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Review Article

Alison Dundes Renteln, *International Human Rights: Universalism Versus Relativism* Newbury Park, California: Sage Publications, 1990. 205 pp. ISBN 0-8-39-3505-6. ISBN 0-8039-3506-4 (pbk.)

Reviewed by Dr. R.K.L. Panjabi*

As scholars begin to assess the consequences of the Middle East crisis of 1990, they will probably conclude that Saddam Hussein's military invasion and occupation of Kuwait resulted in a surprising and welcome demonstration of global consensus at the United Nations. By an ironic twist of fate, the President of Iraq contributed to the development of what may in future be considered the U.N.'s finest hour as the United Nations condemned the Iraqi invasion and put in place a trade embargo against Iraq. Internationalist aspirations which created the world organization in 1945 seemed finally to be on the road to fulfillment in 1990. The prevailing sense of disappointment with the United Nations was replaced with a renewal of hope for future global cooperation.

The fact that most nations of the world agree that Hussein's action in occupying a neighboring independent State and annexing it was morally wrong; the fact that, at the time of writing, most countries have agreed to abide by the trade embargo; the fact that the overwhelming American presence in Saudi Arabia is balanced by Middle Eastern contingents from nations like Egypt, all highlight a near universal opposition to the deprivation of the rights of Kuwaiti citizens and an international determination to protect the rights of the Saudi Arabians. Naturally, one cannot overlook the significance of the oil issue as one motivator of this resounding international consensus. However, the existence of practical economic considerations in no way diminishes the humanitarian nature of the global response.

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That such universality has been demonstrated at the United Nations is largely due to the dramatic changes Gorbachev has initiated in the foreign policy of the U.S.S.R. The continuation of such harmony could in time affect every sphere of U.N. activity and impact most directly on the realm of human rights. The decision by First, Second and Third Worlds not to countenance the disappearance of Kuwait as a nation is an event of major significance in global politics. The ramifications are likely to be far-reaching. It is an event which will undoubtedly figure in the deliberations of political scientists, historians and international lawyers, particularly those whose interests lie in the field of human rights.

Time alone will tell whether the appearance of what the media is labelling "The New International Order" will have a positive impact on human rights and resolve many of the problems which have bedevilled the implementation of rights thus far.

Writing before Saddam Hussein's brutal invasion, Alison Dundes Renteln echoes the doubts of a number of scholars in the field of human rights. The entire issue of human rights has been plagued by controversies about the nature of these rights, their source, their justification, their classification, their origin and their application, to name only a few aspects of the continuing debate. Like other scholars, Renteln attempts to deal with the fundamental issue of universality in an apparent effort to achieve the kind of international commitment to the implementation of human rights that we have witnessed recently with respect to the concept of a nation's right to exist.

Renteln believes that ". . . universal human rights are possible . . ." but is ". . . concerned about the extent to which the concept of human rights is embraced worldwide."² In view of the depredations of death squads in Latin America; the use of chemical warfare against the Kurdish minority in Iraq; the frightening genocide by Pol Pot and the Khmer Rouge against Cambodian civilians and the 1989 massacre of students in Tiananmen Square, Beijing by the Chinese Government, Renteln's concerns are more than justified. However, the global condemnation of such actions by the media and public opinion underscores the fact that in the second half of this century, a greater sense of awareness (because of communications technology) has led to the emergence and expression of a nearly universal moral conscience in some situations. That this feeling has not yet penetrated to the power centers of a number of governments cannot diminish its value as a possible inspiration for greater public commit-

1. A. RENTELN, INTERNATIONAL HUMAN RIGHTS: UNIVERSALISM VERSUS RELATIVISM 9 [hereinafter A. RENTELN].

2. *Id.* at 10.

ment to human rights in the future.

This is why the scholarly debate about the nature, origin and relevance of human rights has, to a considerable extent, been superseded by the "man in the street" demonstrating for freedom in East Germany, democracy in China and equal rights in India. While human rights have not yet been universally implemented, one should not underestimate the extent to which they have been globally accepted.

