

# A GLANCE AT THE EAST ASIAN PERSPECTIVE OF HUMAN RIGHTS

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In view of its huge population, the rich texture of its history, religions and cultural traditions, combined with the impressive economic growth of the countries in the region, has boosted the morale and self-confidence of the peoples of East Asia in themselves and their cultural values, while their governments have become ever more vocal and assertive in the global system. In this presentation, the term “East Asia” denotes a huge geographical space that comprises (far) East Asian and Southeast Asian nations together. The region hosts about half the population currently inhabiting the planet. East Asia consists of the following states: China, Taiwan, Japan, North Korea, South Korea, Mongolia (far East); Singapore, Malaysia, Indonesia, Vietnam, Laos, Thailand, Brunei, Cambodia, Myanmar and Philippines (Southeast Asia). This region is home to a great variety of major religions such as Confucianism, Islam (especially in Southeast Asia), Buddhism, Taoism, Shinto (in Japan), and more recently Christianity, in addition to an abundance of cultural traditions.

Today the greatest challenge to the assertion about the universality of human rights is coming from East Asian countries. The reasons behind this assertiveness are manifold, as well put by Peerenboom:

Increasingly self-assured as a result of tremendous economic growth, Asian governments started to champion their own Asian values. They also began to denounce what they considered to be self-righteous preaching by Western states that in many cases were responsible for a colonial legacy of rights abuses in the Asian countries over which they now sat in judgment, and in any event had human rights problems of their own back at home. Although Asian leaders stopped short of denying outright the universality of human rights, their assertion that human rights must reflect the particular circumstances

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of particular countries at a particular time smacked of a cultural relativism that threatened to erode the seeming consensus on human rights that had developed over the previous five decades.<sup>1</sup>

“Asian Values” are highlighted by East Asian countries in order not only to emphasize the traditions, cultures and values that set Asia apart from the West; they also consider these values as fundamental factors behind the Asian economic miracle.

The debate around Asian values vs. Western conception of human rights rages around the following questions: a) which norms should be considered as human rights? b) Which set of human rights should be prioritized over others? c) What rank should be given to human rights in the ordering of society in comparison to other values such as religion and moral virtue?<sup>2</sup> In the context of the East Asian objections to the Western position on the subject, there are further pressing arguments on the issue of human rights evoked at a more general level:

- A) Is it not possible to contest the rationale of ranking contemporary human rights always above traditional values?
- B) Is it ever fair to judge a particular religious or cultural tradition by locating oneself outside of it and draw on the standards of prevalent human rights regime?
- C) Does an illiberal regime deserve to be treated as an outcast, although it may have a fairly good record of human rights protection?

This presentation takes up this issue because, first, the issue of human rights as well as the debates surrounding the Western claims about the universality of human rights goes to the heart of current confrontation between the Western and the non-Western world on a host of issues such as acceptable political practices, international economic competition, cultural and institutional representation in the international arena. Secondly, I support endeavors designed to “explore ways to expand current conceptions to incorporate Asian perspectives.”<sup>3</sup> A human rights perspective originating in the West has long claimed “universality”, which is predictably unacceptable to a host of societies beyond the Western cultural zone. Therefore in order to

1 Randall Peerenboom, “Human Rights and Asian Values: The Limits of Universalism”, book review, *China Review International*, Vol.7, No.2, Fall 2000, 295-320, 295-296.  
2 Ibid, 299.  
3 Ibid, 298.

enrich the substantive content of human rights and to strengthen claims for its universality, it is necessary to explore ways to open up the debate about different conceptions of human rights. Bell draws our attention to the undesirability of the Western insistence on a monolithic conception of human rights based on liberal individualism: “Failing to engage seriously with East Asian political perspectives risks widening misunderstandings and setting the stage for hostilities that could otherwise have been avoided.”<sup>4</sup>

This presentation begins with a discussion on Asian Values and its relevance to the East Asian approaches to human rights. The dominant Western response to the assertion about Asian Values will, in turn, be looked at. This paper will then dwell on a host of demands and propositions made by East Asian governments in regard to the prevailing system of human rights. Next, the paper proceeds with an analysis of the East Asian approach to civil and political rights, followed by a look at some prominent human rights instruments adopted by East Asian countries. The section before the Conclusion speculates about the possibility of a distinct East Asian contribution to the prevailing human rights regime.

