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NEGOTIATING THE HUMAN RIGHTS DEBATE: RE-IMAGINING HUMAN RIGHTS BEYOND THE GEOPOLITICAL DIVIDE

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To successfully think critically about the globalization of human rights, is in many ways to be able to challenge totalizing structures of intelligibility from the margins. It is the ability to open a moral space for the articulation and engagement with differing constructions of reality and truth. What this paper suggests, in part, is that the human rights project is based on a geopolitical metaphor that imagines boundaries that demarcate the civilized characteristics of the metro-pole from the savage traits of the borderlands. Critically reflecting upon this point enables for the reconstruction of human rights as a culturally-neutral moral philosophy, which stimulates progressive dialogue in a human rights debate plagued by an 'essentialist framework.'

> Human rights are part of the cultural package of the West, complete with an idiom of expression, a system of government, and certain basic assumptions about the individual and his relationship to society. The spread of the liberal constitution – with its normative assumptions and the political structures it implies – makes human rights an integral part of the Western conception of modern society and its ubiquitous domination of the globe.
>
> (Mutua 2001)

Introduction

The vocabulary of human rights has become common nomenclature in contemporary political discourse. In fact, human rights have become a discourse onto itself, with its sacred doctrine enshrined in the United Nations Declaration of 1948. This document, popularly acknowledged today, provides all of humanity with the right to life, liberty and security of person; to freedom from torture or enslavement; to protection from arbitrary arrest or exile; to equality before the law and to remedies for violations suffered; to a fair trial; to freedom of thought, opinion, expression, movement, and peaceful assembly; to participation in the political and cultural life of the community; to remunerated work, free choice of employment, and protection against unemployment; to education; to social security; to a standard of life adequate for one's family health and well being (UDHR 1948). There is no question that these are benevolent proclamations with the most noble of intentions of ensuring the security of human dignity on a global scale.

As such, it is not the aim of this paper to attempt to reject such a dignified cause. I agree with Jose Alves' assertion that the Universal Declaration of Human Rights is the last of the totalizing 'Grand Narratives' which humanity cannot afford to simply disregard or ignore (Alves 2000). It is the manner in which the totality of human rights is articulated that I call into question. The globalization of the human rights project denies a moral space for the articulation of alternate conceptions of protecting human dignity. Supported by a geopolitical metaphor that demarcates where human rights cease to exist and thus where they must be conveyed, the human rights project roots its legitimacy in distorted images of the developing world that are necessary for the maintenance of the human rights movement. Consequently, the human rights debate suffers from a hindering dichotomy between the universal and the particular, which is unable to escape its essentialist framework towards a dialogue which properly reconstitutes human rights in a post-modern and post-colonial world. Hence, the focus of this paper will be to expose the

way in which the dependence of the human rights project on such a geopolitical metaphor retards the necessary evolution of human rights into a culturally-neutral, all inclusive, moral philosophy.

In the spirit of such an undertaking this paper is divided into four sections. The first section addresses some important notes and difficulties in making such an argument, so as to provide for the paper's qualification. The second section takes upon the task of exploring the limits of the current human rights debate, and attempts to situate the paper's argument in the universal/particular dichotomy. The third section critically assesses the geopolitical metaphor that sustains the current manifestation of the human rights project; and the limitations of progress under such a structure. The fourth section makes the effort of reconstituting human rights in a manner that is more appropriate to today's post-modern and post-colonial world.

Important Notes of Qualification

As with any academic exercise, one must be aware that the ideas and words one transfers onto paper will invariably reach the eyes and minds of an audience. While the style and message with which these ideas and words are composed may be the author's own, one must never forget that ultimately it is the audience that confers meaning and significance upon them. Hence, I, like any other author, must strive to make my argument as lucid as possible, keeping in mind that in the end my ideas and words may be employed in justifying an argument, perspective or purpose other than originally intended. With this insight, I believe that a certain qualification of my argument must be made before proceeding in order to clarify what is the objective of this endeavour, as well as what may be the unintended consequences of engaging in a critical analysis of human rights discourse.

