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**CAIRO PAPERS
IN SOCIAL SCIENCE**

**HUMAN RIGHTS:
EGYPT AND THE ARAB WORLD**

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CHAPTER TWO

HUMAN RIGHTS AND CULTURAL SPECIFICITY: SOME REFLECTIONS

RACHAD ANTONIUS

A brief illustration. Imagine a peasant community in rural Egypt. In many such communities, girls are married at the age of 13 or 14, sometimes without their consent. If you tried using the language of rights, you could say that marrying a girl at the age of 14 without her consent is a violation of her basic human rights. Her father could easily answer that in the local culture of the village, this is the norm. Not only is it accepted by the local population (including the girl herself, who may blame her fate for it rather than her father), it is also good for the girl because it protects her from the potential dangers and shame that may result from her being single after puberty. In other words, the specific culture of the village authorizes such violations. Efforts to outlaw such a practice can be denounced, from the point of view of the local culture of the village, as a form of cultural imperialism.

During the 1960s, when the idea of Arab socialism was at its peak, I remember that in our school a student asked the teacher of Social Education (*tarbiya ijtimaiyya*) : how about freedom of thought? He answered : you are free, you are totally free, but within the bounds set by socialism and by the National Charter (the *mithaq*). Every freedom has bounds, he said, and is accompanied by responsibilities. He drew a rectangle on the board; a big rectangle, but without any openings. It looks now a little too narrow, as do all similar bounds on basic freedoms, especially when they are justified by very noble ideals for building a better society. These noble and virtuous justifications for bounds on essential rights, used today by the proponents of political Islam, often hide less noble aims, as they did in the 1960s.

These two examples came to my mind when I started thinking about the cultural specificity. I think they illustrate two different contexts in which the notion is used. In the 1960s, the language of human rights was not yet fashionable, and the idea of universal human rights was not yet opposed by that of cultural specificity. But basically, it was a phenomenon of that order: some people were claiming certain rights, in particular the right to express dissident opinions, and these rights were opposed and severely restricted under on grounds that they threatened the legitimate social order. That was one form of the use of cultural specificity, in order to prevent people from claiming the right to think differently.

The question of cultural specificity is not invoked only by old fashioned "omdehs" (village chiefs) in remote villages. It is also being raised by governments, who use it as an excuse to justify rather repressive policies. One can cite, for instance, the events that led Saudi authorities to issue a

statement entitled : «*I'raf 'adouika : Asma- al saqitat al daiyat ilal razilati wal fassadi 'alal ard*» (Know your enemy : The names of the morally fallen women who want to spread vice and corruption on earth). This list, distributed publicly, did not give names of prostitutes, or of carriers of the AIDS virus, but of respectable women whose crime was that they decided to drive their cars themselves. Their behavior certainly went against dominant cultural practice in the Saudi society. It was therefore seen as "deviant" with respect to the norms that are prevalent in the Saudi society. However, I believe that the fundamental right of freedom of movement of Saudi women is violated by the dominant social order, and therefore that, at least in this instance, the notion of cultural specificity has been used to reproduce a repressive social order.

The notion of cultural specificity has also been raised by intellectuals, mainly (but not only) associated with the Islamic current, who want to see the Shari'a applied, and who claim that some of the rights recognized by the International Declaration on Human Rights run counter to Arab/Islamic values. Therefore, they claim, not only do they not want to exercise themselves these rights (which I recognize is perfectly their right), but they also want to make sure others do not obtain the right to exercise them. Of course, this stand does not prevent them from claiming to believe in human rights. A defender of cultural specificity, criticizing the Universal Declaration on Human Rights, said on this issue, for example : "For us, women and men are equal in law, but they are not the same as men, and they can't be allowed to wander around freely in the streets like some kind of animal".¹

This kind of discourse is not an exception. For instance, one often finds Egyptian professors writing articles in *Al Ahram* whose titles appear to uphold equality between the sexes but whose contents argue at length that men and women should not be treated equally.

