

HUMAN RIGHTS: BETWEEN UNIVERSALISM AND RELATIVISM*

Abstract

The connection between human rights, peace and security highlights the stakes attached to the respect and enforcement of the principle of universality. Yet, the 1948 Universal Declaration of Human Rights and all subsequent international conventions have been questioned by States and communities: they are believed to be reflective of euro-centric values. This is why cultural relativism has emerged as an alternative to the principle of universality of human rights. This raises security questions: if a state questions universality of human rights, does it undermine the whole UN peace and security system? Is cultural relativism a threat to universality, leading to fragmentation and insecurity? The book chapter seeks to address such issues while looking at transcending the dichotomy between universalism and relativism. Scholars' views and strategies to overcome the tensions and ensure the respect of human rights while promoting peace and security are consequently examined.

keywords

Universality – Human Rights – Security - Relativism

INTRODUCTION

The linkage between human rights, peace and security is established in the United Nations (UN) Charter. The 1948 Universal Declaration of Human Rights (UDHR) and all subsequent international conventions were drafted with the aim of maintaining peace and security in the post-World War II (WWII) world. Consequently, in the liberal peace and security matrix, human rights are approached as an inhibitor of conflict.¹ This raises questions with regards to States and communities following other standards than universal norms: for example, Asian countries have their human rights particularism, with a focus on the community, an emphasis on the family and the priority given to economic, social and cultural rights.² Other examples are to be found in regions of the world such as Africa where individualism, that is inherent to the Enlightenment period and to universal human rights law, is superseded by the dichotomy between rights and duties of the individual vis-à-vis the community.³

Human rights charters existed well before the 1948 UDHR, as illustrated by the Cyrus Cylinder. The reference to the past but also to different beliefs, values and practices with regard to, for example, equality between men and women, has constituted grounds for challenging the

* Dr Anicée Van Engeland, Associate Professor of International Security & Law, Cranfield University, a.van-engeland@cranfield.ac.uk

¹ Sriram and Martin-Ortega, 2009, p 4; Hathaway, 2007, p 589

² Huong et al., 2018, p 302

³ Cobbah, 1987, p 309 ; Mutua, 2011, p 84

principle of universality of human rights as encompassed in UDHR. Some States and communities consider that universal human rights law is a neo-colonial enterprise⁴ and that the UDHR reflects Judeo-Christian values.⁵ It has also been said that the UDHR is euro-centric in its drafting since most of the world states were still under colonial rule after WWII and could not effectively contribute to the drafting of the Declaration. Now that these countries have become States in their own right, they challenge the universality of the UDHR. The UDHR is also defied in the interpretation and its implementation and is denounced as impacting civilisations negatively.

These different approaches to human rights are often regrouped under the cultural relativism umbrella. Yet, it is to avoid the fragmentation of a universal vision of human rights that the UN Charter links human rights, peace and security and that the UDHR was drafted. This idealistic endeavour has not prevented many States and communities to adopt a relativist stance on the topic of human rights. As the universality of human rights is embedded in the security discourse, it is legitimate to question whether such stance on relativism leads to insecurity.

The discussion about the universality of human rights in relation to security is extremely relevant in a post-colonial context: most States and communities seek to position themselves with regard to their identity while seeking to abide by the UDHR, to be in line with the UN Charter. This is a balancing act that does not always bear fruits; the discrepancies between the UDHR and local, state or regional interpretations and practices of human rights are sometimes too big. This is why it is necessary to include a chapter on the debate on universality, examining relativists' claims as the whole UN system is now built on the premise that the respect and implementation of human rights is a condition for security, at least in the universal liberal model of governance.⁶ The question to be asked, and that this chapter will seek to address, is to know whether rights can truly be universal, and, if one adopts cultural relativism, will this alignment lead to insecurity and conflict. The first part of the paper will examine universality and cultural relativism looking at the main sources of law applicable. The second part will seek to illustrate the tensions so that the stakes are well understood. The last part will engage with ways forward, including transcending the opposition between universalists and relativists. Each section looks at security issues.

1. UNIVERSALITY AND CULTURAL RELATIVISM: HUMAN RIGHTS LAW AS A BATTLEGROUND

It is, firstly, necessary to understand the principle of universality of human rights, and how the protection and the implementation of universal human rights is key to maintaining peace and security. This section goes further by engaging with the discontent surrounding the principle of universality.

⁴ Alzubairi, 2019; Hilsdon et al, 2000; Ibhawoh, 2017; Ingiyimbere, 2017

⁵ Féron, 2014, p 190.

⁶ Buchan, 2013, p 81

1.1 THE PRINCIPLE OF UNIVERSALITY OF HUMAN RIGHTS

The principle of universality is found in Article 2 of the UDHR but also the Preamble of the International Covenant on Civil and Political Rights (ICCPR) and of the International Covenant on Economic, Social and Cultural Rights (IECSR). Affirming the principle of universality of human rights means that those rights apply to everyone, everywhere. Human rights are therefore values that transcend borders and cultures. The 1993 Vienna Declaration states that the universality of human rights is “beyond question”⁷. The principle is therefore essentially entrenched into human rights law. The respect and implementation of universal human rights law ensures in turn peace and security. From its inception post WWII, it was clear that the very purpose of the UDHR would be to transcend all differences, including cultural and religious,⁸ without denying their existence. As a result, Henkin speaks of the UDHR as an “authoritative catalog of rights.”⁹

To be as universal as possible, independent experts from China and Lebanon participated to the drafting of the UDHR;¹⁰ the drafting committee was varied, representing different cultures. The American Law Institute issued the Statement of Essential Human Rights to present the Latin American perspective. Cuba, Panama, Lebanon and Egypt proposed amendments to the Draft Declaration. As summed up by Norchi, the UDHR then emerged as a consensus.¹¹ It is believed that this consensus among nations has become, with time, “binding as part of customary international law, legal principles of the so-called civilized nations.”¹² Consequently, universal human rights as encompassed in the UDHR and other conventions is believed to reflect the diversity of the world. In that regard, human rights have become a yardstick by which all abide, overriding other benchmarks that might be ethical, cultural, religious, traditional or customary. The norm to measure compliance with universal human rights law is the very object that seeks to be measured: human rights. The best example of that endeavour is the Rainbow Constitution of South Africa where customary or religious matters are assessed to ensure compliance with the Constitution’s human rights declaration.¹³ Concretely, the respect and the implementation of human rights are measured by looking at the respect and the implementation of human rights. This belief that human rights are *de facto* and *de lege* normal is in itself a weakness in the universal human rights system. It ignores that, for other civilisations, human rights might be anchored in a different realm of legitimacy, such as the divine or traditional leading authorities enforcing customary law.