There is an inherent danger in applying a critical perspective or approach in discussing the issue of human rights. By questioning what to some is beyond inquiry, I am opening myself up to accusations of possessing or promoting antithetical values to those of the human rights movement. I become an agent of immorality and perpetuate those same ideals and ethics that made events such as the Holocaust and the Rwandan Genocide possible. Moreover, critical approaches which unsettle the claims to the universal character of human rights also risk being co-opted as instruments of legitimacy for the objectives of political and religious leaders who oppose relinquishing their sovereign control over their people in order to adhere to what they consider a form of 'Western' imperialism. As a result, what are ultimately critiques originating

from the left of the political spectrum, "unavoidably lend to the anti-democratic relativism of the extreme right" (Alves, 2000). Such a dichotomist rendition of the issue is the most popular method of marginalizing and silencing those who challenge the human rights movement, and needless to say that is does not further the cause of open discourse on the subject.

My argument is far more complex then merely advocating the abandonment of the human rights movement. Rather, I place my argument in the post-structuralist tradition of thinkers with the aim of deconstructing those most unquestionable truths which inform and shape our realities and in turn frame our perspective of the world and the people who inhabit it. In asking the Foucaultian question – how is it possible for one to think what one thinks? – the hope is to re-politicize that which has been banished to the margins of political discourse in order to reveal the uneven power dynamic which imposes itself in all areas of interpersonal relationships, but which is most often hidden and kept from ever entering the arena political dialogue (Alves 2000, Foucault 1989). Hence, the objective becomes not to abandon the human rights movement, but rather to reconstitute it in a manner that rectifies the injustices exposed through critical discourse. In other words, making an argument critical of the human rights movement in its current manifestation seeks not to justify its rejection, but rather to improve the effectiveness in promoting its cause.

Situating the Argument within the Human Rights Debate

In engaging the debate on the human rights movement, one encounters another dichotomy: the universal origin and applicability of human rights versus the cultural relativism of such principles. It is with great difficulty that I situate myself within this debate while remaining resistant to the propensity of becoming polarized in favour of one side. My already demonstrated predisposition to approach the debate from a critical perspective increases the complexity involved in this task, because if working from an assumption that knowledge is a function of inescapable economic, social, cultural, and linguistic structures, then truth can only be relative. However, even if this leads us to the assertion that rights are in a certain sense contextual, this does not necessarily vitiate their universality (Dallmayr, 2002). I will first shortly summarize the extreme sides of the debate and then return to the point just made.

The proponents of the universality of human rights find their justification for their claims from two dominant discourses: metaphysical abstraction, and legal positivism. Arguments

originating from metaphysical abstraction locate human rights in the reification of initial liberal formulations of natural rights as allegedly universal, timeless truths independent of social context. Drawing from the legacies of Locke and Rousseau, "modern universalist theories on human rights are based on natural law, justice, reaction to injustice, dignity, equality of respect and concern, human capacities, moral agency, and self-ownership" (Goodhart 2003). These arguments are supplemented by those that Neil Stammers labels 'legal positivism'. He uses the term to describe the aggregating literature "overwhelmingly concerned with the establishment, implementation, and enforcement of human rights as international public law," (Stammers 1999) thus creating a standard set of norms and values which all states are to adhere to, uphold and enforce amongst their citizens in their interpersonal relationships. The legitimacy that underlies such arguments is found in the signatures of nearly all world parties to the Universal Declaration of Human Rights proclaimed by the United Nations in 1948, and most recently at the 1993 Vienna World Conference, where the Vienna Declaration placed the universal nature of the rights and freedoms beyond question (Harris-Short 2003, Alves 2000).

Cultural relativists on the other hand believe that "cultures manifest so wide and diverse a range of preferences, morality, motivations and evaluations that no human rights principles can be said to be self-evident and recognized at all times and all places" (Shestack 1998). They locate their justification in an appeal to notions of strong particularism which recognizes that "ideas and practices in respect of human rights are socially constructed but emphasize the particularities of such construction" (Stammers 1999). Manifestations of such forms of strong particularism include: cultural absolutism which asserts the strong bounded nature of particular cultures; theoretical communitarianism which assumes that discrete cultural forms arise from strong and bounded communities based on nation-states; and elements of post-modern analysis which emphasize difference, plurality and fragmentation and deny the possibility of a 'meta-narrative' of universal human rights (Stammers 1999).

