could be formulated within a certain culture, and investigate whether the concept of Human Rights is a particularly appropriate way of expressing this order. A traditional Confucian might see this problem of order and rights as a question of "good manners" or in terms of his profoundly ceremonial or ritual conception of human intercourse, in terms of *li*. A Hindu might see it another way, and so on.

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In order to clarify the question of our title, I shall indicate some of the assumptions on which the notion of Human Rights is based and immediately insert some cross-cultural reflections which will lead us to the *locus*—the context—of the question and the justification for my answer, which I would like to anticipate by means of a simile: Human Rights are one window through which one particular culture envisages a just human order for its individuals. But those who live in that culture do not see the window. For this they need the help of another culture which sees through another window. Now I assume

⁴ Cf. R. Panikkar, *The Intrareligious Dialogue*, New York, Paulist Press, 1978, p. xxii. The two words Brahman and God, for instance, are neither analogous nor merely equivocal (nor univocal, of course). They are not exactly equivalent either. They are homeomorphic. They perform a certain type of respectively corresponding function in the two different traditions where these words are alive.

that the human landscape as seen through the one window is both similar to and different from the vision of the other. If this is the case, should we smash the windows and make of the many portals a single gaping aperture—with the consequent danger of structural collapse—or should we enlarge the viewpoints as much as possible and, most of all, make people aware that there are—and have to be—a plurality of windows? This latter option would be the one in favor of a healthy pluralism. This is much more than a merely academic question. There can be no serious talk about cultural pluralism without a genuine socio-economic-political pluralism. This is, for example, what has led intellectual groups in India to ask whether “civil rights” are not incompatible with “economic rights.” At any rate, to speak of cultural pluralism within what could be called a paneconomic ideology makes little sense and amounts to treating the other cultures of the world as mere folklore. The example of the notion of dharma from the Indian tradition will offer us a point of reference from which to formulate our conclusion.

II. ASSUMPTIONS AND IMPLICATIONS OF THE WESTERN CONCEPT

I take the expression “Human Rights” in the sense of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations in 1948.⁵ The Western, mainly liberal protestant roots of the Human Rights Declaration are well known.⁶ The Western world has known of the struggle for

⁵ I shall capitalize Human Rights when these words have the particular meaning derived from this “Universal Declaration.”

⁶ The dates to recall are:

10 December 1948	— Proclamation in Paris of the Universal Declaration;
4 November 1950	— Adoption in Rome of the Convention safeguarding Human Rights and fundamental freedom, known as “The European Convention on Human Rights”;
20 March 1952	— Adoption in Paris of the first additional Protocol to this Convention;
16 December 1966	— International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Optional Protocol (to the latter—not passed unanimously).

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citizens' rights since the Middle Ages.⁷ This struggle for concrete rights, rooted in the practices and value system of a particular nation or country, is felt with greater urgency after the French Revolution.⁸ Western Man passes from a corporate belonging in a community of blood, work and historical destiny, based on practically accepted custom and theoretically acknowledged authority, to a society based on impersonal law and ideally free contract, to the modern State, for which explicitly rational norms and duties are required. The problem becomes increasingly acute with the growth of individualism.

This paper assumes knowledge of the history of Human Rights, as well as of the fact that this transition from one form of collective life to another more modern form is said today to have acquired a worldwide character. We would like to concentrate on the more strictly philosophical *assumptions* which seem to be at the basis of the Declaration.

1. At the basis of the discourse on Human Rights there is the assumption of a *universal human nature* common to all peoples. Otherwise, a Universal Declaration could not logically have been

⁷ For the astounding documents of the first nine Christian centuries, cf. the collection and translation with insightful introduction by H. Rahner, *Kirche und Staat*, Munich, Kösel, 1961. The first edition, published in 1943 during the Second World War with the title *Abendländische Kirchenfreiheit*, is in itself a document for Human Rights.

Because it is less known than the *Magna Carta* of King John of England in 1215, let us mention King Alfonso IX of León in 1188 with his rights to life, honor, home and property.

Interesting also is the statement and justification of Francisco de Vitoria in 1538: "Cuando los súbditos tengan conciencia de la injusticia de la guerra, no les es lícito ir a ella, sea que se equivoquen o no" (emphasis mine). *De los indios o del derecho de la guerra*, II, 23 (Ed. BAC, Madrid 1960, p. 831). ("When its subjects are aware of the injustice of a war, it is not lawful for them to go to it, *whether they are in error or not.*") And the reason he gives is to quote Rom. XIV, 23: "omne quod non est ex fide peccatum est," which he translates "todo lo que no es según *conciencia* es pecado" (*ibid*, emphasis added.) The Pauline passage is usually rendered: "Whatever does not come from faith is sin." Vitoria's variation reads: "Whatever is not in accordance with one's *conscience* is a sin." Cf the Thomistic principle that the rational being that is Man has to follow his or her personal conscience in order to act morally.

⁸ Just as a memorandum, we may recall:

1689 — Bill of Rights (England)

1776 — Virginia Bill of Rights

1789 (26 August) — Déclaration des droits de l'homme et du citoyen

1798 — American Bill of Rights

proclaimed. This idea in its turn is connected with the old notion of a Natural Law.

