

Moral philosophers have not found it easy to do so and have emphasised one at the expense of the other. Relativism stresses moral plurality and ignores moral universality. Universalism makes the opposite mistake.

Broadly speaking, relativists argue that every society or culture is a morally self-contained whole, that its values and practices define the moral limits of its members and that they have no transcultural means of judging and evaluating these. Relativists ignore the fact that no culture is homogeneous and free of internal tensions, that it is profoundly shaped by the prevailing structure of economics and power, that its members are never so determined by it as to lack the capacity for critically reflecting on it and that cultures interact with and learn from each other. Relativists also ignore the fact that since all human beings share certain fundamental interests and are deeply damaged by certain common evils, these offer the basis for evaluating all cultures.

Although universalism takes many forms, in its dominant version it argues that moral values are universally binding, admit of no qualifications and exceptions and should form the basis of all societies. Universalists ignore the fact that moral values need to be interpreted and that this is done differently by different societies. Respect for life is a universal value, but different societies may legitimately disagree on when life begins and ends, whether and when the life of a foetus might be terminated, whether capital punishment and wars are justified and what respect for life involves. Universal values also conflict and can be prioritised and traded off differently by different societies. Universal values, again, are necessarily thin and cannot by themselves form the basis of a society's way of life. Every society integrates them differently into its thick and inevitably complex moral and cultural life.

Moral universalism and moral relativism then are incoherent extremes. Each captures a vital truth about our moral life but misinterprets, exaggerates and distorts it. We need to combine their insights and recognise the dialectical interplay of universality and diversity. A society's morality is subject to the constraints of, and can and should be evaluated in terms of, universal morality; the latter in turn needs to be adopted to the moral traditions and self-understanding of each society. If we

need a name for this view, we could call it pluralist universalism.

The pluralist universalist has a distinct perspective on human rights. Human rights are rooted in common humanity and refer to those conditions and opportunities that human beings need to express and develop their uniquely human capacities and lead meaningful lives. They do not exhaust the totality of universal values, and highlight those we consider so important that we give the individual the right to demand them and require the state to set up an appropriate institutional structure. Qua universalist, the pluralist universalist champions human rights, considers them an indispensable feature of the good society and judges all societies and cultures in terms of them. Qua pluralist, he values moral and cultural diversity and appreciates that different societies interpret and prioritise human rights differently and resolve their unavoidable conflicts in their own different ways. While some might primarily rely on the state, others might turn to social pressure, collective moral ethos and other less coercive mechanisms to sustain a regime of human rights. Since different societies entertain different conceptions of the good life, they might regard some rights as human rights that others do not. While some societies might seek to foster a culture of human rights and make it the sole basis of their moral life, others might reject such a single-minded obsession with a culture of claims and demands, and foster instead a moral life in which the languages of generosity, solidarity, altruism and social responsibility balance that of human rights.

The pluralist universalist not only appreciates but welcomes these differences. This is not relativism, which absolutises the values of a particular culture, but rather relativisation or contextualisation of universal values. For the pluralist universalist, there is no single model of realising universal values including human rights, and the resulting diversity and the intercultural dialogue it stimulates offers a vitally necessary opportunity to deepen our constantly developing insights into the nature and complexity of universal values. While ensuring that universality does not become an excuse to create a morally homogeneous and suffocating world, he is equally keen to ensure that diversity does not become a licence to

undermine universality and engage in unacceptable practices. This is not an easy path to travel either in theory or in practice, but there is no other.

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Contributor: Bhikhu Parekh

### POVERTY AND HUMAN RIGHTS

Human rights would be fully realised if all human beings had secure access to the objects of these rights. Our world is today very far from this ideal. Piecing together the current global record, we find that most of the current massive underfulfilment of human rights is more or less directly connected to poverty. The connection is direct in the case of basic social and economic human rights, such as the right to a standard of living adequate for the health and well-being of oneself and one's family, including food, clothing, housing and medical care. The connection is more indirect in the case of civil and political human rights associated with democratic government and the rule of law. Desperately poor people, often stunted, illiterate and heavily preoccupied with the struggle to survive, typically lack effective means for resisting or rewarding their rulers, who are therefore likely to rule them oppressively while catering to the interests of other (often foreign) agents more capable of reciprocation.