Renteln's interest in anthropology makes her wary about:

. . . the fallacy common to many writings on human rights, namely the presumption of universality. What typifies this way of thinking is the belief that human rights exist independent of culture, ideology, and value systems . . . This is a peculiar form of ethnocentrism insofar as western ideas are presumed to be ubiquitous.³

Some writers go so far as to deny the existence of a non-Western concept of human rights. Jack Donnelly argues that "[m]ost non-Western cultural and political traditions, like the premodern West, lacked not only the practice of human rights but also the very concept."⁴ Nevertheless, Donnelly insists that "although they are Western in origin and thus historically particular . . . human rights are of near universal contemporary relevance."⁵

Renteln counters by stating that ". . . it is futile and perhaps even counterproductive merely to assert the existence of universal human rights in the face of cultural diversity."⁶

Any attempt to deal with this crucial issue of universality has to recognize some significant factors. Though Afro-Asian nations do not share the European historical tradition of the Enlightenment, a considerable number of educated persons in those countries have been exposed to and influenced by the ideas and ideology of the West as well as by their own ancient traditions, and have attempted to combine the best of both worlds. One of the few positive consequences of the era of European imperialism was in the cultural and philosophic exchange of ideas which resulted from the period of Western domination. Though the economic exploitation resulted in anti-Western national movements, the ideological basis of many of these struggles for freedom lay in "Western" ideas of nationalism, democracy and freedom combined with indigenous ideas of patriotism and social responsibility. In the very process of denying the validity of European colonial rule, the Afro-Asian nationalists demon-

3. *Id.* at 12.

4. J. DONNELLY, *UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE* 50 (1989).

5. *Id.*

6. A. RENTELN, *supra* note 1, at 13.

strated their commitment to European political philosophy. For example, the adoption of the British parliamentary system by the Government of India proves the desire of the former Indian freedom fighters to take what they considered to be the best ideas of the West and give them an indigenous relevance. Parliamentary government in India may be volatile and on occasion fragile, but, after more than four decades, it has acquired characteristically Indian features and will undoubtedly be perceived in future years as part of an emerging *Indian* political tradition. In a very real sense, then, a foreign implant has acquired an indigenous relevance.

With the global interest in democracy today, it is possible that given time, human rights could similarly acquire an inherent, national significance in much of the Third World, whatever the origin of these ideas. It is also probable that while scholars may continue to argue over the universality or non-universality of human rights, people the world over, given an understanding of the importance of these concepts in their everyday lives, may seize on these ideas and adopt and perhaps adapt them to their own range of experience. As James Hsiung aptly comments: "Human rights, however defined, seem to have a universal acceptance, even nominally by those who violate them. Like motherhood and apple pie, who could reject them?"⁷ The absence of a historical tradition of Enlightenment ideas is not necessarily a bar to modern commitment by any nation to these concepts.

One can only support Renteln's plea that "[t]o avoid the charge of cultural imperialism, we must seek cross-cultural support for international human rights standards."⁸ It is Renteln's hope that "universally embraced moral" principles can be discovered which would create a global basis for the adoption and implementation of human rights.⁹ Given the variety of ethical and religious systems which flourish on this planet, this task could prove quite a challenge. I would suggest that a broadening of the definition of certain rights might be a somewhat easier exercise. The charge of cultural imperialism has arisen because of the apparent insistence of some Western scholars and human rights advocates on a very restrictive definition which takes little account of a cultural diversity. This definitional dilemma has also been partly responsible for the wrangle over civil, political, economic and social rights as well as the now familiar generational dispute between categories of rights. A little more accommodation of differences and less rigidity of positions could con-

7. HUMAN RIGHTS IN EAST ASIA 3 (J. Hsiung, ed. 1985) [hereinafter HUMAN RIGHTS IN EAST ASIA].

8. A. RENTELN, *supra* note 1, at 15.

9. *Id.*

ceivably lead to greater appreciation, adoption and implementation of the system globally. An international debate which seeks compromise and consensus and responds to cultural differences will surely accomplish more than continuous underlining of familiar positions. James Hsiung has proposed a blueprint which takes into account the great historical cultural tradition of East Asia. According to Hsiung, a definition of human rights would include the following:

- a) Human rights have "human" origins. . .
- b) Since their origins are human and derived from a consensus among fellow humans to answer the needs of all, the rights of individuals do not outweigh those of society . . . They are human "rights" only if they do not spawn human "wrongs" against society.¹⁰

Hsiung continues his blueprint by emphasizing the significance of social and economic rights along with political rights. He justifies this position by asserting that "[t]o a person whose country does not offer its population socio-economic well-being, a modicum of tranquility and security within its borders, and a minimum measure of respect abroad, a hundred individual liberties would not mean very much."¹¹ Whether or not one agrees with his suggestions, the possibility of making human rights more than a Western system will undoubtedly be a major challenge of the 1990s. Should the United Nations continue to act with effectiveness in dealing with international problems, its contributions to this process could be very important for the fulfillment of human rights.