Given that this outlook is dominant but not hegemonic in Egypt, it is important to discuss the question and to clarify the concept of cultural specificity, its various uses, and the consequences of such uses. It must be noted that governments that claim that the international human rights instruments (such as the Universal declaration) are alien to Arab/Islamic culture, never hesitate to import military instruments to repress human rights. In a way, the **repression** of human rights is certainly a universal concept, and I have heard nobody invoke cultural specificity to prevent the importation of weapons used against citizens.

Nonetheless, I believe the question of cultural specificity is indeed of fundamental importance, and that it should be addressed very seriously. But I would like to propose a perspective that is somewhat different from the dominant one.

The difficult question I would like to address is the following :

¹ Mohammed Naciri, member of Morocco's Council of Religious Scholars, quoted by Kevin Dwyer in *Arab Voices : The Human Rights Debate in the Middle East* (London: Routledge, 1991) p. 38.

Can we come up with a definition of human rights that takes into account the cultural specificity of a given society, without sacrificing the fundamental aspects of the idea of human rights?

The answer I would like to propose goes along the following lines: I believe in a universal definition of what fundamental human rights are. However, violations of these rights, and the interests that are protected by such violations, take forms that are specific to a given culture. Therefore, any work on the human rights issue, whether conceptual or practical, must take into account the culturally-specific violations of rights as a starting point to determine strategies and priorities of action. My approach to rights will therefore be through an analysis of their negation; examining what I consider to be violations of these rights in order to determine the extent to which the dominant culture, or a given subculture, also considers them to be violations. I will then take as priorities for action the rights that are considered to be violated. Therefore, even if the basic human rights I believe in are universal, the particular instruments used to protect them, the priorities in the demands for guarantees, the particular forms these guarantees will take are culturally specific. More importantly, the social movements that are the carriers of these notions of rights and their defenders must be deeply embedded in the culture.

Believing in a universal definition of Human Rights does not necessarily imply a belief in the internationalization of the issue. I do not believe that any international body, or foreign power, is sufficiently credible to act in the name of universal moral imperatives. Those who may tend to believe so have just to look at the shameful stand of the US government on the question of Palestine, where a system of official apartheid is being put into place now, with full American support. To me, then, the notion of **universal** human rights is a moral instrument in my hand as a citizen, not an excuse for foreign intervention. It is for local consumption. And it can be useful to me only if it is incorporated in my local culture, this incorporation being a slow, and long-term process that necessitates a thorough discussion of the notion of cultural specificity.

I also reject the notion that a universal definition of human rights is a Western concept. On this issue, after conceding that the notion of human rights as a concept developed as part of Western history, Sami Zubeida states :

A cursory examination of Western European history will show, however, that far from being inherent, the props of liberal democracy were established in a series of struggles and revolutions [...]. It is true the *concepts* and doctrines of rights have a long ancestry in European political thought, but the existence of concepts is no guarantee of their application.²

² Sami Zubeida, "Human Rights and Cultural Difference", in *Peuples Méditerranéens*, no 64-65, Juillet-dec. 1993, p. 281.

He adds:

... the ultimate institutionalization of human rights in the West was not the outcome only of the struggles against Absolutism, but also of the attempt to establish social peace. [...] It was a pragmatic response, trying to put an end to the devastation of rival religious righteousness. Human rights, seen in this perspective, are not culturally specific, not inherent in any one culture, but a pragmatic imperative in relation to felt needs for social peace and stability.³

The language of universal human rights is certainly part of the dominant discourse of the industrialized countries. But it is also part of the discourse of many Third World repressive regimes, and of some Third World intellectuals, who use it very selectively. I do not have to believe any of them, if their behavior does not conform to their discourse.

