One of the most persistent aspects of the modern human rights debate has been the controversy between those moral universalists who think that the human rights—as interpreted by the liberal Western philosophers, defended by the liberal Western jurists, propagated by the liberal Western politicians, and adored by the liberal Western press—reflect a universally valid morality which ought to be adopted without qualification by all human nations all over the world; and those moral relativists who, on the contrary, think that the human rights morality is a cultural product which does not apply to all societies, not at least in the same way in which it is pertinent to modern Western society.

Even if it is often implicitly assumed that the difference obtains between Western universalists and non-Western relativists, it is not necessarily so. Not even all Westerners believe in the universal validity of their prevalent morality: relativism is, after all, part of the common stock of Western intellectual history ever since the ancient Greeks\(^1\). It is often said that the modern

\(^1\) The sophists are often mentioned as early doctrinal relativists. But also a philosopher like Aristotle, who clearly opposed moral relativism, propounded a political relativism which made the laws of a city depend on e.g. its environmental circumstances.
history of relativism begins with Montesquieu’s theory according to which different climatic, economic and cultural conditions quite naturally lead to different moral and political norms. Where the human rights are concerned, a relativist to-day would point out that they may have been an appropriate response to the historical circumstances of the West and they may still continue to be a suitable method of coping with the present problems of Western liberal society. Nevertheless, history clearly shows that the human rights have not spontaneously emerged in other cultures of the world. Quite obviously their circumstances have been different, and they have developed quite different moral strategies for coping with the problems pertinent to their kind of society. The human rights are therefore for them an alien solution which answers the wrong problems. If so, people who adopt the alien doctrine of human rights run the risk of being alienated from their own culture and losing the chance to live their lives according to their own values. From this perspective an indiscriminate export of human rights ideology can be seen as a kind of cultural imperialism which threatens the integrity of non-Western cultures and promotes a worldwide hegemony of Western individualism, liberalism and consumerism. When Western relativists present arguments like this, they are often criticized for naïveté: blinded by the beauty of that which they cannot properly understand they fail to see the reality which has little to do with the polished official façade adorned with a suitable selection of mystified traditional doctrines. When again Eastern relativists argue in this manner, they are equally often criticized for playing ruthlessly into the hands of immoral tyrants and unjust governments which merely use the traditions of the land as a plain pretext for personal gain or continued oppression.

2. Montesquieu’s foundations are universalistic, though: he sees the local differences as reflections for a universal human normativity, a law of nature, which takes various appearances in different circumstances; see De l’esprit des Lois, I, 1-3.
On the other hand, even if non-Western critics from a defensive point of view may argue that there is no relation between the Western human rights doctrine and their own culture, they are not for that reason alone relativists inside out: it is quite normal that each side to the dispute believes that he possesses the universally valid moral truth. It would be a very interesting topic to investigate into the reasons why non-Western cultures rarely have a keen interest in proselytizing among other nations. Perhaps it has to do with faith in their own superiority: members of alien cultures perhaps appear for them uneducated, even uneducable, barbarians who are not fit to live by the elevated standards of local traditional morality. Indeed, as I have in some detail argued elsewhere, critics of Western human rights doctrine quite commonly argue from their various cultural viewpoints that the human rights have immoral implications, or that they lead to a deterioration of popular morality. Westerners, too, argue sometimes equally elitistically that non-Western societies are not quite mature for the human rights, wherefore less stringent standards ought to apply to them than to us. This notion conceals the implicit assumption that it is precisely the Western liberal society which represents the epitome of historical development.

The task of the present essay is not to find out whether the liberal human rights doctrine is universally valid or not. Instead we shall focus our attention on a more general problem regarding the controversy over relativism at large: is there a way in which cultural relativism can be a plausible starting point and platform for a meaningful intercultural discourse on human rights-related issues? We shall first outline some of the most common arguments brought forward in favour of acknowledging that

cultural differences are relevant for the evaluation of human rights doctrine. Then we shall discuss a number of usual arguments produced by universalists in order to show that relativism is an unsound position. The results of this discussion will hopefully lead us to understand that a position beyond the superficial opposition between universal and relativism is necessary if we are to find a genuine and fruitful basis for a mutual understanding between different moral cultures.

WHAT IS CULTURAL MORAL RELATIVISM?

Moral relativism basically observes that different people have different moral beliefs, and explains this with reference to differences in their conditions or circumstances. An extreme form of relativism is subjectivism, according to which each human subject has his own moral beliefs which are true for him and for no one else. More moderate relativists talk about social conditions, educational factors, cultural affiliation and the like as determinants of a person’s moral beliefs: each person belongs to a context which to a great extent defines the relevant moral questions for him. Philosophical hermeneutics—inasmuch as it believes that understanding is ultimately based on an unarticulated foreknowledge shared between the members of a group who understand each other—is a sophisticated version of relativism. In the present essay we are primarily interested in the claim that cultural affiliation determines one’s moral beliefs so that members of different moral cultures therefore have different criteria for moral truth. Moral universalism, on the contrary, will claim that in the last analysis, despite apparent differences, there is one true morality which is common to all men regardless of their cultural affiliation or other contextual conditions.

But even if culture-bound differences in actual moral beliefs exist, various explanations for such differences offer themselves
which are ultimately compatible with moral universalism. David B. Wong mentions several of them\(^4\): firstly, difference can depend on error or ignorance. This is a point made by innumerable authors in all times. Let me only mention St. Thomas who often points out that something is not understandable to the "rude". Ignorance or error can relate to either fact or value. Secondly, difference can depend on different factual conditions and circumstances. This point has a long history in political theory ever since Aristotle fathered the theory of "mixed government"\(^5\) which was later passed on to future generations by Cicero\(^6\): a good government was one that employed a mix of methods which best answered the demands placed on it by political, economic and natural circumstances. Thirdly, it may be accidentally impossible with our present knowledge and powers to resolve all moral differences in a definite manner, but even so, one true morality can exist despite apparently irresolvable differences in opinion. A genuine relativism should deny all these explanations. According to Wong\(^7\), such a relativism should assume that a cultural environment can directly influence the degree in which a person finds an activity rewarding and encourage him in some projects of becoming good but not others. This would not entirely preclude the possibility that there is a fixed human nature which is invariant in all cultural environments, but it should be assumed that even if we had such a nature it would be insufficiently determinate to justify one determinate good which all rational and informed persons would find equally rewarding regardless of cultural affiliation.

