

# Anti-Imperialism: Generating Universal Human Rights out of Local Norms

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*Abstract.* To counter possibilities for human rights as cultural imperialism, (1) I develop a notion of human rights as culturally particular and valid only locally. But they are an increasingly generalizable particularism. (2) Because the incommensurability of different cultures does not entail an uncritical tolerance of just about anything, but rather allows for an objectivating stance toward other communities or cultures, locally valid human rights have a critical capacity. (3) Locally valid human rights promote a community's self-representation and thus allow for diversity, rejecting the coercive (mis)representation of a community or culture as incapable of representing itself.

Can the discipline of anthropology avoid "cultural imperialism," understood as one belief-system's coercive imposition on another? After all, anthropologists call attention to practices, most often in non-Western communities, regarded as unjust by many observers. Even if unintentionally, some anthropological studies implicitly invite criticism by outsiders intent on protecting those whom they view as victims. By "presenting the offensive practice in its full cultural context," the anthropologist may reveal its "latent functions in addition to its manifest or stated functions" and so "provide valuable information about how to control or prevent the practice" (Salmon 1997, 61). To be sure, anthropologists are subject to professional codes of conduct. To human research subjects they must declare sponsorship, research objectives and methods, and the degree of confidentiality available; toward material cultures they must promote preservation and protection. As individuals, anthropologists may feel bound not only by their professional culture but also by personal convictions that reject everything from misuse of their subjects to the legacies of colonial exploitation.

As a system of beliefs, social science, and anthropology in particular, makes claims understood to be generally valid. The discipline is a cultural construction that makes generally valid claims about other cultural constructions. Culture is a human artifact, a provenance always particular: Artifacts are the work of particular groups at particular times in particular places. Thus many cultural expressions are plausible only locally; most are only relative in their claims to validity. Cultural relativism entails moral relativism; at once empirically plausible, moral relativism is often politically and socially problematic with respect to the rights and obligations of groups and individuals. Among other social sciences, the discipline of anthropology wrestles with relativism when it confronts the Janus-faced quality of all cultural norms. In their regard for others' beliefs, practices, traditions, and material culture as inherently interesting and valuable, anthropologists promote respect for many of them. On the other hand, anthropologists are not morally indifferent to all that they observe in culture and community and are sometimes repulsed by what they observe. This Janus-faced quality found striking expression when, sixty years ago, what the United Nations claimed as universal human rights collided with what the American Anthropological Association interpreted as cultural imperialism. As the U. N. drafted a *Universal Declaration of Human Rights* in 1947, the American Anthropological Association—a professional organization dedicated to the study of profound and enduring cultural difference—disputed the notion of rights valid across all cultural boundaries. It sought to discourage the drafting committee accordingly: “How can the proposed *Declaration* be applicable to all human beings and not be a statement of rights conceived only in terms of values prevalent in the countries of Western Europe and America?” After all, “what is held to be a human right in one society may be regarded as anti-social by another people, or by the same people in a different period of their history” (American Anthropological Association 1947, 539, 542).

The discouragement rests on two assumptions and one entailment. The assumptions: that any rights-claim is necessarily a cultural claim; and that cultural “validity” can only be local because no single cultural system is universally embraced.<sup>1</sup> The entailment: that unless human rights are somehow a-cultural, some rights-claims will conflict with some aspects of the respective self-understandings of some cultures beyond the ones making such claims. If all rights are cultural constructs, then no right is culture-free.

Or so the American Anthropological Association argued in 1947. Fifty years on, it changed its position. It now claims that every person, regardless of native culture or local community, does indeed possess universal

<sup>1</sup> By “valid” I mean that which, within a culture, marks an idea, belief, or practice in ways that members recognize and, to varying degrees, identify with.

rights simply as humans, regardless of differences among human cultures so intriguingly significant as to justify a discipline of cultural anthropology (American Anthropological Association 1999). Yet the American Anthropological Association's statement provides no reasons as to how it is that all persons possess human rights regardless of culture. Nor does it explain why its arguments from 1947 are mistaken. It cannot tell anthropologists "whether their responsibility ends with describing the practice and placing it in a cultural context, whether they are obligated to protect the practice from outside interference, or whether they should help to end the practice" (Salmon 1997, 56–7). It cannot say whether "they have a further responsibility to protect, or at least not interfere with, this culturally sanctioned practice." It does not know whether "they must also consider their responsibility to cooperate with members of their own culture who are trying to end the practice on the grounds that human rights are being violated" (ibid., 57). The American Anthropological Association simply sought to dissolve by declaration what remains a philosophical and legal puzzle, but also a political problem, at least for human-rights advocates.

The philosophical puzzle arises for social scientific and humanistic explanations in their quest to defend non-idiosyncratic claims: If there are no value-free spheres, just how valid can even the most rigorously vetted social-scientific knowledge be? And if a morally neutral or value-free understanding of human behavior is impossible, what can we really know about ourselves as humans? The same puzzle arises for legal practice and jurisprudence: In the quest for legal justice, and given the necessity to interpret legal rules and other norms, and because interpretation is often perspectival in its possible validity, is justice possible only as something relatively valid? If so, how should we behave with respect to adjudication in cases in which, say, one right conflicts with another?

The political problem follows from the assertion that human rights can only be a particular, culturally specific vision of the individual's moral worth. It follows from the assertion that human rights can only be a very particular vision of the moral parameters limiting how the political community may or may not treat the individual.<sup>2</sup> The problem is that the very idea of human rights, as commonly understood, implies a claim to *universal* validity. How does a community realize the potential for universal validity of a cultural construct that is valid only locally? Not by coercion, to be sure: The human-rights idea would be contradicted by its coercive imposition. But what then?