The statistics are horrifying. Out of a total of 6350 million human beings, 1000 million

have no adequate shelter, 800 million are undernourished, 1000 million have no access to safe water, 2400 million lack access to basic sanitation, 2000 million are without electricity, 880 million lack access to basic health services and 876 million adults are illiterate (UNDP). Some 170 million children between the ages of 5 and 14 are involved in hazardous work (e.g. in agriculture, construction, textile or carpet production), 8.4 million of them in the 'unconditionally worst' forms of child labour, 'defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography and illicit activities' ([www.ilo.org/public/english/standards/decl/publ/reports/report3.htm](http://www.ilo.org/public/english/standards/decl/publ/reports/report3.htm)). People of colour and females bear a disproportionate share of these deprivations.

Roughly one third of all human deaths, some 50,000 daily, have poverty-related causes, easily preventable through better nutrition, safe drinking water, mosquito nets, rehydration packs, vaccines and other medicines. This adds up to 270 million deaths in just the 15 years from the end of the cold war – more deaths than were caused by all the wars, civil wars and government repression of the entire 20th century.

Never has world poverty been so easily avoidable. The collective annual income of the 2800 million people living below the World Bank's '\$2/day' poverty line is about \$400 billion. Their collective shortfall from that poverty line is roughly \$300 billion per year. This is 1.2 per cent of the gross national incomes of the high-income countries, which add up to \$25,400 billion. These countries contain 15 per cent of the world's population with nearly 81 per cent of the global product. The global poor are 44 per cent of the world's population with 1.25 per cent of the global product. At market exchange rates, the per capita income of the former is nearly 200 times greater than that of the latter.

The rich countries' response to world poverty is mainly rhetorical. Official development assistance shrank steadily throughout the 1990s and the portion targeted to basic social services in 2004 stands at 7 per cent or under \$4 billion per year. The citizens of the rich countries give another \$7 billion annually to international NGOs.

Even the rhetoric is appalling. At the 1996

In Asia and the Pacific, the number of people living in poverty was reduced from 34 to 25 per cent in the 1990s. Despite this 768 million people in the region subsist on less than US\$1 a day.

(UNDP, UNESCAP 'Promoting the Millennium Development Goals in Asia and the Pacific: Meeting the Challenges of Poverty Reduction' 2004)

World Food Summit in Rome, the world's governments grandly promised to halve the number of extremely poor people between 1996 and 2015, implicitly accepting 25,000 daily poverty deaths in 2015 and some 250 million such deaths in the interim. In the 2000 UN Millennium Declaration, they modified their promise – replacing 'number' by 'proportion' and extending the plan period backwards to 1990. Taking advantage of rapid population growth and a huge poverty reduction in China during the 1990s, these clever modifications greatly dilute the target: the new promise, if fulfilled, would reduce the number of extremely poor people by only 20 per cent between 2000 and 2015.

Confronted with such facts, citizens of the rich countries may concede that we affluent should do more to help the poor. But they see this as a demand of humanity or charity, not as a demand of justice and certainly not as a moral duty imposed on us by the human rights of the poor. As the US government declared after the World Food Summit: 'The attainment of any "right to adequate food" or "fundamental right to be free from hunger" is a goal or aspiration to be realised progressively that does not give rise to any international obligations.' The presumption behind this denial is that, internationally at least, human rights entail only negative duties: they require that one not deprive foreigners of secure access to the objects of their human rights, but they do not require that one help them attain such secure access by protecting them against other threats.