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4. See WONG, Moral Relativity, University of California Press, Berkeley and Los Angeles, CA., 1984, p. 117 pp. Wong substitutes the term "absolutism" for "universalism", but for all practical purposes he is dealing with the same problem as we.
5. Politics IV, 10-11.
7. WONG, op.cit., p. 158.
It seems, nevertheless, that not even Wong manages to escape universalism. Hear verbatim what he says\(^8\): "Human beings have needs to resolve internal conflicts between requirements and to resolve interpersonal conflicts of interests. There are constraints on what a morality could be like and still serve those needs. These constraints are derived from the physical environment, from human nature, and from standards of rationality, but they are not enough to eliminate all but one morality as meeting those needs. Moral relativity is an indication of the plasticity of human nature, of the power of ways of life to determine what constitutes a satisfactory resolution of the conflicts morality is intended to resolve". His view is genuinely relativistic only upon two intertwining assumptions concerning the nature and function of morality, viz that one moral theory is not open to alternative solutions, and that the function of a moral theory is precisely to yield determinate and univocal solutions to particular problems. These assumptions can be questioned: for instance the morality proposed by the so called new school of natural law cannot even be expected to yield very many univocally determinate particular solutions because it radicates in a set of mutually incommensurate and equally fundamental basic goods which can leave room for more than one right solution to most problems\(^9\). Besides, even Aristotle seems to have accepted that "such as one is, such will the end seem to one", suggesting that despite a universal aspiration to good ends it may be morally legitimate that different people pursue different conceptions of those ends\(^{10}\).

8. *Ibidem* p. 175.


10. See *Nicomachian Ethics* III, 5 (1114a 31) where Aristotle seeks to show that even if this dictum were true, as many believe, it cannot be used as a deterministic justification for bad conduct because each person is morally responsible for the conceptions he acquires through habituation.
If we look at the deep structure of morality (aspiration to good ends), it appears the same everywhere and universalism seems to be true, but if we look at the surface structure of morality (different practical solutions based on different conceptions of the good ends) cultural differences appear sharp and relativism seems to be true. A significant part of the controversy between moral universalists and moral relativists boils therefore down to a difference on the level of abstraction to be assigned to the notion of morality itself.

Descriptive cultural moral relativism\(^{11}\) is only of a limited interest in the human rights discourse. More interesting is a normative relativism\(^{12}\) according to which it is not merely a fact that moral beliefs differ but also somehow meet and right, and that different people therefore act differently: the way in which it is supposed to be meet and right may differ between different theories of normative relativism. Presently our primary object of interest is the supposed view that, due to cultural differences in moral beliefs, the human rights as they are interpreted in one culture –i.e. the liberal West– are not as such directly applicable in other cultures. Such a claim can be supported with various arguments. Among the most common ones are the three oft-cited arguments put forward by S. Prakash Sinha\(^{13}\): in other than Western cultures (i) the fundamental unit of society is the family rather than the individual, (ii) the primary moral category is duty rather than right, and (iii) the primary methods of resolving conflicts are reconciliation, mediation or education rather than


\(^{12}\) TESÓN, *op.cit.*, p. 887. Another kind of relativism is *metaethical relativism* (p. 886) which for various reasons asserts that it is impossible to discover absolute moral truths. Neither a descriptive or a metaethical relativist is predestined to be a normative relativist, as Tesón points out at p. 887 p.

adjudication. In one word, the liberal West is individualistic and places great importance on individual liberty to unrestrained desire satisfaction and abstract justice, whereas other cultures tend to be communitarian and to place primary value on group harmony, restraint on the pursuit of individual interests, and material compromise. As the East sees it, the primary “wrong” in an interpersonal conflict is not the wrong inflicted by one of the parties on the other, but rather the wrong both parties inflict on social harmony. Recourse to litigation, or an appeal to subjective rights, can hardly be a proper response to such a wrong, as it would only indicate the radical failure of the appealing party to contribute to the restoration of peace. For reasons like this it would not be right to impose the individualistic standard of liberal human rights on non-Western cultures as it would only undermine the moral backbone of the latter with alien preoccupations and concepts.

In complement to the argument from moral scandal, it is often pointed out that non-Western cultures lack even some of the very conceptual apparatus which would be needed to deal with the Western notion of human rights: e.g. Jack Donnelly argues that the non-Western cultures operate with an objective rather than subjective concept of right 14 (“right” refers to what is objectively right for one rather than what is one’s subjective right to something, a concept which was predominant even in the West before the so called time of Enlightenment), which makes the human rights difficult to understand for them. Similarly it is often pointed out that the concept of “individual” itself may be obscure to non-Westerners who are wont to define a person with reference to his relationships to other persons rather than in abstraction from all relationships. It is obvious that if members of a culture do not understand what “individual” means, they can hardly

appreciate the Western conception of human rights, either. From a hermeneutical viewpoint one might refer to the unspeakable foreknowledge of each form of life which, due to the very fact of its being unarticulable, cannot be subjected to discursive reasoning; and, due to the fact of its precedence to every act of reasoning by every member of the form of life in question, is not open to being placed in doubt because it defines the very manner in which it is possible for the members to reason and the very scope of that which they can understand\textsuperscript{15}. Should that be the case, it would be difficult to see how members of different forms of life could meaningfully discuss the fundamental assumptions of their respective cultures: in the last analysis, every dialogue would end in a stalemate where each party would know that he is right and the other is wrong but could not articulate why.