This premise that human rights are universal then links in with peace and security: the respect for universal human rights helps to prevent conflicts, to mitigate the impact of conflicts and to negotiate the end of conflicts. As stated by Hathaway, “promoting human rights promotes

⁷ Vienna Declaration and Programme of Action, 1993, para 1

⁸ Glendon, 2001, p 301

⁹ Henkin, 1989, p 11

¹⁰ Dundes Renteln, 1990, p 28

¹¹ Ayton-Shenker, 1995, p 2

¹² Dundes Renteln, 1990, p 32

¹³ Sachs, 1990, p 10

security and promoting security promotes human rights.¹⁴ The question of the universality of human rights is pertinent here, as the compliance with human rights to maintain peace and security is understood as referring to the UDHR and other conventions. If a State abides by another set of human rights, for example the Asian set of values, the idea that security equals human rights and vice-versa could be nullified in the eyes of the proponents of universality. Supporters of the principle of universality believe that attempts at fragmenting human rights undermine security and demonstrate the need for common human rights values: how could parties to a conflict agree on mitigating the impact of war if they both follow different sets of human rights law, one secular -that is the UDHR- and the other religious -that is the Quran – and find common grounds? Yet, as demonstrated by the legal narrative during the 1980-88 conflict with Iraq, Iran relied on both universal human rights law and Islamic law.¹⁵ As a result, universalists and relativists have been working together to improve international, regional and domestic respect and enforcement of universal human rights, seeking to maintain peace and security; even the most convinced universalists acknowledge either the challenges inherent to universality in a world of pluralism, or the rejection of universality.¹⁶ Yet, these human rights scholars and practitioners believe that the principle of universality constitute the very soul of human rights and that we should prevent cultures from interfering at the risk of having relative human rights.¹⁷

Indeed, after anchoring this principle of universality of human rights in the Enlightenment period, Henkin proceeded, well before Fukuyama claimed to end of history for democracy, to state the end of history for universality: he considered that universality of human rights was a fact and was achieved in the 20th century.¹⁸ Thirty years after this statement was made, the principle of universality is still being challenged. The engagement with the debate on “universality vs relativity” of human rights is often framed in political terms: it is understood that States or communities challenging the principle of universality do it in quest of political gains.¹⁹ The challenge to the principle of universality cannot and should not be reduced to a political game: States or communities that engaged with relativism have produced elaborated legal narratives. While most of these narratives do not challenge the internationality of human rights, they challenge their universality, as internationality does not guarantee universality. Internationality is a characteristic of human rights that some advocates have been trying to put forward so that the international community would make human rights applicable everywhere to everyone. Internationality is illustrated by the existence of international courts. However, the existence of Asian, African or Muslim human rights values demonstrates that there are regional or national specificities putting forward an alternative discourse. It is therefore safe to claim that while human rights are international, they are not universal, and will never be. This helps re-framing the debate as to how different visions of human rights could function together to ensure the respect of the UDHR. Yet, before engaging with how to transcend the universality-

¹⁴ Hathaway, n.d.

¹⁵ Van Engeland, 2017, p 61

¹⁶ Henkin, 1989, p 10

¹⁷ Freeman, 2010, p 125-126; Howard, 1995, p 2

¹⁸ Henkin, 1989, p 10

¹⁹ Mayer, 1999, p. 3

relativism debate, the first step is to understand how and why the principle of universality is being questioned.

1.2 QUESTIONING UNIVERSALITY

Questioning the universality of human rights and the values of the UDHR is not new: in 1947, the American Anthropological Association (AAA) issued a statement cautioning the panel working on the UDHR, stating that “values and standards are relative to the culture from which they derive.”²⁰ Herskovitz, one of the authors of the AAA statement, believed that the UN Charter and the 1948 UDHR to be too western-oriented.²¹ The AAA predicted the struggle to come between those advocating for universal human rights and the proponents of cultural relativism. Indeed, many believe that universal human rights values are not universal and that the human rights regime is generalised at the expenses of alternative understandings, may they be cultural or religious, of the concept. For example, Dr Hossein Mehrpoor, former representative of Iran to the UN, addressed the lack of consideration of religious values by the international organisation:

The Human Rights Commission and other UN institutions have no consideration for religious values; we can even say it is the forum where, under a variety of pretexts, there is some sort of struggle against some beliefs and religious values.²²

Proponents of relativism believe that cultural, religious, traditional and customary values, beliefs and norms dictate the approach and content to human rights.²³ A community, a society or a State select what human rights are from a chosen perspective that is anchored in religious, cultural or social beliefs, values and practices. There is then a bottom-up or top-bottom selection of human rights principles that can be based on ethics, customs, religion or culture and that take precedence over universal human rights law. An example of this is the argument in support of the practice of female circumcision: it is argued by some that the women who do not undergo the procedure will not be able to marry and as a result will be side-lined from the community; they could, at worse, be exiled.²⁴ In such tight-knit communities, the advocacy for women’s rights is inefficient as the stakes are high for those who challenge customs. There are new voices challenging the universal human rights’ approaches to female circumcision in a post-colonial fashion: it is believed that universal human rights activists have under-estimated the stakes and have essentialised women bodies in their quest to have universality respected. Ahmadu expressed her

concern about the negative psychosexual ramifications of anti–female genital mutilation (FGM) campaigns and stereotypes for circumcised African women, particularly

²⁰ American Anthropological Association, 1947

²¹ American Anthropological Association, 1947

²² Mehrpoor, 1995, p 37-38

²³ Musalo, 2015

²⁴ Berg and Denison, 2013 p 837

vulnerable teenagers and young adults, many of whom are struggling with all sorts of conflicting messages regarding their bodies and sexuality.²⁵

Ahmadu builds on Schweder's questioning of the anti-female genital mutilations campaigns that has endorsed universality of human rights and body integrity as their core argument.²⁶ She engages with the human rights' narrative of the liberal world order, side-lining the issue of assessing circumcision with regard to human rights law. Instead, she confronts the outcomes of such bias that are based on a universal perception of human rights law; she reflects on how expectations of respect of universal norms turn universalists into zealots who are prejudiced. Ahmadu and Schweder's work demonstrates that there is more to relativism than the mere anchoring of rights into an alternative: relativism is also about post-colonialism and the respect of the Other's voice.

