

## THE UNIVERSALITY OF HUMAN RIGHTS

**Human rights face many criticisms. In particular, the human rights regime is criticised for its Eurocentrism and its overt focus on individual rights. Do you think this criticism is validated?**

I think the view that the human rights regime is Eurocentric or Westcentric is valid to a certain degree. If we look back at how the UN human rights system was created and built up since WWII, there is no doubt that Western society has constantly played a dominating role in the process, though the degree of its dominance varied from time to time.

However, in my opinion, the problem of the human rights regime in connection with Eurocentrism is not that it overly focuses on individual rights. The problem is rather that, for a long time, civil and political rights have been prioritised over economic, social and cultural rights in human rights agendas and debates. Nevertheless, as the international human rights instruments have asserted, these two groups of rights are indivisible, interdependent and equally important. Particularly, for the vast majority of the world population living in developing countries, realisation of basic social rights such as the rights to food, clean water and healthcare is more of their concern.

Another problem of the human rights regime is a certain degree of subjectivity and arbitrariness reflected in the attitude of Western society towards the non-Western world in human rights assessments. In other words, when assessing human rights performance of the non-Western world, Western societies tend to make arbitrary judgements without trying to understand or take into account the local contexts of the targeted countries, especially the challenges and difficulties that these countries face in implementing human rights norms. I think these are the main reasons why many developing countries claim that the international human rights regime is Eurocentric and does not treat them fairly.

To go deeper, Eurocentrism actually implies a way of thinking: the assumption that what is universal is something Western, and that non-Western things are particular. Why is it that when talking about the universality and the particularity of human rights, people almost always refer to "Asian values", "Islam" or "Confucianism" but rarely to the "European or American way" as examples of particularity? This assumption essentially equates the West with universality. What's more, it exists not only in Western society as it has influenced the thinking of non-Western intellectuals who very often unconsciously fall in the Eurocentric way of thinking.

Of course, criticisms of human rights inevitably involve political considerations. It is undeniable that the argument of Eurocentrism is used by some states as a convenient excuse to evade criticisms of their own human rights failures.

### **To what extent are human rights perceived differently in different regions in the world?**

The concept of human rights as we understand it was originally created in the West and spread to other regions of the world afterwards. In the course of that expansion, its original features were consequently reshaped by the local culture and context where it spread. That's why human rights today are perceived differently in different regions.

Generally speaking, Western society holds a universal, individual and liberty-centric perspective by highlighting civil and political rights while being hesitant about economic, social and cultural rights and reluctant to accept the concept of collective rights. In the context of Eurocentrism, the non-Western world very often underlines economic, social and cultural rights and speaks about the particularity of human rights referring to local contexts. For instance, Afro-Asian countries embrace the concept of duty and collectivism and actively promote collective rights such as the right to self-determination and the right to development. The Muslim world takes into account religious beliefs and teachings when interpreting human rights. In my view, the promotion of distinctive perceptions of human rights by regions other than the West is to some extent an attempt to resist Eurocentrism and the equation of the West with universality.

To understand these regional differences, we need to closely look at the particular local context of the region concerned and bear in mind the basic fact that, while the developed world has stepped into the era of postmodernisation, developing countries are still in the process of modernisation. The different realities in different regions in terms of nation-building, social and economic development, and so on, determine the particular primary needs of the population and fundamentally affect their perceptions of human rights. For example, according to World Bank data, in 2020, the gross national income per capita of North America was more than USD 62,000 while that of sub-Saharan Africa was only about USD 3,800 – 6% of the North American one. With such a huge gap, we cannot expect sub-Saharan populations who face the day-to-day struggle for survival to have similar understandings of human rights as people in North America who have already been enjoying a high standard of living.

## **Can we conceive of a human rights regime that would be multiple rather than based on a unified normative core?**

In my opinion, a human rights regime could be unified at its core and multiple on a broader range. It's not an either-or question. A combination of the two may create a more balanced and effective human rights regime.

To explain this idea, I would like to propose a structure that I phrase as *plurality based on unity*. We live in a world that is diverse in various dimensions. Human rights are not an exception to this reality. Thus, we must admit that there are multiple human rights cultures across the globe. However, as members of human society, we all naturally have some core things in common. This very fact has enabled the international community to reach a certain degree of unity on human rights issues. Considering the two aspects, the structure *plurality based on unity* recognises the plural existence of value systems and perceptions of human rights and seeks to integrate those pluralities in a dialectical manner.

To further illustrate this concept, *plurality* requires to recognise and respect the particularities of human rights interpretations and practices in different regions or cultures. But *plurality* is valid and applicable only on the precondition of *unity*. *Unity* refers to the consensus on human rights as a whole that have been built by the international community. This consensus was mainly embodied in the human rights norms enshrined in the international human rights instruments. These norms have been widely accepted across the globe and therefore hold the highest authority in comparison to human rights claims from any region or state. In this sense, *unity* requires respect for and observance of these norms. For the same reason, particularities shall not be invoked as a justification for human rights violations. This does not mean that the established norms are immutable; instead, they shall be scrutinised, supplemented, modified and reformulated over time, in order to be adapted to new realities of social life. In this regard, human rights resources from different regions all have the potential to contribute. Moreover, *unity* is also a constant quest for commonness. It requires subjects of different regions and cultures to constantly explore and build up understandings and commonalities through dialogues and jointly contribute to the development of tomorrow's human rights regime. Therefore, the structure *plurality based on unity* aims to build a more balanced and inclusive human rights regime, not only between the West and the non-Western world, but more broadly between all the regions and cultures who perceive human rights differently. Only in doing so can human rights fulfil, to the most extent, their mandate as a significant means of realising human dignity and well-being for all.