Nevertheless, the lack of common concepts need not lead to a dead end. One of the starting points of Raimundo Panikkar’s account of the basis for cultural relativism is that all concepts are culture-bound\textsuperscript{16}, wherefore it is wrong even to think that there might be “trans-cultural” concepts or values\textsuperscript{17}. Instead, one should look for “cross-cultural” concepts and values which are based on a double awareness: that there is a “trans-cultural” reality to which cultural concepts and values respond, and that one’s culture-bound concepts allow the possibility of understanding the analogical relationship between the responses of different cultures to the “trans-cultural” cues\textsuperscript{18}. Panikkar’s theory is one of the most often cited theories of cultural moral relativism with regard to human rights. It merits closer attention not only for

\textsuperscript{15.} Such a view has been forwarded by e.g. Aulis AARNIO, \textit{The Rational as Reasonable. A Treatise on Legal Justification}, D. Reidel, Dordrecht 1987, p. 67 pp.


\textsuperscript{17.} \textit{Ibidem}, p. 87.

\textsuperscript{18.} \textit{Ibidem}, p. 88.
this reason but also because it seems to match the requirements Wong places on an ideal theory of moral relativism\textsuperscript{19}. Let us therefore recount its main points.

**PANIKKAR'S THEORY OF RELATIVISM**

Panikkar begins by pointing out several philosophical assumptions underlying the Western concept of human rights: Firstly\textsuperscript{20}, the human rights discourse assumes the existence of a universal human nature, knowable by an equally universal human capacity, i.e. reason, and essentially different from the nature of other creatures. Animals have no share in it, and the existence of creatures superior to men is doubtful. God may exist, but He is by and large considered irrelevant (except by those who base their faith in human rights in Christian doctrine). Secondly\textsuperscript{21}, the human rights discourse assumes that human individuals have what is usually called dignity. This is because each individual is unique and irreducible to another, or to employ Kantian terms, an end in and for himself. Among the implications of this assumption is not only a distinction but a separation between individual and society: human beings are fundamentally individuals, and society is just an accidental or conventional superstructure. This separation can easily wax into a contraposition: society is a potential threat to the integrity of the individual, and the human rights are tools for the protection of individual autonomy against society and state. A curious aspect of the assumption of individual dignity is that it vaguely echoes the Christian notion of man as God's image but at the same time makes every effort to disentangle itself from all and any metaphysical and theological underpinnings, as if individual

\textsuperscript{19} See p. 4 above.
\textsuperscript{20} P. 80 p.
\textsuperscript{21} P. 81 p.
dignity were somehow self-evident. Thirdly\(^{22}\), it is assumed that society consists of a conglomerate of free individuals who join forces in order to pursue goals they would be unable to reach each on his own. The individuals are prior to the society, not the other way round. As the society is a sum of separate individuals, its goals must be the sum of separate individual interests, too. Therefore, the state is to be a democratic expression for “the will of the people” which seeks to satisfy the sum of the individual wills. Usually this sum is determined by a majority, but minorities have a right to resist unfair impositions on their freedom. In theory, the freedom of no individual is to be restrained unless it impinge on the equal freedom of another individual. But the will of the individuals who make up the majority is decisive and sovereign, and there is no higher instance (like reason or divinity) to which one could appeal. Therefore, the supposed will of the majority will for most practical purposes justify any legal sanctions designed to limit the freedom of individuals in any respect. All this, again, corroborates the implicit view that conflict between individual wills and between individual and state is the centrepiece of the human rights: their primary function is to be available for individuals for the protection of their freedom against unjustified interference by their fellow individuals and by the state.

Next, Panikkar asks himself whether the concept of human rights, with the aforesaid inherent assumptions and implications, is a universal human concept, and answers that this can obviously not be the case, for three reasons\(^{23}\): for one thing, no concept is universal at the outset, as every concept is necessarily embedded in the context in which it was originally conceived and therefore primarily valid in it and nowhere else. This does not mean that a concept cannot become universally valid if it has a calling to it.

\(^{22}\) P. 82 pp.
\(^{23}\) P. 84 pp.
But for that it should be able to eliminate all incompatible or competing alternative concepts. Where the human rights are concerned, this would imply that not only the concept of human rights but also the culture in which it originates should be called on to become a universal culture\textsuperscript{24}. This, I take it, is not only a cause for uneasiness among the non-Western thinkers who fear for their own cultural identity, as Panikkar points out, but also a just cause in that it is highly unlikely that all the other cultural responses to the problem of human dignity should be plainly false.

For another thing, Panikkar points out that not even the West is unanimous about the human rights\textsuperscript{25}: Christian theology and Marxism are produced as examples of diverging assumptions and dissenting opinions. Furthermore, history shows that human rights are used in the Western political struggle as a weapon with which the present victors may with a veneer of legitimacy determine whom they wish to include in or exclude from the class of “proper” humans: for many Westerners the human rights are not really a moral ideal but a convenient fiction which effectively serves their immediate interests.

Finally, from a “cross-cultural stance”, as Panikkar puts it\textsuperscript{26}, it is not only the case that most of the assumptions and implications enumerated above are not given in other cultures, but even the very problem of adequate response to human dignity is experienced there in a radically different way: not only the solution—the human rights— but also the problem which that solution is intended to resolve is conceived differently in the different cultures. The human rights are historically a growth of the Western culture and a response to its “transition from... mythical Gemeinschaften... to a ‘rationally’ and ‘contractually’ organized

\textsuperscript{24.} P. 84.
\textsuperscript{25.} P. 84 pp.
\textsuperscript{26.} P. 86 pp.; cf. at footnotes 18 and 19 above.
‘modernity’”\textsuperscript{27}. In that transition, something important has been lost: that the West has felt the need to positively declare and proclaim human rights is a sign that the moral foundation on which they are supposed to rest has weakened\textsuperscript{28}. Panikkar does not say why this has happened, but clearly the Western separation of civil society and state from religion and morality is at issue here: the human rights are a necessary substitute for the lost link between politics, morality and religion. But if in other cultures this link has not been lost, as Panikkar goes on to argue, they will feel no spontaneous need for them.