While perceptions and opinions as well as definitions of human rights may vary from one region to the next, the element which is likely to be most understanding of and tolerant toward such ideas is to be found among the educated members of any society, particularly those persons who have travelled and are acutely aware of world developments. While one hesitates to generalize and while there are some exceptions, this so-called "elite," in governing a country, manning its legal and judicial system, staffing its senior bureaucracy and educating its youth can play a significant role in creating public awareness about human rights. Unfortunately, in the thinking of some scholars, including Renteln, the "elite" (not clearly defined) is perceived as not being in step with ". . . the rest of the citizenry . . ."¹² While this may be true in some instances, the "elite" plays the same leading role in Western countries as it does in any Afro-Asian nation. One ought not to be too dismissive concerning the

10. HUMAN RIGHTS IN EAST ASIA, *supra* note 7, at 22-23.

11. *Id.* at 23.

12. A. RENTELN, *supra* note 1, at 10.

opinions of the so-called "elite." While the search for universal principles among remote tribal people is a valid, fascinating intellectual exercise, it is usually mainstream thinking (led by the "elite") which prevails in any nation.

Therefore, the search for familiar moral values among exotic peoples should not detract us from the easier search for such principles in the modernized sector of Afro-Asian societies. It will certainly be simpler to find persons familiar with and receptive to the concept of human rights in modern urban centers than in remote tribal villages in the Third World. Nor can the urban Asian be deemed less representative of indigenous values simply because he has acquired modern ways of speech or dress or loves electronic gadgetry. The Western advocates of human rights could fare better in the Third World by conceding that all civilizations are a constantly evolving blend of East and West. Past clichés about East being East and West being West are now largely obsolete. The greater sense of tolerance which Eastern religions have inculcated in their devotees have made Asians particularly adept and judicious at creating an individual rapprochement between the Eastern and Western ways of life. The desire to assimilate modern technology is pervasive in some ancient societies. The citizen of India who prays in his temple according to traditions formulated thousands of years ago and then goes home and watches his favorite show on television feels no qualms that he is betraying his heritage by subscribing to modern ideas. The very thought would amuse him. Such a mindset of tolerance can only be an asset for the widespread acceptance of human rights.

I also wonder whether Renteln's concerns about "elites" are justified. Given the diversity in some countries like India, it would be virtually impossible to find "representative" or "average" Indian. Referring to international forums, Renteln asks:

Do the elites who purport to represent the positions of their nationals do so accurately? Do indigenous perceptions of human rights correspond to the viewpoints expressed by elites in the context of U.N. debates? If not, then the standard argument advanced by international lawyers, namely that ratification of international instruments indicates universal acceptance of the norms, is false It remains to be seen how many human rights are actually consistent with the diverse value systems across the globe.¹³

The questions she asks about "elites" are probably unanswerable. There is no doubt that Renteln is acutely sensitive to the sensi-

13. *Id.* at 38.

bilities of foreign cultures. She is concerned to demonstrate that duty-based social systems could still be said to hold a concept of rights,¹⁴ a position rejected by Donnelly. Donnelly believes that:

To accommodate the non-Western approaches . . . we would have to establish an order in which an extensive set of social rights and duties takes priority over individual rights. In such circumstances, human rights will be, at best, largely a formality in practice.¹⁵

Renteln contests this idea by stating:

If . . . the members of a given society have a duty to take care of the elderly, then the elderly could be said to have a right to proper care. The point is that just because the rubric of some peoples is not that of rights does not mean that human rights cannot be universal.¹⁶

One way to determine whether human rights have universal relevance is by conducting serious, systematic research into the cultural systems of a number of societies. Such studies, if done via the method of comparison, might yield significant results for the establishment of global consensus on the existence of human rights. The difficulty would be to find the precise group or groups to study and to determine whether the selected group can be said to "represent" the society in question. If national practices appear to be similar to, or at least within the framework of the existing international formulations on human rights, that too would contribute to the search for universals. Such literature is already emerging. Renteln presents a very interesting, albeit brief example of comparative research in her study of retribution tied to proportionality.