1. ‘ASIAN VALUES’

Although we live in an age of globalization that has seen a rapid increase in communication and trade, this has not eliminated cultural differences between different societies.<sup>5</sup> This is also true of Asia. The term Asian Values is meant to refer to values, traditions<sup>6</sup> and perspectives that spring from the peculiarities of the Asian ways, of Islam, as well as social and moral codes of Hinduism, Confucianism and Buddhism. In the words of Koh,

Just as there are values which unite the European family, derived from the Enlightenment and the Renaissance, there are values which are deeply rooted in many Asian histories and cultures. What are some of these Asian values? They include the importance of the family, the reverence for education, and the virtues of frugality, saving and hard work, the importance of teamwork and the concern for others.<sup>7</sup>

4 Daniel A. Bell, *East Meets West: Human Rights and Democracy in East Asia*, (New Jersey, Princeton University Press, 2000), 8.  
5 Tommy Koh, “Asia and the West: What do we expect of each other?” A Speech presented to the ISPA International Congress, Singapore, 18 June 2003.  
6 The concept of “tradition” denotes the “identity” of a particular community and its definition of the “common good”. Daniel Bell, “The East Asian Challenge to Human Rights: Reflections on an East West Dialogue”, *Human Rights Quarterly*, Vol.18, No.3, 1996, 641-667, 652.  
7 Koh, op. cit.

To this list, one can also add the particular emphasis on social harmony and priority given to community over the individual. The family in the East Asian tradition is particularly stressed, with particular insistence on duties. Indeed in the (far) East Asian tradition, deriving largely from Confucianism, children are under a strong duty to look after their elderly parents. If the children fail to care for their parents, they are condemned by society. Such neglect of duty, in the East Asian context, is seen as a grave breach of “a vital human interest”.<sup>8</sup> Some Asian governments, in stressing the significance of community, have accused the West “of eccentric individualism, consumerism, drug addiction, and violent crimes.”<sup>9</sup>

This cultural and sociological outlook has philosophical roots in the definition of the Self. It seems that Western and (East) Asian societies consider the individual from different angles, which is an essential difference between them. In the Asian context, the self consists of both individual and group identifications. The wholeness of the self is incomplete without the group dimension. The individual and the group are not pitched against one another; instead they complement each other.<sup>10</sup> This holistic perspective is key to understanding the Asian way of thinking. This is how Servaes explains the situation:

This holistic attitude is expressed both in ways of thinking and behaving, and in the structure of the society. Everything is seen as interconnected, overlapping, inseparable, every part is held together by every other part or aspect. The three basic principles of Buddhism, such as ‘Anijjang’ (everything is perpetually changing), ‘Dukhkang’ (life is full of suffering), and ‘Anatta’ (everything is relative; certainty does not exist), differ greatly from the static, optimistic and ‘ideal-utopian’ principles on which the European way of thinking is built.<sup>11</sup>

A fundamental implication of the holistic perspective is the adoption of relative position (good and bad) in the East, contrary to the absolutist position (either good or bad) which characterizes the attitude of the West.<sup>12</sup>

8 Bell, op. cit., 1996, 665.

9 Jan Servaes, “Reflections on the Differences in Asian and European Values and Communication Modes”, draft of a paper presented at the plenary session on Asia Meets Europe: Similarities and Differences between Asian and Western Communication (Research) Perspectives in the Past, Present and Future, Singapore, July 17, 2000, 9.