From a non-Western viewpoint, then, one could very well accept the first assumption of a universal human nature, but at the same time deny that this nature should be qualitatively different from the nature—and rights—of other living things\textsuperscript{29}. The universal nature of man may in principle be knowable, too, but each culture knows it differently through its own conceptual apparatus, and therefore it is not likely that one particular culture-bound interpretation of it is the universal truth\textsuperscript{30}. As to the second assumption concerning human dignity, it is essential to make a distinction between individual and personal dignity\textsuperscript{31}: an individual is an abstraction, a residue, as it were, which is supposedly left when a person has been abstracted from all his interpersonal relationships and other contextual determinants. Person, on the other hand, includes one’s relationships and rôles both past, present and future. An individual is an isolated knot, whereas a person is a piece of network around that knot, “woven from the total fabric of the real”. Without the knots there would be no net,

\textsuperscript{27} P. 88. “Rational” and “modernity” are obviously to be understood here in Weberian terms.
\textsuperscript{28} P. 88 p.
\textsuperscript{29} P. 89.
\textsuperscript{30} P. 90.
\textsuperscript{31} P. 90 p. Interestingly enough, Panikkar’s distinction is almost equivalent to the one which the catholic church likes to make in her moral and political doctrine.
but without the net the knots would not exist, either. From the perspective of the net it is wrong to hold that rights belong to the isolated individual: they must always be inherently relational, belonging to a relationship between persons. One particularly disconcerting aspect of the Western conception of human rights is that, inasmuch as they are thought to belong to the individual in his abstraction, he can use them as if they were pieces of his private property which he is entitled to defend even so as to cause "unjust repercussions on others". In other words, a fully legitimate –i.e. legitimate from the Western perspective– use of individual rights as "trumps" may appear selfish and immoral from a person-oriented viewpoint inasmuch as it gives inadequate consideration to other people’s needs, interests and wishes. Individual rights can make full sense only in a context in which the "fabric of the real" has already been broken.

The third Western assumption, that a representative democracy of free individuals is the only legitimate way of organizing the state, is problematic, too, inasmuch as it presupposes that society is nothing but a confederation of isolated and absolutely equal individuals and forecloses the possibility of integrating society and state into a hierarchical conception of reality\(^{32}\). Human rights as a protective arsenal for numerical minorities against injustice from a majority make full sense only in a political community which is conceived of as something independent and isolated from the order of the universe. But if the contrary is the case, as Panikkar suggests with reference to e.g. India, human rights needs must be qualified with reference to how they or their use by particular persons relate to and affect the relevant conception of world order. In such a context, the rights per se can never be decisive moral criteria, for much more important is the way they are used: do they help to restore and maintain the world order? Equally little can democracy per se be an obligatory solution for

\(^{32}\) P. 91 p.
government: the people should be allowed to keep the kind of government which best matches their conception of the place of the state in the world order. Imposed democracy is equivalent to tyranny.

On the basis of the aforesaid discussion Panikkar finally concludes that, even if the human rights are a strictly Western concept based on a long line of assumptions and implications which are incompatible with many aspects of non-Western cultures, they can nevertheless work as a universal symbol for that which is morally important for all human beings. Moreover, were the human rights advocates to resign their claim to universal validity, they would thereby contradict themselves in much the same way in which a Christian missionary would contradict himself if he resigned his belief in the universal salvation of Christ. But it is in the nature of things that both sides will necessarily believe they are in possession of the real truth, for every culture necessarily intends to look at reality as a whole. Nevertheless, each culture is only able to look at the world through its own window, which again allows only a partial vision.

33. Panikkar for some reason fails to point out that even in the West the predominant political tradition for two thousand years after Aristotle advocated mixed government, i.e. a government which is based on such a mixture of democratic, aristocratic and monocratic institutions which best corresponds to the contextual demands and requirements placed on the particular state in question. According to this view, the form of government is clearly no end in itself: what is important is that it is best suited to serve the common good in the relevant circumstances.

34. Note that the "enlightened" Montesquieu, as a chip off the old Platonic stock, held that not merely imposed democracy, but any democracy would be conducive to despotism. See e.g. De l'esprit des Lois VIII, 2, where it is explained how easily a democracy would corrupt into a tyranny; and XI,4, where it is pointed out that democracy is by its very nature not free, as the "moderation" brought about by a division of power is lacking. In other words, undivided democracy is more or less equivalent to the rule of the mob dreaded by Plato as the ultimate degeneration of the state.

35. P. 92 p.

36. P. 94.
Thus we always aim at the totality, yet see merely a part. Given this, it is important not to forget that we should not take the pars pro toto\textsuperscript{37}. In this we are helped by Panikkar’s proposed method of diatopical hermeneutics\textsuperscript{38} with which we can seek a cross-cultural\textsuperscript{39} understanding of homeomorphic equivalents\textsuperscript{40} in the different cultures. In different words, we can look for functionally equivalent institutions which in the different cultural environments are called to respond to the particular way in which each culture conceptualizes the cross-culturally relevant question concerning the proper mode of understanding and respecting human dignity. On this basis, Panikkar concludes his essay with an exposition of how in a Hindoo context the homeomorphic equivalent to a human rights society would be a dharmic society, i.e. a society which properly respects the swadharma of all living creatures in the chain of existence\textsuperscript{41}. If human rights are to be a meaningful symbol in such a context, they must according to Panikkar be defined as not merely individual but personal, not merely human but extending to all beings, not merely rights but also duties and tasks towards the world, not isolatable from each other and the world but a harmonious whole which is in the service of the harmony of the whole world, and not absolute but relational (i.e. between related entities) and related to one’s position or rôle in the universe (i.e. sensitive to each knot’s status in the net).

\textsuperscript{38} P. 76 p.
\textsuperscript{39} P. 87 p.
\textsuperscript{40} P. 77 p.
\textsuperscript{41} P. 95 pp. Note the similarity between the Augustinian eternal law and the dharmic order!
TESÓN'S DEFENSE OF UNIVERSALISM

In a well-known article Fernando Tesón has conveniently summarized some of the usual arguments levelled at moral relativism by defenders of the universal validity of the Western human rights discourse and standard. He discusses two sets of arguments: legal and moral. In the present context we are not interested in the juridical validity of his legal arguments with which he wants to show that cultural differences do not warrant any exceptions to the human rights. We shall only point out a few outstanding philosophical difficulties which emerge from his treatment of the matter. We shall pay more attention to the moral arguments, with a view to assessing their intrinsic validity as well as their relative strength for the purpose of refuting Panikkar's version of relativism.