The tensions between universalists and relativists reached a peak, such that in 1993, an international conference was organised in Vienna. There were concerns that the principle of universality was eroded. The representatives of 171 States present adopted by consensus the Vienna Declaration and Programme of Action to strengthen human rights around the world. The aim of the conference was to innovate in terms of promotion and protection of human rights, addressing underlying issues such as the fragmentation principle of universality. While the outcome of this conference is often praised, the fact that such an event was needed to re-affirm the principle of universality while considering "national and regional particularities and various historical, cultural and religious backgrounds²⁷" is telling of the tensions that exist between universalism and cultural relativism. Besides, the 1993 Conference gave the opportunity to States to formalise their disagreements with regard to the principle of universality: the 1993 Asian Regional Meetings in Bangkok for the World Conference on Human Rights produced a document stating "while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.²⁸" Therefore, far from constituting a new base to implement universal norms, the conference shed light on divisions. One can find more recent examples of relativism looking at the Universal Periodic Review process: China has used it to declare that the authorities will "respect the principle of the universality of human rights" but

given differences in political systems, levels of development and historical and cultural backgrounds, it is natural for countries to have different views on the question of human rights. It is therefore important that countries engage in dialogue and cooperation based on equality and mutual respect in their common endeavour to promote and protect human rights.²⁹

²⁵ Ahmadu, 2007, p 278-79

²⁶ Schweder, 2009, p 14

²⁷ Vienna Declaration and Programme of Action, 1993, para 5

²⁸ Declaration Regional Meetings for the Asia of the World Conference on Human Rights, 1993, para. 8.

²⁹ A/HRC/WG.6/4/CHN/1 of 10 November 2008. Para. 6

The debate is, consequently, still ongoing.

The challenges to the principle of universality are varied. Some challenge the very idea of universality while others believe that the principle of universality needs to be mitigated. Some cultural relativists denounced the UDHR as a neo-imperialist endeavour.³⁰ Others believe that the UDHR is not reflective of all approaches to human rights and the cultural specificities should supersede the Declaration.³¹ Cultural relativists but also advocates of alternative readings believe the UN human rights documents to reflect Western values, with an emphasis on the Enlightenment's understanding of human rights. This means, for example, that the focus is on individualism when the Banjul Charter insist on community rights take precedence over individual rights. Cultural relativists take issue with the lack of consideration of beliefs, values and practices others than those set in the UDHR: "[T]he universalist position completely denies that the existing universal standards may be themselves culturally specific and allied to dominant regimes of power."³² The double standard practiced by States that "predict that even the slightest 'dilution' of universalism will give the green light to tyrannical governments, torturers, and mutilators of women"³³ while using human rights to interfere or invade other countries. Security makes an apparition in the debate on universality when States like the United States and its allies justified the intervention in Afghanistan to protect women's rights: international security then partly depends on the respect of their rights, bringing in the liberal security narrative.³⁴ Another illustration is to be found in the design and implementation of the principle of responsibility to protect: while some believed that this principle would enhance the promotion and protection of human rights around the world,³⁵ cultural relativists see it as a powerful tool to impose a liberal and western understanding of human rights as a ground to go to war.³⁶

The principle of universality of human rights has been contested since its inception. The debate now gives the impression that there is on the one hand, a liberal democratic world where human rights are universal and security is maintained opposed to other governance models or transitioning democracy that seek to maintain their beliefs, values and practices, including their own perspective on human rights. The debate is however more complex than this opposition, as demonstrated in the next part of this chapter.

2. CONTESTING THE LIBERAL MODEL

In the realm of cultural relativism, there are different trends, ranging from those who advocate for cultural relativism to those supporting particularism, including cross-relativists. There are therefore shades of disagreement, with different outcomes for security. The heart of the issue

³⁰ Ibhawoh, 2017; Shaheed and Richter, 2018

³¹ Packer, 2002, p 90; Shah, 2006, p 209

³² Otto, 1998, p 8

³³ Otto, 1998, p 8

³⁴ Gassama, 2012, p 408

³⁵ Donnelly, 1989, p 414-15

³⁶ Barsa, 2005, p 5

remains the contestation of the current human rights system that is perceived as being western-oriented due to its roots or its tendency to link human rights with democracy, liberalism and capitalism.

2.1 SHADES OF DISAGREEMENT WITHIN THE INTERNATIONAL COMMUNITY

As a result of the tensions, the UDHR is sometimes accommodated while, in other settings, it is rejected as constituting a threat to local values, beliefs and practices. For example, in 1977, the Saudi delegate to the UN Jamil Murad Baroody denounced the UDHR as an “exclusively Western approach to the human rights questions.”³⁷ In 1997, Mahathir bin Mohamad, the Prime Minister of Malaysia urged for the reform of the UDHR.³⁸ Universality of human rights is also challenged by some regional declarations such as the 1990 Cairo Declaration on Human Rights in Islam. Then, the challenges to the principle of universality are not uniform. There are obviously shades of universality as some scholars and practitioners argue for a complete take-over of local values to supplant them with the UDHR;³⁹ there are also shades of cultural relativism with some states or communities sometimes rejecting universal values altogether, and other times also proceed to a choice *à la carte* of the human right they feel are relevant, rather than proceeding *au menu*.

One of the best examples of the tensions between universality and cultural relativism is the Convention of the Elimination of Discrimination against Women (CEDAW). While it has been well ratified, the implementation of this Convention has faced a number of challenges and obstacles due to reservations. Some articles of the Convention are perceived to reflect Western cultural imperialism or attempts by the West to demean and alter traditional, religiously-based practices.⁴⁰ Consequently, some States have ratified the Convention with reservations that protect their religiously or culturally-sanctioned customs. Egypt stated the following:

The Arab Republic of Egypt is willing to comply with the content of [Article 2], provided that such compliance does not run counter to the Islamic Sharia.... This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementarity which guarantees true equality between the spouses...