On the Notion of Rights

I claim that the notion of rights is first of all a **moral** notion, before being a legal one. When a right is recognized as such, it can then be made into a law that asserts that individuals or groups can exercise it without being punished by the collectivity, and even with the protection of the collectivity. But the starting point of a right is a moral norm, and that is in essence a component of culture. Therefore, my discussion will be entirely situated in the realm of culture.

Let me start with a question : what if a collectivity does not recognize that something is a right? To go back to my original example, what if the peasant community does not recognize that the peasant girl can say no to a marriage and believes she would be immoral should she oppose her father's will? It certainly means she cannot enjoy her right to say no. If the collectivity you belong to does not recognize that something is your right, it means you cannot enjoy it; or at least you cannot enjoy it openly. But does it mean it is not a right? Imagine, for instance, that in some country authorities would say : "Moslems do not have the right to build mosques in our country" or that doing it requires a presidential decree that is rarely given. Would this mean that Muslims do not have that right, or that they have it but that it is not recognized (and therefore violated)?

These examples illustrate that **asserting that something is a right says more about the person (or group) who makes the statement and about their culture than about the beneficiary of the right or about the right itself.**

Thus, we can identify two different contexts in which rights are not recognized. In the first context, a certain right can be granted by a given culture but not respected by authorities. Every culture recognizes certain rights, and the set of these rights characterize the dominant social order. In

³ Ibid, p.282.

this context, violations are seen as an abuse of power, as an injustice. Criticizing a government from this perspective has nothing to do with a belief in human rights; it has to do with respect for and reproduction of the dominant social order.

In the second context, a certain right is not granted by a **dominant** culture, and is claimed as a right only by some people, who must refer to a subculture, or even to a different culture, to think of this right as *a right*. In this second context, violations of the right are not seen by the dominant culture as violations but as necessary measures of social control. This distinction has tremendous implications on the way human rights activists can conceive of their action.

On the Notion of Human Rights

The same is true about *human* rights: asserting that something is a **human** right says more about the person (or group) who makes the statement than about the beneficiary of the right or about the right itself. But the addition of the adjective "human" indicates that the user of the notion recognizes that the mere fact of being a human being confers certain rights. In this sense, the notion of *universal* human rights is redundant; it is a pleonasm. If a right is not universal it is not a *human* right : it becomes specific to a given culture: it becomes the right of Esquimos, or French citizens, or of Egyptians or members of a subgroup. To formulate a notion of human rights is to assert that the speaker believes that every human being has a fundamental right to a decent life, to dignity, and to certain freedoms that must be specified and **that they are the same for all human beings**. Implicit in this notion is the idea of **symmetry** of rights between various groups, a notion which I believe is absolutely fundamental and to which I will return.

Three Dimensions in a Right

In order to pursue my analysis I would like to use the distinction proposed by Hohfeld between "liberty rights" and "claim rights". I would like to consider these two kinds of rights as dimensions (of varying weight) of any given right. To these two dimensions of rights I would also like to add a third one, that of non-discrimination, to end up with three fundamental dimensions in the notion of rights.

Liberty rights. These are the rights to do certain things without being stopped by other actors in the society. For instance, the freedom of movement, or the right to express opinions openly and to debate them are liberty rights.

Claim rights. These are the rights to receive some service from the collectivity. The right to education, or to health care are examples of claim rights. Often, a liberty right is accompanied by a claim right : the right to

freedom of movement for individuals, which is a liberty right, implies a claim right: if my neighbor threatens me in the exercise of any liberty right recognized as such by the collectivity, I expect the collectivity, or the state, to protect me; and that is a claim right. This is why every right, such as the right to freedom of movement, has these dimensions: part of it is a liberty, and part of it is claim, as we expect the authorities to do something to guarantee such liberty. Here is an illustration: some university campuses in North America offer an escort service to the bus stop or to the parking lot to any student or employee who is afraid to walk alone, especially after dark. Thus the freedom of movement, which is basically a liberty right, is backed up by a claim right: a service provided by the collectivity allows individuals to actually enjoy that liberty right in order to study or to work at the university.