1) Legal arguments

One of Tesón's legal arguments appeals to the non-discrimination clauses incorporated in the major human rights conventions: according to him they can be given an interpretation which extends the prohibition of discrimination beyond national borders. In other words, to apply a different human rights standard to foreign citizens than to one's own people would amount to unlawful discrimination. Now an obvious difficulty with this argument is that it can only apply to one state's different treatment of its own and alien citizens, not to how different states treat their respective citizens differently. Besides, the criteria of discrimination are not fulfilled by different treatment as such: the difference must be unjust, too. And it is precisely under dispute in

42. See footnote 4 above.
43. TESÓN, op. cit., p. 875 pp.
44. P. 878 p.
the present context whether cultural differences can constitute an acceptable justification to different human rights standards. If the answer is yes, then imposing an identical but alien standard on a foreign culture would be discriminatory because it failed to respect the right of all nations alike to live according to their own moral standards. Moreover, each culture believes in its own superiority: what would be the point, then, of appealing to unjust discrimination on behalf of a people who think that they are better off precisely for that reason? These questions lead us to another legal argument: the argument from self-determination⁴⁵.

In the international context one sometimes appeals to the principles of self-determination and non-intervention in order to justify exceptions to the Western human rights standard: no state should interfere with the autonomous cultural and political choices of a foreign people⁴⁶. But, says Tesón, this amounts to either a misconception or an outright rationalization for oppressive government: the supporters of relativism tend to define the interests of a people either “in mystical or aggregative terms that ignore or belittle individual preferences” or as “a plain rule of political power whereby those in power automatically are deemed to represent the people regardless of... their human rights record”⁴⁷. The argument appealing to the abuse of “culture” by an evil government is easy to answer by a relativist: a distinction must be made between culture and government, and evil governments should by all means be opposed, but without unfounded prejudice against the cultures which they misuse for their oppressive purposes, lest the baby be thrown out with the bathwater, too.

The argument from mystification is more to the point: I think it is quite true that a relativist can idealize his favourite culture(s) overly much and present them in all too lofty and comprehensive

⁴⁶. P. 881.
⁴⁷. P. 882.
terms which create an unfounded impression of a unified and unanimous Culture which easily usurps the place of the much more varied reality one can see if one examines the everyday lives of actual people living within the culture in question. And I am sure that even Panikkar would, for example, agree that not all people in India are equally immersed in a common quest for that dharmic society which he proposes as a Hindoo counterpart to government based on human rights. But even so, Tesón’s argument fails to accomplish what it sets out to do. This is because it identifies invalid definitions of the interests of the people with definitions which ignore or belittle individual preferences. Thereby Tesón puts the cart before the horse, as the validity of his argument presupposes the truth of the conclusion which the argument is supposed to validate: individual preferences are a decisive criterion in the Western morality of human rights, but non-Western moralities tend for various reasons to deny precisely the importance and even relevance of individual preferences. Thus, Tesón’s argument, intendend to show that relativists are wrong, depends on the anterior validity of the belief that the universalistic Western view is right48. Therefore it in no way addresses the reasons which the non-Western cultures may have for holding that the “true” interests of their people are different from individual preferences.

In a second argument against relativistic interpretations of self-determination Tesón says that the principle of self-determination is designed to protect a people against colonialism and unjustified foreign domination. But the human rights have the same purpose.

48. Tesón highlights this line, or rather circle, of thought in very explicit words when he, on p. 883, appeals to a professor Schachter who “has convincingly argued (that) the concept of human dignity implies that high priority should be given to individual choices... This concept however... contradicts many existing ideologies...”. To be sure it contradicts, but that it contradicts is no justification for the claim that the contradicted ideologies are wrong —unless it has been demonstrated that the contradicting concept is right!
Therefore they have nothing in common "with colonial domination, imperialism and the other evils against which self-determination was conceived". In other words, when the West actively exports its standard of human rights to non-Western cultures it is only for their own good and therefore quite in order and in no way a violation of their autonomy. Now it is highly unlikely that the West knowingly conspires to use the human rights as a Trojan horse in order to continue its old colonial domination with new surreptitious methods designed to open the Third World economies to the "predatory economic forces in international society". But this is not the main point. To be sure, motive makes a difference, but not all the difference: an important part of a nation's self-determination is that it must be possible for it to choose on its own, to respond to its own problems in its own way, and that even at the risk of occasionally making the wrong choice. If wrong choices are heteronomously excluded, there will be no room for genuinely autonomous self-determination. Therefore, even if it were wrong for a nation to resist the Western human rights, it would be wrong for the West to impose those rights on it against its own will. Besides, the faith of an unwilling convert to human rights is most likely to be little more than outward obedience and lip-service: a genuine adoption of a new moral code requires a spontaneous demand for it and a genuinely self-made choice. Only then can it provide for a satisfactory solution to problems which are relevant to the context in question. And only then can a people freely be a different people, a people of its own kind. Maybe even the West should place its trust in the likelihood that cultural moral codes will unavoidably evolve in order to meet the current demands, and if a demand arises for the human rights anywhere in the world, they

50. P. 896. In their individualism, the human rights can be feared to spread Western consumerism.
will gain foothold there. Whether one should actively promote the
growth of such a demand is a different question. Panikkar
answers no, because it would imply a degeneration of the
traditional non-Western moralities. Tesón says yes, because
adopting a Western standard would be an improvement. Donnelly
underlines the fact that the human rights are a corrective response
to certain malfunctions which are typical of Western society. It
would seem to follow that in order for the Western human rights
to be a meaningful solution for the non-Western cultures they
would first have to be contaminated with the Western social
malfunctions to which the human rights pretend to be a solution.
The question is whether they already have the disease, whether
they will catch it willy-nilly, or if they are on their way to
something altogether different. Should we judge, or should they?