The debate is a question of foundation: do rights have foundational status, or are they merely arbitrary fictions or perhaps comforting illusions? And as such, the debate over human rights between relativists and universalists creates, in the words of Michael Goodhart, "an essentialist conceptual framework" whereby it "reduces most important theoretical questions about human beings to the core question of whether such an essential connection exists between

a given culture and universal rights doctrine" (Goodhart 2003). The debate becomes focussed on the connection between the origins of the concept of human rights and its theoretical substance.

Hampered by this foundationalist versus anti-foundationalist dichotomy, the human rights debate stagnates as it becomes increasingly difficult to engage in dialogue across the chasm that divides both sides of the debate. Hence, as Fred Dallmayr asserts, a shift in conceptual focus is difficult when engaging in the human rights debate from either side:

> By assuming a uniform human nature – the sameness of human identity – prior to and outside all social interactions, foundationalists see no need to enter into the travail of a learning process; since everything is already presupposed or known, nothing further needs to be looked for. On the other hand, by regarding cultures as self-enclosed systems or language games, deconstructive contextualists are bound to treat learning across borders either as impossible or else as (disguised) strategies of colonization (Dallmayr 2002).

Transcending this dichotomy involves a radical re-imagining of the relationship between the universal and the particular. Such a conceptual shift would place within any given particularity a fragment of the universal; for the concept of the particular can only be constituted in relation and reaction to a given concept of the universal (Laclau 1992).

Reopening the dialogue between the particular and the universal in the hopes of furthering the globalization of human rights discourse would involve an ongoing learning experience which "presupposes attentiveness to different, possibly alien teachings and a willingness to review and possibly revise one's own predilections – a disposition that cannot be a one way street but demands multilateral engagement" (Dallmayr 2002). Moreover, a re-imagining of human rights discourse treats universality not as a fait accompli, but rather as a fluid aspiration in the ongoing dialogue. Most importantly, "it deprives any given culture, but in particular Western Culture, of pretensions to monopolize universal 'truth,' placing its trust instead in the difficult process of interactive dialogue" (Dallmayr 2002).

However, reopening such dialogue begins with a critical reflection upon the current condition of human rights discourse. It is to this task that this paper now turns in the hopes that by assessing the manner in which the universal legitimacy of human rights is being undermined, it will reveal the methods through which it may also be enhanced.

Geopolitics, Morality, and the Human Rights Metaphor

> [S]pace itself becomes a kind of neutral grid on which cultural difference, historical memory and societal organization are inscribed. It is in this way that space functions as a central organizing principle in the social sciences at the same as it disappears from analytical purview (Gupta and Ferguson 1997).

> The argument about human rights is more complex, and suggests the need to think much more carefully about politics and culture. In so far as the human rights invoked are ones derived from Western assumptions of the liberal subject, or in more recent invocations the neo-liberal consumer, the constructions of rights are frequently a matter of contrasting savages and victims with their saviours, states or war lords as evil agents that constrain the operation of civil society until the marines, or the (airborne) cavalry, arrive to replace the local tyrant (Dalby 2003).

Perhaps the most serious manner in which the universal legitimacy of human rights is being undermined is through its reliance on a geopolitical metaphor which denies a moral space for alternate conceptions of protecting human dignity. It is important to note that these differing moral codes do not stand in opposition to the human rights discourse, but instead are marginalized by it in favour of an orthodox interpretation of human rights which displays a recurring nepotism to the 'Western' historical experience and struggle (Mutua 2001). The metaphor imagines human rights existing within the boundaries of the civilized centres of the globe. Beyond these ordered spaces, on the periphery of morality, lie the chaotic borderlands where savage societies and primitive traditions search for redemption (Asad 2000, Dalby 2003 and Mutua 2001); perpetual victims crying out for salvation (Seagall 2003).