10 Ibid, 4.

11 Ibid, 6.

12 *Id.*

Western societies, in contrast to East Asian societies, consider the self by reference solely to the individual.<sup>13</sup> In this perspective, others are seen as potential threats to the enjoyment of liberal rights. While the peculiar history of Western societies may give plausibility to the drawing of a duality between the individual and the group, an uncritical extension of this liberal approach to human rights risks disregarding the cultural context in Asian societies.

One should bear in mind, however, that the Asian Values debate is not meant to challenge the significance of human rights as such. Those who speak for Asian Values in fact endorse the value of human rights and its potential contribution to the betterment of relations between the rulers and the ruled. These societies and their governments by and large regard human rights as a good thing. What they challenge is the current human rights regime which reflects Western political traditions, cultural outlook and a conception of the human. In spite of that, evidence indicates that the West is irritated and tends to respond vigorously when East Asian governments attempt to differentiate themselves from the West by reference to Asian Values. It is interesting to see what lies behind the irritation. According to Koh, three factors immediately come to mind:

First, both governments and intellectuals in the West look down on Asia and assign this continent a secondary status;

Second, Asian countries pose the greatest single economic and political challenge to Western dominance in the international system;

Third, some Asian governments have in the past resorted to the language of Asian Values to justify their authoritarian, oppressive and arbitrary rule. This prompted many in the West to foster a negative perception of Asian Values.<sup>14</sup>

## 2. EAST ASIAN CHALLENGE TO THE EXISTING SYSTEM OF HUMAN RIGHTS

One needs to assert at the beginning that there is no reason to assume that Asian Values such as “respect for tradition and the elderly, strong family ties and communitarianism, emphasis on duties and responsibilities” are intrinsically inimical to setting up a decent system of human rights protection.<sup>15</sup> On the other hand, it may be an exaggeration to lay out a radical duality between Western and East Asian conceptions of human rights. Within

13 Ibid, 4.

14 Ibid, 10. The author incorporates these ideas from T. Koh, “Differences in Asian and European Values”, *Asian Mass Communication Bulletin*, Vol. 29, No. 5, 1999, 10-11.

15 Ibid, 11.

the Western political tradition of liberalism there exists a streak of thought which may be described as communitarianism, whereas one may find elements within East Asian traditions attaching importance to the individual. Therefore denouncing the possibility of establishing accommodation between Western and East Asian approaches to politics and human rights from the outset, because the former is heavily individualistic and the latter is excessively communitarian, does not seem to be a sensible path to tread.<sup>16</sup>

However this is not to deny that, in the Western perspective, human rights are an *end* in themselves, whereas in societies with strong religious and/or communitarian traditions (in the non-Western world), human rights are conceived as an *instrument* for other, more valued goals. Similar to other societies outside of the West, East Asian governments have no objections to the necessity of protecting human beings against “murder, slavery, torture and genocide”.<sup>17</sup> There is however a gray zone of human rights which is subject to challenge by East Asian nations. They include issues such as “criminal law, family law, social and economic rights, the rights of indigenous peoples, and the attempt to universalize Western style democratic practices.”<sup>18</sup> The debate on these themes involves two sorts of arguments as advanced, *inter alia*, by East Asian countries: first, granting that East Asian cultures differ fundamentally from Western cultures in some respects, it is natural that East Asian countries may have different normative frameworks, interpretations and practices in the said areas; second, East Asian countries may have different prioritization of separate categories of human rights.<sup>19</sup>

Asian nations are demanding that their views and perceptions should be taken seriously by the Western world and international institutions, while demanding a level playing field which allows a genuine exchange of ideas. Privileging liberal political tradition and its set of principles as the only measure of acceptable human rights practices may easily turn into a dogma which is anathema for a genuine debate. This point is eloquently made by Esposito:

Too often analysis and policymaking have been shaped by a liberal secularism that fails to recognize it too represents a world view, not the paradigm for modern society, and can easily degenerate into a “secularist fundamentalism” that treats alternative views as irrational, extremist, and deviant.<sup>20</sup>

Such distorted view about others comes to the fore when East Asian nations raise objections to some of the Western truisms in the field of human rights. In such moments, governments and academics in the West all of a sudden circulate views about Asia being a haven for authoritarian traditions, suppressed individuality, status-quo, corruption, nepotism and myriad forms of arbitrariness. Such one-sided portrayal of Asia would do enormous degree of injustice to a part of the world which hosts a great variety of religions, cultural traditions, values and intellectual riches.

From the perspective of many governments in East Asia, satisfying the material needs of their people has greater priority than individual civil and political liberties. In case that there is an apparent contradiction between the two, the former is generally the preferred option. This is the only way, they argue, to combat poverty and offer a decent life for the mass of economically and socially deprived in society.<sup>21</sup> East Asian governments tend to have an aversion to the Western interference in their internal affairs under the guise of democracy and human rights promotion. Malaysia’s former Prime Minister Mahathir Mohammed went as far as claiming that the pressures which developing countries had been subjected at the hands of Western governments over the issues of democracy and human rights were in fact deliberate attempts at causing “instability, economic decline and poverty. With such a situation, they can threaten and control Us”.<sup>22</sup>

The East Asian countries do not question the significance of human rights in the betterment of human lives. They surely are committed to protecting human rights to the extent of declaring that the *idea* of human rights is universal and that governments should try to protect the human rights of their citizens.<sup>23</sup> The main dilemma for many East Asian governments is that they sometimes find it necessary to impose restrictions on some rights in order to guarantee some other basic rights which they think is more essential for the good of their people.<sup>24</sup> There are of course many instances in which certain Asian governments have resorted to the rhetoric of “Asian Values” in order to serve their own parochial goals.<sup>25</sup> However such instances of opportunism and demagoguery should not blind us to the reality

16 Peerenboom, op. cit., 296.

17 Bell, op. cit., 1996, 642.

18 *Id.*

19 *Id.*

20 John Esposito, “Political Islam: Beyond the Green Menace”, <http://www.iiu.edu.my/deed/articles/espo.html>.

html.

21 Bell, op. cit., 1996, 644.

22 “West has ulterior motives for pushing democracy”, *Strait Times*, (Singapore, 31/8/94), p. 14, quoted in Kenneth Christie, “Regime Security and Human Rights in Southeast Asia”, *Political Studies*, Vol. 43, 1999, 204218, 206.

23 Bell, op. cit., 1996, 648.

24 *Id.*

25 Peerenboom, op. cit., 297.

about the existence of a distinctive conception of human rights in Asia. Besides, one should not forget that Asian governments would not be able to emphasize Asian values if they did not strike a chord with the attitudes of their own people.<sup>26</sup> What is more, people in East Asia tend to have a skeptical view of liberalism and are inclined to favor greater authoritarianism of the political system. (Peerenboom, “Human Rights and...”, p. 315) On the other hand, the East Asian method of resolving disputes is somewhat different from the prevalent adversarial mechanisms for settlement. Indeed East Asians tend to opt for –mostly informal- conciliation in case of disputes or breaches of law at the expense of court rulings.