Non-discrimination is a third dimension in a given human right. The idea here is that, whatever rights are recognized by a collectivity as pertaining to individuals, institutions and groups, they would have to be given to all individuals or groups, without discrimination based on ascriptive characteristics, i.e. characteristics they were born with: skin color, sex, origin, religion, language, etc. The underlying belief is that there is a fundamental **symmetry** of rights among various social groups that are defined on ascriptive characteristics. Indeed, this is a fundamental reason to call such rights *human* rights. Rights that do not conform to this are not human rights, but more specific rights. The notion of symmetry of rights has important consequences that we will explore later on.

On Domination, Power and Rights

Historically, the discourse on rights was developed as a way to put limits on the arbitrary exercise of power. The moral and the legal discourses on rights were thus direct or indirect responses to relationships of power and domination. That was for example the case of the Magna Carta. What permitted such a discourse to develop was that the exercise of power was seen as arbitrary. And this arbitrariness resulted from the fact that the social order that legitimized domination had not yet crystallized. The notion of rights was developed in order to set the rules by which power had to be exercised.

Every society functions on the basis of a social order that involves some degree of inequality, and some domination by some over others. The existence of widespread poverty in the midst of extreme wealth of a few, for instance is an indication of such a domination. But domination does not necessarily mean constant violence. On the contrary, the most stable and the deepest forms of domination are built on the cultural hegemony of those who dominate. This means that the values that justify their domination are internalized by the dominated, who see the social order as essentially "just". And here culture plays a fundamental role. It is in the realm of culture that the social order is justified. Why does the peasant girl who is married

against her will accept marriage? Because she feels that others would consider her deviant, i.e. "a bad girl", if she told the *ma'zun* that she refuses to get married. If she has internalized these values, she would consider herself to be deviant if she said no. Such are the processes by which the social order is reproduced without constant recourse to physical violence.

The domination of some over others is sometimes justified by reference to nature (as in the case of apartheid, which rested on and promoted the idea that whites are naturally superior to blacks and should therefore rule) or by reference to some divine order that gives some people, by birth, power over others (as in the case of the cast system in India). Sometimes the reference to divine order is used by some to give themselves power over others, by virtue of the fact that they believe in such a divine order and that they set themselves as the supreme interpreters of what the divine order means. Of course, they would insist that the divine order they believe in is the best guarantee of Human Rights; on that basis, any person who contests that claim must certainly be inspired by the devil, and therefore should be deprived of the right to speak, and sometimes of the right to live.

Every culture incorporates a set of beliefs and norms that legitimizes the domination of some individuals over others. To the extent that these beliefs are internalized by the dominated groups domination is achieved without coercion. From that perspective, we can understand the vigorous attempt, by those in power, or by those who are on their way to being in power, to discredit the notion of universal human rights, and to substitute that of the cultural specificity of rights, a notion that legitimizes culturally specific patterns of domination.

The way to reject domination is to develop alternative sets of beliefs, alternative visions of the world and of society, that allow the dominated, whether as individuals or as groups, to challenge the justifications of their domination. Those who benefit from the dominant culture (or plan to benefit from it in the near future), try to prevent the dominated culture from expressing itself, and try to portray its efforts to do so as imported, foreign and therefore not legitimate. For instance, a woman who tries to encourage peasant girls to say no to forced marriages might be accused of being immoral and be expelled from the village. If she finds ways to justify her stand on early marriage with reference to the accepted culture and to religion, she will be able to get away with it. Regarding other kinds of violations of women's rights, she may not find justifications in the local culture.

Violations of Rights

A right that is recognized as such by the collectivity can be violated by a politically dominant group : this is usually done to protect specific interests. Such violations as seen as violations and as a breach of justice. For instance, when political prisoners are tortured, this is seen as a violation of their human rights. Government's lies on this issue are easily discovered.