Informed by neo-Marxist concepts of the power afflicted relationship between centre and periphery put forth by such recognized names in the international relations field as Andre Gunther Frank and Immanuel Wallerstein, the metaphor can be conceived as creating "a series of 'them' and 'us' dichotomies," establishing what Mark Duffield calls, "a formative contrast between *borderland* traits of barbarity, excess and irrationality, and *metropolitan* characteristics of civility, restraint and rationality" (Duffield 2002). In other words, the human rights narrative shapes the manner in which society conceives the world in geopolitical terms. Hence, the repeated images that we are exposed to daily from endless media sources (whether they are reasonably objective and independent, or politically questionable) and the language used to describe such images or events, is inherently polluted with such dichotomous constructions.

Their inability, or in some cases unwillingness to be reflexive only perpetuates such constructs, legitimizes their use, and passes them off as reasoned truth.

Duffield uses the formative contrast between borderland traits and metropolitan characteristics to explain what animates and yet hinders the effective use of aid policy. In this paper, I use it to describe the manner in which the benevolence of the human rights cause to redeem the periphery by educating and empowering the victims of savage societies, obscures the possibility that the nobility of their message is motivated by cultural attitudes of moral superiority, paternalism and evangelism. Hence, the human rights narrative creates a distinct hierarchy where the Western human rights experience and struggle, and the consequent moral conclusions are the definitive end in the evolution of every society.

Hence portrayals of the periphery in all its chaotic and savage glory as is seen in footage of the dead American soldiers being beaten and paraded through the streets of Mogadishu; or from the numerous depictions of the butchering of thousands in the Rwandan genocide in 1994; or the masses of Palestinian people gathered together firing guns in the air in celebration of the murder of 3000 people in New York city on September 11th 2001; or the rabid rampage of looting and destruction in the streets of Los Angeles in the late eighties and the streets of Baghdad in the early new millennium; or in the speeches of George W. Bush when he addresses the issue of the war on terror; or even in the repeated and daily pictures of the millions of people suffering under conditions of extreme poverty, famine, or political repression, entrench primarily two images of those cultures existing beyond the boundaries of civilization – that of savages and victims.

In a Western society so conditioned to consume, such images constitute the lens through which the metropolitan constructs the borderlands. Hence, when observed from the metro-pole, conflicts in the periphery are predominantly regarded as "internal, illegitimate, identity-based, characterized by unrestrained destruction, abuse of civilians, lead[ing] to social regression, rely[ing] on privatized violence, and so on" (Duffield 2002). As in the case of Rwanda in 1994, the international community was initially comforted with the characterization of the conflict as simply an anarchic 'genocidal orgy', the result of centuries of tribal-feuding (Joint Evaluation of Emergency Assistance to Rwanda 1996). A negative portrayal of violence in the borderlands suggests that the metro-pole views its violence as more of a positive, ordered experience possibly even having a cleansing effect on society.

Moreover, it hides the fact that the boundaries between the civilized metro-pole and the periphery are ephemeral. In other words, the boundaries cannot be fixed across time and space, and that the boundaries demarcating the borderlands do not necessarily correspond to those dividing nation-states or regimented geographical areas. These distinctions are conceptual and exist only as imagined spaces. Hence, instances of centre and periphery can and do exist within the same state or other geographical area. A venture into some of the poorer communities in North America (like Flint or Buel Michigan and some First Nations Native reserves) quickly unsettles any pretension to pass off modern liberal democratic capitalist societies as the shining example of protectors of human dignity. As Jose Alves states, "in postmodern, 'globalized' societies the poor are stigmatized and held responsible for their own poverty; they are associated with everything evil, both at home and on the planetary scale: overpopulations, epidemics, environmental destruction, vices, drug trafficking, the exploitation of child labour, fanaticism, terrorism, urban violence, and crime" (Alves 2000).