Iraq's reservation stated: “Approval of and accession to this Convention shall not mean that the Republic of Iraq is bound by [certain of its] provisions... [Iraq's accession] shall be without prejudice to the provisions of the Islamic Shariah according women rights equivalent to the rights of their spouses so as to ensure a just balance between them....” These reservations demonstrate how religious values take precedence over universal norms. The case of women's rights in Islam is of particular interest to the debate on universality. Muslim women are, like all

³⁷ Burke, 2011, p 138

³⁸ Churchill, 2016, p 44

³⁹ Caney, 2005, p 93; Nussbaum, 2006, p 78

⁴⁰ Brems, 1997, p 160

believers, expected to fulfil duties before benefiting from rights.⁴¹ Yet, the rights they benefit from are mostly construed through their family status as a married woman, a daughter or a mother. For example, a woman should benefit from good spousal treatment if she is obedient. From the onset, women are then limited to the performance of duties, which in turns, reduces their access to rights if the duties are not performed properly. As stressed by Smail Salhi, women find themselves subjected to patriarchal culture and misinterpretations of religion.⁴² The other issue with Islamic human rights law, and that is to be found in the general reservation made by Saudi Arabia to CEDAW. It stated:

in case of contradiction between any term of the Convention and the norms of Islamic Law, the Kingdom [of Saudi Arabia] is not under the obligation to observe the contradictory terms of the Convention.⁴³

The justification is that Shari'a is fluid and depends on interpretations made of the holy scriptures. Several countries, including the United Kingdom criticised this reservation precisely because of the fluidity of the content of Shari'a. There is no clear prescribed content of the Islamic values and Islamic law, as norms are left to human beings to interpret the scriptures. This flexibility leads again to a selection of which rights would be applied, raising the issue of arbitrariness and political whims. In terms of human security, it leaves Muslim women at the mercy of a patriarchal political establishment and a patriarchal society that leaves no doubt to the desire to control them, from their bodies to their thoughts. Yet, would universality of human rights be the answer to those old and deeply anchored beliefs, values and practices?

When examining cultural relativism, Donnelly divides the trend into strong or weak.⁴⁴ He assesses a case of strong cultural relativism when culture becomes the primary referent for human rights, thereby effectively rejecting the UDHR or selecting the right that matches the culture, and filling them with the relevant localised content. Weak cultural relativism considers culture as an important normative source, and is to be understood as creating exceptions within universality. In the case of a Muslim woman living in a country where the authorities and society seek to control her, there would be a strong cultural relativism. The issue with such argument is that it denies the disagreements over the principle of universality that are specific to each culture. As an illustration the Islamic republic of Iran's approach to universality is not divided into strong and weak and is not solely based on culture. Instead, there are a multiple of approaches to human rights, ranging from hardliners who reject the idea that human rights are universal and who embrace an Islamic Iranian vision of human rights, to those who advocate for liberal approaches to human rights; the shades of perspectives in between transcend the strong or weak measure of assessment.⁴⁵ It makes the challenge of universality of the world even more complex.

⁴¹ Kar, 2001

⁴² Smail Salhi, 2008, p 304

⁴³ See specific reservations by country: <https://www.unwomen.org/en>

⁴⁴ Donnelly, 1984, p 401

⁴⁵ Van Engeland 2011

This complexity is further illustrated with the engagement with the UDHR, ranging from full rejection to accommodation. Particularists believe that universal human rights should be riddled with exceptions. The explanation of this argument is that universality is an impossible utopia because all norms are relative.⁴⁶ This is exemplified by the above Shari'a debate. There is no uniformity in the way human rights are approached. In Europe and North America, it is acceptable to have human assemblies decide of the content and meaning of human rights. In Islam, trusting human beings with human rights is to err as humans are fallible; only Allah can decide what human rights are, how they apply and to whom they apply.⁴⁷ Muslim scholars have approached the human rights paradigm through a conditional stance: one has human rights granted by God once they have fulfilled their religious obligations. A believer's responsibility towards Shari'a and Shari'a law therefore supersedes commitment to international human rights. This approach is partly at the root of the disengagement of some Muslims from universal human rights.⁴⁸ This duties/rights pattern is problematic for all citizens when seeking to reconcile Muslimness and universal human rights law, and goes well beyond of a categorisation between strong and weak particularism. The issue is one of legitimacy, where universal human rights are man-made while Islamic human rights are divinely ordered.

The impact on security as approached in the UN Charter and by the international community is the following: it is understood that having multiple states and communities advocating for different readings of human rights undermines the world order.⁴⁹ The Rahman case is a good illustration of the linkage between universal human rights law and security: Abdul Rahman, an Afghan citizen, was condemned to death for apostasy.⁵⁰ Hanafi law as interpreted by Afghan authorities stated that a Muslim who rejects Islam shall be sentenced to death. This decision of the courts to rely on Hanafi jurisprudence was grounded in Article 130.2 of the new Constitution. Yet, Article 7 of the same Constitution affirms the obligation for the country to abide by international law and the UDHR. Afghanistan is also a party to the ICCPR which in its article 18.2 states that obligation to respect freedom of religion and belief. Article 6 of the Constitution which states that "the state is obliged to create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights, realization of democracy, and to ensure national unity and equality among all ethnic groups and tribes and to provide for balanced development in all areas of the country." This case demonstrates the complexity of including a religious perspective on human rights alongside universal human rights law: the judges working on the case had different constitutional directives to work with, some stating that Hanafi law is the base law while others claim universal human rights need to be implemented. This case study also shows that the liberal model that marries human rights with democracy and liberalism is difficult to export and the Afghan constitution could not provide a solution to the tension between Islamic law and universal human rights.⁵¹ The Afghan constitutional experiment failed to encompass the challenges and difficulties of reconciling a

⁴⁶ Churchill, 2016, p 44

⁴⁷ Qurbani, 1996, 10

⁴⁸ Al Mawdudi, 1978, p 5; Amuli, 1998, p 89; Merad, 1984, p 127.

⁴⁹ Van Engeland, 2014, p 1337

⁵⁰ Afshar, 2006, p 591

⁵¹ Van Engeland, 2014, p 1337

religious system of law with a secular one. In security terms, this means that the protection of minorities in Afghanistan is undermined by another reading of human rights law that gives the priority to the majority community's religious values. This creates grounds for greed and grievances that are known for being causes of conflict.⁵² The Afghan Hanafi perspective on human rights is consequently problematic from a security perspective.

It could also be argued that the problem is not with local specificities when it comes to human rights, but rather with the way the principle of universality is advocated and has become anchored to liberalism.

