

9-1-2007

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Recommended Citation

Torben Spaak, *Moral Relativism and Human Rights*, 13 Buff. Hum. Rts. L. Rev. 73 (2007).
Available at: <https://digitalcommons.law.buffalo.edu/bhrlr/vol13/iss1/6>

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Moral Relativism and Human Rights

*Torben Spaak**

1. INTRODUCTION

Politicians, human rights activists, scholars, and others disagree about whether human rights are universally true or valid or only true or valid relative to a given culture.¹ Jack Donnelly, for example, defends (what he refers to as) the *moral universality* of human rights:

If human rights are the rights one has simply because one is a human being, as they are usually thought to be, then they are held “universally,” by all human beings. They also hold “universally” against all other persons and institutions. As the highest moral rights, they regulate the fundamental structures and practices of political life, and in ordinary circumstances they take priority over other moral, legal, and political claims. These distinctions encompass what I call the *moral universality* of human rights.²

Adamantia Pollis and Peter Schwab, on the other hand, appear to believe that human rights can only be valid relative to a given culture.³ The

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¹ Donald Puchala, “The Ethics of Globalism”, available at <http://www.yale.edu/acuns/publications/95Holmes-Lecture.html>. See also Guyora Binder, *Cultural Relativism and Cultural Imperialism in Human Rights Law*, 5 BUFF. HUM. RTS. L. REV. 211 (1999). Cf. Christina M. Cerna, *Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts*, 16 HUM. RTS. Q. 740 (1994).

² JACK DONNELLY, *UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE* 1 (2d ed. 2003). See also Jeremy Waldron, *How to Argue for a Universal Claim*, 30 COLUM. HUM. RTS. L. REV. 305, 313 (1998-99).

³ Adamantia Pollis & Peter Schwab, *Human Rights: A Western Construct with Limited Applicability*, HUMAN RIGHTS: CULTURAL AND IDEOLOGICAL PERSPECTIVES

authors maintain that the political philosophy on which the Universal Declaration of Human Rights is based is distinctively Western, and that efforts to impose the Declaration as it stands on people in the non-Western world amount to "moral chauvinism and ethnocentric bias."⁴

I take it that critics such as Pollis and Schwab believe that westerners ought to *tolerate* (what they consider to be) human rights violations in other parts of the world, since such violations may be morally acceptable in light of the moral values and standards accepted by the people involved. True, Pollis and Schwab themselves do not speak of tolerance, but they do object to moral chauvinism on the part of the enforcers of the Declaration (or other similar documents); and it seems to me that tolerance would be the alternative to moral chauvinism.

The problem with this line of reasoning is that it appears to be premised on the assumption that the theory of moral relativism enjoins tolerance of other moral views or that acceptance of such relativism is otherwise likely to bring about such tolerance. I shall, however, argue that the theory of moral relativism does not enjoin tolerance of other moral views, that there is no reason to believe that moral relativism is otherwise likely to bring about tolerance, and that therefore it does not matter to this debate whether moral relativism is a true (or defensible) theory.

I begin by distinguishing three types of moral relativism, including so-called meta-ethical relativism, and argue that meta-ethical relativism is at the core of the cultural relativism/universalism debate.⁵ I then offer some arguments in support of meta-ethical relativism.⁶ Having done that, I proceed to consider the relation between meta-ethical relativism and tolerance⁷ and between meta-ethical relativism and the importance of moral considerations.⁸ The article concludes with some reflections on the prerequisites of cultural imperialism⁹ and the enforcement of international human rights law.¹⁰

1 (Adamantia Pollis & Peter Schwab eds. 1979). *See also* Chandra Muzaffar, *From Human Rights to Human Dignity*, DEBATING HUMAN RIGHTS 25 (Peter van Ness ed. 1999).

⁴ Pollis & Schwab, *supra* note 3, at 14. *See also* Puchala, *supra* note 1, at 3.

⁵ *See infra* Part II.

⁶ *See infra* Part III.

⁷ *See infra* Part IV.

⁸ *See infra* Part V.

⁹ *See infra* Part VI.

¹⁰ *See infra* Part VII.