I respond to these puzzles and problems with three claims. First, locally valid human rights are possible as "normatively thin" claims. Second,

<sup>2</sup> In a world of nation-states populated by citizens, what is specific to "human rights" in distinction to the "rights of the citizen" is that the former, even as culturally particular for those who embrace them, apply to the individual whether citizen, visitor, refugee, or stateless person.

locally valid human rights have critical potential. Third, locally valid human rights can promote a community's self-representation, thereby allowing for diversity in ways that preclude human rights as a form of cultural imperialism.

### 1. Particularisms: Thick and Thin

The idea of "human" rights invokes a claim to universal validity. But how can something universally valid be a matter of perspective and interpretation—which, as cultural artifacts, is all that human rights can be? The answer, I argue, rests on a notion of universal validity that is not *a priori* but rather contingent; an initially local validity that can become consensual over time. A locally valid norm can move toward consensus insofar as it moves from "thick" norms to "thin" ones. Both thick and thin norms can be codified and implemented through a legal system; both offer reference points for advocating particular behaviors and beliefs as well as for decrying others. But whereas thin norms are widely generalizable, thick norms are not. If generalized to others, thick norms would violate identities, communities, and ways of life in their integrity and self-understanding (Gregg 2003). Such violation is just what "cultural imperialism" refers to: one belief-system's coercive imposition on another.

With this distinction in mind, let us return to the dispute half a century ago between the UN drafting committee and the American Anthropological Association: the vicious circle of human rights. On the one hand, coercion offers itself as a means toward realizing the claim to universal validity, a claim raised by the idea of human rights. After all, if human rights are not valid for all humans, they are hardly "human" rights if by "human" one means "humankind" or "humanity." And if the idea of human rights is either rejected by many communities or understood by many in ways mistaken, coercion might seem a necessary, if unfortunate, means toward realizing the spread of human rights. On the other hand, as social constructions, human rights can be valid only locally, at least to begin with. To treat them as universally valid *a priori* is to pursue the human-rights project in a way that undermines it: coercively. Treating human rights as thick norms does just that: A coercive means to an end that abjures all coercion, hence a violation of one of the norms aimed at.

I would break this impasse by attempting universal validity as something embraced universally only contingently and eventually. Norms of *eventual* universal validity can be derived from particular cultural ideas and practices of validity *initially* local. From normatively thick local norms I would derive a version of human rights that is normatively thin. Human rights so construed are generalizable beyond local origins, yet without coercion. They begin as a matter of local norms whose validity can still be

more than local without being (immediately) universal.<sup>3</sup> Human rights are then neither discovered nor revealed; they can be socially constructed in ways that abstract from deep cultural particularism even as they themselves are culturally particular.<sup>4</sup> Not to be able to escape particularism completely does not condemn us to its deepest forms. Nor does it preclude us from moving toward consensual agreement on this or that set of norms.

As I will show, normatively thin human rights can be generated out of thick local norms: Thin can be derived from thick, or locally valid thick norms—civil, political, economic, social, and cultural—can become thin, or at least thinner.<sup>5</sup> This thick-to-thin process is not likely linear. It is likely an interplay of goals immediately realizable and goals that remain aspirational, that is, realizable only progressively. It is likely an interplay of non-justiciable claims that orient and direct political and social trends, and of claims that are justiciable. Human rights so derived can motivate people insofar as people are more likely to embrace human rights if rooted in local cultural and political understandings.

Before attempting this derivation, I offer three clarifications. First, cultures and political communities are not homogeneous entities; all cultures and all communities are marked by internal tensions, disagreements, and contradictions. But to reduce complexity, I will treat culture and community without regard to this aspect. Second, normative thickness is not culture-specific: Thick norms are found in all cultures.<sup>6</sup> There is for example nothing peculiarly Western or non-Western about them. Third, by “human rights” I mean more than the liberal individual rights championed

<sup>3</sup> New is not the claim that human rights involve aspects of cultural imperialism; e.g., Bell 1996; Ghai 1994; Kennedy 2004; Mutua 1996; Rajagopal 2003; new is my proposal for human rights as a normatively thin construction.

<sup>4</sup> Shue 1980, 178, note 13 formulates what might be thought a normatively thin human-rights culture as “basic human rights.” He means universal rights to security, subsistence and liberty, as rights without which no others are possible. This conception is normatively thin in the sense that it specifies the conditions (the three primary rights) for the plethora of secondary rights that might constitute a particular human-rights regime. But it fails to specify those secondary rights themselves.

<sup>5</sup> Mine is not the only approach persuaded that human rights come about through some kind of process. But it offers an account different from that of others who have argued that, to become a human right, a norm is first “idealized,” then conceptualized and/or positivized and finally “realized” or institutionalized; see Drzewicki 1995, 172; Eide 1999, 602–604; Donnelly 2003, para. 6.4; or that norms undergo a “process of more precise specification, starting with a broad, fairly abstract concept or ideal—for example, fair trial or social insurance—moving to more detailed conceptions, and finally acquiring precise institutional form (including, but not necessarily limited to, ‘positivization’ understood as justiciability)” (Donnelly 2007, 49).