But the contemporary Declaration of Human Rights further *implies*:

a) that this human nature must be *knowable*. For it is one thing to accept human nature uncritically or mythically, and another to know it. Otherwise, the Declaration could not speak and legislate about Rights that are universal;

b) that this human nature is known by means of an equally universal organ of knowledge, generally called *reason*. Otherwise, if its knowledge should depend on a special intuition, revelation, faith, decree of a prophet or the like, Human Rights could not be taken as *natural* rights—inherent in Man. This must be a commonly-held knowledge. Otherwise, Human Rights could not be declared universal by an Assembly which does not claim to have a privileged epistemological status. This is made plain by the use of the word “Declaration,” which stresses the fact that it is not an imposition from above but a public explication, a making clear of what is inherent in the very nature of Man;⁹

c) that this human nature is essentially *different* from the rest of reality. Other living beings inferior to Man obviously have no Human Rights, and creatures superior to Man are likely not to exist. Man is the master of himself and the universe. He is the supreme legislator on Earth—the question of whether a Supreme Being exists or not remains open, but ineffective.¹⁰

2. The second assumption is that of the *dignity of the individual*. Each individual is, in a certain sense, absolute, irreducible to another. This is probably the major thrust of the Modern question of Human Rights. Human Rights defend the dignity

⁹ The Paris document is a *declaration*, a manifest statement making clear what is already there, an explication (*déclarâre*, to make clear—from *de-clârâre*. Cf. *clârus*, clear, but also loud (*clamor*)). It is not a law, a superimposition, a human creation, but the recognition or discovery of something intrinsic to the nature of the thing; in this case “the inherent dignity and equal and inalienable rights of all the members of the human family,” as the Preamble to the 1948 Declaration says.

¹⁰ This practical a-theism and even practical ignorance of any ulterior philosophical issue or religious factor became patent in the presentation and discussion of the Bangkok Conference mentioned above, let alone in the more official meetings where Philosophy and Religion have hardly a voice.

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of the individual *vis-à-vis* Society at large, and the State in particular.

But this in turn implies:

a) not only the distinction but also the *separation* between individual and society. In this view the human being is fundamentally the individual. Society is a kind of superstructure, which can easily become a menace and also an alienating factor for the individual. Human Rights are there primarily to protect the individual;

b) the *autonomy* of humankind *vis-à-vis* and often versus the Cosmos. This is clearly shown in the ironic ambivalence of the English expression, which means at the same time "*Menschenrechte*," "*droits de l'Homme*," and also "*menschliche Rechte*," "*droits humains*" (humane rights). The Cosmos is a kind of understructure. The individual stands in between Society and World. Human Rights defend the autonomy of the human individual;

c) resonances of the idea of Man as *microcosmos* and reverberations of the conviction that Man is *imago dei*, and at the same time the relative independence of this conviction from ontological and theological formulations. The individual has an inalienable dignity because he is an end in himself and a kind of absolute. You can cut off a finger for the sake of the entire body, but can you kill one person to save another?¹¹

3. The third assumption is that of a *democratic social order*. Society is assumed to be not a hierarchical order founded on a divine will or law or mythical origin, but a sum of "free" individuals organized to achieve otherwise unreachable goals. Human Rights, once again, serve mainly to protect the individual. Society here is not seen as a family or a protection, but as something unavoidable which can easily abuse the power conferred on it (precisely by the assent of the sum of its individuals). This Society crystallizes in the State, which theoretically expresses the will of the people, or at least of the majority. The idea

¹¹ Cf. R. Panikkar, "Singularity and Individuality: The Double Principle of Individuation," *Revue internationale de philosophie* XIX, 1-2, No. 111-112 (1975) p. 141-166, where it is argued that the ontic status of human individuals is basically different from that of all other individual entities; in short, that we cannot treat human individuals as we could peanuts or cattle, by a merely numerical individuality.

of an Empire, or a People or a Nation with a transcendent destiny—whose duty it is to carry through the entrusted mission independent of the will of the members of that society—still exists today in some theocratic states, but even most of these try to palliate their messianic vocation by democratic endorsements.

This implies:

a) that each individual is seen as equally important and thus equally responsible for the welfare of society. Hence the individual has the right to stand by his or her convictions and propagate them or to resist impositions against his or her inherent freedom;

b) that Society is nothing but the sum total of the individuals whose wills are sovereign and ultimately decisive.¹² There is no instance superior to Society. Even if there were to exist a God or a superhuman Reality, this too would be filtered through human consciousness and human institutions;

c) that the rights and freedoms of the individual can be limited only when they impinge upon the rights and freedoms of other individuals, and in this way majority rule is rationally justified.¹³ And when the rights of an individual are curtailed by “reasons of State,” this is allegedly justified by the fact that the State is supposed to embody the will and the interests of the majority. It is interesting to note that the “Universal Declaration” speaks of “freedoms” in the plural and, even more intriguing, of “fundamental freedoms.” The individualization does not stop at the individual, but divides this segregated entity even further into separated freedoms.

In enumerating these Assumptions and Implications I do not mean to say that they were actually in the minds of the framers of the Declaration. In fact, there is evidence to suggest that no unanimity could be found regarding the basis of the rights that were being declared. But the Declaration clearly was articulated

¹² “The will of the people shall be the basis of the authority of government;” —Art. 21,3 of the Declaration.

¹³ “In the exercise of his rights and freedoms, everyone 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.” Art 29,2 (Emphasis of the problematic words added.)

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along the lines of the historical trends of the Western world during the last three centuries, and in tune with a certain philosophical anthropology or individualistic humanism which helped justify them.