2. MORAL RELATIVISM

Philosophers often distinguish between cognitive and moral relativism.¹¹ *Cognitive* relativists maintain (i) that truth, or knowledge, or rationality, or even reality itself is relative to a certain starting point, such as a person's or a group's conceptual scheme, and (ii) that no such starting point is truer than any other. Thomas Kuhn, for example, maintains that one can only say that one scientific theory is better than another within a certain paradigm, that no one paradigm is truer than any other, and that therefore scientific change can only be explained by reference to psychological or sociological factors.¹²

Cognitive relativism is different from cognitive *nihilism* understood as the denial that there is such a thing as truth, reality, etcetera, and from cognitive *skepticism* understood as the denial that we can have about knowledge of truth, reality, etcetera. Cognitive relativists maintain that there is indeed truth, reality, etcetera and that we can have knowledge of it. Of course, they mean by 'truth' or 'knowledge' *relative* truth or knowledge, which means that they owe us an account of these notions.¹³

Moral relativism comes in at least three distinct forms, namely descriptive, normative, and meta-ethical relativism.¹⁴ According to *descriptive* relativism, different people accept different fundamental moral views. Richard Brandt states the following:

The values, or ethical principles, of individuals conflict in a fundamental way . . . A special form of this thesis, called "cultural relativism," is that such ethical disagreements often follow cultural lines. The cultural relativist emphasizes the cultural tradition as a prime source of the individual's views and thinks that most disagreements in ethics among individuals stem from enculturation in different ethical traditions, although he need not deny that some ethical disagreements among individuals arise from differences of

¹¹ See, e.g., PAUL O'GRADY, RELATIVISM 4 (2002); Cf. Michael Krausz & Jack W. Meiland, *Introduction*, RELATIVISM: COGNITIVE AND MORAL 1 (Michael Krausz & Jack W. Meiland eds. 1982). See also Louis P. Pojman, *Relativism*, THE CAMBRIDGE DICTIONARY OF PHILOSOPHY 790 (2d ed. 1999).

¹² THOMAS S. KUHN, THE ESSENTIAL TENSION 290 (1977).

¹³ See Chris Swoyer, *True for*, RELATIVISM, *supra* note 5, at 84, for an analysis of the idea of relative truth.

¹⁴ See Richard Brandt, *Ethical Relativism*, MORAL RELATIVISM: A READER 25 (Paul K. Moser & Thomas L. Carson eds. 2003). See also WILLIAM K. FRANKENA, ETHICS 109-10 (1973).

innate constitution or personal history between the individuals.¹⁵

Most writers seem to accept the thesis of descriptive relativism,¹⁶ though some question whether the moral differences that do exist are really fundamental, that is, they question whether in at least some cases the differences are not due to factual disagreements.¹⁷

Normative relativism differs from descriptive relativism in that it holds that a person *ought to* act in accordance with his own or his group's views on some issue. As Richard Brandt explains, whereas *individual* normative relativism has it that an individual's moral view is correct if he thinks it is correct, *social group* normative relativism maintains that an individual's moral view is correct if it is in keeping with the moral views of his social group.¹⁸ The latter is the most common type of normative relativism.

Meta-ethical relativism, finally, holds that moral truth or validity is relative to a given moral framework, and that no such framework is truer or more valid than any other framework. As Gilbert Harman puts it, "moral right and wrong (good and bad, justice and injustice, virtue and vice, etc.) are always relative to a choice of moral framework. What is morally right in relation to one moral framework can be morally wrong in relation to a different moral framework. And no moral framework is objectively privileged as the one true morality."¹⁹

Meta-ethical relativism thus conceived is different from moral *skepticism* understood as the denial that we can have *knowledge* of what is mor-

¹⁵ Brandt, *supra* note 14, at 25.

¹⁶ See, e.g., Gilbert Harman, *Moral Relativism*, GILBERT HARMAN & JUDITH JARVIS THOMSON, *MORAL OBJECTIVITY AND MORAL RELATIVISM* 3, 8-11 (1996); ALASDAIR MACINTYRE, *AFTER VIRTUE* 6-11 (1981); JOHN MACKIE, *ETHICS* 36-8 (1977); Jeremy Waldron, *The Irrelevance of Moral Objectivity*, *NATURAL LAW THEORY* 158, 171-2 (Robert P. George ed., 1992).