<sup>6</sup> Even if human rights are, as some maintain, a peculiarly Western artifact, precisely Western human rights activists have been fighting for years for the right, say, of the unrepresented to represent themselves (via elections, freedom of speech, and so forth). The imperialism charge against human rights is usually leveled by non-Western governmental elites claiming every political community’s right to be free of foreign aggression, domination, and occupation but also of the claims of non-indigenous political views.

prominently in the American and French revolutions. The declarations of 1776 and 1789 each generated a notion of human rights as civil and political rights of the individual.<sup>7</sup> These rights are now often called the “first wave” or “first generation” in the history of systematic human-rights thinking. They are followed by the so-called “second generation” of ideas animating various socialist and labor movements in the last decades of the nineteenth century and the first decades of the twentieth.<sup>8</sup> A “third wave” conception followed from decolonization after the Second World War: notions of collective rights such as a community’s right to socio-economic development, a right to a safe environment (free from malaria or violence, say), or a “people’s” right to political and cultural self-determination.<sup>9</sup> The first generation is not the only one promoted by the West. The United States recognizes the first and some of the second; the European Union, the first and more of the second. But no state today wholly recognizes the third, and none recognizes all three as equally genuine human rights. Further, none treats social, cultural, and economic rights as immediately enforceable domestic law, although some regard them as aspirations or norms to guide public policy. Such non-recognition hinders the realization

<sup>7</sup> Civil and political rights find expression in the *Declaration of Independence* (1776), the *Déclaration des droits de l’homme et du citoyen* (1789), and in some of the amendments to the American constitution (particularly the *Bill of Rights* (1789) and the *Fourteenth Amendment* of 1868). These rights create a sphere of individual autonomy vis-à-vis the state: the right to private property but also to individual life, liberty, and, by implication, bodily integrity; and freedom of belief and expression, of correspondence, assembly and movement, and freedom from arbitrary detention and arrest. Together these various rights entail a far-reaching general right of legal equality of all citizens with respect to race, ethnicity, sex, language, religion, and national origin. In 1948 the United Nations General Assembly proclaimed a *Universal Declaration of Human Rights*, in thirty articles. The first twenty-three guarantee many of the civil and political rights of the great eighteenth century revolutions: Equality; non-discrimination; life, liberty, security; no enslavement; no torture or degrading treatment; recognition as a person before the law; equality before the law; remedy by a competent tribunal; no arbitrary arrest or exile; fair and public hearing; innocent until proven guilty; privacy in the family, home, and correspondence; free movement; asylum from persecution; a nationality and freedom to change it; marriage and family; private property; freedom of belief and religion, opinion and information; peaceful assembly and association; political participation and free elections.

<sup>8</sup> I mean social and economic rights, including those to employment, shelter, food, and various forms of welfare (unemployment insurance, medical care, and education, for example). Five articles of the *Universal Declaration* speak to such rights: Social security; desirable work and trade-union membership; rest and leisure from work; an adequate standard of living; education. Whereas the “first wave” would free the individual from public tyranny (such as oppression by the state), the “second” would protect the individual from private tyranny and in particular from the vicissitudes of the market economy.

<sup>9</sup> The *Universal Declaration* includes two such rights: A right to participation in the cultural life of a community, and the obligation to communal duties as essential to the individual’s free and full development. Other international instruments declare additional group-rights, including the self-determination of peoples (the *UN Charter*, 1945; the *International Covenant on Civil and Political Rights*, 1976; the *International Covenant on Economic, Social and Cultural Rights*, 1976); the legitimacy of anti-colonial struggles (*Declaration on the Granting of Independence to Colonial Countries and Peoples*, 1960); and freedom from genocide (*Convention on the Prevention and Punishment of the Crime of Genocide*, 1949).

of human rights inasmuch as civil, political, economic, social, and cultural rights are likely interdependent. They may even be indivisible. The idea of human rights is multidimensional, after all. A right to fundamental equality with all other human beings, for example, involves freedom from oppression along multiple dimensions: political, economic, cultural, and so forth.<sup>10</sup> Again, for reasons of complexity-reduction, I will not belabor this point.

### 1.1. *Human Rights: A Cultural Particularism*

A cultural particularism of only relative validity is normatively thick in that its validity is only local. It might find wider embrace the more normatively thin it can become. It might find universal embrace if it can become particularly thin. In the case of human rights, such an embrace would be a contingent construction by a plurality of political communities each with its own local norms. Thin local norms could be congruent in a number of ways. Some local norms might develop, as they were “thinned out,” into human-rights norms; some might be re-interpreted in normatively thin ways; perhaps some might even be revealed, from a normatively thin standpoint, as always having been human-rights norms.

If human rights are regarded as one normative particularism, then the task of the human-rights project is to generate agreement on human rights in widely different cultural and political contexts in which the advocated rights are attuned to local distinctions, peculiarities, and preferences. That is, the cultural particularism of human rights needs to be attuned to the cultural particularisms of the target community. “To be attuned to” means pursuing normative thinness as a particularism that is (a) cultural and (b) non-parochial. The goal is to construct human rights in just this sense.

(a) Thin norms are themselves cultural particularisms, of course, but they travel better than thick norms, which are also particularisms. But not all particularisms are equally “particular.” While thin norms can be abstracted from thick ones, thick ones can hardly be based on thin ones. Note the clear directionality here: Thin might be supported by thick, but thick cannot find support in thin. Indeed, some thin norms may be abstracted from thick ones, but they cannot move irretrievably far from thick norms. Further, some thin norms allow for some thick norms. Proceduralism, for example, is such a thin norm: It presupposes participants’ freedom and equality and

<sup>10</sup> The multidimensional politics of a moral human existence corresponds to the multidimensionality of human-rights epistemology in a sense captured by Merton 1973, 129: “We no longer ask whether it is the Insider or the Outsider who has monopolistic or privileged access to social knowledge; instead, we begin to consider their distinctive and interactive roles in the process of seeking truth.” Correspondingly, the observer’s or outsider’s perspective is not privileged over that of the participant or insider—but one does not need to “be Caesar to understand Caesar” (according to Georg Simmel and Max Weber; see Runciman 1978, 66).

an environment relatively free of systematic exclusion, fear, violence, and subordination that might undermine participation. It is morally minimalist or even amoral because it entails no particular outcome. An organization like Amnesty International offers a different example of moral minimalism. It appeals to a repressive regime for the release of particular political prisoners without demanding that the regime accept the organization's comprehensive worldview. Strategic success is possible precisely on the basis of such moral minimalism.