In brief, we may conceive of a human rights regime based on a unified conceptual and normative core, while respecting the distinctive interpretations and practices in implementing human rights norms in different regions or cultures.

**What about an Asian human rights alternative? Does China represent a threat or rather an alternative to the current human rights regime?**

Asia is quite diverse in terms of political and economic systems, religion and social development. These are all significant factors that affect human rights perceptions and practices. While the 1993 Bangkok Declaration showed that Asian states were able to reach a consensus on a series of human rights principles, the fact that a regional human rights regime has not been established in Asia reflects the substantial difficulties they face in moving their consensus into practice. In this context, I do not think there is a well-built Asian human rights alternative.

As to the role that China represents for the current human rights regime, I would say it is neither a threat nor an alternative. A threat indicates an expression or an actual situation of inflicting danger, harm, damage, ruin or causing any other serious consequences. I do not see any clear evidence that China has said or done anything to intentionally damage or have damaged the current human rights regime. China has expressed human rights understandings very different from the typical Western ones. China also made critical comments on some aspects of the UN human rights mechanisms. But these do not necessarily constitute a threat to the current regime. Instead, criticisms of China by the Western world have constantly put China in a defensive position. In this context, it is hardly possible for China to pose any real threat. However, if we look beyond China, there were indeed cases that have posed an actual threat to the human rights regime. For example, in 2018, the US pulled out of the UN Human Rights Council. Then, in 2020, the US government imposed sanctions on a prosecutor and a senior prosecution official of the International Criminal Court who were claimed to be involved in the Court's efforts to investigate US personnel. With clear evidence, these situations constituted real threats to the effective function of the human rights regime.

China does not represent an alternative either. The current regime has been accepted worldwide and functions effectively to a large degree. It enjoys global legitimacy. An alternative would be accepted only if it satisfies the requirement of a higher degree of global legitimacy. In an era of globalisation with multiple global challenges, I do not think China, or any other state or region, by itself, has the potential to offer such an alternative. Moreover, from my point of view, creating an alternative to replace the current one might be too bold to be feasible in the foreseeable future. The

current human rights regime was gradually built up by the joint efforts of the international community over the last almost eighty years. And the history of characterising the pursuit of well-being in terms of human rights can be dated back to the Age of Enlightenment. To displace the current regime as a whole means to break the deadlock of Westcentric modern civilization. It might be possible in the long-term future, but, I'm afraid, not realistic in the future that we can foresee. Therefore, the practical thinking might be to refine the existing system. In this regard, the concept *plurality based on unity* may provide a basis for deliberating solutions to the refinement of the current human rights regime.

Going back to the role of China, I believe China has a great potential to contribute to the human rights regime tomorrow. In order to make changes, we need to absorb new ideas and thoughts in various dimensions, from philosophical and theoretical elements to institutional and practical ones. In the context of Westcentrism, resources and merits from the non-Western world shall be fairly assessed and valued. China has its distinctive perceptions of human rights and has achieved remarkable success in dealing with some social problems such as poverty alleviation. Besides, it bears the legacy of a glorious civilisation. Thus, for the advance of the international human rights regime, China certainly has things to offer.

### **Do you believe in the universality of human rights?**

I do believe in the universality of human rights, but not in an absolute sense. More precisely, I believe human rights are universal in the philosophical or moral sense, and in a limited normative sense.

First, as it has been widely accepted, I believe human rights are the rights which a human shall enjoy simply because he or she is a human. Therefore, in the philosophical or moral sense, I have no doubt at all that human rights are universal and entitled to every individual of the human society without distinction of any kind.

Second, human rights are also universal in the normative sense, but only limited to a small group of minimum essential rights. In this regard, I'd like to refer to the arguments proposed by the British scholar A.J.M. Milne. He perceives human rights as a minimum standard that derives from common morality and that is essential for human society. According to his reasoning, there are seven rights of this kind, respectively, the right to life, the right to justice in the form of fair treatment, and the rights of fellowship, of freedom from arbitrary interference, of honourable conduct, of civility and of child welfare. Though the range of this minimum standard is debatable, I am convinced that not all pursuits of human well-being can be characterised as human rights or be realised by legal mechanisms. With this understanding,

I hold a critical view of the continuous expansion of the notion and list of human rights.

Third, based on a universal core, I believe that human rights interpretations and practices are bound to be diverse. For example, we all agree that the right to life is the most fundamental right to everyone. But when interpreting and institutionalising this right, different opinions and practices emerge. Debates on abortion, death penalty and euthanasia provide vivid examples in this regard.

The last point I'd like to mention is that what is universal is not necessarily Western. Human rights were not perceived as universal for a long period in Western history. When women, populations of former colonies, people of colour and indigenous people claimed their basic rights, for about two centuries, Western society resisted treating them equally. On the contrary, the non-Western world has made unremitting struggles for and significant contributions to the recognition of the universality of human rights. Besides, a basic fact is that an overwhelming majority of the world's population is non-Western. If their claims are labelled as particular and questioned, there is no reason for us not to put Western propositions under scrutiny.

To conclude, while believing human rights are universal at its core, I oppose the absolute notion of universality and the equation between universality and the West.