The Bangkok Declaration,<sup>27</sup> which was adopted by Asian countries in 1993, was apparently a very serious challenge to the claims of the universality of human rights as advanced by human rights advocates and many Western governments. This is a compromise text which, while endorsing the “universality, objectivity and non-selectivity of all human rights” and recognizing that “no violation of human rights can be justified”, nonetheless it refuses to be assimilated into the discourse about the universality of *all* human rights and the Western dictum about the context-free interpretation and application of human rights.<sup>28</sup> Indeed, in paragraph 8, it is said that human rights “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.” Furthermore, in paragraph 5, the Declaration cautions Western governments about using human rights issues to encroach upon the sovereignty of the signatory states. Hence the text reaffirms “the principles of respect for national sovereignty and territorial integrity as well as non-interference in the internal affairs of States, and the non-use of human rights as an instrument of political pressure.” The Declaration also warns against “the application of double standards in the implementation of human rights and its politicization.” (Parag. 7) Poverty is mentioned as a major obstacle “hindering the full enjoyment of human rights” (Parag. 19), which is an expression of the view that economic and social rights are prior to classical human rights, i.e. civil and political rights. Finally, the Bangkok Declaration includes references to the collective human rights of self-determination (Parag. 12), the right to development (Parag. 18), and the right to a safe and clean environment. (Parag. 20)

<sup>26</sup> *Id.*

<sup>27</sup> Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights, Bangkok, 2 April 1993, <http://law.hku.hk/lawgovtsociety/Bangkok%20Declaration.htm>.

<sup>28</sup> This in fact means that human rights instruments should be interpreted and applied by recourse to the Western understanding.

The East Asian nations were at the forefront of the debates about the universality of human rights during the Vienna Conference which was held roughly two months after the adoption of the Bangkok Declaration. The finally agreed text was a compromise formula. On the one hand, as enshrined in the final declaration, the universality of human rights was not contested, and the parties accepted “the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms”, on the other, the same paragraph sent Western governments a clear warning against going too far about the purported universality of (all) human rights: “the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind.” (Parag. 5)<sup>29</sup>

It is thus clear that East Asian nations refuse to highlight individual rights at the cost of economic and social rights or the moral fabric of society. This is of course reflected in their interpretation and practices of civil and political rights. Peerenboom notes that, similar to other actors, East Asian countries interpret human rights by recourse to a variety of sources and considerations, that include “international practices and one’s own values, beliefs, and worldview, as well as contingent, context-specific factors such as the current level of economic development and existing political and legal institutions.”<sup>30</sup> The core of the East Asian posture about civil and political rights (classical rights; first generation human rights) is as follows:

- A) East Asian governments argue that the process of economic development has greater priority than individual rights and freedoms. Hence for them economic and social rights are prior to civil and political rights and freedoms;
- B) They do not perceive human rights as an end in themselves, but conceive them as a means to achieve more precious goals;
- C) They claim the right to interpret and implement human rights in the context of their specific cultural values and religious traditions;
- D) East Asian governments tend to argue that truly universal human rights constitute only a fraction of the extensive list of rights that constitute the prevailing human rights regime.

<sup>29</sup> World Conference on Human Rights, Vienna Declaration and Programme of Action, Vienna, 14-25 June 1993, [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en)

<sup>30</sup> Peerenboom, *op. cit.*, 309.

E) The East Asian countries propose new rights to enrich the existing human rights regime, among which are the rights of the elderly and the rights of the dead (the latter exists in Islam).

Two types of responses have come out in regard to the challenge posed by East Asian governments, frequently expressed in a defiant and provocative manner, with regard to the claim about the universal validity of *all* human rights by drawing on the distinctiveness of Asian Values: those that support universalism have dismissed such claims as unacceptable excuses of repressive regimes that have low regard for human rights. They regard the “Asian particularity” debate as a way to get others to accept “anything goes” position which is seen as a natural extension of a culturally relativistic posture. By contrast, those that support the challenge coming from East Asia respond by attacking Western countries for their past and present human rights violations, while condemning what they see as ethnocentrism and cultural imperialism.<sup>31</sup>

The controversy about human rights has actually existed *within* the Western political and intellectual tradition. This is how Peerenboom describes the challenges within the Western tradition:

Despite the normative appeal today of human rights, it is important to bear in mind that human rights have been controversial all along even in the West, with challenges coming from such diverse perspectives as the conservative Edmund Burke, the positivist/utilitarian Jeremy Bentham, Marxists, and more recently communitarians, civic republicans, and critical scholars of race and legal studies.<sup>32</sup>