However, at the same time that the human rights corpus demonizes the borderlands, it also stigmatizes it with another label: that of victim. Like the label of savage, the image of the victim in the borderland is created by the manner in which society and media shape and reflect popular attitudes. The image of the victim is essential; without it there is no savage, or saviour (Mutua 2001). One of the defining characteristics of the victim is powerlessness and an inability for self-defence against the borderland state or the culture in question. In the narrative of human rights, the victims are often depicted as "hordes of nameless, despairing, and dispirited masses" (Mutua 2001). The language of the human rights corpus suggests a sense of urgency and need for assistance in order for the victims to overcome their condition. As such it constructs victims as casualties of a savage culture and backward traditions, who suffer from a failure of modernity, as well as "a loosening or shallowness in civilization's grip and a weakening of the ameliorative effects of social organization," and aggravated by an "inconsistent application of (modernity's) principles" (Duffield 2002). In the human rights movement, with its aforementioned nepotism for the Western experience, there seems to be a persisting belief that human rights problems afflict only the borderlands, 'those people over there,' and not the metro-pole, 'people like us' (Mutua 2001). From this perspective, the logical stimulus is to help those who cannot help themselves. Hence, victims can find salvation by renouncing their savage culture, and allowing

themselves to be swept away by the current of modernization towards the construction of a victimless society (Asad 2000, Duffield 2002 and Mutua 2001).

Thus, the same impulses which motivated the missionaries of the earlier centuries – undertaking the education, modernization, and civilization of the borderlands – today mobilize the sentiments of those zealous citizens of the metro-pole whom undertake this same benevolent cause, not bringing with them as before the redeeming word of God, but rather that of humanity. In this context the human rights project becomes a transformative experience, though which the borderlands are re-shaped, re-organized and re-constituted in the image of the metro-pole (Mutua 2001).

In his anthropological enquiry into the use of human rights, Talal Asad emphasizes the role of the United States in promoting the attempt to globalize human rights, particularly since the collapse of the Soviet Union. Asad locates this impulse to globalize certain values and norms in the language of the American constitution which reflects both its liberal Anglo-Saxon, as well as puritan roots. As he asserts:

> The prophetic language of America, for all its particularity, works as a force in the field of foreign relations to globalize human rights. For that language does, after all, draw on the idea that 'freedom' and 'America' are virtually interchangeable – that American political culture is 'a light unto the nations.' Hence 'democracy' and 'human rights' are integral to the universalizing moral project of America – the project of redeeming the world – and an important part of the way America sees itself (Asad 2000).

This insight thus allows for the consideration that the human rights project is in fact a part of a process of conversion, where Judeo-Christian morality, centred in the West and governing the interpersonal relationships within the metro-pole, is necessarily transferable and universally applicable. This comes dangerously close to mimicking the activities of colonialism by reviving that era's most violently benevolent attitude: "the white man's burden". Although it is dangerously incorrect to equate colonialism with the human rights movement, it is necessary to acknowledge that "both streams of historical movement are part of a Western push to transform non-European peoples" and that human rights is also part of a "historical continuum to universalize Eurocentrism and its norms as eternal truths" (Mutua 2001).

However, this is consistent with the geopolitical metaphor developed in this section of the paper. For the borderlands are moral vacuums devoid of rights and hostile to human dignity; and as such it becomes the responsibility of the metro-pole to alleviate human suffering by extending

the boundaries of its morality and purging the borderland of its savage culture and traditions, while in the meantime bringing with it the redeeming character of modernization (which often takes the form of a market driven, capitalist, liberal-democratic reorganization). This has the effect of reducing morally autonomous human beings to a condition of tutelage, implying an inability, or incapacity on their part to competently make their own decisions and direct their own affairs (Bain 2001). Hence, this exchange and the subsequent moral relationship between the centre and the periphery assumes a paternal form – the 'othering' project degrades although it seeks to save (Mutua 2001). Helpless and powerless victims require the moral guidance of the metro-pole in order to restrain the impulses of their primitive traditions and savage cultures. Ultimately, human rights becomes a process of offering the borderlands a chance to 'escape history,' in Fukuyama's terminology, by "climbing up the civilizational ladder," and following the societal evolutionary script of history, provided and written by the metro-pole (Mutua 2001).