¹⁷ See, e.g., Michelle Moody-Adams, *The Empirical Underdetermination of Descriptive Cultural Relativism*, *MORAL RELATIVISM*, *supra* note 14, at 93; Brandt, *supra* note 14, at 28-9.

¹⁸ Brandt, *supra* note 14, at 25-8. Strictly speaking, normative individual relativists maintain that the moral values and standards accepted by an individual determine what is morally right (for him). And since a person might misunderstand or misapply his values and standards to the case before him, his view on a particular issue may be wrong. In other words, normative individual relativism does not exclude the possibility that a person may be mistaken in the particular case.

¹⁹ Harman, *supra* note 16, at 3. See also T. M. Scanlon, *Fear of Relativism*, *MORAL RELATIVISM*, *supra* note 14, at 142-3.

ally right and wrong.²⁰ Meta-ethical relativists believe that we can have such knowledge, though they mean by “moral truth” or “moral validity” *relative* moral truth or validity.

As should be clear, it is meta-ethical relativism – not descriptive or normative relativism – that is at the center of the cultural relativism/universalism debate.²¹ The core claim that has been affirmed or denied by the parties to the debate, often implicitly, is that human rights can only be true or valid in light of a given cultural framework.²² Since this is so, I shall focus in what follows on meta-ethical relativism.

3. META-ETHICAL RELATIVISM: A DEFENSIBLE THEORY

I believe that meta-ethical relativism is a defensible theory. I do not, of course, propose to determine once and for all whether meta-ethical relativism is a true theory, but I can at least point to a couple of considerations that lend plausibility to the theory.

Moral philosophers make a distinction between *moral realism*, which has it that moral facts are mind-independent in the sense that they are conceptually independent of our beliefs that are the evidence that those facts obtain, and *moral anti-realism*, which has it that moral facts do not exist at all (non-cognitivism) or that their existence is dependent on the beliefs and desires of human beings (*idealism* or *constructionism*).²³ We see that while meta-ethical relativism is compatible with anti-realism, it is incompatible with moral realism – if there were mind-independent moral facts, it could not be the case that no moral framework is truer or more valid than any other.

As I see it, moral *anti-realism* is a defensible theory. First, the existence of *widespread moral disagreement* supports the claim that there are no mind-independent moral facts.²⁴ Although there has been disagreement

²⁰ Moral skepticism comes in a number of different versions. See Walter Sinnott-Armstrong, *Moral Skepticism*, THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (*Summer 2002 Edition*), Edward N. Zalta (ed.), available at <http://plato.stanford.edu/archives/sum2002/entries/skepticism-moral/>.

²¹ This has been noted by Alison Dundes Renteln, among others. See Alison Dundes Renteln, *Relativism and the Search for Human Rights*, 90 AMERICAN ANTHROPOLOGIST, NEW SERIES 56, 60-2 (1988).

²² See Puchala, *supra* note 1, at 3, for more on this topic.

²³ See DAVID O. BRINK, MORAL REALISM AND THE FOUNDATION OF ETHICS Ch. 2 (1989), for more about moral realism and anti-realism, including mind-independence.

²⁴ See, e.g., Harman, *supra* note 16, at 8-11; JOHN MACKIE, ETHICS 36-8 (1976). This has been observed by a number of additional authors.

in sciences such as history and biology and cosmology as well, it seems that disagreement in the field of morals differs importantly from disagreement in those other fields. For, as John Mackie points out, moral disagreement cannot plausibly be thought of as resulting from speculative inferences or explanatory hypotheses based on inadequate evidence. Instead, as Mackie suggests, “[d]isagreement about moral codes seems to reflect people’s adherence to and participation in different ways of life.”²⁵

Second, it seems that if there were mind-independent moral facts, we should be able to agree on some sort of *method* for solving moral disagreements.²⁶ But so far we have not been able to reach such agreement. For example, consequentialists and deontologists cannot agree about the relevance of consequences in moral thinking. To be sure, there may be features of our moral thinking – such as the point of moral inquiry and, perhaps, the form and content of moral claims – that are best explained by the assumption that there are mind-independent moral facts,²⁷ but we nevertheless have to acknowledge that we cannot agree on a method for solving moral disagreements. And that is a reason to doubt the existence of mind-independent moral facts.