2.2 THE ISSUE WITH THE LIBERAL WORLD ORDER

One of the premises of this book chapter is that universal human rights law is linked to liberal peace. The outcome is that the respect of universal human rights becomes a primary referent to be considered as peaceful or threatening: the Islamic republic of Iran, under these terms, become a threat to peace and security as it advocates for another reading of human rights. The argument could and should be turned on its head to question whether insecurity is not caused by the refusal to accommodate or even include alternative human rights voices. The principle of universality that claims to merge all human rights' culture into one is, in that regard, an ideal but also an encouragement to the international community to assess the world security through a biased lens. This has led to justifying interventions and invasions in countries and within communities on the ground of universal human rights, without addressing human rights violations "at home" such as the existence of Guantanamo Bay camp. The stakes attached to the double standard approach to human rights had been understood early on by the AAA when it "cautioned the U.N. Commission on Human Rights about this danger [of erasing cultural diversity] during the drafting of the UDHR. The Society pointed to the West's history of 'ascribing cultural inferiority' to non-European peoples.⁵³" Yet, the UN approach to peace and security that, in its philosophy but also in its practice, liberal often appears to side-line cultural values, beliefs and practices. Universality of human rights then risk being seen as a crusade against other values.

The association between liberal peace, democracy and human rights has strengthened the position of cultural relativists. This combination has slowly crept onto universal human rights law, and some have now claimed the end of history when it comes to human rights, using responsibility to protect as a paradigm to do so. This is how and why Zeid Ra'ad Al Hussein, then UN High Commissioner for Human Rights, declared:

The universality of rights is being contested across much of the world. It is under broad assault from terrorists, authoritarian leaders and populists who seem only too willing to

⁵² Collier and Hoeffler (2004); Fearon and Laitin (2003).

⁵³ Otto, 1998, p 8

sacrifice, in varying degrees, the rights of others, for the sake of power. Their combined influence has grown at the expense of liberal democratic order, peace and justice.⁵⁴

He then endorsed the narrative that liberalism produces human rights and that the sole governance model to sustain universal human rights is that of the liberal democracy.

Yet, in a post-colonial world, it is key to listen to alternative human rights' voices. This is why there are now calls to reclaim human rights. In that regard, human rights constitute a field for de-colonisation but also for contestation where it can be advocated that a bottom-up approach is to put forward when it comes to the principle of universality: it could either be a societal bottom-up approach,⁵⁵ a community bottom-up approach or a States to international community approach. In that regard, envisioning universality as a concept being built and "not yet" completed as suggested by McNeilly, gives room to challenge the mainstream dominant discourse.⁵⁶ The question then becomes to know how flexible the international community can be when it comes to including other perspectives without negating the very soul of universal human rights and ensuring liberal peace and security?

3. TRANSCENDING THE TENSIONS: NEW DEVELOPMENTS RESULTING FROM CURRENT CHALLENGES AND POSSIBLE WAYS FORWARD

Scholars have worked on a third approach to human rights, one that would go beyond the *face-à-face* between universality and relativism. Different strategies are proposed and some of them are discussed in this book chapter.

3.1 ACCOMMODATING UNIVERSALISM

Not all communities, countries and regions that voice an alternative approach to human rights struggle with the principle of universality. Some accommodate human rights quite well while others have become drivers in seeking ways of working on commonalities between universality and specificity. The African Commission on Human and Peoples' Rights has produced groundbreaking case law in the domain of social and economic rights. Its judges have sought to make the best use of universal human rights to encourage a liberal development agenda. For example, the Commission observed in *Purohit and Moore v. The Gambia* that it was:

⁵⁴ Al Hussein, 2017.

⁵⁵ Van Engeland, 2011, p 74

⁵⁶ McNeilly, 2015, p 256

aware that millions of people in Africa are not enjoying the right to health maximally because African countries are generally faced with the problem of poverty which renders them incapable to provide the necessary amenities, infrastructure and resources that facilitate the full enjoyment of this right. Therefore, having due regard to this depressing but real state of affairs, the African Commission would like to read into Article 16 the obligation on part of States party to the African Charter to take concrete and targeted steps, while taking full advantage of its available resources, to ensure that the right to health is fully realised in all its aspects without discrimination of any kind.⁵⁷

The Court thereby sought to implement the universal right to health. The judges' methodology has been to focus on less controversial rights as they address the need of the community rather than those of individuals. This contribution to the second generation of human rights is therefore rather logical: judges have found a field where they can reconcile African values and universal values. Another example is to be found in Latin America where courts have used the same strategy: in the case *Asociación Civil por la Igualdad y la Justicia c/GCBA* in Argentina, the judges conducted a budget analysis to show that the State did not use its resources efficiently in order to implement the right to education.⁵⁸ Yet, this methodology seems to fail when addressing individual rights, considered to reflect western-centric concerns. Regional courts have consequently not been able to address the issue of the differences between local human rights' readings and universal human rights law.

Muslim scholars have largely contributed to another methodology, as demonstrated by Iranian scholars. The contribution to the debate on human rights in Iran relates primarily to the principle of universality but also to establishing strategies to enforce religion and the universality of human rights together. As an illustration, scholars have worked toward the enforcement of universal human rights by reaching a balance between interpretation of the scriptures and the universality of human rights.⁵⁹ Ayatollah Javadi Amuli discusses the distribution of rights and duties, seeking to reach a balance between divine law and natural law: he defines both divine law and natural law as a source of human rights. He tries to give an Islamic consistency to the theory of natural rights by explaining that divine law came first and God set natural law on earth. He concludes that human beings deserve claiming rights in respect to man's nature and status and it is only religion that can ensure human rights.⁶⁰ Another example is Hojjat-ol islam Mohsen Saidzadeh who believes that human rights are superior to religion and to the Islamic system:

Fundamental rights do not fall within the realm of *fiqh* (Islamic jurisprudence) [...] because they are essential and are not subject to debate or explanations. It does not matter

⁵⁷ Purohit and Moore v. The Gambia, para 84

⁵⁸ Sigal and Antunez, 2010, p 317

⁵⁹ Mir Hosseini, 1999, p 202

⁶⁰ Amuli, 1998

if a jurist declares a fatwa, that he agrees or not, humanity has a right to life. Human beings have an essential dignity.⁶¹

According to Saidzadeh, Islamic sources recognise universal rights and it is consequently necessary to enforce them.⁶² The issue is rather with how scripture are being interpreted to socially construct roles. He speaks, in particular, of women's rights and explains why conservative interpretations of the scriptures limit women to a traditional role, limiting their access to human rights. He goes further than Amuli, stating that natural law supersedes divine law, which does not mean the end of the influence of Islamic law. This shows how scholars have tried to embrace universality without betraying their roots.