III. CROSS-CULTURAL REFLECTIONS

1. *Is the Concept of Human Rights a Universal Concept?*

The answer is a plain *no*. Three reasons vouch for it.

a) No concept as such is universal. Each concept is valid primarily where it was conceived. If we want to extend its validity beyond its own context we shall have to justify the extrapolation. Even mathematical concepts imply the previous acknowledgment of a limited field defined by the axioms we postulate. Furthermore, every concept tends to be univocal. To accept the possibility of universal concepts would imply a strictly rationalistic conception of reality. But even if this were the theoretical truth it would not be the actual case, because *de facto* humankind presents a plurality of universes of discourse. To accept the fact that the concept of Human Rights *is* not universal does not yet mean that it *should* not *become* so. Now in order for a concept to become universally valid it should fulfill at least two conditions. It should, on the one hand, eliminate all the other contradictory concepts. This may seem improbable, but there is a logical necessity here and, theoretically, it would all be for the best. On the other hand, it should be the universal point of reference for any problematic regarding human dignity. In other words, it should displace all other homeomorphic equivalents and be the pivotal center of a just social order. To put it another way, the culture which has given birth to the concept of Human Rights should also be called upon to become a universal culture. This may well be one of the causes of a certain uneasiness one senses in non-Western thinkers who study the question of Human Rights. They fear for the identity of their own cultures.

b) Within the vast field of Western culture itself, the very assumptions which serve to situate our problematic are not

universally recognized. The particular origin of the formulation of Human Rights is sufficiently well known. Probably the most important sources of dissent are three.¹⁴

i) *Theology*:

Human Rights need to be grounded, says the theological view, in a superior, transcendent and therefore unmanipulable value, whose traditional symbol is God as origin and guarantor of both human rights and duties. Otherwise, they are only a political device in the hands of the powerful. According to this view, the Declaration suffers from a naive optimism regarding the goodness and autonomy of human nature. Moreover, it implies a deficient anthropology, inasmuch as it seems to view the human person as merely a bundle of needs, material and psychological, of which it then proceeds to make an inventory.¹⁵ And finally, in case of doubt or conflict, who is going to decide? Majority rule is only a euphemism for the law of the jungle: the power of the strongest.

ii) *Marxism*:

For the Marxist, so-called Human Rights are merely "*Klassenrechte*," class rights.¹⁶ "There are no rights without duties and no duties without rights." They reflect the interests of a certain class and in many cases only its aspirations. There is no mention of the economic conditions for the effective realization of what are said to be universal human claims. Furthermore, there is something abstract and too general about most of these

¹⁴ We do not include here a fourth source of dissent, namely the *political*, because the argument in such cases bears mainly on different interpretations of facts, emphases and factors other than those related to the nature of Human Rights. Cf. as a single example: *Colloques de Riyad, de Paris, du Vatican, de Genève et de Strasbourg sur le dogme musulman et les droits de l'homme en Islam*, Riyad, Ministère de la Justice; Beirut, Dar Al Kitab Allubhani, 1974; and D. Sidorsky (ed.) *Essays on Human Rights. Contemporary Issues and Jewish Perspectives*, Philadelphia, The Jewish Publication Society of America, 1979.

¹⁵ "Human rights, in short, are statements of basic needs and interests." S.I. Benn, *The Encyclopaedia of Philosophy*, New York, Macmillan, 1967, *sub voce Rights*, speaking about the U.N. Declaration.

¹⁶ Cf. K. Marx, *Zur Judenfrage* I, p. 352.

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rights; they are not sufficiently grounded in the material and cultural reality of particular groups. Finally, their individualism is evident. The individual is conceived as being in confrontation with (rather than included in) society, although the latter is said to be the result of freely contracting individuals. Society is not merely the sum total of individuals and it has rights which the individual may not violate. History has transcendent power.

iii) *History:*

“Human Rights” appear to some students of recent history as another example of the more or less conscious domination exerted by the powerful nations to maintain their privileges and defend the *status quo*. Human rights continue to be a political weapon. Human rights were known long ago but only for the nobleman, or the free citizen, or for whites or christians or males, etc., and when they were hastily applied to “human beings” it was often defined just which groups belonging to the race could properly be styled “human.” If not all humans had human rights, the claim of human rights on behalf of animals, plants and things would seem and still does seem bizarre, not to say ridiculous, in spite of occasional remonstrances delivered by Societies for the Protection of Animals. Animals and such may very well have rights, but not human ones. And, as we have seen, this particular notion of the “human” has not always been very humane. And who is to speak for the whole? History discloses that only the victors declare and promulgate “rights,” which are simply what the powerful consider right at any given time.

c) From a cross-cultural stance the problem appears exclusively Western, i.e. the question itself is at stake. Most of the assumptions and implications enumerated earlier are simply not given in other cultures. Furthermore, from a non-Western point of view the problem itself is not seen as such, so that it is not merely a question of agreeing or disagreeing with the answer. If anything, the problem is that the issue is experienced in a radically different way. A *diatopical* hermeneutic does not deal

¹⁷ “Keine Rechte ohne Pflichten, keine Pflichten ohne Rechte,” Marx-Engels, *Werke* XVI, 521 *apud* G. Klaus, M. Buhr, *Philosophisches Wörterbuch*, Leipzig. VEB, 1976, *sub voce* *Menschenrechte*.

with just another point of view on the *same* problem. At issue here is not simply the answer, but the problem itself.

