1

Introduction

The role of culture has long been a point of contention in the international human rights field.[1] "Western universalists" see those who appeal to cultural difference as withholding rights from individuals.[2] Defenders of this difference, "flexible universalists," feel Western universalists are imposing a view of rights that improperly emphasizes individual autonomy over one's communal and religious commitments.[3] Debates are fruitless: using different reference points, the two sides seem to be speaking completely different languages – with little hope that they will find a translator anytime soon.

This disagreement is increasingly impacting both domestic politics and international relations. In European countries such as Norway, Denmark, Switzerland, Germany, and France, there is a growing divide between a secular state (backed by a secularized majority population) that promotes, among others, animal rights, children's rights, and nondiscrimination, and

[1] See, for instance, Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca, NY: Cornell University Press, 2003); Rhoda Howard, "Cultural Absolutism and the Nostalgia for Community," *Human Rights Quarterly* 15, no. 2 (May 1993): 315–338; Michael Perry, *The Idea of Human Rights: Four Inquiries* (Oxford: Oxford University Press, 1998), 57–86; John Tilley, "Cultural Relativism," *Human Rights Quarterly* 22, no. 2 (May 2000): 501–547; Makau Mutua, *Human Rights: A Political and Cultural Critique* (Philadelphia, PA: University of Pennsylvania Press, 2002); Daniel Bell, *East Meets West: Human Rights and Democracy in East Asia* (Princeton, NJ: Princeton University Press, 2000).

[2] See, for instance, Elizabeth Zechenter, "In the Name of Culture: Cultural Relativism and the Abuse of the Individual," *Journal of Anthropological Research* 53, no. 3 (Autumn 1997): 319–347; Jack Donnelly, "Cultural Relativism and Universal Human Rights," *Human Rights Quarterly* 6, no. 4 (November 1984): 400–419.

[3] See, for instance, Daniel Bell, "East Asian Challenge to Human Rights: Reflections on an East West Dialogue," *Human Rights Quarterly* 18, no. 3 (August 1996): 641–667; Eva Brems, "Reconciling Universality and Diversity in International Human Rights: A Theoretical and Methodological Framework and Its Application in the Context of Islam," *Human Rights Review* 5, no. 3 (2004): 5–21.

minority religious groups defending their right to faithful practice. In the United States, which is more devout and generally upholds a broader concept of freedom,[4] similar dynamics exist in debates over healthcare and gay marriage.

International disputes over human rights are also increasing due to the growing disconnect between Western-dominated human rights actors and Asian, African, Middle Eastern, and Latin American societies. Although the late twentieth and early twenty-first centuries were characterized by Western ideological ascendancy, in which the human rights field broadened its scope and pursued an ambitious agenda,[5] the rising power of Southern countries (a category defined later) is leading to greater pushback.[6] Disagreements over democracy in places such as Cambodia, Egypt, and Ethiopia; the use of the International Criminal Court in Kenya, South Africa, and elsewhere in Africa; minority rights in many parts of the Middle East and Asia; international intervention in Syria; women's rights in the Middle East; labor rights in the Persian Gulf; and the use of force in Israel are increasingly common. Although the language of rights has spread far and wide, interpretations and priorities vary widely – and fights over these differences risk undermining the legitimacy of advocates and even the overall human rights agenda.[7]

The contentious climate in which these human rights debates take place reflects different visions of how societies flourish, how human beings achieve their potential, and how human rights are conceived and realized.[8] These differing positions have been shaped by social, historical, and political forces, which sometimes go back millennia.[9] "Thin societies" are based on

4 See, for instance, Peter Berger, Grace Davie, and Effie Fokas, *Religious America, Secular Europe? A Theme and Variation* (Burlington, VT: Ashgate Publishing, 2008).

5 Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca, NY: Cornell University Press, 2013).

6 See, for instance, Thomas Carothers and Saskia Brechenmacher, "Closing Space: Democracy and Human Rights Support under Fire," *Carnegie Endowment for International Peace*, February 2014, http://carnegieendowment.org/2014/02/20/closing-space-democracy-and-human-rights-support-under-fire/h1by.

7 See, for instance, R. R. Reno, "Against Human Rights," *First Things* (May 2016), www.firstthings.com/article/2016/05/against-human-rights.

8 For an excellent overview of many of the debates relating to human rights concepts and definitions, see Amartya Sen, "Elements of a Theory of Human Rights," *Philosophy and Public Affairs* 32, no. 4 (Autumn 2004): 315–356.