Third, it seems that moral realists cannot account for the fact that moral claims are closely bound up with moral *motivation*.²⁸ The idea is that *beliefs* – as distinguished from desires – are motivationally inert, and that therefore moral realists – who hold that moral claims express beliefs about mind-independent moral facts – cannot account for the motivational aspect of moral claims.

The idea that moral judgments are closely bound up with moral motivation is usually referred to as *internalism* and can be spelled out in different ways. It is, however, controversial.²⁹ Critics maintain, *inter alia*,

²⁵ MACKIE, *supra* note 24, at 36. See also Harman, *supra* note 16, at 8-11.

²⁶ See Jeremy Waldron, *The Irrelevance of Moral Objectivity*, NATURAL LAW THEORY 158 171-6 (Robert P. George ed. 1992).

²⁷ See BRINK, *supra* note 23, at 23-5; MICHAEL SMITH, THE MORAL PROBLEM 5-6 (1994), for more on this topic.

²⁸ See BRINK, *supra* note 23, at Ch. 3, for a discussion of this type of critique of moral realism.

²⁹ While a number of prominent moral philosophers have accepted internalism, other equally prominent moral philosophers have rejected it. Those who accept some form of internalism include SIMON BLACKBURN, SPREADING THE WORD 188 (1984); R. M. HARE, THE LANGUAGE OF MORALS (1952); THOMAS NAGEL, THE POSSIBILITY OF ALTRUISM 7 (1970); SMITH, *supra* note 21, at Ch. 3; Charles Leslie Stevenson, *The Emotive Meaning of Ethical Terms*, 46 MIND 14, 16 (1937). Those who reject internalism include: BRINK, *supra* note 23, at Ch. 3; William Frankena,

that it cannot explain the existence of *amoralists*, that is, people who remain unmoved by what they recognize as moral considerations.³⁰ Internalists have responded that a person who states, say, that one ought to keep one's promises and adds that he doesn't care about it, is not really making a moral judgment.³¹

There is a problem here, however. The internalist objection to moral realism seems to be equally applicable to the type of moral anti-realism called constructionism. For constructionists – who hold that moral claims express beliefs about mind-dependent moral facts – cannot account for the motivational aspect of moral claims anymore than moral realists can. The objection does not, of course, apply to non-cognitivism, since this theory does not hold that moral claims express beliefs at all, but feelings, attitudes, etc.

While these considerations support moral *anti-realism*, with the qualification just mentioned, they offer only indirect support for *meta-ethical relativism*. For both main types of moral anti-realism – noncognitivism and constructivism (or idealism) – come in a relativist and a non-relativist form.³² But in my view they both lead naturally to meta-ethical relativism. For under both types of theory, moral right and obligation will depend on the preferences or attitudes of people, and these are likely to vary quite a bit. The standard way for moral anti-realists to avoid meta-ethical relativism is to argue that moral right and obligation depends in some way on what a *rational agent* would do or choose,³³ but it is not obvious which is the correct theory of rationality.³⁴ Of course, non-relativist anti-realists might think of some other way to defend a non-relativist anti-realist theory, but we have yet to see the result of such an effort.

Obligation and Motivation in Recent Moral Philosophy, ESSAYS ON MORAL PHILOSOPHY 40 (A. I. Melden ed. 1958).

³⁰ BRINK, *supra* note 23, at 46-9.

³¹ See SMITH, *supra* note 27, at 66-71.

³² See T. M. Scanlon, *supra* note 19, at 143-4, for a brief discussion of the possibility of non-cognitivist relativism. See also Mark van Roojen, *Moral Cognitivism vs. Non-Cognitivism*, THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Winter 2005 Edition), Edward N. Zalta (ed.), available at <http://plato.stanford.edu/archives/win2005/entries/moral-cognitivism/>.

³³ See, e.g., DAVID GAUTHIER, *MORALS BY AGREEMENT* Ch. 1 (1986); JOHN RAWLS, *A THEORY OF JUSTICE* Ch. 3(1971).

³⁴ See Thomas L. Carson & Paul K. Moser, *Relativism and Normative Nonrealism: Basing Morality on Rationality*, MORAL RELATIVISM, *supra* note 14, at 287, for more on this topic.