Now is it possible to have access to other *topoi* so that we may be able to understand other cultures from within, i.e. as they understand themselves? We may not be able to jump over our own categories of understanding, but it may not be impossible to have one foot in one culture and another in a second. Generally, we have only one culture as we have only one mother-tongue—but we may also have a father-tongue. We cannot *a priori* deny this possibility. I recall that, in certain parts of the East, to be illiterate means to know only a single language. It is in dialogue with others that we can encompass our common ground. We may not integrate more than one culture in ourselves but we may open the possibility of a wider and deeper integration by opening ourselves, in dialogue, to others.

The following parallelism may be instructive. To assume that without the explicit recognition of Human Rights life would be chaotic and have no meaning belongs to the same order of ideas as to think that without the belief in one God as understood in the Abrahamic tradition human life would dissolve itself in total anarchy. This line of thinking leads to the belief that Atheists, Buddhists and Animists, for instance, should be considered as human aberrations. In the same vein: either Human Rights, or chaos. This attitude does not belong exclusively to Western culture. To call the stranger a barbarian is all too common an attitude among the peoples of the world. And, as we shall mention later, there is a legitimate and inbuilt claim to universality in any affirmation of truth. The problem is that we tend to identify the limits of our own vision with the human horizon.

2. *Cross-Cultural Critique*

There are no trans-cultural values, for the simple reason that a value exists as such only in a given cultural context.¹⁸ But there may be cross-cultural values, and a cross-cultural critique is

¹⁸ Cf. R. Panikkar, "Aporias in the Comparative Philosophy of Religion," *Man in World*, XIII, 3-4 (1980), p. 357-383.

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indeed possible. The latter does not consist in evaluating one cultural construct with the categories of another, but in trying to understand and criticize one particular human problem with the tools of understanding of the different cultures concerned, at the same time taking thematically into consideration that the very awareness and, much more, the formulation of the problem is already culturally bound. Our question is then to examine the possible cross-cultural value of the issue of Human Rights, an effort which begins by delimiting the cultural boundaries of the concept. The dangers of cultural westocentrism are only too patent today.

a) We have already mentioned the particular historical origins of the Declaration of Human Rights. To claim universal validity for Human Rights in the formulated sense implies the belief that most of the peoples of the world today are engaged in much the same way as the Western nations in a process of transition from more or less mythical *Gemeinschaften* (feudal principalities, self-governing cities, guilds, local communities, tribal institutions...) to a “rationally” and “contractually” organized “modernity” as known to the Western industrialized world. This is a questionable assumption. No one can predict the evolution (or eventual disintegration) of those traditional societies which have started from different material and cultural bases and whose reaction to modern Western civilization may therefore follow hitherto unknown lines.

Further, the very powerful Declaration of Human Rights also shows its weakness from another point of view. Something has been lost when it has to be explicitly declared. As the Chinese say: It is when *yi* (justice) declines that *li* (ritual) arises.¹⁹ Or as the British and Spaniards repeat: There are things which you take for granted and about which you do not speak. And in some traditional societies, you cannot boast of being noble or a friend of the royal family because the very moment you do so, you lose your nobility and your friendship with the reigning house.²⁰ When Human Rights are declared, this is a sign that the

¹⁹ *Tao Te Ching*, p. 18.

²⁰ The *Manavadharmaśāstra* (2-4) puts the same idea in a more sophisticated way: To act from a desire for reward is reprehensible. Yet without that desire, no action is possible. Laws are needed to put order into those human actions.

very foundation on which they rest has already been weakened. The Declaration only postpones the collapse. In traditional words, when the tabu of the sacred disappears sacredness fades away. If you have to teach a mother to love her child, something is amiss with motherhood. Or, as some theoreticians of Human Rights have also recognized, the legislation on Human Rights is introduced in order to find a justification for contravening somebody else's freedom. Putting it positively, you need some justification to encroach on somebody's field of activity.

I am not saying this in order to revert to Utopian dreams of an earthly paradise, but just to sound another voice. You may promulgate laws, but you do not declare what is the case—unless it has ceased to be evident; you do not proclaim an “ought” if there are no transgressions at all.

b) We may now briefly reconsider the three assumptions mentioned above. They may pass muster, insofar as they express an authentically valid human issue from one particular context. But the very context may be susceptible to a legitimate critique from the perspective of other cultures. To do this systematically would require that we choose one culture after another and examine the assumptions of the Declaration in the light of each culture chosen. We shall limit ourselves here to token reflections under the very broad umbrella of a pre-Modern, non-Western state of mind.

i) There is certainly a *universal human nature* but, first of all, this nature does not need to be segregated and fundamentally distinct from the nature of all living beings and/or the entire reality. Thus exclusively *Human Rights* would be seen as a violation of “Cosmic Rights” and an example of selfdefeating anthropocentrism, a novel kind of apartheid. To retort that “Cosmic Rights” is a meaningless expression would only betray the underlying cosmology of the objection, for which the phrase makes no sense. But the existence of a different cosmology is precisely what is at stake here. We speak of the laws of nature; why not also of her rights?

Secondly, the interpretation of this “universal human nature,” i.e. Man's self-understanding, belongs equally to this human nature. Thus to single out one particular interpretation of it

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may be valid, but it is not universal and may not apply to the entirety of human nature.