9 Tom Zwart, "Balancing Yin and Yang in the International Human Rights Debate," Collected Papers of the Sixth Beijing Forum on Human Rights, China Society for Human Rights Studies, Beijing, 2013, 410–421; Alison Dundes Renteln, "Relativism and the Search for Human Rights," *American Anthropologist* 90, no. 1 (March 1988): 56–72.

maximizing individual freedom, while "thick societies" are based on maximizing the robustness of relationships and institutions.[10]

A changing context has broad implications for the human rights field. The secularization and individualization of Western populations – combined with an increase in religious minorities due to migration into Europe – is leading to clashes in Western countries.[11] The rise of populism and a growing backlash against parts of the rights agenda indicate an emerging crisis. The emergence of a new set of powerful actors – non-Western, postcolonial, and wary of Western motives – threatens to make Western-leaning international institutions and Western-inspired global norms untenable unless they can encompass the needs of non-Western countries in a way that is seen as inclusive.[12] This has contributed to the "democratic recession" and pushback against Western nongovernmental organizations (NGOs).[13]

Human rights organizations, staffed by Western universalists, often take positions rooted in thin society worldviews that contrast with positions held by religious minorities in the West and non-Western societies outside it, who seek to live as their thick society worldviews dictate.[14] Western universalists hold that international human rights treaties prescribe the adoption of values like autonomy, individualism, equality, choice, secularity, and rationality[15] and that there is a particular ordering of these values vis-à-vis family, work, justice, politics, reproduction, and sexuality. When commentators describe human rights as universal, they are often implying that a certain way of life rooted in the Western, thin society concept of liberalism, individualism, and modernity ought to hold sway. States ought to uphold and enforce these values; all institutions (political, associational, and family) ought to be ruled by them; and international organizations such as the United Nations ought to

[10] Chapter 4 includes a full discussion of these terms.

[11] See, for instance, Yolande Jansen, *Secularism, Assimilation and the Crisis of Multiculturalism* (Chicago, IL: University of Chicago Press, 2014).

[12] See, for instance, Dries Lesage and Thijs Van de Graaf (eds.), *Rising Powers and Multilateral Institutions* (New York, NY: Palgrave Macmillan, 2015); and Council on Foreign Relations, Emerging Powers and International Institutions Meeting Series, 2009–2013, www.cfr.org/projects/world/emerging-powers-and-international-institutions-meeting-series/pr1447.

[13] Larry Diamond, "Facing Up to the Democratic Recession," *Journal of Democracy* 26, no. 1 (January 2015): 141–155; Carothers and Brechenmacher, "Closing Space."

[14] See, for instance, Abdullahi Ahmed An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia, PA: University of Pennsylvania Press, 1992); and Abdullahi An-Na'im (ed.), *Cultural Transformation and Human Rights in Africa* (London: Zed Books, 2002).

[15] See, for instance, Donnelly, *Universal Human Rights*, 7–53; Perry, *The Idea of Human Rights*, 11; Mark Goodale, *Surrendering to Utopia: An Anthropology of Human Rights* (Stanford, CA: Stanford University Press, 2009), 18.

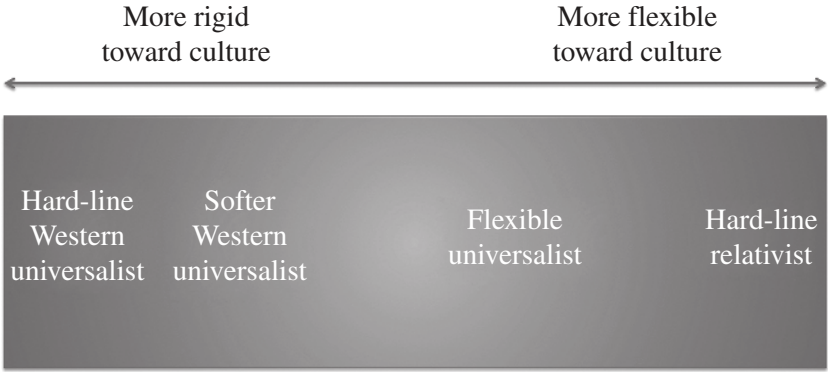

FIGURE 1.1 Human rights promotion: the universalist to relativist spectrum

promote them where they do not exist.[16] Religious groups and Southern societies are urged to give up or at least de-emphasize traditional social institutions and values if they stand in the way.[17] This is a dramatic change from an earlier era, when there was an "overlapping consensus" on human rights.[18]

Opinions on the role of culture in human rights can be plotted along a spectrum. On one side, there is a relatively inflexible, secular human rights viewpoint, and on the other side there are those who claim no universal rights (see Figure 1.1).[19] Each end of the spectrum hosts a hard-line approach that sees no room for compromise, and there are various softer approaches

[16] Richard Shweder, "'What about Female Genital Mutilation?' And Why Understanding Culture Matters in the First Place," in Richard Shweder, Martha Minow, and Hazel Rose Markus (eds.), *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies* (New York, NY: Russell Sage Foundation, 2002), 234.

