Non-Western Approaches to Human Rights

How can Human Rights be Universal?

- **The Tzeltal translation: By turning the UDHR into a book of counsel applicable to all**

- **Deontological approaches: finding secure, norm-based arguments about morally required choices**

- **Prudential and utilitarian arguments: HR promotes general welfare and a good order**

- **Religious (as revealed) approaches**

- **Pragmatic (Nickel): HR is both socially and historically the existing and best answer to the challenges of modernity**
  - **the bureaucratic state**
  - **mass society**
  - **market economy**

Non-Western Approaches to Human Rights

Se and Karatsu: A Japanese Approach

> Goal of article: to demonstrate a non-Western approach, to sensitivise the West, and to enrich Human Rights (finding 'internal resources' for better promotion)

- **Are HR 'Western' (and justifiable in the West only)?**
  - **I.e., individualising (v. communitarian), atomising, neo-imperialist, etc.**
  - **and prioritising civil and political rights?**
- **What are the functions of HR?**
  - **Guaranteeing common conditions for the pursuit of the good life to all, equally**
  - **(cf. Nickel's 'four secure claims: have a life, lead a life, etc.)**
- **Different views of 'self' and morality**
  - **Japan: relational self, situation-based morality**
  - **The West: independent self, abstract moral principles**
- **In both case however the goal is to mature and realise one's potential**

A Japanese Approach: Se and Karatsu

What is necessary for enabling such a maturing process? I.e., construing a mature and realised self?

Interdependent self construal: defining oneself with reference to others and to the situation

> Maturing in Japan is managing relations: a mother's admonitions (´you arehurting the feelings of farmers when refusing food´), learning empathy (*omoyari*) at school; internalising a generalised other through internalising others

> Not managing relations/situations: shame, loss of face

Independent self construal: defining oneself with reference to abstract principles

> Maturing in the West focusses on the self; internalising a generalised other by deducing from abstract norms

> Not managing (not knowing morals): guilt, sin

A Japanese Approach: Se and Karatsu

- **Human Rights (growing up in freedom and equality) is what guarantees the growth of both interdependent as well as independent selves**

- **A formal theory of human rights: If all people are to pursue the good life, equally, all people must have secured the necessary conditions for maturing and self-realisation. To internalise the 'generalised other' necessary for being mature, also other people must enjoy the same security**

- **A Japanese addition: a right to be brought up in an intimate community**

A Mayan Approach

Mayan Guatemala: A Communitarian Society

- The community (*komon*) as an enabling environment: acquiring and practicing respect (*nimanik*) through warnings about *awas*

- Awas: Transgression of the sacred norms—and its consequences: pain and disorder

- Rawasil: the sacred order, the way it should be; the sum of awas'es that guard proper behaviour, the 'owners' (*ajaw*) of the sacred equilibria on which community cohesion rests

  ➤ **Nimanik: comparable to human rights?**

A Mayan Approach

Comparing nimanik/awas to human rights/human rights violations:

- Contrasting reports about human rights violations (e.g., land distribution, poverty, discrimination) to complaints from community leaders: extrajudicial killings and discrimination v community divisions and culture loss (= lack of respect)

- Uses of awas in child upbringing: alerting (cautioning) the child to the dangers of disturbing the sacred (the fundamental) and teaching them respect

- Accumulating respect through participating in community government and obeying authority (the cargo system)

A Mayan Approach

Comparing nimanik/awas to human rights/human rights violations:
Can equality be incorporated in a *rawasil*-based order?

- From physical to oral instruction in child upbringing (new thinking about what causes pain)

- From rule of the elders to rule of the general assembly, from oral norms to written rules

- The room for dialogue and reciprocity in learning new practices

In any case: Human rights both protect and destabilise the Mayan community

Cultural Rights, Minorities and Collective Selves

- Fagan: the persistence of 'ascribed identity' (v aquired and contingent identity)
    - HR: born as a protection against harmful collective forces, but its rhetoric and practice frequently deteriorate into naïve individualism
    - A large part of the self is collectively constructed ('relational; 'interdependent') – hence the importance of cultural belonging

- But how to ensure a 'right to belonging'?
    - Minority rights (Art 27 ICCP; European Framework Convention, UN Declaration of Persons Belonging to …)
    - Problem of defining membership ('right to exit')

- A right to culture? (Culture as 'art' v culture as 'shared meaning')

- An intermediate level of agency, between the state and the individual, whose autonomy could be respected and protected
    - What then is 'the community'? The realisation of solidarity?