On their end, universalists have sought to consider, accommodate or embrace cultural relativism as a contribution rather than a threat. A seminar organised in Geneva in 2001, entitled "Enriching universality of human rights: Islamic perspectives on the UDHR" is an example as to how relativism has been considered: the purpose of the meeting was to ensure a better understanding of the Muslim reading of human rights and apprehend issues with universal norms. In the closing speech, Mary Robinson insisted on the creative power of diversity, thereby reminding that, while no concession is possible when it comes to the principle of universality in itself, there is a desire to accommodate other values, beliefs and practices. However, Robinson also raised key questions when she questioned whether universality was not only accessible to a group of privileged individuals.⁶³ By raising the issue of ownership, she then challenged the international community to question how the principle of universality is being approached.

Such questions have resonated within the international community as shown by the United Nations' commitment to respect cultural diversity. Cultural diversity has been embraced as an inclusive instrument to ensure representations of others' beliefs, values and practices. The 2001 Universal Declaration on Cultural Diversity links cultural diversity and human rights, as "the defence of cultural diversity implies a commitment to human rights and fundamental freedoms." The relationship between cultural diversity and universal human rights has not been clarified; Pollis and Schwab have still concluded to the existence of a new universalism.⁶⁴ While there is a new universalism, the recognition that a diversity of beliefs, values and practices exists does not provide an in-depth answer to cultural relativists' claims: cultural diversity solely acknowledges other culture, customs or religions but does not include or embrace them, let alone accommodate them. This raises the issues of similarities and differences: similarities between the UDHR and a specific culture will be celebrated as falling under cultural diversity. Differences are left to States and communities to navigate through a margin of appreciation, creating the same issues observed above with the regional courts' approaches.

⁶¹ Saidzadeh, 2002, p. 239-240

⁶² Saidzadeh, 1998

⁶³ U.N.Doc.HR/98/85 (Nov 9, 1998)

⁶⁴ Pollis and Schwab, 2000, p 1-2

This recognition of cultural differences remains a major step forward, and it has led to a reflection on multiculturalism. As a result of the emphasis on cultural rights, Lenzerini speaks of the culturalization of human rights: he suggests that the rise of collective rights and cultural rights is a major change in the universality narrative, embracing the idea of the margin of appreciation. This argument supports the European Court of Human Rights or the African Court on Human and Peoples' Rights methodology. He then argues that principle of universality could be re-engineered through a culturally-based approach, embracing multi-culturalism.⁶⁵ Lenzerini thereby argues that a multi-cultural relativism maximises the effectiveness of human rights while respecting a certain universalism.

The tension is therefore dynamic and productive, but finding compromises is a difficult task, in theory and in practice. Shall we compromise in practices that lead to lowering the threshold of protection granted to the most vulnerable ones? For advocates of universal human rights, the issue is clearly the reference to religion or culture in any human rights documents: those conventions, declarations and texts are meant to be religiously and culturally neutral so that all can identify with universal norms and benefit from them. This is an issue in Muslim countries abiding by the principle of dhimmi, according to which non-Muslims have less rights than Muslims. The fact that Islam provides for non-Muslims via the law of dhimmitude has led to a special law for religious minorities which is seen as discrimination in the eyes of the international community. There is therefore a fundamental tension that is inherent to the nature of religion and culture: Islam and Muslim culture is applicable to those who believe in it and those who chose to be part of that community. All other segments of a society will not benefit from Islamic human rights because of their choice to opt-out because they believe in other religions or because they are non-believers. It is consequently clear that human rights are conditioned to religion. Among those who denounce this situation is Huntington who believes Islam by nature lacks the capacity to integrate universal human rights. In his all-too famous book, he devotes a chapter to Islam in which he explains that Islam is anti-democratic by nature and cannot adopt human right, liberalism and secularism.

This perhaps demonstrates that accommodating other beliefs, values and practices could endanger the principle of universality. The question is then raised as to the methodologies used to consider culture, religion, customs or traditions in the international arena.

3.2 ACCEPTING CULTURAL RELATIVISM WITHIN UNIVERSALISM

Human rights operate at the local, regional and international levels: it constitutes "paradoxical intersection between the universal and the specific."⁶⁶ This is a result of globalisation as noted by Pollis and Schwab.⁶⁷ Most authors agree that some consideration of values and beliefs are therefore necessary to maintain peace and security. Yet, working on similarities and leaving differences to the margin of appreciation is problematic from a universality perspective, and

⁶⁵ Lenzerini, 2014

⁶⁶ Stern and Straus, 2014, p 4

⁶⁷ Pollis and Schwab, 2000, p 1-2

consequently for peace and security: would it mean that the international community should approach female circumcision as part of a culture? Should we accept child labour as part of a liberal reality? Should we compromise on the prohibition to torture in case of terrorism? To what extent is the international community ready to accept different beliefs, values and practices that not only undermine the principle of universality by promoting fragmentation but also endorse violations of those very same universal human rights? And how would we measure what is acceptable due to a high level of similarity while leave the “rest” to the margin of appreciation? Would accepting specificities endanger liberal peace?

Those questions and the divide between universality and cultural relativism seem almost overridden by another issue: it is key to discuss the principle of universality in relation to liberalism. To fully apprehend human rights in the 21st century, it is necessary to re-imagine the principle of universality of human rights and this goes through a discussion on the linkage with liberal peace. Scholars using different methods have engaged with the issues. One of the strategies has been to acknowledge the need to re-define universality in a post-colonial world: in his controversial book, Kennedy states

I worry, moreover, that human rights, given its origins, its spokesmen, its preoccupations, has often been a vocabulary of the centre against the periphery. A vehicle for empire rather than an antidote to empire.⁶⁸

He outlines clearly his concern that human rights are a vehicle for imperialism. It is indeed to be noted that in the UN perception of peace and security, human rights are at the heart of the global governance project. Interventions and invasions conducted in the name of human rights carry a neo liberal agenda. In that regard, ensuring that human rights are universal would then internationalise the Fukuyama’s agenda of liberalism. Orford alerts us to the same issue when she says:

I want to suggest that human rights discourse offers resources for attempting to create a universalist ethic that is not premised upon a denial of difference or a nostalgia for a lost, imagined wholeness. Human rights has the potential to found an international law that is not limited to supporting the fantasy life of nations and the international community through recreating the violent exclusion of the alien or the foreign.⁶⁹

She then seeks solutions to re-imagine human rights differently. In that regard, Mutua, who criticises human rights as a neo colonialist enterprise,⁷⁰ proposes an alternative. He not only transcends the universalist-cultural relativist debate; he also finds a solution to the use and ownership of universal human rights law: he proposes to re-build universality from the bottom-

⁶⁸ Kennedy, 2006, p 133.