On the other hand, many a thick norm might be developed into some thinner alternative. For example, a norm that recognizes, in terms of freedom of belief and practice, religion X but no other faiths has, in that very recognition of the freedom of conscience for one religion, the potential to recognize that freedom for all religions: To move from recognizing the conscience of *one* religious community to recognizing the idea of *any* community's freedom of conscience. Similarly, a norm that recognizes all men equally as humans but not women has the potential, in its recognition of the very idea of equality, to recognize *both* sexes equally as humans.

In this sense, inside most any particular culture is potential for a human-rights consciousness—if the human-rights idea can itself be understood as a cultural particularism, but one that is normatively thin, and if, as I argue, many a thick norm might be developed into some thinner alternative. Particular cultures have specific customs, histories, and memories as well as very particular conceptions of the social good. The idea of “humanity” (the idea of all human individuals taken together) is not specific in this sense. And it is normatively thin: After all, even as each person is always already embedded in particularist norms, each is simultaneously part of humanity. The notion of humanity is a cultural artifact, but one normatively thinner—capable of being more inclusive—than the cultural artifact of, say, Western literature or Islamic jurisprudence or Confucian philosophy.

On the other hand, members of the one are always members of the other; members of the human race each participate in these or those particular thick cultures even as there is no global thick culture. A thick culture of human rights might be spread by voluntary adoption. But this seems exceedingly unlikely inasmuch as it would require a far-reaching homogenization of the world's cultures and communities. Even advocates of normatively thin human rights likely would reject reducing geographical regions and their inhabitants to a monolithic or internally undifferentiated culture, religion, or mentality. Homogenization is less likely to further human rights than to destroy them inasmuch as persons denied various forms of identity, including cultural identity, are thereby denied the capacity to bear rights. I develop this argument in later pages where I advocate a human right of self-representation and cultural self-determination.

(b) Human-rights culture, even as normatively thin, remains a cultural particularism. But cultural particularism as such need not defeat cosmopolitan goals. Even cultural understandings distinct one from the other in their particularity are not immune from one another's perspectives and criticism. As Edward Said suggests, the "answer to Orientalism is not Occidentalism. No former 'Oriental' will be comforted [...] to study new 'Orientals'—or 'Occidentals'—of his own making" (Said 1994, 328). A "former Oriental" can forbear subjecting others (including the subjectors) to what he or she has been subjected to. That is, even if all possible standpoints are ethnocentric to some extent, ones that are less so can become non-parochial particularisms.

Not possible is some transcendental meta-viewpoint allowing for a completely non-ethnocentric comparison of two or more different viewpoints. Such a vantage is not necessary, anyway, if particularism can be non-parochial—and standpoints not deeply ethnocentric *can* be non-parochial. Such a standpoint will not be *universally* valid, but it need not be; it is enough that it can be *more-than-locally* valid, valid as normatively thin human-rights culture. Example: Perhaps no culture is without some elements compatible with human rights in the sense of the idea of reciprocity as central to justice. And perhaps no culture is without some elements compatible with human rights in the sense of all cultures' sensitivity to human suffering. Further, no culture renders its members wholly insensitive to emotional and physical abuse perpetrated against others: Victims of human-rights abuses "generally resent what is done to them" and "would rarely concede that, because such behavior is common in their country, their tormentors are acting quite properly" (Scanlon 1979, 88).

As I claimed earlier, not all particularisms are equally "particular." Even as a particularism, the human-rights idea can rise above parochialism because, unlike nationalism, capitalism, or democracy—to name three of the most powerful phenomena of modernity, each of somewhat particular cultural origin—it is not *au fond* a response to particular contingencies of particular historical epochs.

### 1.2. Normative Thinness as More than Parochial yet Less than Universal

The particular cultural origins of human rights and their cultural embeddedness need not preclude their eventually gaining a status of more-than-local validity, even universal validity (again, as an empirically observable, historically contingent development rather than something *a priori*). The thick-to-thin process is open-ended and requires no extremes. That is, some culturally particular norms can become less thick and more thin, or less parochial and more cosmopolitan, without presupposing some endpoint of "absolute thinness" or "complete cosmopolitanism" or otherwise entirely

free of particularism (notions of doubtful coherence, anyway). A dynamic work-in-progress has no fixed and perfect endpoint; it is always pragmatic, never Platonic. This process is open-ended in the sense of the “reiterative activity” of architects who, according to Michael Walzer, do not aim at designing buildings so “right” as to render all future architecture unnecessary: “Rightness is relative to the architectural occasion: The needs that the building is intended to serve, the materials at hand, the reigning aesthetic idealism” (Walzer 1994, 52). Each architect may attempt the “right” building but not the same “right” building or not a building “right” in the way that other buildings might be “right.” Each, inevitably, falls short (perhaps each in its own way), and each building “immediately becomes an object of critical reflection and debate—models for the future that are imitated or revised or rejected. Indeed, they are imitated *and* revised *and* rejected, in endlessly reiterated architectural efforts with endlessly differentiated results” (ibid.).

Pretensions to anything more than this open-ended quality would only hide and deny cultural particularism.<sup>11</sup> And as hidden and denied, particularism can function in ways hegemonic and imperialistic. It can assert the speaker’s moral superiority and thereby legitimize the speaker’s aggression toward the addressee. By contrast, the thick-to-thin process does not deny human rights’ constitutive imbrications with culture—which is to say, it does not deny the moral relativism of human rights. But the moral sky does not fall for the moral relativist; on the contrary, relativism allows for human rights, constructed as culturally particular, as more than just locally valid. Relativism need not, as James Nickel says it must, deny the “possibility of trans-cultural moral criticism that appeals to international human rights to create a shared standard of argument” (Nickel 1987, 71). (I address the critical potential of locally valid human rights in section 2 below.) Relativism *can* create shared standards. It can do so because it can be open to cultural consensus as long as that consensus is achieved by the participants themselves. And it always already has in some cases. Given a high degree of overlap and hybridization among various cultures, some cultural claims might well be “universal” in the sense of describing cultural phenomena very widely embraced—the validity of natural scientific claims, for example, at least as a body of information taught in local schools and employed by local engineers and physicians.