Thirdly, to proclaim the undoubtedly positive concept of Human Rights may turn out to be a Trojan horse, surreptitiously introduced into other civilizations which will then all but be obliged to accept those ways of living, thinking and feeling for which Human Rights is the proper solution in cases of conflict. It is a little like the way technology is often introduced in many parts of the world: it is imported to solve the problems that it has itself created. We have already made reference to this when criticizing the universalization of the concept of Human Rights.

ii) Nothing could be more important than to underscore and defend the *dignity of the human person*. But the person should be distinguished from the individual. The individual is just an abstraction, i.e. a selection of a few aspects of the person for practical purposes. My *person*, on the other hand, is also in “my” parents, children, friends, foes, ancestors and successors. “My” person is also in “my” ideas and feelings and in “my” belongings. If you hurt “me,” you are equally damaging my whole clan, and possibly yourself as well. Rights cannot be individualized in this way. Is it the right of the mother, or of the child?—in the case of abortion. Or perhaps of the father and relatives as well? Rights cannot be abstracted from duties; the two are correlated. The dignity of the human person may equally be violated by your language, or by your desecrating a place I consider holy, even though it does not “belong” to me in the sense of individualized private property. You may have “bought” it for a sum of money, while it belongs to me by virtue of another order altogether. An individual is an isolated knot; a person is the entire fabric around that knot, woven from the total fabric of the real. The limits to a person are not fixed, they depend utterly on his or her personality. Certainly without the knots the net would collapse; but without the net, the knots would not even exist.

To aggressively defend my individual rights, for instance, may have negative, i.e. unjust, repercussions on others and perhaps even on myself. The need for consensus in many traditions—instead of majority opinion—is based precisely on the corporate

nature of human rights.

A paragraph on language is required here. Each language has its own genius and its own particular way to see the world and even to be it and be in it. But from a cross-cultural perspective, each language has to show the flexibility necessary to incorporate other human experiences. I know that in current English “individual” is synonymous with “person,” but this should not prevent me from using these two words in the sense I have suggested, and from recognizing a particular human trend which tends to identify the human being with the most salient features of a gross “individualized” body or at least to inscribe it within that framework. In drawing the distinction between individual and person I would put much more content in it than a French moral philosophy would do nowadays, for instance. I would like to adduce this case as a particular instance of two radically different anthropologies.

iii) *Democracy* is also a great value and infinitely better than any dictatorship. But it amounts to tyranny to put the peoples of the world under the alternative of choosing either democracy or dictatorship. Human Rights are tied to democracy. Individuals need to be protected when the structure which is above them (Society, the State or the Dictator—by whatever name) is not qualitatively superior to them, i.e. when it does not belong to a higher order. Human rights is a legal device for the protection of smaller numbers of people (the minority or the individual) faced with the power of greater numbers. This implies a quantitative reductionism; the person is reduced to the individual and the individual to the basis of society. I may put it more positively by saying that it is the way by which the individual as cornerstone of society is protected, and his or her dignity recognized. In a hierarchical conception of reality, the particular human being cannot defend his or her rights by demanding or exacting them independently of the whole. The wounded order has to be set straight again, or it has to change altogether. Other traditional societies have different means to more or less successfully restore the order. The rāja may fail in his duty to protect the people, but will a Declaration of Human Rights be a corrective unless it also has the power to constrain the rāja? Can a democracy be

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imposed and remain democratic?²¹

The policy of non-alignment subscribed to by many countries of Africa and Asia here strikes a much deeper chord than possible political opportunism, or just another way of being relevant in the contemporary political scene. It represents precisely this refusal to admit the vision of the world as a function of the just mentioned set of dilemmas represented by the so-called super-powers.

In short, the cross-cultural critique does not invalidate the Declaration of Human Rights, but offers new perspectives for an internal criticism and sets the limits of validity of Human Rights, offering at the same time both possibilities for enlarging its realm, if the context changes, and of a mutual fecundation with other conceptions of Man and Reality.

3. Should the symbol of Human Rights be a universal symbol?

It should be noted that I speak here of Human Rights as a symbol which, unlike a concept, is by its nature polyvalent and polysemic.

The answer is yes, and no.

a) *Yes.* When a culture as a whole discovers certain values as ultimate, these values must have a certain universal meaning. Only collective and culturally expressed universal values may be said to be human values. A mere private value cannot be called a *human* value. It is a humane value, but not necessarily a value for every human—as *Human* Rights claim to be. As a matter of fact, Human Rights come as a corrective to the former exclusive rights of the Whites, the Believers, the Rich, the Brahmins and others—without meaning to touch legitimate privileges in the traditional sense of the word. The Declaration of Human Rights must needs be considered, at least in its intention,

²¹ A recent example: A Catholic missionary, after over a year of really living together with an Asian tribe and sharing with the people their respective beliefs, thinks that the moment has come for some formal conversions, since they are already practically Christians. He talks matters over with the enthusiasts about Christianity: “Would you like to become officially and publicly Christians? You are already convinced...” *etcetera.* Answer: “No, because some other people in the tribe are not ready.” “But it is your *right!*,” says the missionary, “you have the *right* to decide by yourselves—all the more since you neither harm nor despise the others.” The answer is cutting: “We only have the right to take this step if the whole tribe does it.”

as a declaration with universal validity. To say that Human Rights are not universal would amount to saying that they are not human; they would cease to be *Human* Rights. The whole novelty of the Declaration lies precisely here, in the assertion that every human being, by the mere fact of being human, is endowed with inalienable rights that everybody should respect.