⁶⁹ Orford, 2003, p 214

⁷⁰ Mutua, 2001, p 201

up, based on cross-culturalism. For his project, he builds on the work of An Na'im who supports cross cultural approaches to human rights law.⁷¹

I believe that the current human rights corpus has no answers to these questions. It does not have the tools to deal with these deeply embedded questions. That will only be possible, I believe, if we re-open debate on the entire normative scheme of the human rights corpus and reconstruct it from the ground up. The participation of all societies and cultural milieus must be required if the corpus is to claim genuine universality.⁷²

Mutua criticises the approach of the principle of universality that seeks to be inclusive of others and wishes instead to promote a new universalism. This method transcends the debate of inclusion and benchmarking as universality would be built brand new, from the bottom-up by those who live human rights. This new universalism would reject Western hegemony, thereby questioning the liberal peace and security agenda.⁷³ In that regard, McNeilly's approach, building on Butler, is to constantly re-imagine the principle of universality of human rights, making it a "not yet" domain. Universality becomes a space for contest, adapting to the political reality of the moment:

I seek to think through the possibility of exploring the universality of human rights as a process of ongoing universalisation. This approach considers universality not as a static attribute or characteristic of human rights to be either endorsed or rejected, but as a process, an action, a doing which takes place through politico-legal engagements with rights and is the very lifeblood of human rights.⁷⁴

The question as to how link between universal human rights and security can be broken is therefore addressed, indirectly: a new principle of universality will lead to a re-definition of international priorities in the domain of peace and security

CONCLUSION

The search for a new universalism builds on the work done by post-colonial scholars seeking to transcend the tensions between universalism and cultural relativism. While new ideas and approaches are emerging, the strategy to ensure a co-existence of different cultures, religions, traditions and customs remain a challenge. The re-framing of the debate on the principle of universality is key: it has enabled a post-colonial critique of the principle of universality and a questioning of the liberal aim of universal human rights when it comes to peace and security. Such work is now powering the emergence of a new universalism.

The association between universal human rights on the one hand and peace and security on the other hand also need to be questioned in other terms: post-colonialism alone will not help sort

⁷¹ An-Na'im, 1995, p 20

⁷² Mutua, 2008, xi

⁷³ Mutua, 2008, p 156.

⁷⁴ McNeilly, 2015, p 265

out this matrix on which the post World War II world is built. Liberal peace should either be dismantled at the risk of creating more conflicts or peace and security need to re-frame and re-imagined as well to accommodate the new universality paradigm.

References

American Anthropological Association (1947) Statement on human rights, *Am Antropol* 49(4): 539-543

Afshar MKR (2006) The Case of an Afghan Apostate: The Right to a Fair Trial Between Islamic Law and Human Rights in the Afghan Constitution, *MaxPlanckUNYB* 10:591-605

Ahmadu F (2007) Ain't I a woman too? Challenging myths of sexual dysfunction in circumcised women. In Hernlund and Shell-Duncan (eds), *Transcultural Bodies: female genital cutting in global contexts*, Rutgers University Press, New Brunswick, pp 278-310

Al Hussein Z (2017) Values enshrined in Universal Declaration of Human Rights under assault, must be defended.
<https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=22507&Lan.>
Accessed 27 October 2020

Al Mawudi M (1978) Human rights in Islam, Islamic Foundation, Leicester

Alzubairi F (2019) Colonialism, neo-Colonialism, and anti-terrorism Law in the Arab World, Cambridge University Press, Cambridge

Amuli, Ayatollah J (1998) *Falsafe-ye Hoquq-e Bashari*, Markaz-e Nashr-e Isra, Qom

An Na'im A (1995) Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Punishment. In An Na'im (ed), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, University of Pennsylvania Press, Philadelphia, pp 19-43

Ayton-Shenker D (1995) The challenge of human rights and cultural diversity, United Nations Department of Public Information, New York

Barša P (2005) Waging War in the Name of Human Rights? Fourteen Theses about Humanitarian Intervention. *Pespectives* 24:5-20

Berg RC and Denison E (2013), A tradition in transition: factors perpetuating and hindering the continuance of female genital mutilation/cutting (FGM/C) summarized in a systematic review. *Health Care Women Int* doi: [10.1080/07399332.2012.721417](https://doi.org/10.1080/07399332.2012.721417)

Brems E (1997) Enemies or Allies? Feminism and Cultural Relativism as Dissident Voices in Human Rights Discourse. HRQ 19-1:136-164

Buchan R (2013) International law and the construction of the liberal peace, Hart Publishing, London

Burke R (2011) Decolonization and the Evolution of International Human Rights, University of Pennsylvania Press, Philadelphia

Caney S (2005) Justice beyond borders: a global political theory, Oxford University Press, Oxford

Cobbah E (1987) African Values and the Human Rights Debate: An African Perspective. HRQ doi: 10.2307/761878

Collier P and Hoeffler A (2004) Greed and Grievances in Civil War. Oxf Econ Pap doi:10.1093/oeq/gpf064

Churchill RP (2016) Human Rights and Global Diversity, Routledge, London

Donnelly J (1989) Universal Human Rights in Theory and Practice, Cornell University Press, Ithaca

Dundes Renteln A (1990) International human rights: universalism versus relativism, Sage Publications, New York

Fearon JD and Laitin D (2003) Ethnicity, Insurgency, and Civil War. Am. Political Sci. Rev doi <https://doi.org/10.1017/S0003055403000534>

Féron H (2014) Human rights and faith: a 'world-wide secular religion'? Ethics Glob. Politics doi: <https://doi.org/10.3402/egp.v7.26262>

Freeman M (2010) Human Rights, Polity Press, Oxford

Gassama I (2012) A World Made of Violence and Misery: Human Rights as a Failed Project of Liberal Internationalism, BJIL 37(2):408-458

Ghanea Bassiri K (2002) Hujjat al-Islam Mohsen Sa'idzadeh: A contemporary Iranian Cleric on Fiqh, Women, and Civil Society. JINEL 1(2): 229-238

Glendon MA (2001) A world made new: Eleanor Roosevelt and the Universal Declaration of Human Rights, Random House, New York

Hathaway, (n.d), “Security and Human Rights”,
<https://law.yale.edu/sites/default/files/documents/pdf/Faculty/SecurityandHumanRights.pdf>.
Accessed 27 October 2020

Hathaway OA (2007) Why do countries commit to human rights treaties? *J Conflict Resolut*.
doi: [10.1177/0022002707303046](https://doi.org/10.1177/0022002707303046)