This presumption can be attacked by arguing that human rights do impose positive duties, even internationally. But even if the presumption is accepted, it shields the rich from human-rights-based obligations only

legal universalism and widespread appeal and acceptance of human rights around the world indicate on what basis an alternative form of universalism might be established. The only way to achieve this universalism consistent with the demands of human rights is to build a cross-cultural political consensus through open, inclusive and respectful dialogue aimed at genuine understanding and motivated by a commitment to the equal freedom and dignity of all.

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Contributor: Michael Goodhart

### UTILITARIANISM AND HUMAN RIGHTS

Utilitarianism comes in many forms and varieties. In its simplest form, utilitarianism states that those acts are right which produce the most utility. This principle's most famous form was expressed by Francis Hutcheson – 'That action is best which secures the greatest happiness of the greatest number' – and after him by Jeremy Bentham – 'It is the greatest happiness of the greatest number that is the measure of right and wrong.' Contemporary utilitarians tend to avoid the famous 'greatest happiness' slogan, for a variety of reasons. A

typical formulation of simple act utilitarianism today would be 'the right action is the one that produces the most welfare'. The idea is that the only thing that matters to morality is consequences – specifically the consequences for welfare. The right action is the one that yields the most welfare, out of all the options open to the agent.

The potential incompatibility between utilitarianism and moral theories that regard human rights as 'trumps' is immediately apparent. For if ever a situation could come about in which the violation of a human right was the action that would produce the most welfare, utilitarianism demands that the right be violated. Examples of such situations abound both in imagined cases and in real life. Here is one real-life case. In what has become known as the 'Tuskegee syphilis experiment', four black men with syphilis had treatment withheld from them in order to study the progress of the disease. The men agreed to be examined and treated, but were not told what they were suffering from or informed of available treatments. This happened in Alabama, and lasted for 40 years, from 1932 until 1972. The relevant point here is that such a study would be justified, from a utilitarian point of view, if the knowledge gained from it produced an increase in general welfare that exceeded the decreased welfare of the men and their families (provided that the knowledge could not have been obtained in some other way). Indeed, when the study was made public by a whistle blower, the advisory panel set up to investigate it found that it was ethically unjustified because it yielded too little valuable information to outweigh the risk caused to the subjects (Tuskegee Syphilis Study Ad Hoc Advisory Panel (1973) Final Report, pp. 7-8). By implication, such risks might permissibly be imposed upon ignorant subjects, were the results sufficiently rewarding. That would be the utilitarian view.

Utilitarians, it seems, cannot believe in human rights. Certainly some utilitarians have accepted this conclusion. Most famously, Bentham dismisses the notion of natural human rights (as opposed to legal rights, with which he was quite happy), insisting that 'there are no such things as natural rights' and that the very phrase 'natural rights' is 'simple nonsense', even 'mischievous non-

sense' and 'nonsense on stilts' (Bentham, 1843, pp. 501-2). Others have been less hostile. John Stuart Mill was perfectly prepared to speak of moral as opposed to legal rights. Indeed, he is at least as well known today for his 'harm principle' as he is for his utilitarianism. Mill says: 'The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection.' (Warnock, 1962, p. 135). In other words, harm to others is the only thing that justifies interference in someone's life. Mill appears to be claiming that individuals have a right to liberty, defeasible only by the need to prevent harm to other people. Harm to themselves, mere offence to others or being contrary to the popular will are not good enough reasons to prevent anyone from doing whatever they want to do. But Mill is a utilitarian. He believes that actions are good insofar as they tend to produce happiness for as many people as possible. The principle of utility is his fundamental position. One serious question for Mill is whether he can make the two principles consistent, since it seems that restrictions of people's liberty and interference with their lives might well be more productive of general happiness than allowing everyone to do whatever they liked that didn't harm others. Plato, after all, justifies the various offences against human rights in the Republic by saying that it is for the good of all the people that they are done. It's often been thought that a consistent utilitarian would have to take the same sort of view and hence that Mill's views on liberty are incompatible with his fundamental utilitarianism.