In that sense we may have here something rather unique and revolutionary in the Declaration of Human Rights. Here indeed we have the positive side of the individual *vis-à-vis* the person. Every single human being in its individuality, by the very fact of being born, has a dignity and rights equal to any other. It is not one's place in society, or degree of civilization, or intellectual, moral or religious endowments that counts. Certainly, limits will immediately appear: you may be subnormal or abnormal, and not only physically, but also morally—or, others would also add, intellectually or religiously. But the naked fact of being born is the universal symbol on which Human Rights is based. From this point of view, the claim to universality of Human Rights has found a solid basis.

Paradoxically enough, the Christian origin of this belief has been the cause of some of its degradation, i.e. when it became an ideology, a doctrine to serve the interests of one particular group. Everybody is born free and equal; all human beings are equal in the sight of God; every human person has the same rights as any other. Nonetheless, in order to justify the fact that the unbaptized, or the negro or slave or female or whoever, did not have the same rights, one was compelled to claim that they were not fully human beings, as history cruelly witnesses.

b) *No*. Because each culture expresses its experience of reality and of the *humanum* in concepts and symbols which are proper to that tradition and are as such not universal, and most likely not universalizable. This relationship between truth and the expression of truth in concepts and symbols is one of the most central philosophical problems. Truth has the inbuilt claim to be universally valid, here and there, yesterday and tomorrow, for you and for me. Yet my grasping and formulating it cannot sustain the same claim without charging all the others who do not agree with me with stupidity or wickedness. Hence the necessary *via media* between agnostic relativism and dogmatic

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absolutism. This is what can be called *relativity*.

Our particular case is a typical example of the *pars pro toto*: from the optic of the inside it looks like the whole; from the outside it looks like a part, a fragment. Similarly, Human Rights are universal from the vantage point of modern Western culture, and not universal from the outside looking in. Now, if we take from the inside the *pars pro toto*, are we able to take from the outside the *totum in parte*? Can another culture see in the Human Rights issue a universal language? Or should we say that it is only one way of looking at things, one way of speaking?

The answer which claims to discover the *totum in parte* is appealing, but not convincing. This is the temptation of the intellectual, who senses that any affirmation has the inbuilt tendency to be universally valid—or of the politician who, having neither the time nor the inclination to engage in such reflections, would like to see the *totum* in the *parte* of his party. But then we tend to become the self-appointed judges of all humankind. Now philosophy, being a situated reflection, makes us aware that nobody has direct access to the universal range of human experience. We can only indirectly and through a limited perspective come to know the totality. Even were we to know all the existing human opinions, ours would amount to just another opinion. One cannot view the *totum* except in and through one's own window. This is the case not only because the whole is more than the sum of its parts, but also because that *totum* does not exist independently from the *parte* through which it is seen. It is only seen in and through the respective *parte* and there is no stance from which one could proceed to the integration of all the parts. Co-existence is only possible on a common ground, a *co-esse* recognized by the different parties.

Here lies the crux. We cannot but aim at the *totum*, and yet we often forget that all we see is the *pars* which we then take *pro toto*. If a Christian, to put another example, were to say that Christ is not the universal savior, according to accepted custom he or she would cease to be a Christian. But a non-Christian cannot, and should not, agree with this. It is only in mutual dialogue that their respective views will change or evolve. Christ will be for the Christian the symbol of the totality; for the non-Christian, only the symbol of the Christians.

Myriad examples from the past, especially regarding the West, are all too striking for one not to be wary of the danger of repeating what was done in the name of the one God, the one Empire, the one Religion, and what is nowadays being done under the aegis of the one Science and the one Technology.

In brief, we need a new hermeneutic: the diatopical hermeneutic that can only be developed in a *dialogical* dialogue. This would show us that we must take neither the *pars pro toto*, nor believe that we see the *totum in parte*. We must accept what our partner tells us: simply that we take the *totum pro parte*, when we are aware of the *pars pro toto*; which is obviously what we will retort right back to him. This is the human condition and I would not consider it to be an imperfection. This, again, is the topic of pluralism.

Let us consider now an example of a different perspective without attempting to present any homeomorphic equivalent.

IV. AN INDIAN REFLECTION

The word “Indian” here has no political connotations. It does not refer to the “nation” with the third largest Islamic population in the world, but to the traditional Hindu, Jain and Buddhist conceptions of reality.

Dharma (*dhamma*) is perhaps the most fundamental word in the Indian tradition which could lead us to the discovery of a possible homeomorphic symbol corresponding to the Western notion of “Human Rights.” I am not advancing the idea that dharma is the homeomorphic equivalent of Human Rights. I am only indicating that a reflection at the level of dharma may help us find our footing on a common ground, so that we may know what we are looking for when we set out on our search for “Human Rights” in the classical Indian context.

As is well known, the meaning of the word dharma is multi-vocal: besides element, data, quality and origination, it means law, norm of conduct, character of things, right, truth, ritual, morality, justice, righteousness, religion, destiny, and many other things. It would not lead us anywhere to try to find an English common denominator for all these names, but perhaps etymology

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can show us the root metaphor underlying the many meanings of the word.²² Dharma is that which maintains, gives cohesion and thus strength to any given thing, to reality, and ultimately to the three worlds (*triloka*). Justice keeps human relations together; morality keeps oneself in harmony; law is the binding principle for human relations; religion is what maintains the universe in existence; destiny is that which links us with our future; truth is the internal cohesion of a thing; a quality is what pervades a thing with an homogeneous character; an element is the minimum consistent particle, spiritual or material; and the like.

