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Final Paper: Universalism and Human Rights

Anthropologists, legal professionals, philosophers, and social scientists alike have aimed to answer questions related to humanity and morality for many decades. What is moral? How can we enforce moral actions, and punish immoral ones? In more recent history, we note a perhaps a more important question: who and what decides what is moral? How can we determine morality while considering the diversity of humanity? Within the scope of torture post-9/11 and global gender-related violence, the extreme influence of social and cultural values on perception of human rights violations becomes clear. With this, a particularist (multicultural) human rights approach poses a plausible method to consider human rights morality within a societies' culture.

To inform my understanding of the culture of the United States post-9/11, I reference Koh's "Transnational Legal Process After September 11th," as well as Luban's "Liberalism, Torture, and the Ticking Bomb." Luban's writing also provides an interpretation of how culture influences morality from a social science perspective. For more context on the intensity of these torture methods after 9/11, I also refer to Scott Burns' film *The Report*. To shed light on gender-related violence in India and compare it to that of the United States, as well as the benefits of multiculturalism for women's rights, I use Volpp's "Feminism versus Multiculturalism." I explore the downfalls of universalism and cultural relativism with Dembour's "Who Believes in Human Rights: Reflections on the European Convention," as well as the benefits of particularism.

The United States' cultural response to the attacks of September 11, 2001 framed the acceptance of extreme forms of torture on suspected terrorists. The culture of the U.S. was suddenly hyper-concerned about national security, with President Bush's defense plan emphasizing the "freedom from fear" and shifting the American attention away from other human rights (Koh, 2004). These social and cultural values were so extreme, torture of suspected Al Qaeda members became the norm. As seen in the film *The Report*, these methods of torture were incredibly inhumane and horrific. No information was learned through these torturing methods, and one fourth of the people they tortured were entirely innocent (Burns, 2019). Luban critiques the liberal justification of torture, "intelligence gathering," as it references a culture of "heroism rather than cruelty" in efforts to "forestall future evils like terrorist attacks" (Luban, 2005, p. 1436). Clearly, cultural interpretations of what is deemed "inhumane" is subject to change and influenced by socio-political happenings. This instance of 9/11 in the United States is especially critical because Western society, especially the U.S., deems itself the moral high ground of all states, demonstrated by its history of colonialism and cultural imperialism. Statewide "re-normalization," as Luban describes, allowed Americans to become accustomed to these atrocious torture methods and lose their moral baseline, similar to what occurred in the infamous Stanford Prison Experiment (Luban, 2005, p. 1451). Alongside this shift in normality, the conversation was intentionally left in theoretical, unrealistic situations and diluted with new names to distance itself from what it was—torture.

Furthermore, gender-based violence illuminates cultural influence on the perception of human rights violations. For instance, dowry murders in India are often, to the Western eye, an incredible injustice and attack on women's rights. While murdering women is undeniably immoral, Western societies are guilty of violence against women as well, though it is not framed

in the same way. Volpp notes that dowry murders are viewed as the cultural alternative to divorce when it should be compared to domestic violence and murder in the U.S (Volpp, 2001). She continues, writing, “But only one is used as a signifier of cultural backwardness: “They burn their women there.” As opposed to: “We shoot our women here” (Volpp, 2001, p. 1187). Similarly, the U.S. and other Western countries view the domestic violence and murder in countries like India as systemic and exotic. Meanwhile in the U.S., when a man murders his wife, it is viewed in its singularity: one bad man did a bad thing. The cultural and social context of the United States prevents Americans from recognizing the human rights violations occurring in their own state—with such a high rate of gun violence, a domestic partner being shot is deemed a singular instance of injustice and tragedy. When the Western gaze finds similar atrocities in other countries, like India and dowry murders, the cultural standard is different and easier to criticize—how could a man light his domestic partner on fire?

Such cognitive dissonance between human rights violations that occur in one’s own state demonstrates one drawback in universalism as a method of addressing human rights violations. Historically, the West has been the state to impose morality and set universal human rights standards, creating inherent bias in favor of Western morality and a dismissal of its own human rights violations, as with post-9/11 America. As Dembour explains, universalism demands that “we know best” (Dembour, 2006, p. 165). On the other hand, relativism is its opposite. Relativism offers some refuge from this moral superiority and ignorance, asking the question, as Dembour phrases, “what do we know” (Dembour, 2006, p. 165). Relativism notes that all cultures are unique and culture heavily influences the perception of human rights violations, therefore universal human rights essentially cannot be determined. At first glance, this feels like a clear solution to these issues of colonialism and racism in determining fundamental human

rights on a global scale. However, relativism may encourage tolerance and inaction. Also, relativism functions under the assumption that all people within a culture are the same, which is inaccurate and problematic when considering minority groups and opinions in a state (Dembour, 2006).

Given the flaws in the methods of universalism and relativism in human rights practice, particularism presents itself as a plausible and logical option to consider human rights. Particularism advocates for the consideration of culture within a human rights discrepancy and accommodates diversity, though it does not excuse human rights violations in the name of culture. It also does not accommodate the Eurocentric worldview of morality, dismissing culture as a key feature of how humans perceive human rights (Dembour, 2006, p. 179). If particularism were the leading doctrine during the period after 9/11, the U.S. would have been held accountable for their actions of torturing accused members of Al Qaeda. Other countries may have been able to understand the state of fear that many Americans experienced after a terrorist attack, but it would not have overrode the ability to uphold human rights. Similarly, if the U.S. and other Western countries were truly concerned with the rights of women, they would not consider dowry murders in India as a more vile form of violence than murdering of women in the United States. Rather, the universal perspective that killing women is wrong would be more readily upheld globally, including within our own state. Volpp points to this underlying power in particularism (as she terms it “multiculturalism”) in reference to female liberation and justice, writing that we must, “learn to see and challenge the multiple, overlapping, and discrete oppressions that occur both within and across white/Western and Third World/nonwhite communities” (Volpp, 2001, p. 1218).

Ultimately, particularism is an attractive method of considering human rights. Though, it is important to note that particularism does not occur as a completely separate entity to universalism, and vice versa. Both our intrinsic opinion of what is right and wrong (a more universalist perspective) and the influence of our culture (particularism) are at play when we consider what is moral and what is not. Dembour describes these two perspectives as “encompassing each other” (Dembour, 2006, p. 179), as a complete denial of universal human rights places us in the cultural relativist sphere of complete tolerance and cultural homogeneity, while a complete acceptance of universal human rights paints universalism as a given rather than an idea that human rights activists strive for (Dembour, 2006). We as humans and as human rights advocates are always considering both of these theoretical approaches, and must carry with us the understanding that our individual morality is neither predetermined nor perfect. It is greatly shaped by the environment and culture around us, as seen with our response to the terrorist attacks of 9/11 and to dowry murders in India.

References

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