One reason for thinking this is that Mill's views on liberty are in opposition to any paternalism on the part of the rulers as well as opposed to any abuses of the citizenry. That is to say, Mill is opposed to any legal requirement that you do something or not do something for your own good. Although Mill is opposed to paternalism, he will be willing to countenance such laws and actions if they are going to prevent someone from doing something they don't know will hurt them. He says that it is permissible to stop someone forcibly from crossing a dangerous bridge if they don't know that it is dangerous. The reason for this, he says, is that you are not really stopping them from doing something which they wish

to do: they wish to get to the other side, not plunge to their death. But if someone is knowingly doing something dangerous, the fact of its being dangerous is not good enough reason to prevent them. So legislation requiring the wearing of crash-helmets or banning the use of harmful substances would be illegitimate in his view, unless it could be shown that these measures were necessary for the safety of others as well. But it seems likely that happiness will be increased by some acts of paternalism. Just because people don't want to wear seatbelts doesn't mean that laws requiring them to won't increase happiness. If we subtract the negative results of such a law – inconvenience at worst – from the benefits – the saving of many lives – then it is clear that there will be a net gain in the amount of happiness that there is in the society.

If we are to understand how Mill can try to make his liberalism consistent with his moral theory, we need to know more about his brand of utilitarianism. On a plausible interpretation of Mill, he argues in utilitarianism for what has been called two-level utilitarianism. Utilitarianism faces a problem: that it is not productive of utility for everyone always to consider the likely benefits and costs of each and every act they perform. Utilitarianism therefore dictates that people not reason about what to do in an explicitly utilitarian way, at the everyday level. Rather, they would do better to follow certain secondary principles, enshrined in common morality, such as 'don't tell lies', 'don't steal', 'don't hurt others', and so on. These rules will occasionally prescribe actions which are not, in that particular case, most productive of utility, but the advantages of always following them outweighs these occasional instances. Mill can therefore be consistent in upholding the principle of liberty if he sees it as one of these secondary principles, the following of which will maximise happiness.

This suggests a strategy that can be employed to reconcile utilitarianism and human rights. Put simply, the strategy is to argue that more welfare will be produced if we all believe in human rights than if we do not. Thus, although welfare is the only thing that really matters in morality, we should accept the existence of human rights and act in ways indistinguishable from others who believe in human rights, precisely because our doing so

will increase the amount of welfare in the world. This may be unsatisfactory to some people: it does not so much establish the existence of human rights as give us reason to act as though there are human rights. On the other hand, from the practical point of view, there is no difference. In addition, this approach would have the merits of providing a metaphysically economical grounding for human rights and a method for working out what they are.

Questions remain, including, most notably, whether the two-level strategy works at all. Several opponents have argued that it is inherently unstable, requiring us to think in a 'schizophrenic' fashion. Even if the strategy works, further argument is needed to justify the claim that respecting rights is more productive of utility than any alternative way of deciding what we ought to do.

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Contributor:

Iain Law

## V

### VIOLENCE AGAINST WOMEN – DOMESTIC VIOLENCE

According to the United Nations Declaration on the Elimination of Violence Against Women, 'violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or

arbitrary deprivation of liberty, whether occurring in public or in private life'. Because violence against women has throughout history and throughout the world prevented women from enjoying the benefits of their other human rights and has been recognised as an obstacle to peace by the Security Council, it is today a priority on the agenda of the international community and organisations. Many campaigns have been dedicated to putting an end to this phenomenon; however, violence has not decreased and new forms keep appearing.