### 1.3. *Human Rights as a Cultural Particularism Expandable Without Coercion*

So reconceived, the project for human rights is not, as usually thought, to establish a relationship between the normative universalism of human

<sup>11</sup> Cheah and Robbins 1998 chart developments toward a “new cosmopolitanism” they take to be less vulnerable to my critique; I remain unpersuaded.

rights and the normative particularism of a given political community. Human rights are now seen to be one particularism among others. Human-rights advocacy is advocacy of one particularism over others: of an increasingly generalizable particularism (human rights) over particularisms very difficult to generalize for any number of reasons (including particularisms such as a tradition of female genital mutilation or child labor or prostitution legitimized by filial duty toward [impoverished] parents).

If it is to advance the cause of human rights, a relationship between two particularisms cannot be coercive. Coercive implementation negates the normative foundation of the very human-rights culture it would found. The logic of this claim can be made clear in counter-argument. Kant offers an indirect counter-argument. (The argument is “indirect” because he is speaking with respect to political community rather than human rights; but the structure of his argument applies to human rights.) He sees no self-contradiction in the coercive generation of a non-coercive polity. Because a constitution, as the distributive unity of the “will of all,” by itself cannot preserve peace, Kant posits a need for the collective unity of all. This unity is not state-based but global; it is a kind of generalized civil society: “Before so difficult a problem can be solved, *all men together* (i.e., the collective unity of the combined will) must desire to attain this goal; only then can *civil society* exist as a single whole. Since an additional unifying cause *must therefore overrule the differences in the particular wishes* of all individuals before a common will can arise, and since no single individual can create” the unifying cause, the “only conceivable way of executing the original idea in practice, and hence of inaugurating a state of right, is *by force*. On its coercive authority, public right will subsequently be based” (Kant 1997, 117; emphases added). I would re-formulate this passage in terms of my concern with human rights, but with the logic of Kant’s argument. It would read: A coerced unity at the highest non-local level is the precondition for a plurality of local communities that, while still differing from each other, can all be human-rights communities. That is, the idea of human rights can be a local norm in every one of these different communities only if that idea is established—coercively if necessary—prior to or as a condition of an allowable local community.

By Kantian logic, then, a coercive approach would be needed for human rights conceived as thick norms to be imposed in place of other thick norms. And this is just what *normatively thick* human rights entail: Rights uniform across diverse communities because they will have imported their own culture into each of these communities. By contrast, my proposal for human rights conceived as *thin norms* allows that different communities can each realize an embrace of human-rights as a kind of *open culture*. As open culture, human rights can assume many of a variety of particular forms, depending on their specific venue and the particular political

culture in which they might be enforced.<sup>12</sup> In short, normatively thin human rights do not require coercive promotion. They entail prodding, perhaps, but not coercive enforcement or imposition, even in a world of politics, power, and social stratification.<sup>13</sup>

## 2. Critical Capacity of Local Norms

This capacity for critique is central to the argument for human rights as social constructions initially only locally valid. The possibility of critique means that the putative incommensurability of different cultures—as the American Anthropological Association claimed in 1947, challenging the UN’s conception of universal human rights—need not entail an uncritical tolerance of just about anything. For it need not entail the impossibility of intersubjective meaning.<sup>14</sup> “Intersubjective” is cross-communal and trans-cultural communication as well. To be sure, the notion of locally valid human rights does entail the *partial* subjectivism of a culture’s own horizons; the *partial* parochialism of a culture’s beliefs; and the *partial* provincialism of a culture’s claims.<sup>15</sup> The point, however, is that relativism, subjectivism, and parochialism need not defeat the project for human rights any more than the project is defeated by the contingency, cultural embeddedness, or contextual specificity of any given culture or any given political community. They allow for local consciousness of some independence, critique, even opposition. They allow it through a self-correcting normative perspective. I will elaborate these features as aspects of an “objectivating stance” toward other communities or cultures.

The relativism of locally valid human rights does not preclude the possibility of creating shared standards of agreement and judgment, or of plausible criticism across political communities or cultures. This possibility rests on the capacity of locally valid human rights for what I will call “indigenous critique.” By “indigenous” I refer to a normative standpoint

<sup>12</sup> They cannot, of course, assume all forms. To be coherent, a pluralistic approach, including cultural relativism, must have limits even as people may disagree as to where to draw them. The Taliban’s systematic discrimination against women would not be compatible with any plausible form of human rights because it effectively excludes half of humanity from membership in the very “humanity” to which the idea of human rights is presumably addressed.

<sup>13</sup> Put differently: An imperialist and an anti-imperialist would affirm diametrically opposite positions. From a normatively thin standpoint, the anti-imperialist would deny *only* the acceptability of coercive enforcement of human rights, not the acceptability of their non-coercive promotion.

<sup>14</sup> A point that Ricoeur 1969 made long ago.

<sup>15</sup> For human rights to be more than a parochial culture without being cosmopolitan is akin to Parekh’s (2000, 113) notion of a political liberalism capacious enough to comfortably include nonliberal elements. The obverse side of this argument: The promise of Rawls’ notion of a decent hierarchical society is that of a nonliberal society that can nonetheless be tolerant.

internal to a community or culture. If norms are always culturally embedded, then this or that norm is always vulnerable to violation, internally or externally. A culturally *internal* violation violates a right recognized by the violating culture itself; an *external* one violates rights not recognized by the violating culture. And in terms of culture, something internal is likely something indigenous. Hence an internal violation is likely a violation of the indigenous. Correspondingly, an internal critique is a critique of something indigenous to the community or culture in question.