[17] See, for instance, Makau Mutua, "The Ideology of Human Rights," *Virginia Journal of International Law* 36 (1996): 592–593; and Tom Zwart, "Using Local Culture to Further the Implementation of International Human Rights: The Receptor Approach," *Human Rights Quarterly* 34, no. 2 (May 2012): 546–569. Ross Douthat makes a similar point with regard to religious groups: Douthat, "The Terms of Our Surrender," *The New York Times*, March 2, 2014, www.nytimes.com/2014/03/02/opinion/sunday/the-terms-of-our-surrender.html.

[18] This phrase originally comes from John Rawls. See, for instance, Rawls, *Political Liberalism* (New York, NY: Columbia University Press, 2005). The usage in relationship to human rights is more akin to Charles Taylor's "unforced consensus." See Taylor, "Conditions of an Unforced Consensus on Human Rights," in Joanne Bauer and Daniel Bell (eds.), *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999), 124–144.

[19] Donnelly, for instance, discusses a spectrum of different interpretations both at the more rigid Western universalist end of the spectrum as well as among those who adopt a more flexible interpretation. Donnelly, "The Relative Universality of Human Rights," *Human Rights Quarterly* 29, no. 2 (May 2007): 298–299.

toward the middle of the spectrum that attempt to provide more room for cultural difference and heterodoxy.[20]

Flexible universalism[21] exists toward the middle and holds that although human rights are universal, they need to be implemented in a way that takes the local social and political context into account, especially in thick societies and communities.[22] Underlying these positions is the idea that human rights will be respected and supported only if they are culturally embedded, and that there are many different ways for a society to flourish besides that espoused by Western universalists. Different groups of people may have legitimate differences, especially when it comes to ordering certain values. Social institutions, religious traditions, and collective interests all matter much more in thick than thin societies. These should receive priority over individual rights at times, and responsibilities and duties may sometimes be as or even more important than rights. In developed countries, the state should not impose a one-size-fits-all interpretation of rights on all regions and groups. In developing countries, economic and social needs may need to be balanced alongside civil and political rights.

Part of the problem is that some of the boldest defenders of cultural difference use it to defend authoritarian social arrangements or despotic governments, which means that their critiques of universalism are, not coincidentally, rather self-serving. Many Middle Eastern and African tyrants, for instance, have long excused their corrupt, self-serving, unaccountable governments in this way.[23] Russia under Putin has used this tactic to defend

[20] At the more rigid end of the spectrum, there is, among others, Fred Halliday, "Relativism and Universalism in Human Rights: The Case of the Islamic Middle East," *Political Studies* 43, S1 (August 1995): 152–167; Michael Perry, "Are Human Rights Universal? The Relativist Challenge and Related Matters," *Human Rights Quarterly* 19, no. 3 (August 1997): 461–509; and Charles Beitz, "Human Rights as a Common Concern," *American Political Science Review* 95, no. 2 (June 2001): 269–282. Softer approaches include Andrew Nathan, "Universalism: A Particularistic Account," in Lynda Bell, Andrew Nathan, and Ilan Peleg (eds.), *Negotiating Culture and Human Rights* (New York, NY: Columbia University Press, 2001).

[21] Richard Shweder has used the term "universalism without uniformity" in various contexts to mean something very similar. See, for instance, Shweder, "Moral Maps, 'First World' Conceits, and the New Evangelists," in Lawrence Harrison and Samuel Huntington (eds.), *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), 164.

[22] See, for instance, An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives*; An-Na'im (ed.), *Cultural Transformation and Human Rights in Africa*; Bell, "East Asian Challenge to Human Rights"; and Brems, "Reconciling Universality and Diversity in International Human Rights.".

[23] Abdullahi Ahmed An-Na'im, "The Cultural Mediation of Human Rights: The Al-Arqam Case in Malaysia," in Joanne Bauer and Daniel Bell (eds.), *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press, 1999), 154–155. For example, associates of

autocratic, militaristic policies.[24] Religious and traditional leaders who deny women or minorities an education and other opportunities similarly use culture as an excuse to deny the rights of many.[25] But the fact that the unease about some elements of the human rights agenda extends across most of the non-Western world and encompasses many religious groups within Western countries should perhaps give human rights proponents greater pause than it does now.

Though various cultural elements are sometimes used to further the overall human rights agenda, they could be more prominently used if they were better understood. When Western universalists ignore the concerns of Southern and, within the West, religious actors, they may be weakening their ability to achieve broader human rights goals. This is especially true when those expressing concern genuinely support human rights but have specific qualms about how narrowly they are often construed.