Violence suffered by women is multifaceted. It ranges from physical to psychological and economic forms to cover cases of trafficking (See: **FREEDOM FROM SLAVERY; THE MIGRANT WORKERS' CONVENTION**), forced sterilisation, sexual harassment and many more. Specific as well as general human rights instruments have been adopted to combat it, among them the United Nations **CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**. This convention does not specifically address violence against women but provisions against it can be drawn from its equality approach. Its Committee later adopted General Recommendation 19 on the issue. Two of the main specific mechanisms available today to combat violence against women are the Declaration on the Elimination of Violence Against Women, adopted by a General Assembly resolution following an ECOSOC recommendation, and the creation of a Special Rapporteur on violence against women, its causes and consequences. These initiatives resulted from the realisation, at the 1993 Vienna Conference on human rights, that there was a real void in international human rights law addressing this issue. These initiatives were most welcomed symbolically, in that they sent a clear message that violence against women would not be accepted any more. They also empowered women in undertaking action against it and facilitated the creation of other national specific mechanisms to address it. However, the main obstacle to sending a clear message to states on this issue consists of the fact that the Declaration on the Elimination of Violence Against Women is not a convention and is consequently not 'binding' on states; states are advised to take measures but not required to do so.

On the one hand, the feeling is of a missed opportunity, considering that many women, including the first Special Rapporteur on violence against women Radhika Coomaraswamy, were in favour of the adoption of a much stronger instrument under the form of an additional protocol to CEDAW specifically dedicated to the issue. On the other hand, the creation of the Special Rapporteur represents a real step forward symbolically and practically. The Special Rapporteur can indeed operate in a country regardless of that country having ratified a specific instrument. Neither does it require the exhaustion of all national remedies in order to be able to interfere, as is the case for international instruments. Lastly, building on the Declaration on the Elimination of Violence Against Women, the Beijing Platform for action provides for three strategic objectives dedicated to preventing and eliminating violence against women.

Limits to these instruments do exist and are quite often invoked. They are linked to the causes behind violence, causes that are rooted inter alia in the patriarchal nature of society, the historically disadvantaged position of women as well as the traditional perceptions of women's identities and roles in society and within the family. International instruments might appear to offer only a partial solution to the issue by not allowing for clearing all the legal, administrative, cultural and economical obstacles linked to fighting violence against women. Yet it is a necessary step that has resulted in empowering women, and women's organisations particularly, and in changing government approaches to the issue. The recognition of rape in a conflict situation as a crime of war is one of the proofs of this evolution.

Violence taking place within the family sphere, or domestic violence, is revealed to be of the most difficult and complex kind to combat. There are several reasons for this, including the cultural acceptance of the right of husbands to beat their wives, the legal doctrine of non-interference into private life, the private/public divide and the sacrosanct nature of the family. Studies have shown that women and girls are the predominant victims of this type of violence.

Legally, many arguments have been used to oppose the recognition of domestic violence as

a human rights issue. The primary obstacle to such recognition lay in the traditional understanding of human rights law as covering only violations committed against individuals in the public sphere of life; the state was not to intervene in the private affairs of individuals, or so to say, in the private sphere of life, to which women were predominantly confined. Consequently, many violations committed against women have remained unpunished, unrecognised and sometimes tolerated. Failure to address violations that go beyond the classical realm of public life can be explained by the fact that only actions perpetrated by the state, or state-like actors, were condemnable under international human rights law. Feminist critiques have contributed to overcoming this limitation so as to allow for the recognition of state's failure to intervene with regard to actions committed by private actors, as a human rights violation (See: **FEMINIST CRITIQUES OF HUMAN RIGHTS**). The doctrine of responsibility par ricochet means that the state's systematic failure to intervene can be understood as acquiescence to such practices and can therefore be

### Family Protection Project Management Team – Jordan

The project is a groundbreaking initiative in Jordanian society that has helped to lift the taboo on the subject of domestic violence, and promote open debate on issues of human rights, equity and gender. A team of seven men and five women, representing both governmental and non-governmental organisations, has been responsible for the development and implementation of the project, which takes a truly holistic, preventative and inclusive approach to tackling the root causes of domestic violence. The team has also developed a social justice partnership model to address domestic violence in other Arab and Islamic countries, and may provide a useful learning experience for other countries around the world. The team was awarded the 2003 United Nations Prize in the Field of Human Rights.

(From

[www.un.org/events/humanrights/awards.html](http://www.un.org/events/humanrights/awards.html))