2) Philosophical and moral arguments

From the perspective of moral philosophy, normative relativism is according to Tesón implausible for three fundamental reasons. The first reason is logical: normative relativism is inconsistent inasmuch as it on the one hand affirms that no moral principle is universally valid but on the other hand claims that it is universally true that one ought to act in accordance with the principles of one’s own group. Tesón admits that this inconsistency can technically be removed by defining the premises so that the existence of just one universally valid principle—that of

52. PANIKKAR, op. cit., p. 101.
54. P. 888 p.
normative relativism— is acknowledged, but it would be difficult to demonstrate that precisely the principle of normative relativism would be the one universally valid principle. The argument is familiar, even traditional, and sound in itself. Nevertheless, it manages to refute only that form of relativism which claims that it is a universally valid principle that the members of each group always ought to follow the rules of their own moral community. But not every form of relativism makes this claim. On the contrary, plausible versions of relativism do not presuppose a full contextual determinism: one cultural environment may very well allow several different strategies of response to its moral problems, as well as it may allow various sets of criteria for evaluating them. Besides, their fittingness need not be limited to being a close match to the strictly local demands of the local culture: inasmuch as it is possible to take a cross-cultural standpoint, as Panikkar suggests, cross-cultural considerations may yield a standard for culture-bound moral codes, too. A sound relativism will therefore not categorically exclude the potential relevance of considerations which stem from a larger context than the local cultural environment: as a context in which the culture in question is situated, the cross-cultural context has a relationship to it, and can thereby be another source for moral considerations which are none the less relative for it. Perhaps the most significant and interesting difference to be studied is not even the one between universalism and relativism in a strict sense, but the one between all those sorts of morality which purport to yield conclusive, determinate and univocal solutions (i.e. one right answer to each problem) and those which allow for a multiplicity of correct solutions to one problem.

Panikkar’s kind of relativism, for example, clearly argues that it is in the nature of things that each culture thinks its own morality is universally valid: therefore it is quite in order and in

55. See pp. 7 and 12 above.
no way inconsistent that e.g. a Western human rights advocate on one level think that everyone all over the world should adopt the moral code he advocates, but on a different level admit that representatives of non-Western cultures may for plausible reasons have a similar view of the superiority of their own moral codes, wherefore it cannot be their duty to accept the Western moral code merely because Westerners have their plausible reasons to believe in its universal validity. Relativism is not black and white and not a matter of simple ought, for different modalities can be involved: even if one moral code were universally valid, those who have a mistaken view about it may still have a right to persist in their mistake as long as it satisfactorily serves the needs of their society as they perceive them from their own perspective. Or, even if a culture for some reason had a duty to adopt the moral code of another culture, the latter may still not have the right to impose it on the former. A right to recommend or to persuade does not as such imply a right to impose, let alone a right to force one’s view on others—even if it were true. Analogously, from the perspective of a sound non-deterministic relativism, the sheer fact alone that a moral practice matches the actually perceived demands of a given cultural context cannot justify that moral practice absolutely, for even a relativist can still ask whether his self-perception adequately formulates the problems which morality is to resolve.

The second reason why Tesón thinks normative cultural relativism is implausible is that it overlooks universalizability, which is “an important feature of moral discourse”\(^56\). He explicitly appeals to Alan Gewirth’s theory of “generic consistency”, an outgrowth of Kantian moral theory, which claims that we are logically committed to act in accordance to the generic rights of our recipients as well as of ourselves on pain of self-contra-

\(^56\) P. 889 pp.
diction. It follows that morality allows for no “contingent” exceptions to anyone’s basic rights. And cultural affiliation, for Tesón, is clearly such a “contingency” and thereby irrelevant as a criterion for establishing a morally significant difference which would justify a difference in treatment. Gewirth’s theory of morality is well-known, and equally well-known is its failure when it purports to derive from a factual need a moral right. But even if Gewirth, and everyone else who held that universalizability is a logically necessary criterion of morality were wrong, universalizability might still be a working criterion of “moral plausibility”, whereas a relativist would “endorse” –whatever that means– “the implausible position” that moral judgments can contain proper names. Now the obvious relativistic reply to this argument is that it is in no way evidently implausible that moral judgments can contain proper names. Proper names are highly relevant for e.g. the Socratic moral position: it makes an essential moral difference for me that I am the agent, and not the patient, nor an impartial observer, because I am the only person whose morality is affected by my choices. And if we join Aristotle in accepting that in some ways “such as one is, such does the end seem to one”, why could not different agents have different moral standards, too, for instance because

57. For Alan Gewirth’s theory, see Gewirth: Reason and Morality. The University of Chicago Press, Chicago 1981.


59. P. 890.

60. In this way can very well be summarized the reasons for Socrates’ refusal to accept a plea bargain in his trial as well as a friendly offer of assistance to run away when he was awaiting execution, as recounted by Plato in his Apology and Crito.
their cultural affiliation provides them with different equipment for evaluating moral problems?

Tesón foresees this answer and proceeds to refute it by offering a justification to his claim that membership in a particular groups is not a morally relevant circumstance. This is because one’s place of birth and cultural environment are factors unrelated to an individual’s moral worth or entitlement to human rights. An individual is not accountable for having been born where he was born, and one cannot say that an individual deserves the circumstances in which he happens to be born. But here Tesón falls to the same trap as before: he presupposes that individual worth and individual entitlement are decisive considerations in order to show that the moral human rights universalism, which is based on the very ideas of individual worth and individual entitlement, is valid. The argument amounts to little more than a tautology based on doubtful assumptions which at least some of the relativist positions explicitly deny. Thereby it completely fails to address the reasons for this difference in opinion which, as Panikkar metaphorically illustrates, has to do with the difference between abstract individual knots and real persons integrated in the web. The different rôles people have give rise to differences in the moral codes which are applicable to them, and cultural affiliation is an obvious factor which can play a rôle in determining the moral content of those rôles. To use Tesón’s own example, it is quite correct to say that women in the Third World are equally eligible for human rights as Western women, but this will not

62. See at footnote 31 above.
63. For the sake of illustration, consider the following: it is commonplace even in the West to think that e.g. a mother’s relationship to her own child implies moral obligations which are relative to her rôle as precisely that child’s mother. Some of these obligations are clearly ones which a man-in-the-street does not have towards the same child. But again, he may have similar obligations to a child of his own, or one entrusted to his care.
imply that they must necessarily be accorded identical rights: if they look at themselves as persons rather than individuals, they should be held entitled to rights which do not deny them the right (sic) to define themselves in the way which makes sense to them, rather than in the way which only makes sense to Western suffragets.