There are many problems involved in conducting such research. As Renteln admits, ". . . it is not obvious which data can provide a means to discovering the 'true' moral standards of a society."¹⁷ Once again, she expresses her anxiety about the "elites." "Consulting jurisprudential and theological texts will surely paint a picture of moral standards, but they may be only the ideals of the elites; what we are after are native moral categories."¹⁸ It is really not clear why these "elites" are dismissed as being nonrepresentative particularly as their influence on the practices of society are likely to be even more pervasive in tradition-bound cultural systems.

The other problem lies in the numbers game. How many societies have to subscribe to a principle in order for it to acquire valid

14. *Id.* at 45.

15. J. DONNELLY, *supra* note 4, at 58.

16. A. RENTELN, *supra* note 1, at 12.

17. *Id.* at 89.

18. *Id.*

universal status? Renteln makes it clear that, ". . . a simple majority rule principle operating in the international system is not acceptable . . ."19 However, she also states:

That there may be evidence that a majority of countries and peoples are committed to a particular moral standard might indicate their willingness to accept a human-rights standard which is based on the norm. It would be quite significant if there should happen to be convergence among the many moral systems in the world. Such unanimity might provide a stronger foundation for human rights.²⁰

Another problem inherent in such research concerns the inescapable fact that "the measuring tools are culture-bound."²¹ The lack of a widely accepted, truly objective method for evaluation and the probable impossibility of creating a system free of cultural bias for rating human rights have been emphasized by some scholars. Again, while academics may feel acutely uncomfortable about such limitations, it has to be remembered that the "man in the street" in any society can perceive and react against injustice, discrimination and deprivation of the basis of his own cultural mindset untrammelled by the qualms about precision and objectivity which affect scholars. When Tibetans carry placards proclaiming "Long Live Dalai Lama" and "We Want Human Rights"²² it is obvious that the assimilation of human rights may well be easier than many intellectuals in the West believe. Much remains to be done, however, particularly in rigorously fundamentalist societies.

Renteln believes that insofar as the intellectual debate is concerned,

. . . to date negligible progress has been made in the direction of establishing that human rights are universal or even that certain moral principles are widely shared. The studies raise important questions, indicate the need for empirical data, and reflect a feeling of dissatisfaction with the present state of human rights.²³

Renteln's study of retribution tied to proportionality is very interesting for the insight it offers into the customs of numerous societies. More emphasis on the connection and linkage to the main themes of the book would have been welcomed.

Renteln asserts: "Some may ask what the precise relationship is

19. *Id.* at 90.

20. *Id.* at 90-91.

21. *Id.* at 91.

22. R. CLAUDE & B. WESTON, HUMAN RIGHTS IN THE WORLD COMMUNITY 1 (1989).

23. A. RENTELN, *supra* note 1, at 95.

between principles and rights. There is no necessary connection."²⁴ She feels that the value of comparative research lies in the fact that ". . . where it is possible to demonstrate acceptance of a moral principle or value by all cultures, it will be feasible to erect human-rights standards. The reality of universality depends on marshaling cross-cultural data."²⁵ It is to be hoped that she will further develop this aspect of her work in future books.

She concludes this well-written and thought-provoking book by urging that ". . . the search for cross-cultural universals must be realistic."²⁶ One can only endorse her view that ". . . this approach offers the possibility of grounding international human rights in reality instead of naturalistic abstractions."²⁷ Given the inherent complexity of the situation, a pattern of complexity referred to earlier in this article, Renteln's search for a basis in reality should be a most interesting challenge.

The most important consequence of such research is highlighted by Renteln when she asserts:

The United Nations . . . can more readily and justifiably criticize the behavior of other nations if truly universal standards exist. Instead of chastising nations for violating standards which they have not ratified or which they have but do not care about, the United Nations could condemn them for ignoring their *own* standards.²⁸

Given the revitalization of the United Nations in the summer of 1990, there is very real possibility that it may be able to take more effective action against human rights violators in future. The world now has an opportunity to demonstrate and establish the relevance and validity of the United Nations. Whether the U.N. will fulfill present hopes, whether the Powers will, for once, allow it to act effectively and implement the aims of internationalism remains to be seen. The tragic, violent Gulf Crisis of 1990 has ironically opened a window of opportunity for the United Nations. Human rights advocates the world over can only wait and keep their fingers crossed.

24. *Id.* at 135.

25. *Id.*

26. *Id.* at 137.

27. *Id.*

28. *Id.* at 139.