4. META-ETHICAL RELATIVISM AND TOLERANCE

As I said in Section 1, many people believe that there is some sort of connection between meta-ethical relativism and tolerance of other moral views. I shall assume here, as a rough estimation, that *A* tolerates *B*'s action Φ in case *A* feels that Φ is morally wrong, *A* is in a position to interfere with Φ , *A* is not afraid to interfere with Φ , *A* does not suffer from weakness of will, etc., but *A* does not wish to interfere with Φ .³⁵

First of all, no version of meta-ethical relativism *entails* any sort of tolerance principle. The reason is that meta-ethical relativism is a second-order, descriptive theory, not a first-order, prescriptive theory, and that a factual premise or set of premises cannot entail a normative conclusion.³⁶ Moreover, even if meta-ethical relativism did entail a tolerance principle, it could not be universally – but only relatively – valid. For meta-ethical relativism, if true, rules out the existence of universally valid moral norms.

One might, however, argue that the combination of meta-ethical relativism and a normative principle that provides that we should not interfere with people unless we can justify this interference to them would entail that we ought to tolerate their moral views. This is David Wong's approach. Chris Gowans renders Wong's argument as follows:

Perhaps the conjunction of *MMR* [meta-ethical relativism] and an ethical principle could give us a reason for tolerance we would not have on the basis of the ethical principle alone. Such an approach has been proposed by Wong the principle is, roughly speaking, that we should not interfere with people unless we can justify this interference to them (if they were rational and well-informed in relevant respects). Wong calls this "the justification principle." Of course, it is already a tolerance principle of sorts. The idea is that it gains broader scope if *MMR* is correct.³⁷

³⁵ See Geoffrey Harrison, *Relativism and Tolerance*, MORAL RELATIVISM, *supra* note 14, at 229, 234-5, for a discussion of the meaning of "tolerance."

³⁶ See DAVID HUME, A TREATISE OF HUMAN NATURE 521 (Penguin Classics 1984 [1739]). (This is the well-known logical thesis that has been called Hume's law). See Hye-Kyung Kim & Michael Wreen, "Relativism, Absolutism, and Tolerance," 34:4 METAPHILOSOPHY 447, 450-2 (2003). (discussing and rejecting the possibility of a deductive relation between meta-ethical relativism and tolerance).

³⁷ Chris Gowans, *Moral Relativism*, THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY 2004 (Spring Edition), Edward N. Zalta (ed.), available at <http://plato.stanford.edu/archives/spr2004/entries/moral-relativism/>. I cite Gowans' article because I have been unable to acquire Wong's book.

This does not show that meta-ethical relativism enjoins tolerance, however, because the justification principle is not part of the theory of meta-ethical relativism. Moreover, we have seen that if meta-ethical relativism is true, then the tolerance principle itself can only be true or valid relative to a given moral framework.

Nevertheless, some maintain that acceptance of meta-ethical relativism is likely to *bring about* moral tolerance. Legal theorist Gustav Radbruch, for example, states the following:

Relativism, which teaches that no political view is demonstrable – and none refutable – is *apt to counteract* that self-righteousness which is usual in our political controversies: if no partisan view is demonstrable, each view is to be fought from the standpoint of an opposite view; yet if none is refutable either, each is to be respected even from the standpoint of the adverse view. Thus relativism teaches both determination in one's own attitude and justice toward that of another.³⁸

Radbruch does not really explain *why* meta-ethical relativism would bring about tolerance of other moral views, however, except to say that if no theory can be refuted, each must be respected by its adversaries. It is not, however, clear why non-refutability should entail or imply respect. Geoffrey Harrison suggests that those who believe that there is a necessary connection between meta-ethical relativism and tolerance believe that tolerance would be sensible and fair in a situation where neither party can prove that his own moral theory is truer or more valid than that of his opponent.³⁹ The reason why tolerance would be *sensible*, he explains, is that it would help us avoid a Hobbes-like state of moral nature, and the reason why it would be *fair* is that neither side can conclusively prove his case and has no right to impose his own views. He adds that since most of us accept the moral views imposed on us by parents, teachers, and the society we live in, we cannot reasonably look upon our moral adversaries as willfully wicked.⁴⁰

This does not, however, show that meta-ethical relativism brings about tolerance.⁴¹ To be sure, Harrison may be right that tolerance would be

³⁸ See Gustav Radbruch, *Legal Philosophy*, in THE LEGAL PHILOSOPHIES OF LASK, RADBRUCH, AND DABIN 43, 48 (Edwin W. Patterson ed. 1950). *Id.* at 48. (Emphasis added). The claim about relativism and democracy can be found on the same page.