But Tesón has another ace up his sleeve: he continues by pointing out that, even if it were true that cultural affiliation makes people see moral matters differently, this does not make them incapable of rational moral inquiry in which they can intelligently confront their concepts with alien concepts and novel situations. To claim the contrary would be to “confuse the circumstances in which one learns moral concepts with the meaning of those concepts.” Therefore, says Tesón, a certain cultural determination of moral concepts will not imply normative cultural relativism in the strict sense, but leaves open the possibility to learn from other cultures in a cross-cultural dialogue. Where this argument is concerned, Tesón would seem to be both right and wrong: His theoretical formulation is rather unhappy as it depends on a clear-cut distinction between language (concepts, semantics) and its context (circumstances in which a language is learned, spoken and understood). If we take modern linguistic theory and hermeneutical philosophy seriously, we have no way of maintaining such a distinction: to be sure, concepts do have a life in abstraction from the context in which they are used, but they can hardly have a meaning which would be totally independent of context. Yet the material implications of this theoretically misconceived argument are right, and in no way incompatible with what e.g. Panikkar has been arguing for: a plausible relativism cannot be committed to a blind and total

64. This is an argument related to Aristotle’s, referred to in footnote 11 above.
65. P. 891.
66. P. 892.
cultural determinism which automatically validates every actual feature in every actual culture. But why indeed should we think that we, the enlightened Westerners, should not have anything to learn from all those cultures which have no spontaneous demand for Western style human rights? Why should not we, too, be open to modify our positions? The attitude of a missionary is not genuinely open for dialogue—it only uses the word “dialogue” to cover its true, proselytizing aim.

Finally, Tesón foresees the possibility that a relativist might counter his argument from universalizability by pointing out that he in fact universalizes one moral principle, viz. the principle of normative relativism itself67. Tesón’s answer appeals to a distinction between substantive and formal principles: he claims that the moral requirement of universalizability applies to substantive principles which have a material content, whereas the principle of normative relativism is merely a formal principle of renvoi. Even if such a principle were universally applied, the outcomes of its application could still be repugnant to the standard of universalizability. Now this argument has a certain strength ad hominem: quite certainly it can make one doubt whether there is any point in requiring universalizability if that principle has no effect on its material applications. Nevertheless, it in no way helps to explain why the principle of universalizability should, in the first place, be presupposed as the ultimate criterion of moral rightness, nor does it even attempt to show why that principle ought to be applied so as to overlook precisely cultural differences68. Besides, a principle of renvoi is not necessarily a mere formality, for we may have material reasons to apply it, as for instance those relativists would say who defend the principle of normative relativism as a way of respecting some other principle like that of moral and political autonomy, or

67. *Ibidem.*

68. Remember that a standard can only be universalized between cases, individuals, or circumstances which bear a sufficient likeness to one another.
freedom of thought. In a like manner, the numerous formalities of municipal law have an implicit basis in the material aims and principles of the state which provide a justification for the fact that their formally universal application need not yield materially identical particular outcomes.

Tesón’s third argument against normative relativism echoes—not altogether surprisingly—Kant: normative relativists are at odds with the principle that people ought to be treated as ends in themselves, and not as functions to the ends of others, inasmuch as they are ready to “impose upon individuals cultural standards that impair human rights”. Even if they could show that their community needs authoritarian government, they would still have to show why individuals ought to surrender their rights to the ends of the community. Now whether Tesón’s appeal to Kant is in itself valid is a rather complicated question which would require a long discussion of Kant’s notion of autonomy. Let me only point out that Kant explicitly holds that duties are primary to rights, and duties towards a community of which one is a member can hardly be as such incompatible with a person’s autonomy, but rather the contrary as long as they can be shown to be categorical. If we leave Kant aside, it is worth pointing out that Tesón is once again putting the cart before the horse: the argument presupposes the truth of the very view of society which is an essential part of the Western human rights ideology, viz. the idea that society consists of individuals whose private interests can be genuinely at odds with the common interests of their

70. See Introduction (Einleitung) to Kant’s Anfangsgründe der Tugendlehre (i.e. Part II of his Die Metaphysik der Sitten).
71. E.g. in his Anfangsgründe der Rechtslehre (or Part I of Die Metaphysik der Sitten) Kant shows that people have a mutual duty to institute a state, and thereafter to obey the statutory laws, regardless of their content. But this is not incompatible with freedom: see Introduction to Die Metaphysik... (iv: Vorbegründe); Einleitung in die Rechtslehre §§C-E; and Anfangsgründe der Rechtslehre ii, 1, §46.
community. But this is again precisely what spokesmen for non-Western cultures often deny— and not only they, but also the Roman catholic social doctrine. Tesón’s example is again rather illustrative: he suggests that the Islamic practice of discrimination against women could only be justified if each Islamic woman gave her subjective consent to it. Islamic spokesmen would, nevertheless, probably deny the very relevance of individual preferences, indicating that a Western-style “non-discrimination” would not only be bad for the Islamic community but also unjust towards the individual woman concerned. What Tesón would need to show here is a demonstration which could either convince a Moslem that it is fully compatible with Islam to let one’s individual preferences override the communitarian and religious standards of Islam! —or show him that he ought to give up his faith.

Should the three previous arguments fail to convince us of the implausibility of normative relativism as a moral doctrine, Tesón gives one extra reason to discard it: it is “extremely conservative” in that it can be used as an all-round justification for not undertaking any changes which might threaten the authoritarian traditions of a society. For this reason, normative relativism “amounts to the worst form of moral and legal positivism” inasmuch as it justifies the view that all and any existing moral and political mores are necessarily correct merely because they are already existing. Needless to say, this argument from conservatism depends on a loosely Weberian view of tradition-bound society as irrational because it is not open to deliberate

72. Tesón escapes this difficulty with his wont strategy of criticizing the “mystical and holistic assumptions underlying relativism”; cf. at footnote 47 above.