Unfortunately, the East Asian challenge has thus far failed to bring about tangible impact on the liberal perception of human rights. The fact that the debate about Asian Values is largely driven by the leaders of repressive regimes that have low regard for human rights should be accounted as a major factor behind this lack of effectiveness. Of course the tyrants in Asia are not motivated by a desire to contribute to the cross-cultural dialogue about human rights. Thus it has been relatively easy for the liberal advocates of human rights to dismiss such criticisms as a ploy at the hands of self-

serving despots.<sup>33</sup> The colonial and neo-colonial perception of Asia and its culture seem also to have framed the mindset of many protagonists of Western-centric perspectives which see in the East Asian challenge a dangerous defiance against the discursive and institutional dominance of the West in the area of human rights. However we should not forget that many critical intellectuals from East Asia challenge the dominant perception of human rights by referring to the cultural traditions that they specifically locate in the East Asian context. These intellectuals have possibly a greater chance of making more durable contributions to the debate about human rights.<sup>34,35</sup>

Although the Asian nations’ own perspective of human rights, deriving from their specific cultural and political peculiarities has not been taken seriously by the prevailing human rights regime in the world, commitment to democracy and human rights continues to gain ascendancy in the Asian continent. In 2007, the Association of Southeast Asian Nations (ASEAN), consisting of Singapore, Malaysia, Indonesia, Vietnam, Laos, Thailand, Brunei, Cambodia, Myanmar and Philippines, signed the ASEAN Charter which, *inter alia*, made reference to democracy and human rights among the main purposes and principles guiding the organization.<sup>35</sup> In Article 1, Paragraph 7, it was said that a major aim of the ASEAN was to “strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the right and responsibilities of the Member States of ASEAN”. Besides, a human rights body to monitor the performance of member states in the area of human rights protection was established under Article 14. This can be seen as another manifestation of Asia’s commitment to the *idea* of democracy and human rights.

## CONCLUSION

It has to be admitted that the “unhistorical universalism” of Western liberal democrats debilitates their ability to appreciate different political traditions. Such an attitude should be avoided. Bell emphatically argues, in the Asian context, that “modern democratic societies would benefit from the political input of a capable and public-spirited “Confucian” intellectual

<sup>33</sup> Bell, op. cit., 2000, 8.

<sup>34</sup> *Id.*

<sup>35</sup> 20 November 2007, <http://www.deplu.go.id/Documents/ASEAN-Charter.pdf>

<sup>31</sup> Ibid, 296.

<sup>32</sup> Ibid, 313.

elite.”<sup>36</sup> Human rights are not static, but are in a state of constant flux. Unless other priorities and perspectives reflecting different civilisational and cultural peculiarities are admitted as the spring from which the strength and relevance of human rights continues to flow, the prevailing liberal conception of human rights may in time lose its undisputed authority in the current system of international relations. The West should thus welcome the possibility of an East Asian contribution to human rights.

The world is not homogenous but hosts a heterogeneity of religions and cultural traditions. Political processes inside states do not take place in a cultural vacuum. The knowledge of local culture is necessary granting that the policies which states pursue, with implications for human rights, are formulated and implemented in a particular cultural context.<sup>37</sup> The recognition of the cultural context is a sure recipe for the more lasting recognition of human rights in non-Western societies. Indeed attempts to promote human rights in East Asia (and elsewhere) have a greater chance of acceptability if it can be shown that greater human rights protection can serve a useful role for the good of society and the state.

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36 Bell, op. cit., 2000, 19.

37 Abdullahi A. An-Na'im, "The Cultural Mediation of Human Rights: The Al-Arqam Case in Malaysia", in Joanne R. Bauer & Daniel A. Bell (eds.), *The East Asian Challenge for Human Rights*, (Cambridge University Press, 1999), 147-168, 147.