If construed in normatively thin ways, human-rights norms can generate a normatively thin standard by which to evaluate indigenous practices, as I will now show in terms of an "objectivating stance." The same standard would allow a human-rights standpoint to identify violative practices as culturally internal. Such an immanent critique would seek to advance human rights locally (not universally), and could do so without coercion or imperialism. In so doing, it could deploy human rights as standards local rather than universal.

A rights claims can trump local understandings by a warrant itself normatively thin. For example, publics might hold each other accountable for observing commonly accepted rule-formulations. Human-rights-publics across the globe might establish interconnections through partially shared political understandings, moral orientations, and perhaps even ways of life, if they discovered (or were alerted to fact) that in some ways they are similar to some other communities in some beliefs and some practices. To avoid coercion and imperialism, members of each community might not hold members of *all* other communities accountable but only those that shared the same normatively thin conception of human rights. They might do so even as they denounced those communities they find wanting, for example, on the grounds that no one should be denied human rights because of accident of birth in an illiberal, intolerant culture or polity.

Further, if, under conditions of normative relativism, a political community is capable of *internal* critique, it is also capable of reasonably criticizing *other* political communities. It is possible as one particularism taking an objectivating stance toward another. That is, any culture has a capacity to reflect on itself, to assume a hypothetical stance toward itself. Its members can take such a stance toward their culture's traditions, understandings, and preoccupations. To be sure, a culture cannot jump over its own shadow: Its hypothetical stance toward itself will still be internal. It will still describe itself in its own vocabulary. But if one cultural particularism can assume an objectivating critical attitude toward itself, then it can assume such an attitude toward other cultural particularisms. In short, a normatively thin human-rights culture does not preclude an objectivating stance of one political community toward others.

### 2.1. *Critical Capacity by Means of an Objectivating Attitude*

When a human being responds to another person, he or she can only do so because he or she has learned, through the life-long process of being socialized into social life, to respond to a "generalized social other." That is, in the theory of George Herbert Mead: The "individual experiences himself as such, not directly but only indirectly, from the particular standpoints of other individual members of the same social group or from the generalized standpoint of the social group as a whole to which he belongs" (Mead 1967, 138).

The "generalized" aspect of the "generalized other" is its universal quality: It refers to all human others as such. Humans regularly think in terms of universals: The idea of a human being as such, for example, or of a right as such (ideas that come together in the idea of "human rights"). Intersubjectivity in the form of discourse depends on our capacity to share such universals as commonly understood meanings. "To share" means that participants each take the attitudes of others toward him- or herself, "crystallizing all these particular attitudes into a single attitude or standpoint which may be called that of the 'generalized other'" (ibid., 90). Each of us can be affected by the attitude of any particular person because each of us has learned to be affected by "persons as such," the "generalized other." Each of us can generate in others our own attitude in part because that other person has similarly learned through socialization to take the attitude of the generalized other. One has the same reaction, or would behave the same way, as most any other person in similar circumstances. For example, the institution of private property rests on the mutual recognition of property rights; such recognition is a matter of every member of the community taking the attitude of all others.

A shared set of habits of response is necessary for social cooperation. For example, under various circumstances all members of a community likely react the same way to the individual, say, a thief: Theft is the same phenomenon whether committed by *this* individual or *that* one. But this shared set of habits does not extinguish individualism: The "way in which individuals act under specific circumstances gives rise to all of the individual differences which characterize the different persons" (ibid., 198).

The socialization of the individual is the inculcation of patterns of belief and behavior promoted by the socializing community and culture. Some of the patterns are universally shared, such as recognizing other human beings as human beings rather than as morally or intellectually inferior animals. Different individuals thus share similar patterns of expected behavior and anticipated experience. Patterns within the individual more or less reflect patterns within human interaction in general. Again, the isomorphic quality of that reflection allows for wide differences and variations among individuals and for distinctive individuality: Different

persons are affected by different aspects of the pattern, or are affected in different ways by the same aspects; after all, each approaches the pattern from a unique viewpoint "within the whole process of organized social behavior which exhibits this pattern" (*ibid.*, 202). Here we have a kind of perspectivalism at the level of knowledge. Mead asserts a relativism also at the level of the individual's "normative constitution." That is, individuals have social values that attach to him or her in ways peculiar to him or her, even as those values are social not private phenomena. On the other hand, no one is simply or necessarily bound by these values, and in principle anyone can criticize them, reject them, or otherwise entertain alternative values. We can do so "only insofar as we can call out in ourselves the response of the community; we only have ideas insofar as we are able to take the attitude of the community and then respond to it" (*ibid.*, 180). The individual assumes in him- or herself the attitude of this or that group, responds to that attitude, and may alter that attitude in the way he or she responds to it. In this way, the individual's attitude may affect his or her social environment.

This reciprocity is the foundation for an "objectivating stance" that possesses critical potential. Self-consciousness inheres in the individual's ability to take the attitude of others, indeed of others who themselves have the same ability, such that responses within a community are patterned in the sense of raising common expectations of each individual of others, expectations justified because often enough met. The individual views him- or herself from the perspective of this or that person, and these perspectives together endow him or her with a certain social self. To see him- or herself in this way is to be aware of one's differences with others. Consciousness of differences between the individual's viewpoint, circumstances, or behavior and that of another individual raises questions of comparison, such as: Which is more preferable and by what criteria? Depending on how such questions are answered, the individual may find points to criticize either in his or her case or in that of others (or in both). From criticism, change sometimes follows. One imagines an alternative to the status quo of one's community by engaging one's own opinion and criticizing those of others.