Moreover, this exchange is codified and legitimized through international human rights law which continues the tradition of universalizing Eurocentric norms by justifying the intervention of the metro-pole into the cultures and societies of the borderlands in order to satisfy notions of responsibility and salvation. As Mutua emphasizes, "the saviour-colonizer psyche reflects an intriguing interplay of both European superiority and manifest destiny over the subject" (Mutua 2001). In this sense, Talal Asad reminds us that human rights discourse becomes a process of undermining styles of life by means of law, as well as by means of a wider culture that sustains and motivates the law (Asad 2000). Human rights discourse focuses on creating a legal culture, with the proper institutions and mechanisms though which morality can be codified, disseminated, and enforced. The level of scrutiny by the metro-pole that the borderland cultures undergo is evident by the microscope of criticism and attention that they are placed under by the thousands of Non-governmental organizations (NGO) that now survey and monitor their cultural dynamics and practices. Dependant primarily on the metro-pole for their funding, NGOs rely on the effect their message has on mobilizing Western governments to secure their livelihood by funding their interventionist activities in the borderlands (Dalby 2003). This makes NGOs and the missionaries they inspire suspect or obnoxious in the borderland cultures they operate in, despite how intrinsically sound their message may appear (Dallmayr 2002).

What this implies is that current human rights narrative is incapable of re-opening the aforementioned dialogue between the universal and the particular, because it is currently

encapsulated within a geopolitical metaphor that denies a moral space to alternate constructions of protecting human dignity. Unable, or unwilling to transcend the positivist canon of the necessary and possible separation of subject and object, the human rights corpus confines its moral legitimacy to legal and institutional culture. This opens the human rights project to accusations of neo-colonialism, paternalism, and moral imperialism; critiques that seem justified when the geopolitical metaphor is applied to the current human rights narrative.

However, allowing the debate to relapse back into the 'essentialist framework' eluded to earlier is unacceptable. Hence, if human rights are truly about a struggle to find methods of protecting human dignity, then a reconstitution of the human rights narrative in a more just and inclusive manner will not attempt to isolate human rights in a single moral space, but to find its manifestation in all moral spaces. Such a movement cannot favour the Western experience as its starting point and other cultures as peripheral. It must not allow the movement to degrade into one in which the West leads the way and the rest of the globe follows. It cannot create a single moral space to which all societies must aspire to evolve to. The human rights movement cannot be treated as a process of education and conversion; it must seek active engagement and participation from local cultures in order to create a local, legitimate constituency empowered to take ownership in the protection human dignity.

Reconstituting Human Rights

> If people are not aware of the historical and contextual nature of human rights and are not aware that human rights become realized only by struggles of real people experiencing real instances of domination, then human rights are all too easily used as symbolic legitimizers for instruments of that very domination (Stammers 1999).

Human rights discourse is dominated by concepts of freedom, equality, liberty, and dignity. Such concepts are inherently neutral, in the sense that they possess no ontological meaning until human or cultural agency is applied to them. At that time, they obtain their meaning in relation to the socio-historic, temporal context in which they are articulated in. Hence, any human rights project which seeks to make such concepts universal, needs to engage the diverse meanings and contexts through which such concepts are expressed. Only through such cross-cultural enlightenment can the human rights narrative attain an essence of multi-cultural expression, and more importantly moral legitimacy.

However, as evidenced by the preceding section, the emphasis of the current human rights project is placed on education and sensitization introduced with the expressed aim of convincing the local populace of borderland societies to embrace the human rights philosophy. This impulse to engage in a cultural monologue, as opposed to dialogue, is typical of the manner in which the human rights corpus dictates the norms and values which are to be educated and legislated without listening to or responding to alternative world-views (Harris-Short 2003). It is not surprising then that the human rights project is hampered with accusations of neo-colonialism when the corpus is advocating ideas that "backward cultures and traditions of the local populace are a problem to be overcome through education and enlightenment;" ideas which are "distinctly reminiscent of the ethos of colonialism" and 'the white man's burden' (Harris-Short 2003).

The manner in which the human rights project currently seeks to promote human rights norms seems strangely inconsistent with the familiar dynamic of social evolution. It is usually the case that domestic law is driven by changes in the attitudes and beliefs in the societies in which the law is to be applied (Forst 1999); however, it is the reverse dynamic that is being attempted. Instead of the state committing itself to international human rights norms in response to natural evolutionary changes within a society, society is being told to change by the state in order to bring it into line with the legal obligations it has undertaken (Stammers 1999). In other words, "attempts are being made to transform society from the top-down without engaging the local culture in that process" (Harris-Short 2003).