Harvey C and Rooney E (2010) Integrating Human Rights? Socio-economic Rights and Budget
Analysis, *EHRLR* 14:266-271

Henkin L (1989) The Universality of the Concept of Human Rights. *Annals Am. Acad. Pol. &
Soc. Sci.* Doi : [10.1177/0002716289506001002](https://doi.org/10.1177/0002716289506001002)

Hilsdon AM, Mackie V, Stivens M and Macintyre M (2000) *Human Rights and Gender Politics:
Asia-Pacific perspectives*, Routledge London/New York

Howard RE (1995) Human Rights and the Search for Community. *J Peace Res.* Doi:
[10.1177/0022343395032001001](https://doi.org/10.1177/0022343395032001001)

HuongNTM, Vu, GC and Nguyen, TM (2018) Asian Values and Human Rights: A Vietnamese
Perspective. *JSEHR*. doi: [10.19184/jseahr.v2i1.7541](https://doi.org/10.19184/jseahr.v2i1.7541)

Ibhawoh B (2017) *Imperialism and Human Rights: Colonial Discourses of Rights and Liberties
in African History*, SUNY Press, Albany

Ingijimbere F (2017) *Domesticating Human Rights: A Reappraisal of their Cultural-Political
Critiques and their Imperialistic Use*, Springer, Cham

Kar M (2001) Kudum Huquq ? Kuddum Taqlif? Darhbarah-ye vahziat-ye huquq-e zan dar
Khanevadeh Jamiyah-ye Iraniyan. Zanan, Tehran

Kennedy D (2005) *Reassessing International Humanitarianism: The Dark Sides of Virtues*,
Princeton University Press, Princeton

Kennedy D (2006) *Reassessing International Humanitarianism: The Dark Sides*. In Orford (ed),
International Law and its Others, Cambridge University Press, Cambridge, pp 131-155

Lekha Sriram C, Martin-Ortega O and Herman, J (2018), *War, Conflict and Human Rights*,
Routledge, Abingdon and New York

Lenzerini F (2014) *The culturalization of human rights law*, Oxford University Press, Oxford

Magnarella PJ (2003) Questioning the universality of Human Rights. *HRHW* 3-1:15

Mayer AE (1999) Islam and Human Rights: Tradition and Politics, Westview Press, Boulder

McNeilly K, Reclaiming the Radical in Universal Human Rights: Universality as Universalisation. INT'L HUM. Rts. L. REV doi [10.1163/22131035-00402007](https://doi.org/10.1163/22131035-00402007)

Mehpoor H (1995) Hoquq-e Bashardar Asnad-e Binalmellali and Muzeh-e Jomhurri-ye Islami-ye Iran, Ihilalat, Tehran

Merad A (1984) Droits de Dieu, Droits de l'Homme en Islam. In Meyer Birsch P (ed) *Universalité des Droits de l'Homme et Diversité des Cultures*. Editions Universitaires Fribourg, Fribourg, pp 127-139.

Mir Hosseini Z (1999) Islam and Gender: The Religious Debate in Contemporary Iran. Princeton University Press, Princeton

Musalo K (2015), When Rights and Cultures Collide. <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/when-rights-and-cultures-collide/>. Accessed 27 October 2020

Mutua M (2001) Savages, Victims, and Saviors: The Metaphor of Human Rights, Harv. Int. Law J 42(1): 201-245

Mutua M (2008) Human Rights: A Political and Cultural Critique, University of Pennsylvania Press, Philadelphia

Mutua M (2011) Human rights: a political and cultural critique, University of Pennsylvania Press, Philadelphia

Nussbaum MC (2006) Frontiers of justice, Belknap Press of Harvard University Press, Cambridge

Orford A (2003) Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law, Cambridge University Press, Cambridge

Otto C (1998) Rethinking the 'Universality' of Human Rights Law. HRQ 29-1:49-60

Packer C (2002) Using Human Rights to Change Tradition: Traditional Practices Harmful to Women's Reproductive Health in sub-Saharan Africa, Intersentia, Oxford

Pollis A and Schwab P (2000) Human Rights: New Perspectives, New Realities, Lynne Rienner Boulder

Qurbani ZA (1996) Islam va Hoquq-e Bashardar. Office for Islamic Culture, Tehran

Sachs A (1990) Protecting human rights in a new South Africa, Oxford University, New York

Saidzadeh H (1998) Zanan dar Jamiyat-e Madani: Chi Andazeah Sahm Darand? Barras-e fiqh-e va Kalami Nasr-e Qahrah, Tehran

Saidzadeh M (2002) Fiqh et Fiqaha. JINEL 1(2):239-258

Shweder RA (2009) Disputing the Myth of the Sexual Dysfunction of Circumcised Women: An Interview with Fuambai S. Ahmadu, Anthropol Today 25(6):14-17

Shah NA (2006) Women, the Koran and International Human Rights Law: The Experience of Pakistan Martinus Nijhoff Publishers, Leiden/Boston

Shaheed and Parris Richter A (2018) Is human rights a western concept <https://theglobalobservatory.org/2018/10/are-human-rights-a-western-concept/>. Accessed 27 October 2020

Sigal M and Antúnez D (2010) Budget Analysis and the Right to Education in the City of Buenos Aires, EHRLE 3:317-319

Smail Salhi Z (2008) Gender and Diversity in the Middle East and North Africa, Br. J. Middle East. Stud 35(3):295-304

Stern S and Straus S (2014) The human rights paradox: universality and its discontents, University of Wisconsin Press, Madison.

Van Engeland A (2011) Human Rights and Strategies to avoid Fragmentation as a Threat to Peace: Iran as a case-study, IJHR 5(1):25-47.

Van Engeland (2014) The balance between Islamic Law, Customary Law and Human Rights in Islamic constitutionalism through the prism of legal pluralism, CILJ 3(4): 1321-1348.

Van Engeland A (2017) Be Karbala Miravim!: Iran and the Challenges of Internalizing International Humanitarian Law in a Muslim Country. In: *Do the Geneva Conventions Matter?*, Oxford University Press, Oxford p. 250-280.



DSPACE

<https://dspace.org/>

Human rights: between universalism and relativism

Van Engeland, Anicée

2022-07-21

Springer

https://doi.org/10.1007/978-94-6265-515-7_5

Van Engeland A. (2022) Human rights: between universalism and relativism. In: International Conflict and Security Law: A Research Handbook, Springer, July 2022, pp. 93-113