A number of prominent Western human rights actors, such as Mary Ann Glendon, have argued that the existing foundation for human rights allows for a flexible universalism – that is, for different societies to prioritize different rights, create their own balances between the individual and community, and make a greater effort to embed individual rights within a social context. According to these voices, the Universal Declaration of Human Rights (UDHR), by far the most important human rights agreement, established a "common standard of achievement" that could be interpreted and implemented in a variety of legitimate ways,[26] and many prominent documents that followed pursued a similar approach. This perspective argues that the understanding of rights has evolved since the postwar period, however, becoming more

Zimbabwe's Robert Mugabe, who was in power from 1980 until 2017, argued that in the country's culture, kings are only replaced when they die "and Mugabe is our king." Joseph Winter, "Zimbabwe's Robert Mugabe," *BBC*, August 16, 2013, www.bbc.com/news/world-africa-23431534.

[24] Russia has, for instance, used humanitarian assistance as a pretext to invade parts of Ukraine. See, for instance, Mark Kersten, "Does Russia Have a 'Responsibility to Protect' Ukraine? Don't Buy It," *The Globe and Mail*, March 4, 2014, www.theglobeandmail.com/opinion/does-russia-have-a-responsibility-to-protect-ukraine-dont-buy-it/article17271450/.

[25] See, for instance, Patience Akumu, "'African Culture' Is the Biggest Threat to the Women's Rights Movement," *African Arguments*, March 9, 2015, http://africanarguments.org/2015/03/09/african-culture-is-the-biggest-threat-to-the-womens-rights-movement-by-patience-akumu/. Even rape has sometimes been defended as protected by culture. Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago, IL: University of Chicago Press Books, 2006), 7.

[26] Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York, NY: Random House, 2001), 191.

focused on the individual and valuing less institutions and the social fabric.[27] The change in how rights are interpreted has sparked greater disagreement among stakeholders than existed before.[28]

This book examines how the overlapping consensus evident in the Universal Declaration can help bridge the gap between thick and thin societies with regard to human rights. The drafters of the UDHR overcame significant differences to garner the wide support necessary for the United Nations to adopt the Declaration in 1948. This book argues that a return to its fundamental ideas – the building blocks of the whole human rights field – can create a broad consensus on human rights again. To better understand the issues underlying today's challenges, the book surveys the latest research on the role of culture in determining behavior and values, reviews what human rights documents say about how societies can be organized, and explores two case studies – a domestic dispute involving a thick community living in a thin society (male circumcision in Europe) and an international dispute between thick and thin societies (Rwanda's *gacaca* courts). It then considers how a commitment to the liberal pluralism of the drafters of the UDHR is essential to overcoming the differences in how diverse actors worldwide promote human flourishing.

Originally articulated by political philosophers such as Isaiah Berlin, who argues "there are a plurality of values which men can and do seek, and that these values differ," liberal pluralism is a well-developed intellectual framework that can help implement the kind of flexible universalism human rights needs to succeed across the globe. According to Berlin, one-size-fits-all formulations about how to organize societies reduce positive freedom.[29] If the goal of the human rights field is to help human beings and societies achieve their maximum potential, then a greater appreciation for the diversity of human experience is essential.

The field of cultural psychology provides a tool for reframing the debate.[30] It highlights the finding that humans are born with the ability to function in any culture, but as they grow up their psyches develop according to the

[27] Daniel Elazar, "How Present Conceptions of Human Rights Shape the Protection of Rights in the United States," in Robert Licht (ed.), *Old Rights and New* (Washington, DC: The AEI Press, 1993), 38–50.

[28] The largest clashes were originally between Western capitalist countries that favored political rights and the communist bloc that favored economic and social rights.

[29] Isaiah Berlin, "My Intellectual Path," in Henry Hardy (ed.), *The Power of Ideas* (Princeton, NJ: Princeton University Press, 2002), 12 and 15–16.

[30] See below for full list of references.

specific culture in which they are raised.[31] According to *The Handbook of Social Psychology*, research shows that "the capacity to form culturally prescribed social relationships is essential for human survival, reproduction, and well-being … People must think, feel, and act with reference to local practices, relationships, institutions, and artifacts. To do this, people must use the local cultural models, which consequently become an integral part of their psychology."[32]

Different ecologies, social structures, and histories have yielded different cultures with different moral matrices, and although these share fundamental principles, they can diverge substantially in their emphases, especially when it comes to prioritizing the needs of the individual versus the group and determining whether people ought to be independent agents free to act as they wish or interdependent members of a larger society and institutional framework. According to Richard Shweder, a leading thinker in the field, societies order the role of the individual, community, and divinity differently. As Jonathan Haidt writes, people "become righteous" about different concepts and emphases depending on their environments, especially during childhood.[33] From parents, schools, community, media, and so on, they are exposed to a particular culture made up of the "ideas, institutions, and interactions that tell a group of people how to think, feel, and act."[34]