73. P. 893 p. Cf. Plato, who idolized Egypt for its unchanging tradition (a proof of perfection!) and wanted to make sure with all political and educational means that not even the thought that it might be possible to propose changes to the existing order would ever occur in the mind of a citizen.
change in the same way as the modern Western society is. But this is hardly a valid notion, for a tradition is always a response to the demands of relevant reality—and the Western way of life grows from a tradition as well. No tradition would even begin to accumulate, were it not an adequate response to the demands of relevant reality. And no tradition will continue indefinitely merely because it is a tradition, if it loses its ability to respond adequately to those demands. History shows ample evidence of how traditions change and fall into disuse either when external circumstances change, or when the predominant perception of relevant reality changes in the context of a given culture. Quite obviously this can even take place as a result of receiving cross-cultural influences. The pace of change is, to be sure, much slower in a traditional society than in the "enlightened" West. But that slowness alone hardly allows our conceited impatience to force the pace of development and impose on those more placid cultures concepts which they have not even had time to test in the reality which they find relevant. If the traditional authoritarian structures cease to be an adequate answer to the problems they face in the context of their own reality, they will eventually be discarded. If the human rights turn out to be the best way of adapting to the new world, as they perceive it, they will eventually be adopted. Perhaps history will show that there is, in the end, one true moral code. But history is not over yet, and we should humbly admit that it is quite too early to pass judgment in our own favour.

IN THE WAY OF A CONCLUSION

Clearly, then, Tesón fails to demonstrate that a plausible and moderate relativism—which allows for the possibility of rational

74. For an argument to this effect, see Louis J. MUÑOZ, "The Rationality of Tradition", Archiv für Rechts- und Sozialphilosophie, 1981 (197-216).
dialogue and mutual understanding across cultural boundaries and accepts that even traditional moral codes are rational responses to pertinent social needs and therefore in no way impervious to change— is implausible. To be sure, that implausible form of strict relativism—should anyone seriously support it— which is based on the rigid assumption that the contextual determination of morality is so complete as to leave the members of a given community no room for rational deliberation and choice is implausible as a meaningful moral theory. But not even this, I think, follows from the reasons put forward by Tesón. More likely, one common reason points towards the conclusion that neither normative relativism nor normative universalism can in their strict form be a suitable foundation for any meaningful conception of morality: if either of them were the right approach, morality would cease to make a difference to the moral agent.

Were strict relativism right, all men would in the last analysis be mere receptors to and mouthpieces for values and conceptions determined by their membership in a given community: they could not make a difference with their moral choices even if they wanted to, because they could not help acting according to the morality which were given to them. Were strict universalism right, again, and people were in fact in a position to apply a universally valid moral code to all their problems, it would be the moral code which made their moral judgments for them, and they would have no room for genuinely personal moral choices with which they could make a difference for their lives: meaningful moral choices would be excluded because there would be only one valid way of being moral, i.e. that of the universal code. Hence the most powerful defense for a moderate relativism, or a moderate universalism if you like, is that it allows the people, wherever they live, to make a difference for their lives by admitting that there may be different ways of being moral which have a prima facie equal claim to validity as different but functionally analogical responses to the different but functionally
analogue interpretations of the human predicament in the different fractions of reality in which men live. In other words, it allows for both cultural and personal autonomy, and is not offended by the eventuality that a nation or a person may sometimes adopt a false moral code. Without letting each nation take that risk, no genuine moral growth would be possible for them. An outward conversion, motivated by fear or desire, to paying lip service to an alien moral code would be a poor substitute, hardly much more than a play for the galleries.

To be sure, history may very well foreclose all further argument, as Panikkar suggests with his reference to “the megamachine” of the Western “techniculture” which may devour the non-Western parts of the world quite irrespective of the human rights ideology. If, and when, that happens, the traditional shangri-la of the idealistic relativists will no longer exist. Thereafter, the language of rights may well be the most effective and appropriate language for the purpose of promoting a humane morality everywhere, due to the erosion of the social basis for the traditional communitarian duties. One example of how it may turn out is the Chinese experience of the unintended side-effects of the (in)famous one child policy: children with no siblings, “the little emperors and empresses”, tend quite spontaneously to grow into individualistically minded adults for whom it is quite easy to defy the ancestral communitarian traditions. But as long as worldviews alternative to the Western secular and individualistic anthropocentrism continue to answer to the spiritual and moral needs of different nations, we should seize the day and use well our opportunity to seek a mutual understanding and a middle ground which would support an

76. As DONELLY, *op.cit.*, p. 312 pp., points out.
enlightened dialogue and argument rather than forcing "enlightenment" on those who still bide in darkness.

We can seek a fruitful middle ground at least on two different levels between the extreme forms of universalism and relativism. One possibility is the strategy proposed by Sinha: we would all accept the nominal concept of the human rights as a universally valid starting point for dialogue, but at the same time we should admit that different cultures may legitimately read different interpretations and different priorities into that concept. This would entail a universal acceptance of the human rights as an abstract principle, but qualify it with a second principle which let each nation define its own catalogue of particular rights. A second possibility would be like the alternative proposed by Panikkar: we should question even the universal applicability of the abstract concept of human rights and look instead for its homeomorphic equivalents in the different cultures, admitting that the fundamental moral problems faced by human beings are materially similar everywhere, due to the common human nature and condition, but that it is at the same time quite appropriate that the formal strategies of solving these common problems vary because different solutions are meaningful to the different cultures and adequate to their respective interpretations of reality. The latter alternative is preferable to the former, because it does not entice disagreeing parties to the diplomatic falsity of seeking apparent verbal agreements with implicit provisos concerning their different interpretation by each party. The cause of humanity would be best served with a genuinely open dialogue which has the courage to admit that the pertinent difference is not a simple difference between those who are right and those who are wrong, but between people who have different reasonable conceptions of what ought to be the appropriate criteria for distinguishing between right and wrong.