Neil Stammers believes that such efforts to institutionalize human rights in a legal culture will yield to an increasing difficulty in providing for their legitimacy. This follows from his argument that human rights are ultimately understood as a challenge to power, or as forms of resistance. Once institutionalized in a legal structure, human rights are likely to play an ambivalent role in respect to power. Hence, "if human rights are to retain their legitimacy as challenges to power, then their potential to be co-opted to serve as a way of sustaining another form of power needs to be both recognized and minimized" (Stammers 1999).

As Rainer Forst asserts, legitimacy for any right must be located in the ability of any "norm to prove itself in a discourse whose participants are precisely those who are supposed to accept it and who are affected by it in morally relevant ways" (Forst 1999). Thus, if a norm or value cannot be contextualized within the struggle of a culture's particular social movement, then

that norm cannot be legitimately claimed as a right. Therefore, attempts to institutionalize such a norm through changes in domestic law – whether the attempt comes from an external international initiative, or an internally motivated attempt by social elites caught up in the modernizing ethos – will ultimately prove very difficult without the requisite local, social constituency (Harris-Short 2003 and Stammers 1999). As Forst points out, "rights are not 'granted' vertically by the state, but instead are accepted and conferred horizontally in processes of justification" (Forst 1999).

Consequently, how do these insights help in a reconstitution of human rights? For the purposes of this paper, it indicates that there is a universal to be found in every particular. Rights in any society are a result of the construction of a social constituency which confers moral legitimacy on the codification of a given norm or value. Moreover, a society or culture must have ownership in this process of justification, or else the norm may be seen as the manipulative imposition of an alien and possibly subversive morality. This seems to justify Forst's thesis that there exists one universal right: the right to justification, or what he defines as "the right to be respected as a moral person who is autonomous at least in the sense that he or she must not be treated in any manner for which adequate reasons cannot be provided" (Forst 1999). If it can be agreed that this constitutes a truly shared human essence, a desire to have ownership in the process of justifying or authoring the norms and values by which one's own society is governed, then to "manipulate human beings toward ends that they do not see or cherish is to deny them their human essence; to treat them as subjects without wills of their own, and therefore to degrade them." It is to engage other human beings paternally, "a mode of conduct that Immanuel Kant described as the greatest despotism possible" (Bain 2001).

Re-imagining human rights as arising in concrete social constellations and not morally bound spaces, provides a fresh path through which human rights can be promoted in a culturally neutral manner (Forst 1999). Such attempts at promoting human rights should seek to actively engage existing social movements within Third World societies, not with pretensions of moral superiority, but rather simply with the aim of cross-cultural dialogue and exchange. Hence, if the globalization of human rights is to take place, it would preferably occur from the 'bottom up' by enlisting the empowering resources of local cultures and practices, especially in movements in Third World societies, rather than from the 'top down,' dictated from the lectern of an

intellectual elite under the auspices of unleashed market forces, international finance capital, and Western-based media and technology (Dallmayr 2002, Falk 1992).

Conclusion

Finally, the insights of the previous section permit for the renewed dialogue between universalism and cultural relativism. Allowing for a post-positive and post-structural reconstitution of human rights by reaffirming the indispensable relationship between subject and object, one can begin to conceive of a truly universal human rights project in a post-modern and post-colonial world. Resisting a relapse into an essentialist framework, the process of reconstituting human rights is primarily discursive and recurrent. It is discursive because the "reasons for specific norms must be found among and examined by those for whom validity of the norms is claimed" (Forst 1999). It is recurrent because the struggle against relativism and ethnocentrism can only mean entering into a sustained dialogue in which differences between moral spaces are acknowledged from the beginning – where all participants are willing to undergo a mutual learning experience without necessarily expecting a final synthesis (Dallmayr 2002). Only this willingness to learn from one's encounter with alternate moralities can provide the space for a genuine global moral discourse, making room and exploring the diverse configurations of the universal/particular nexus. Herein lies the purpose of critical discourse as conceived by Michel Foucault: to question, not deepen, existing structures of intelligibility which aggressively exclude alternate worlds. In his powerful words, "we must think that what exists is far from filling all possible spaces" (Foucault 1989).

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