A certain segment of Western populations – which have been shown by cultural psychology researchers to be outliers on a global level in their individualistic orientation – set the agenda for the whole human rights field.[35] This group plays an outsized role in major human rights organizations, which may explain the widespread belief in the field that the particular moral matrix of people from thin societies is universal. As the same group dominates Western universities, academic literature, the social sciences, and

[31] Alan Page Fiske, Shinobu Kitayama, Hazel Rose Markus, and Richard Nisbett, "The Cultural Matrix of Social Psychology," in Susan Fiske, Daniel Gilbert, and Gardner Lindzey (eds.), *The Handbook of Social Psychology*, Volume 2, 4th ed. (San Francisco, CA: McGraw-Hill, 1998), 915–916.

[32] Fiske, Kitayama, et al., "The Cultural Matrix of Social Psychology," 916–917.

[33] Jonathan Haidt, *Righteous Mind: Why Good People Are Divided by Politics and Religion* (New York, NY: Pantheon Books, 2012), 109.

[34] Hazel Rose Markus and Alana Conner, *Clash! 8 Cultural Conflicts That Make Us Who We Are* (New York, NY: Hudson Street Press, 2013), xix.

[35] An-Na'im has often discussed this issue. For instance, see An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives*, 428. The cultural psychology research will be discussed in detail in Chapter 3. Also, Alex de Waal, *Advocacy in Conflict: Critical Perspectives on Transnational Activism* (London: Zed Books, 2015). Joseph Henrich, Steven Heine, and Ara Norenzayan, "The Weirdest People in the World?" *Behavioral and Brain Sciences* 33, no. 2–3 (June 2010): 61–83.

the media[36]; has access to more resources to participate in debates and negotiations; and plays the leading role in funding NGOs in poor countries,[37] there is a receptive ideological climate for its ideas, which are widely disseminated and rarely challenged. The one-sided discourse makes it difficult for flexible universalists who wish to constructively seek alternative approaches, and it increases the "bunker mentality" of thick society groups and countries that feel that their core values are constantly under attack.

Cultural psychology can help shift the unsatisfying dynamics that characterize human rights debates because it helps explain why differences are so embedded. It can help construct a framework, based on empirical research, for understanding those differences and how they impact the interpretation, prioritization, and even acceptance of various rights. In doing so, it provides what thick societies in the East and South and thick religious groups in the West and North have lacked: a construct for understanding and articulating their unease about the contemporary human rights agenda and how they might legitimately adjust that agenda for different contexts. Cultural psychology reveals how the social order (community) and human morality (divinity) have been undervalued, even though these have always been an integral part of human experience. It also shows the importance of integrating duties and responsibilities into any framework for how a society functions.

It is helpful to note that the disagreements between Western and flexible universalists have some overlap with but differ from debates about the desirability or implementation of multiculturalism.[38] The latter, which has been an important government policy in many (mostly Western) countries since the 1970s, emphasizes the coexistence and acceptance of diverse ethnic or religious groups living within the same political jurisdiction. Instead of aiming to develop a "melting pot" through social integration or cultural assimilation, multiculturalism aims to develop a "cultural mosaic" by allowing

[36] Zwart, "Balancing Yin and Yang in the International Human Rights Debate"; David Booth and Frederick Golooba-Mutebi, "Developmental Regimes and the International System," Developmental Regimes in Africa, Policy Brief 5, January 2014.

[37] Merry, *Human Rights and Gender Violence*, 224–225.

[38] For more on multiculturalism, see, among others, Charles Taylor and Amy Gutmann (ed.), *Multiculturalism* (Princeton, NJ: Princeton University Press, 1994); David Bennett (ed.), *Multicultural States: Rethinking Difference and Identity* (New York, NY: Psychology Press, 1998); Gad Barzilai, *Communities and Law: Politics and Cultures of Legal Identities* (Ann Arbor, MI: University of Michigan Press, 2005); Gerd Baumann, *The Multicultural Riddle: Rethinking National, Ethnic, and Religious Identities* (New York, NY: Psychology Press, 1999); Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Cambridge, MA: Harvard University Press, 2002).

each cultural group to maintain its distinctiveness.[39] In many cases, it has led to an emphasis on tolerance while avoiding the promotion of any specific set of values as being central to society.[40] Proponents of multiculturalism argue that it is a fairer system that allows people to truly express who they are and that culture and values must naturally adjust to outsiders.[41] Opponents, in contrast, worry about the desirability or sustainability of such an ideal and fear there may be cultural and practical losses if the host nations' distinct cultures weaken.[42]