On the other hand, a right which is claimed by an individual or a group, but which is not recognized as such by the collectivity they belong to, is

seen as a violation only by the victims and by those who share their values. This is where cultural specificity is invoked and this is where it really deprives people of their rights. Violations that are embedded in culture are much more difficult to deal with, because they are not seen as violations by the dominant groups. This is why the question is essentially cultural. Put yourself in the shoes of the father who wants to marry his girl, let's even say an adult girl, against her will. He will justify this in the name of morality, and maybe even in the name of religion. He may even be able to get the official approval of the religious authority in the village, depriving his daughter's protest of any legitimacy.

But if the girl believes that it is her right to choose, she may insist on obtaining this right, and she may indeed obtain it. But if she does not question the dominant values, she will not fight for her right. Thus, it is at the level of culture that people develop their conceptions of rights. In a complex society like Egypt's, it also at the level of culture that dominant groups propose, and try to impose, their visions of the rights that are accepted as legitimate.

The attempts, by some intellectual currents, to accuse those who promote a universal definition of rights of importing foreign values can be read in this context as attempts to suppress more liberal views of rights. I would like to comment on this type of accusations. There are thousands of militants of the cause of human rights across the Arab world, people who subscribe to the notion of universal human rights. Who has the authority to decree that their belief in the ideal of universal human rights is a betrayal of their culture? They have achieved a synthesis of the culture they were raised in on the one hand, and of values that promote equality and non-discrimination among all citizens on the other hand. The fact that there are thousands of them, in many areas of the Arab world, shows that this synthesis is not alien to our most fundamental values, those that are embedded in the traditional culture. Who has the right to declare them to be "cultural apostates"?

Towards a Culturally Specific View of Rights

The way to take into account the specificity of the culture is not to reject the notion of universal human rights, but to try to identify the specific forms of violations that are prevalent in a given society, and to develop actions that aim at limiting these violations, starting with the violations that are seen as such from within the dominant culture, then raising the issues of violations seen as such only by some groups in the society.

Identifying the patterns of violations that are prevalent in a given society is not an obvious exercise, and it can be tricky. I would suggest the following approach : for every kind of rights (non-discrimination, liberty rights and claim rights), we could try to identify the potential violators. There are several candidates : The family, the collectivity at large, political groups that either are or are not in power, the State, and the international system.

Let us take for example the right of non-discrimination on the basis of sex. Here, almost all actors are violators, the family and the collectivity being so on the basis of the dominant culture. Some of these violations can be limited by referring to other elements within the dominant culture. For instance, it is possible to argue, from within the dominant culture, that a woman has the right to refuse a husband she does not like, or that she can include in her marriage contract her right to obtain divorce if she wishes so. But other rights of non-discrimination are less easily arguable from within the dominant culture.

Similarly, non-discrimination on the basis of religion is not easily accepted by the dominant culture, and the **dominant** trend in the Islamic world today is to consider that non-Moslems do not have quite the same rights as Moslems (as for example, in matters of testimony in court, in matters of building religious sanctuaries or churches, or in matters of marriage, divorce, and custody of children). Such discrimination is enshrined in the laws of most Arab countries.

A "map" of violations can then be drawn, with an explicit indication of whether these are within-the-dominant-culture violations, or violations from the point of view of a subculture.

Conclusion

I claim that such a global picture, with the explicit distinction made between the two kinds of violations, would be a useful conceptual tool for setting priorities and strategies for the human rights movement in a given culture. These strategies and priorities would thus become culturally specific. The underlying notions of rights that animate such a movement should, however, remain universal. Restricting basic rights in the name of cultural specificity is just a tool used to perpetuate domination.

Most important among rights is that of not being discriminated against on the basis of ascriptive characteristics. Those who believe in human rights should insist on it, without compromise, because non-discrimination results from the notion of symmetry of rights between people. And if rights are not defined in a symmetric way, they are not **human** rights any more, not withstanding the demagogic posturing of those who advocate discrimination in the name of cultural specificity.