Now a world in which the notion of dharma is central and nearly all pervasive is not concerned with finding the “right” of one individual against another or of the individual *vis-à-vis* society, but rather with assaying the *dharmic* (*right, true, consistent...*) or *adharmaic* character of a thing or an action within the entire theanthropocosmic complex of reality.

Dharma is primordial. We cannot hope to understand it if we approach it with moral categories (cf. the case of the *Gītā*) or even epistemological ones. It embraces both the conflict and the resolution; both the ought and the ought not. There is no universal dharma above and independent of the *svadharmā*, the dharma which is inherent in every being. And this *svadharmā* is at the same time a result of and a reaction to the dharma of everyone else.

The starting point here is not the individual, but the whole complex concatenation of the Real. In order to protect the world, for the sake of the protection of this universe, says Manu, He, Svayambhū, the Self-existent, arranged the castes and their duties.²³ Dharma is the order of the entire reality, that which keeps the world together.²⁴ The individual’s duty is to maintain his “rights;” it is to find one’s place in relation to Society, to the Cosmos, and to the transcendent world.

²² From the root *dhṛ*, to hold, to maintain, keep together. Cf. Latin *tenere* and English *tenet*.

²³ Manu, I, 31 and I, 87.

²⁴ Cf. the famous *lokasamgraha* of the *Gītā*, and the well known definition of the *Mahābhārata*: “that which maintains and sustains the peoples.” (*Kaṇḍaparvā*, LXIX, 59).

It is obvious from these brief paragraphs that here the discourse on “Human Rights” would take on an altogether different character. It would distract us from the purpose of this article to look now for the homeomorphic equivalent of Human Rights in a culture pervaded with the conception of dharma. We adduce this Indian example only to be able to elaborate in a fuller way the question of our title.

Only one submission and one observation may be allowed here so as not to leave this thought incomplete. I submit that the homeomorphic equivalent is *svadharma*, and I make the observation that the homeomorphic equivalent does not mean the corresponding counterpart, as if all that is conveyed by Human Rights is also borne by *svadharma* or *vice versa*. Cultures are wholes, and do not fit into one-to-one correspondences. In order to have a just society, the modern West stresses the notion of Human Rights. In order to have a dharmic order, classical India stresses the notion of *svadharma*.

We shall now attempt to formulate without further development some reactions to the Western discourse on Human Rights from this Indian perspective. We should add immediately that this Indian critique does not imply that the Indian model is better, or that Indian culture has been faithful to its fundamental intuition—as the existence of the outcastes and the degeneration of the caste system sufficiently prove.

In confrontation and dialogue with the Western model, the Indian critique would stress fundamentally that Human Rights should not be absolutized. It would contest that one can speak of Human Rights as “objective” entities standing on their own in isolation from the rest of the Real. This is what seems to be implied in the very first article of the Declaration: “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.” Particular rights, privileges due to a special position in society, i.e. a relativization of rights does not seem to be compatible with this article.

Developing this point, the Indian vision would insist on the following points among others:

1. Human Rights are not individual Human Rights only. The

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humanum is not incarnated in the individual *only*. The individual as such is an abstraction, and an abstraction as such cannot be an ultimate subject of rights. As we have already indicated, the individual is only the knot in and of the net of relationships which form the fabric of the Real. The knots may individually be all the same (either *jīva*, *ātman* or *anātman*), but it is mainly their position in the net which determines the set of “rights” an individual may have. Individuality is not a substantial category, but a functional one. The structure of the universe is hierarchical, but this does not imply that the higher echelons have the right to trample upon the rights of the lower ones—in spite of the dangers of this happening the moment the harmony of the whole is disturbed.

I am not entering into the merits or demerits of this world view. We should however bear in mind that this conception is intimately linked with the conception of karma, and thus should not be evaluated outside its proper context.

2. Human Rights are not Human only. They concern equally the entire cosmic display of the universe, from which even the Gods are not absent. The animals, all the sentient beings and the supposedly inanimate creatures, are also involved in the interaction concerning “human” rights. Man is a peculiar being, to be sure, but neither alone nor so essentially distinct. One could even ask whether there are specific human rights, or if this specificity is again only an abstraction for pragmatic reasons which defeats its own purpose the moment we forget its merely practical character.

Here again, another cosmology and another theology provide the justification for this conception. Whether modern India, accepting and adopting modern science as it is, will be able to maintain this conception for very long is another matter altogether. But we know also about the persistence of mythical patterns.

3. Human Rights are not Rights only. They are also duties and both are interdependent. Humankind has the “right” to survive only insofar as it performs the duty of maintaining the world (*lokasamgraha*). We have the “right” to eat only inasmuch as we

fulfill the duty of allowing ourselves to be eaten by a hierarchically higher agency. Our right is only a participation in the entire metabolic function of the universe.

We should have, if anything, a Declaration of Universal Rights and Duties in which the whole of Reality would be encompassed. Obviously, this demands not only a different anthropology but also a different cosmology and an altogether different theology—beginning with its name. That only human beings and not animals could make this Declaration would invalidate it only to the same extent that the Declaration of Human Rights could be contested because the Nagas and the Masai did not take part in the discussion and framing of the Declaration.