Disputes about culture and human rights operate along different dimensions with different foci than those about multiculturalism. First, the center of many arguments is multinational, between countries on different continents and between people not sharing a common political jurisdiction.[43] Multiculturalism has rarely had a cross-country element. Second, disagreements within Western countries are usually about the role of religion in increasingly secular societies, and not, as in the case with multiculturalism, about the role of immigrants in what were previously relatively homogenous societies.[44] In both cases, there is the question of how much a minimal standard of norms need to be applied, with some of the issues (such as women's rights) being similar. But whereas in debates over multiculturalism, liberals are typically supportive and thus tolerant of differences in behavior and values while conservatives are typically opposed and thus in favor of strong minimal standards, in debates over culture and human rights, the sides are reversed.[45] Liberals are in favor of

[39] Ann Carroll Burgess and Tom Burgess, *Guide to Western Canada* (Guilford, CT: Globe Pequot Press, 2005), 31.

[40] Anne-Marie Mooney Cotter, *Culture Clash: An International Legal Perspective on Ethnic Discrimination* (Burlington, VT: Ashgate Publishing, 2011).

[41] Antony Lerman, "In Defence of Multiculturalism," *The Guardian*, March 22, 2010, www.theguardian.com/commentisfree/2010/mar/22/multiculturalism-blame-culture-segregation.

[42] John Nagle, Multiculturalism's Double Bind: Creating Inclusivity, Cosmopolitanism, and Difference (Burlington, VT: Ashgate Publishing, 2009), 129; "Report Attacks Multiculturalism," *BBC News*, September 30, 2005, http://news.bbc.co.uk/2/hi/uk_news/4295318.stm; Steve Sailer, "Fragmented Future," *American Conservative*, January 15, 2007, www.theamericanconservative.com/articles/fragmented-future/; Frank Salter, *On Genetic Interests: Family, Ethnicity, and Humanity in an Age of Mass Migration* (Piscataway, NJ: Transaction Publishers, 2006), 146.

[43] See, for instance, Donnelly, *Universal Human Rights in Theory and Practice*; Mutua, *Human Rights*; and Bell, *East Meets West*.

[44] See, for instance, Will Kymlicka, *Multicultural Citizenship* (New York, NY: Oxford University Press, 1995).

[45] Yuval Levin, *The Fractured Republic: Renewing America's Social Contract in the Age of Individualism* (New York, NY: Basic Books, 2016), 179–180. A resurgence of strong nationalistic feeling, partly a product of what some Europeans perceive as a "Muslim invasion," has moved politics in many countries toward the right. The backlash against multiculturalism that

imposing strong standards and intolerant of differences (at home as well as abroad), while conservatives are often in favor of accepting differences in some important areas (such as with regard to religious freedom).[46]

This book focuses on the UDHR both because it has maintained wide acceptance in a way no other subsequent document has and because it provides an example of pluralism for those seeking to advance human rights across thick and thin societies. As a 1990s survey by Hurst Hannum shows, the UDHR "has been the foundation of much of the post-1945 codification of human rights, and the international legal system is replete with global and regional treaties based, in large measure, on the Declaration."[47] Over eighty national constitutions reference it, at least sixty give some degree of authority to it, and twenty-six explicitly acknowledge the UDHR as having priority over domestic legal systems.[48] The framers achieved a distinctive synthesis of previous thinking from all over the world and represented a widespread consensus that "no nation would wish openly to disavow."[49] It passed in the United Nations in 1948 with no dissenting votes (and but a few abstentions).

The two case studies presented here – one an intrasociety disagreement within Western countries, and the other an intersociety disagreement that divides Western actors and Southern countries – highlight differences in how societies are organized, balance competing needs, think about morality, and prioritize competing values. Both display starkly different interpretations of human rights. Circumcision – an ancient ritual practiced by Jews and Muslims – has increasingly come under fire by human rights proponents in Europe in recent years as the definition of human rights has expanded to

accompanied this has shifted the focus (and even definition) of human rights from one based on groups' rights back toward one focused on individual rights. Whereas conservatives played defense when liberals were pushing multiculturalism, liberals now play defense when conservatives push ideas related to traditional values and religion. For an analysis of the contradictions within human rights that allow different interpretations to flourish at different times, see Dov Maimon and Nadia Ellis, "The Circumcision Crisis: Challenges for European and World Jewry," The Jewish People Policy Institute, Jerusalem, Israel, 2012, 6–10, http://jppi.org.il/news/117/58/The-Circumcision-Crisis/.

[46] See, for instance, Levin, *The Fractured Republic*. For how ideas on human rights have changed to make this possible, see Suzanne Last Stone, "Religion and Human Rights: Babel or Translation, Conflict or Convergence," paper presented at *Role of Religion in Human Rights Discourse* conference, Israel Democracy Institute, May 16–17, 2012.