³⁹ Harrison, *supra* note 35, at 232.

⁴⁰ *Id.* at 233.

⁴¹ The claim that there is a connection between meta-ethical relativism and moral tolerance has also been rejected by David Brink, Gordon Graham, and Hye-Kyung

sensible if it were the only way of avoiding a Hobbes-like state of moral nature. But the same could be said about a situation in which moral realism is the true meta-ethical theory – at least if we assume that we would be unable to *prove* our case to our moral adversaries. Moreover, I cannot see that fairness requires tolerance in a situation where neither side can conclusively prove his case, nor why neither side would have no right to impose his views. Indeed, this latter claim seems quite unwarranted. I conclude that the line of argumentation rendered by Harrison does not add much to Radbruch's claim about respect.

We should note that there is an independent reason to reject the claim that there is a connection between meta-ethical relativism and tolerance. Geoffrey Harrison points out that the claim advanced by [meta-ethical] relativists that one moral system is "as good as" another, or, as I put it earlier, that no moral framework is truer or more valid than any other, is ambiguous: it can be understood morally or non-morally.⁴² If we take 'as good as' to be a non-moral notion, we cannot arrive at a moral conclusion (about tolerance or anything else) unless we add a moral premise; if, on the other hand, we take 'as good as' to be a moral notion, we can indeed arrive at a moral conclusion (about tolerance or something else). But the moral interpretation is problematic. For one thing, it appears to be logically as well as psychologically impossible to believe that *one's own* moral theory is not morally better than any other moral theory. As Harrison puts it, this is one moral judgment that no *participant* of a moral practice – as distinguished from an observer of a moral practice – could ever make:

It is true that we could understand a man who said, "All moralities apart from mine are equally good . . . But if he said, "All moralities including mine are equally good," we should be at a loss. Could, for example, a Christian who admitted that other religious/moral positions were just as good as Christianity still be regarded as a Christian? I think not, in that adopting a morality will necessarily involve rejecting at least some aspects of any rival doctrine which is not compatible with one's own.⁴³

Kim & Michael Wreen, among others. See BRINK, *supra* note 17, at 93; Gordon Graham, *Tolerance, Pluralism, and Relativism*, MORAL RELATIVISM, *supra* note 8, at 226; Kim & Wreen, *supra* note 36. See also Dundes Renteln, *supra* note 21, at 62-3.

⁴² Harrison, *supra* note 35, at 240.

⁴³ *Id.* at 240. See also Betsy Postow, *Dishonest Relativism*, MORAL RELATIVISM, *supra* note 14, at 123; Kim & Wreen, *supra* note 36, at 456-7.

I find Harrison's line of reasoning persuasive: since it appears to be logically as well as psychologically impossible to maintain that one's own moral theory is not morally better than any other moral theory, the moral interpretation must be rejected. This leaves us with the non-moral interpretation, which is incapable of supporting a normative principle of tolerance.

But it would seem that the difficulty identified by Harrison goes even deeper: if it is logically as well as psychologically impossible to believe that one's own moral theory is not morally better than any other moral theory, that is, if it is impossible to embrace a first-order moral theory and combine it with meta-ethical relativism, a moral *agent*, or if you will, a participant can't be a meta-ethical relativist.⁴⁴ And this seems to indicate that the theory is, in some sense, self-refuting. I do not think that this difficulty undermines the theory, however. For the important question is not whether a moral *agent* can be a meta-ethical relativist, but whether meta-ethical relativism is a true or at least a defensible theory. In other words, the theory properly belongs on the level of the *observer*, not on the level of the participant.