Mead offers here a way of seeing how one cultural particularism, such as one culture or community, can assume an objectivating stance toward another: By taking the attitude of the other and thereby relativizing one's own attitude. This is to move from moral maximalism to a goal-oriented moral minimalism whereby "no particular maximum is the sole source of the moral minimum, let alone of all the other maximums" (Walzer 1994,13). This is a normatively thin standpoint. For to assume a moral minimum is to begin from a deep particularism and to move in the direction of a norm that is less particular, more generalizable. It is to work within a tradition even while reaching beyond it, through self-interpretation, indeed through a kind of immanent critique. It is to call into question the local and

indigenous; it is to expose tensions and contradictions internal to a thick perspective yet without abandoning the local, the thick, and the particular.

A political community can work *in its own way* toward a culture more oriented on human-rights, and on human-rights more thin than thick. While thick norms remain at the center of all cultures and political communities, in each case the “growing” of local human-rights ideas, attitudes, and orientations can lead to the spread of a normatively thin human-rights culture. Such a culture would not constitute a cosmopolitan language but rather a state-based one of “networking mutually intelligible and translatable native languages of emancipation” (Sousa Santos 2002, 227) into each other. Then human rights can spread internally, community by community, perhaps sometimes even state by state. To be sure, “native languages of emancipation” will not all conceive of emancipation in the same way. They may well overlap to some extent, however, inasmuch as the putative civil and political rights of the individual are related inextricably to putative social and economic rights as well as to putative cultural rights.

Such a learning process might contribute to rendering human rights more and more the everyday language of an increasing number of political communities, despite all their diversity, across the globe. It might contribute to a community’s own political goals. Worst-case scenario: A community might regard human rights as a very distant goal. Best-case scenario: A community that develops some of its thicker norms into thinner norms may discover that, like Moliere’s *Bourgeois Gentilhomme*, it has been speaking “prose” (human rights language) all along. Or it may persuade itself that reaching the point of speaking and acting on human rights language is not too distant from what the community currently finds culturally acceptable.

### 3. Anti-imperialism by Means of Local Self-Representation

“Human-rights imperialism” can be thought of as either Orientalizing or as Occidentalizing. By “Orientalizing” I mean an asymmetrical relationship in which the representing culture assigns, and the represented culture merely resigns. It resigns itself to being more or less marginalized by the representing culture. The coherence of such representation depends on the representing culture; likely it provides the most powerful, perhaps the only, version available to its judges. Representation in this sense simply ignores, dismisses, or represses the self-understanding of the represented culture. A normatively thick human-rights approach might Occidentalize political liberalism just as it might Orientalize the illiberal Other. A normatively thin human-rights understanding would not Orientalize Western civilization and its notion of human-rights as an ideological fiction. Nor would it Occidentalize non-Western civilizations and their respective notions of

human rights. It would not dismiss human rights goals—such as habeas corpus, education for women, freedom from torture, and prohibition of slavery—as merely one more imperialism.

Orientalization and Occidentalization are forms of representation. Each misrepresents in the sense of “cultural imperialism”: one belief-system’s coercive imposition of its own thick norms on another, usually disguised as a moral particularism pretending to universal validity. In this sense, human rights construed in normatively thick ways then “represent” other cultures as incapable of representing themselves: Human rights thus orientalize them. So construed, human rights implicitly represent themselves as morally entitled, even compelled, to advocate this particular human-rights perspective throughout the world, sometimes perhaps by coercion if need be, that is, regardless of local preference and understanding.

To be sure, advocacy is not inherently imperialistic; but coercive advocacy can be. Human rights constitute such advocacy if understood to imply their own moral duty, even prerogative, to reform and manage political communities with different moral orders—precisely because those communities do not satisfy the standards, do not meet the cultural preferences, of the representing culture (in this case: the culture of human rights as thick norms). Human rights of this sort cast other understandings, perhaps even the communities that hold them, as morally needy, sometimes to the point of “needing” intervention by a thick human-rights culture.

Casting or representation of this sort is a power relationship. It not only distinguishes the speaker’s world from that of the addressee; it creates a “directionality,” a one-way discourse from the representing party to the one represented.<sup>16</sup> Human rights then certify the speaker’s moral superiority: Cultural preferences for human rights are morally superior to all competing cultural preferences. Representation assumes a patronizing stance toward what is being represented, like an outsider telling locals what their moral worth is. Marx captures this sense of locals who cannot represent themselves (“cannot” in the sense of “are incapable of”); they can only be represented by others (Marx 1975, 307).<sup>17</sup> Because the “aggrieved” or “benighted” cannot represent themselves, thick human-rights culture must speak for them. Human rights of this sort manipulate targeted communities or cultures already in the way it represents them.

<sup>16</sup> “One way” means a monolog, not a dialog. A monolog precludes, for example, deploying the “resources of the Islamic tradition and question[ing] many of the liberal political categories and principles,” rejecting “liberal conceptions of individual autonomy, human rights, and individual freedom” for an Islam interpreted as opposed to such conceptions (Mahmood 2004, 75). I say (controversially to some Muslims): “An Islam,” that is, a particular version among all the versions that make up “Islam.” From this perspective, no one version may be taken to preclude alternative versions.

<sup>17</sup> The German original reads: “Sie können sich nicht vertreten, sie müssen vertreten werden.”

Representation of this sort contains within itself the potential for force in the sense of unilateral intervention. A putatively universally valid cultural claim may sometimes justify unilateral intervention into the cultural understandings and practices of particular communities. Such a claim would have the target community transform itself, or would itself transform it: to be more compatible with human-rights conceived as thick norms.