[47] Hurst Hannum, "The Status of the Universal Declaration of Human Rights in National and International Law," *Georgia Journal of International and Comparative Law* 25, no. 1–2 (1995/1996): 289.

[48] Hannum, "The Status of the Universal Declaration of Human Rights in National and International Law," Annex 1, 355 ff.

[49] Glendon, *A World Made New*, xviii.

include children's bodily integrity and the space for religious freedom has narrowed. It exemplifies a broader set of disagreements occurring in Europe and the United States between religious groups and an increasingly secular state. Rwanda's *gacaca* community-based courts proved remarkably successful at prosecuting hundreds of thousands of suspected perpetrators of the 1994 genocide while yielding significant benefits in terms of truth and healing, but they have been heavily criticized by Western human rights actors.[50] The latter have argued that *gacaca* does not uphold proper legal due process and encourages corruption and government interference. The case study highlights Western versus Southern approaches to the process and substance of human rights as well as the gap that often exists between human rights organizations working in abstract "ideals" and developing countries that must address many practical constraints and make trade-offs to advance.

A few notes on terms will aid the discussion. This book draws two distinctions: first, between "the West" and "the South" and, second, between *religious groups* and *secular actors* within the West. The West consists of the rich, developed, democratic, thin society countries of North America, Europe, Australia, and New Zealand (all occasionally called "the North"). The South consists of less-developed, thick society countries in Asia, the Middle East, Latin America, and Africa (parts of which have been called "the East"). Although divisions among actors within the West and the South on human rights are not black and white – some Southern individuals and governments take Western positions on certain issues, and vice versa, and degrees of thickness and thinness can differ substantially across and even within borders – the differences highlighted are generally true; for the sake of clarity and argument, the shades of gray have been de-emphasized.[51]

Within the West, religious thick community groups consist of the Christian, Muslim, and Jewish communities that place scripture and tradition at the center of how they live and that share a similar perspective on human rights. Secular actors, which now often include the administrative and judicial organs of the state, consist of those who hold secular rational values; believe that institutions, communities, religion, and traditions should give way to the needs of the individual; and share a common view on human rights. Here too there are not always distinct divisions among groups – some secular actors may

[50] Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge: Cambridge University Press, 2010); Phil Clark and Zachary D. Kaufman (eds.), *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond* (New York, NY: Columbia University Press, 2009).

[51] This definition borrows from Zwart, "Balancing Yin and Yang in the International Human Rights Debate," 1–2.

hold traditional views on human rights on certain issues and vice versa.[52] Even though cultures are ever changing and contested, and more a mosaic of different values that differ across groups and issues than a monolithic, static entity, there are substantial and consistent differences between Western and Southern countries and between religious groups and secular actors within the West.

When the book discusses *culture*, it is referring to what Clifford Geertz calls "an historically transmitted pattern of meanings embodied in symbols, a system of inherited conceptions expressed in symbolic forms by means of which men communicate, perpetuate, and develop their knowledge about and their attitudes toward life."[53] The widely accepted, community-specific, inherited ideas reflect what is valuable, true, good, and beautiful. The common institutions shape how individuals and groups relate and interact with each other; they are concerned with the practices, coordination mechanisms, symbols, rituals, norms, meanings, identities, aspirations, and beliefs that serve relational ends.[54]

Institutions are relatively stable sets of rules and structures that shape human activity, especially with regard to resolving fundamental problems related to sustaining communities and important resources. They encompass both formal institutions, such as laws issued by the government, and informal institutions, such as traditional rules and values that come from society, community, family, or religion. The latter, often known as *social institutions*, are essential to the development of complex social organization and cooperation because of how they efficiently guide behavior and frame choice. They exercise authority in two ways: by providing meaning and

[52] For instance, there are a number of progressive Christian churches in the United States, such as the Alliance of Baptists, Christian Church (Disciples of Christ), the Episcopal Church, and Presbyterian Church (USA). On the other hand, some atheists and agnostics support traditional values, such as some conservative groups in Europe (e.g., Christian Democrat parties that have long lost their religious ties).

[53] Clifford Geertz, "Religion as a Cultural System," in *The Interpretation of Cultures: Selected Essays* (New York, NY: Basic Books, 1973), 89. Michael Walzer says of culture, "A community's culture is the story its members tell so as to make sense of all the different pieces of their social life – and justice is the doctrine that distinguishes the pieces." Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York, NY: Basic Books, 1983), 319.