4. Human Rights are not mutually isolatable. They are related not only to the whole cosmos and all their corresponding duties; they form, among themselves as well, a harmonious whole. It is for this reason that a material list of definitive Human Rights is not theoretically feasible. It is the universal harmony that ultimately counts. This is not invalidated by the fact that India, as so many other countries, knows the codification of laws. India suffers, perhaps more than most countries, from legalistic *minutiae*, precisely because no juridical legislation will ever suffice.²⁵

5. Human Rights are not absolute. They are intrinsically relative, they are relationships among entities. Moreover, these entities are determined by the relationships themselves. To say that my human value depends on my position in the universe would be a caricature of what has been said if we start by thinking of an individual in itself, whose dignity is then made to

²⁵ A recent example may illuminate the issue: In July 1981 the Indian nation is in an uproar because some 352 outcastes of the small village of Minakshipuram in Tamilnadu converted to Islam, probably in protest and reaction against their ostracism (to say the least) from the Hindu caste-communities. For our point it is interesting to remark that H.H. Sri Vishveshva Tirtha Swamiji of Pejavar Mutt along with many other Hindu religious leaders can now—for obviously political and opportunistic reasons—raise their voices against untouchability and discrimination without paying attention to the *Manava-dharmaśāstra* (III, 92, 150, 157; IV, 79, 213; IX, 238-239; etc.) and other sacred Laws sanctioning the system. Cf. the Indian press from May to August, 1981; e.g. *The Hindu* from Madras, May 26; July 15, 16, 18, 28, 29, 30; August 2; etc.

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depend on whether he or she is rich or poor, of one caste or another, etc. The classical Indian vision would not subscribe to this—in spite of the failures of the system in the praxis and even the degeneration in time—but it would start from a wholistic conception and then define a portion of Reality by function of its situation in the totality. In a certain sense, the knot is nothing—because it is the whole net.

6. Both systems (the Western and the Hindu) make sense from and within a given and accepted myth. Both systems imply a certain kind of consensus. When that consensus is challenged, a new myth must be found. The broken myth is the situation in India today, as it is in the world at large. That the rights of individuals be conditioned only by their position in the net of Reality can no longer be admitted by the contemporary mentality. Nor does it seem to be admissible that the rights of individuals be so absolute as not to depend at all on the particular situation of the individual.

In short, there is at present no endogenous theory capable of unifying contemporary societies and no imposed or imported ideology can be simply substituted for it. A mutual fecundation of cultures is a human imperative of our times.

The Declaration defends the individual from the abuses of the State or Society. The Indian view would say that we are part of a harmonious whole on pilgrimage toward a non-historical goal. Interactions are the very warp and woof of the universe. Cultural and religious traditions offer a whole that cannot easily be dismembered without doing violence to their insights. Hindu karma outside its context may become fatalistic. Christian charity outside its system may turn oppressive. The universalization of Human Rights is a very delicate question indeed.

V. BY WAY OF CONCLUSION

Is the concept of Human Rights a Western conception?

Yes.

Should the world then renounce declaring or enforcing Human Rights?

No.

Three qualifications, however, are necessary:

1. For an authentic human life to be possible within the *megamachine* of the modern technological world, Human Rights are imperative. This is because the development of the notion of Human Rights is bound up with and given its meaning by the slow development of that megamachine. How far individuals or groups or nations should collaborate with this present-day system is another question altogether. But in the contemporary political arena as defined by current socio-economic and ideological trends, the defense of Human Rights is a sacred duty. Yet it should be remembered that to introduce Human Rights (in the definite Western sense, of course) into other cultures before the introduction of *techniculture* would amount not only to putting the cart before the horse, but also to preparing the way for the technological invasion—as if by a Trojan horse, as we have already said. And yet a technological civilization without Human Rights amounts to the most inhuman situation imaginable. The dilemma is excruciating. This makes the two following points all the more important and urgent.

2. Room should be made for other traditions to develop and formulate their own homeomorphic views corresponding to or opposing Western “rights.” Or rather, these other world traditions should make room for themselves, since no one else is likely to make it for them. This is an urgent task; otherwise it will be impossible for non-Western cultures to survive, let alone to offer viable alternatives or even a sensible complement. Here the role of a cross-cultural philosophical approach is paramount. The need for human pluralism is often recognized in principle, but not often practiced, not only because of the dynamism which drives the paneconomic ideology, linked with the megamachine, to expand all over the world, but also because viable alternatives are not yet theoretically worked out.

3. An intermediary space should be found for mutual criticism that strives for mutual fecundation and enrichment. Perhaps such an interchange may help bring forth a new myth and eventually a more humane civilization. The dialogical dialogue appears as the unavoidable method.

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Perhaps a suggestion here may prove helpful. Playing on the metaphor of the knots (individuality) and the net (personhood) we could probably affirm that traditional cultures have stressed the net (kinship, hierarchical structure of society, the function to be performed, the role of each part in relation to the whole), so that often the knot has been suffocated and not allowed sufficient free space for its own self-identity. On the other hand, Modernity stresses the knots (individual free will to choose any option, the idiosyncracies of everyone, the atomization of society) so that often the knot has been lost in loneliness, alienated by its own social mobility, and wounded (or killed) in competition with other more powerful knots. Perhaps the notion of personhood as the interplay between the knots and the net, as well as the realization that freedom is not just the capacity to choose between given options but also the power to create options, could provide a starting point for the proposed mutual fecundation.

If many traditional cultures are centered on God, and some other cultures basically cosmocentric, the culture which has come up with the notion of Human Rights is decisively anthropocentric. Perhaps we may now be prepared for a cosmotheandric vision of reality in which the Divine, the Human and the Cosmic are integrated into a whole, more or less harmonious according to the performance of our truly human rights.

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