The core, then, of “human-rights imperialism” is the coercive (mis)representation of the target community or culture. It is an outsider telling the locals who they are and how they must change to suit the standards of—whom else?—the outsider. It constructs the represented as incapable of self-representation, like a puppet, without capacity for understanding grand moral imperatives such as human rights.<sup>18</sup> Represented as incapable of representing itself, a political or cultural community can develop a sense of its identity only negatively. Its moral worth is assigned by the representor: Thickly construed human-rights that reject and condemn other cultural communities and render mainly negative verdicts on the represented. If the only standpoint that counts is that of the representor, then the represented cultural and political communities can hardly count on a favorable verdict from a representor who self-appointedly sits in judgment on them.<sup>19</sup>

On the other hand, human-rights thinly construed can be compatible with the principle of a political community’s self-determination. For localism not universalism means normative relativism not normative universalism. Relativism has a (not unlimited) capacity for respecting the autonomy of political and cultural communities. Respect for autonomy is respect for diversity, though in one sense but not another. It is not respect for diversity in cases where human rights would be violated. As a matter of self-coherence, the idea of human rights must reject its own violation, hence also any moral conceptions incompatible with human rights. The proselytization of religion *X* in a region where religion *Y* is widely practiced, or an institutional requirement that pupils learn language *Z* rather than their mother tongue, would diminish diversity with no apparent benefit to the targeted community. By contrast, diversity is served by deploying, say, Western medicine to cure diseases outside the West, for

<sup>18</sup> A people so represented might be thought analogous to individuals diagnosed as mentally ill: Both lack the moral capacity to be a member of the community (of citizens, or of nations) and hence both might be thought to warrant paternalism; see Campbell 1986, 144–5. If moral lack is defined in terms of norms not shared by the person (or society or culture) being judged, may socially conditioned standards of “normality” then justly be imposed on the person (society, culture) who does not regard his or her condition as undesirable? The criteria for paternalistic non-voluntary treatment might be narrowed. In human-rights terms: One might advocate unilateral intervention to stop grave violations of residents’ human rights but not to reengineer a particular culture and society.

<sup>19</sup> For example, a dominant culture *marginalizes* a weaker one by claiming to understand the subject culture in a way superior to that culture’s self-understanding (see American Anthropological Association 1947, 540). And a dominant culture *manages* a weaker one by asserting that the subject culture cannot know what is best for itself.

doing so preserves lives and thereby local culture and ways of life. Respect for autonomy is respect for diversity even when the reduction of diversity is the insider's goal: When the local community freely welcomes non-native institutions, beliefs, or practices. Here the local community's self-generated loss of diversity cannot be objected to by outsiders.<sup>20</sup>

#### 4. Conclusion

John Rawls articulates a common understanding of human rights: They "do not depend on any particular comprehensive religious doctrine or philosophical doctrine of human nature." Rather, they are culturally neutral. What's more, they are universal as the "necessary conditions of any system of social cooperation" (Rawls 1999, 68). By contrast, I have argued that the human-rights idea is a particular cultural preference. At any given time it distinguishes "us" from "them." It does so in the sense of: "We human-rights partisans" in distinction to "those partisans of human-rights differently conceived," or to "those who conceive of human-rights as universally valid," or to "those with different cultural preferences," or "those who reject the human-rights idea."

But the human-rights idea does not distinguish liberal from non-liberal communities. On this point Rawls agrees, if only in part: He argues for "preserving significant room for the idea of a people's self-determination," a claim that does not distinguish between different kinds of communities deserving or possessing a right to self-determination (Rawls 1999, 61). But he implicitly construes political liberalism in terms of universal validity: "Liberal peoples must try to encourage decent peoples and not frustrate their vitality by coercively insisting that all societies be liberal" (Rawls 1999, 62). Even as Rawls makes clear that human rights do not require a liberal organization of society, liberal peoples are here the tutors; liberal society is here the standard against which other societies are measured in what might be called their "present capacity for human-rights."

A normatively thin approach configures the relationship between the liberal West and the non-liberal parts of the world differently.<sup>21</sup> The

<sup>20</sup> Sometimes the preservation of diversity is the outsider's goal, not the insider's.

<sup>21</sup> The notion of cultural superiority is not peculiarly Western. Human rights conceived as a Western cultural particularism is Western because it emphasizes, say, individual autonomy over group-rights, or it favors political liberalism over other conceptions of political community. After all, while major non-Western cultures claim cultural superiority for themselves (Chinese, Indian, and Islamic, among others), they expressly do not do so on the basis of political liberalism. Human rights proponents from all cultures criticize some Western governmental and economic behaviors as human-rights violating. The grounds of such criticism do not presuppose liberal democratic culture. And some social theorists, harking back to *L'Année Sociologique* during Émile Durkheim's editorship in the first two decades of the twentieth century, interpret the need for universal norms of human decency (i.e., human rights) to be a critical response to Western civilization with its liberal capitalist economics.

problem of human rights is Western when the actors are Western; the problem is non-Western when the actors are non-Western. For “them” to become more like “us” would be for them to *embrace human rights as thin norms*.<sup>22</sup> But to do so they would not have to *become like us culturally in some deep sense*: To embrace human rights, people need not adopt liberal democracy, Enlightenment reason, or Western modernity. They might constitute nonliberal human-rights communities instead. The liberal West might expose them to normatively thin human-rights culture and to cultural cues encouraging the adoption of human-rights norms—but on local, not universal or otherwise non-indigenous grounds (from which point their normative force might one day extend to all communities and bind all). And some forms of local change, change that would aid the local human-rights project, are not always themselves deeply cultural: A regime’s callousness to the populace’s welfare, on the negative side or, on the positive, procedures for political bargaining and compromise that does not require the participants’ allegiance in ways that might compromise the participants’ identity and self-respect. That would be human-rights advocacy without cultural imperialism.

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<sup>22</sup> Sometimes “compliance with [some] human rights norms may require not a change of practices but merely an expansion of existing practices” (Nickel 1987, 78). Or a society whose religious beliefs mandate respect for the individual, or tolerance for persons of other beliefs, or equal justice for all, provides plausible bases for enhancing a normatively thin conception of human rights. Hollenbach 1982 suggests as much in the case of Islam. Consider as well NGOs, some of which have international memberships from different socio-political “cultures” in the sense of ones advocating equality for women, for homosexuals, or environmentalism.

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