[54] Markus and Conner, *Clash!*, xix–xx; Vijayendra Rao and Michael Walton, "Culture and Public Action: Relationality, Equality of Agency, and Development," in Vijayendra Rao and Michael Walton (eds.), *Culture and Public Action* (Stanford, CA: Stanford University Press, 2004), 4; and Shweder, "Moral Maps, 'First World' Conceits, and the New Evangelists," 163.

ambition that individuals see as desirable and by pressuring and coercing individuals to comply.[55]

Liberal modernity refers to a set of sociocultural norms, attitudes, and practices that arose in the West after the Enlightenment. It is marked by a questioning or rejection of tradition; the prioritization of values such as autonomy, individualism, equality, choice, secularity, and rationality; and a belief in inevitable social, scientific, and technological progress, human perfectibility, secularization, market capitalism, and democratization.[56] Although some have argued that there is more than one possible modernity, Western universalists act as if there just one;[57] this understanding of modernity is used here for the sake of clarity.

A number of important books examine the role of culture in interpreting human rights. Most touch on the subject as part of a larger analysis; only a few focus exclusively or predominantly on the issue. Among the more well-known of the former are Jack Donnelly's *Universal Human Rights in Theory and Practice*; Michael Freeman's *Human Rights: An Interdisciplinary Approach*; Philip Alston and Ryan Goodman's *International Human Rights*; William Twining's *General Jurisprudence*; and Mary Ann Glendon's *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. The latter include Alison Dundes Renteln's *International Human Rights: Universalism versus Relativism*; Abdullahi Ahmed An-Na'im's edited volumes *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* and *Human Rights in Africa: Cross-Cultural Perspectives*; Daniel Bell and Joanne Bauer's edited *The East Asian Challenge for Human Rights*; and Mark Goodale and Sally Engle Merry's edited *The Practice of Human Rights: Tracking Law between the Global and the Local*.

The remainder of the book is organized as follows. Chapter 2 looks at the UDHR, which has achieved a unique cross-cultural legitimacy. A product of extensive negotiations, it depended on a wide range of very different

[55] See also the definitions in Chapter 4. I used a number of sources for this definition: Jonathan Turner, *The Institutional Order: Economy, Kinship, Religion, Polity, Law, and Education in Evolutionary and Comparative Perspective* (New York, NY: Longman Publishing, 1997), 6; Talcott Parsons, *The Social System* (New York, NY: Free Press, 1951), 39–40; David Popenoe, *Sociology* (Englewood Cliffs, NJ: Prentice Hall, 1995), 83; David Blackenhorn, *The Future of Marriage* (New York, NY: Encounter Books, 2007), 60–61 and 168.

[56] Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan (New York, NY: Vintage Books, 1995), 170–177; Marshall Berman, *All That Is Solid Melts into Air: The Experience of Modernity* (London: Verso, 2010).

[57] Shmuel Noah Eisenstadt, *Comparative Civilizations and Multiple Modernities*, 2 vols. (Boston, MA: Brill, 2003); Gerard Delanty, "Modernity," in George Ritzer (ed.), *Blackwell Encyclopedia of Sociology*, 11 vols. (Malden, MA: Blackwell Publishing, 2007).

philosophical foundations. The Declaration's drafters understood that it was to be articulated differently in dissimilar parts of the world. Many of its key elements show an appreciation for the fact that most societies around the world are thick. Chapter 3 introduces the field of cultural psychology, which suggests that there are substantial differences in how people from different cultures think. Different cultures – as well as different groups within societies – develop different moral matrices, concepts of the self, and ideas related to their relationships with others.

Chapter 4 examines the characteristics of thick and thin societies. Whereas "thin societies" are highly individualistic and value choice, fairness, justice, and rights, "thick societies" are highly sociocentric and value order, tradition, duty, sanctity, and purity. Each has starkly dissimilar perceptions vis-à-vis social institutions, the state, and human rights. Liberal pluralism, with its focus on eliminating a narrower set of evils, can bridge these differences. But, as Chapter 5 explains, Western normative assumptions frequently dominate the human rights discourse today, creating an unnecessarily divisive environment. Most human rights campaigners are Western universalists and believe that human rights treaties commit countries around the world to the Western view on human rights – a view that sometimes conflates Western cultural norms with universal rights and ends up promoting liberal monism.

Chapters 6 and 7 look at the two case studies mentioned earlier. Chapter 6 covers the intrasociety debate in Europe on male circumcision. Chapter 7 examines the intersociety debate on *gacaca* between Rwanda and Western human rights organizations. In both cases, there is a clash between thick and thin communities and differences in how Western universalists and flexible universalists interpret human rights.

Chapter 8 looks at why broader trends will require the human rights movement to garner wider support by adapting to the perspectives of thick societies. This calls for a flexible universalist approach and a return to basics. It proposes a fourfold approach to moving forward and outlines in detail how this would work.