5. META-ETHICAL RELATIVISM AND THE IMPORTANCE OF MORAL CONSIDERATIONS

Thomas Scanlon considers the possibility that meta-ethical relativism might *undermine the importance of moral considerations*. He observes that a person who believes in meta-ethical relativism and also believes that what the Nazis did was terribly wrong has to admit that there might be an equally true or valid moral framework in light of which their actions were not morally wrong at all. And he concludes that this person will be deprived of the sense that his condemnation of the Nazis is legitimate and justified. Scanlon puts it as follows:

This second reason [for fearing relativism] is grounded in the confidence we have or would like to have in our condemnations of wrongful conduct and of those who engage in it. For example, when Gilbert Harman told us that "ought to do" judgments do not apply to people who lack the relevant reasons, and that we therefore cannot say that it was wrong of Hitler to murder Jews or that he ought not to have done it . . . this claim seemed to deprive us of something important. It does this even if we believe that the thought that he was behaving wrongly, in the sense that we want to preserve, would not influence Hitler or others like him at

⁴⁴ Cf. STANLEY FISH, IS THERE A TEXT IN THIS CLASS? 319 (1980).

all. What relativism threatens to deprive us of in such a case is . . . I would suggest, the sense that our condemnation of certain actions is legitimate and justified.⁴⁵

We see that Scanlon (i) adopts the point of view of a participant – as distinguished from that of an observer – and (ii) presupposes that it is logically and psychologically *possible* for the moral agent to combine belief in meta-ethical relativism with belief in a first-order moral theory. But if we assume, for the sake of argument, that the important question is whether the moral agent can be a meta-ethical relativist, we may nevertheless object to Scanlon’s line of reasoning that if the agent does not (and cannot) believe that his own moral theory is morally better than any other moral theory, including the Nazi theory, he most likely wouldn’t be bothered when he learned that the actions of the Nazis could be defended from the standpoint of the Nazi theory. I mean, if he really doesn’t believe that his own theory is morally better than the Nazi theory, why would he want to criticize the Nazi theory in the first place?

In any case, we should note that even if Scanlon is right in claiming that meta-ethical relativism undermines the importance of moral considerations, this does not mean that meta-ethical relativism is a *false* theory. As Scanlon makes clear, he is trying to explain why people *fear* (meta-ethical) relativism, not that (or why) it is a false theory.

6. THE PREREQUISITES OF CULTURAL IMPERIALISM

I have argued that meta-ethical relativism does not bring about moral tolerance and does not undermine the importance of moral considerations. But if this is so, one may wonder about the relevance of the truth or defensibility of meta-ethical relativism to the *normative* issues that appear to be of primary concern to the participants in the cultural relativism/universalism debate, such as whether to enforce international human rights law or to be more tolerant of (what one perceives to be) human rights violations.

My position, as I have said, is that the truth or defensibility of meta-ethical relativism is of no relevance to the normative issues just mentioned. Why do the participants in the debate think otherwise? Their mistake, Guyora Binder explains, is that they assume that moral values “depend not upon culture, but upon discrete, coherent, bounded *cultures*.”⁴⁶ More specifically, Binder maintains that the participants in the debate mistakenly assume that the developing or post-colonial state goes together with a “bounded” culture when in fact it doesn’t, and that therefore they mistak-

⁴⁵ Scanlon, *supra* note 19, at 148 (footnote omitted).

⁴⁶ Binder, *supra* note 1, at 218.

only assume that there is a culture that can be interfered with by the enforcers of international human rights law, when in fact there isn't. If Binder is right, the prerequisites of cultural imperialism are simply not met, and this means that tolerance is no longer an issue. And this in turn means that the truth or defensibility of meta-ethical relativism is of no relevance to the normative issues that are of primary concern to the participants in the debate. Thus Binder reaches the same conclusion as I do by way of a different route.

7. THE ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS LAW

I have argued that the truth or defensibility of meta-ethical relativism is of no relevance to the question whether to enforce international human rights law either in general or in the particular case, because meta-ethical relativism neither entails a principle of tolerance nor leads to tolerance in any other way. I would like to add that neither the truth of meta-ethical relativism nor the truth of moral universalism would automatically determine whether we should enforce international human rights law in general or in the particular case. The reason is that there are a number of other moral/political considerations, such as the value of state sovereignty and of self-determination, that are relevant to such decisions. Whether one should choose enforcement or tolerance either in general or in the particular case may, among other things, depend on the gravity of the violation, on whether the offender had been warned by the international community, or on whether the prerequisites of successful enforcement are at hand.

