Universality of Human Rights and Asian Values
Are Human Rights Universal or Relative?

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Universality of Human Rights and Asian Values

Are Human Rights Universal or Relative?

I. Introduction

It is generally perceived that human rights are derived from the inherent dignity of one’s status as a human being. They are entitlements held by each individual against all others, particularly to combat state’s autocratic rule.1 By this definition, human rights are universal in nature and cannot be overridden by local law and practices.2

However, there is a contrary view that human rights are in fact relative and dependent upon the particular historical, cultural, moral, religious, political and economic backgrounds of the society in question.

Starting from the 1990s, some Asian governments have argued that the contemporary concept of human is in fact a product of Western political philosophies, which value individual liberties and autonomy. This human rights regime is unsuited to Asia societies, which cultural traditions emphasize community interests, order and authority.

This paper discusses the issue of whether human rights are universal or culturally relative through an examination of this Asian values argument.

Part II will briefly discuss the development of the contemporary concept of human rights, following an outline of the arguments of cultural relativists.

I will show in Part III that there is no basis to conclude the contemporary human

rights regime is unsuited to the Asian societies on the ground of cultural relativity. In fact, the Asian values argument is a justification used by the Asian governments for human rights abuses.

In Part IV, I will show there is in fact a core set of fundamental human rights which are universal in nature and should be applied universally, regardless of any cultural diversity. I will also suggest the adoption of “culturally sensitive universalism” in the debate between universalism and cultural relativism.

In Part V, I will suggest vertical and horizontal dialogues to be a process to determine what values should be universal and what cultural differences to be respected. This paper will not discuss areas of public international law. Lastly, I will suggest some measures at national level to protect and promote human rights.

Incidents of human rights abuses in Asian states will be demonstrated to illustrate my arguments, however, this paper is not intended to evaluate human rights conditions in any given state. Through an examination of philosophical ideologies and real-life incidents, I hope to conclude that there is a set of fundamental human rights which are universal in nature and should be applied universally. It is the responsibility of governments to safeguard and protect, instead of abusing, human rights for their citizens.

II. Background

A. Development of Human Rights

It is a general perception that the contemporary concept of human rights has its origin in the ideas of natural law and the Enlightenment in Western political philosophy. According to John Locke’s natural rights theories, each individual by
nature possesses the rights to life, liberty, and property.\textsuperscript{3} The theories provided an intellectual foundation to the declarations of rights in the English, American and French constitutional revolutions of the seventeenth and eighteenth centuries. The declarations of rights have been recognized as the progenitors of modern human rights documents.\textsuperscript{4} For instance, the notion of equality was stressed in the American Declaration of Independence (1776), which suggested all human beings are born equal and possess inviolable rights to life and liberty.\textsuperscript{5}

Development of international human rights regime reached its height in the post-WWII era, resulting in a number of international human rights conventions, such as the Universal Declaration of Human Rights (“the UDHR”, 1948)\textsuperscript{6} and the International Covenant on Civil and Political Rights (“the ICCPR”, 1966).\textsuperscript{7}

### B. Cultural Relativism

Cultural relativism holds that the existence and scope of human rights in a particular society are determined by the local cultural traditions and values. Since culture is specific in nature and may vary from society to society, it is inaccurate to hold that human rights, as a product of Western philosophical ideologies, are universally applicable.\textsuperscript{8} For instance, full freedom of religion is contradictory to the traditional religious practices in Islamic societies.\textsuperscript{9}

Some relativists further argue that the imposition and transplantation of the

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\textsuperscript{3} Lee E., “Human Rights and Non-Western Values”, in Davis M.C.(ed), \textit{supra} n.2, at p. 75.

\textsuperscript{4} Davidson J.S., \textit{supra} n.1, at p.38.


Western human rights concept is in fact oppressive for states with different cultures.10

III. Asian Values

A. Background

In 1993, the Bangkok Declaration11 was produced at a regional meeting held by the Asian-Pacific states in Bangkok. The regional meeting was held to prepare for the World Conference of Human Rights in Vienna (“the Vienna Conference”).

In the Bangkok Declaration, the Asian governments reaffirmed their commitment to the UDHR12 and recognized “human rights are universal in nature”.13 On the other hand, the document emphasized 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.”14 In other words, the document purported to allow differences in priorities, emphases, and specific forms of practices when implementing human rights at national and regional levels.15

Although the term “Asian values” was not used in the Bangkok Declaration, the document was seen by many as asserting the cultural relativist approach on the ground of the Asian values argument.16

The gist of the Asian values argument is that the contemporary concept of human

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12 Ibid, the Preamble.
13 Ibid, art. 8.
14 Ibid.
rights was propounded in the “West” and founded on individualism and contention. These values are incompatible with Asian values which emphasize community interests and consensus, and thus are unsuited to the Asian societies. Also, social and economic rights should be emphasized, or even placed in priority to political and civil rights.¹⁷

Furthermore, it is claimed that the principle of universality has been manipulated by the Western political powers as an instrument of neo-imperialism.¹⁸ The Bangkok Declaration stressed the respect for national sovereignty, non-interference in the internal affairs of states and “non-use of human rights as an instrument of political pressure”.¹⁹ In the White Paper on Human Rights (1991) produced by the government of the People’s Republic of China (“the PRC”), the importance of national independence was stressed as the first principle for a nation state.²⁰

B. Objections to the Asian Values Argument

In the following discussion, I will show that there is no basis to conclude the contemporary human rights regime is unsuited to the Asian societies on the ground of cultural relativity:

1. There are in fact no dominant or representing values in the Asian region; 2. It is a wrong assumption that the human rights regime is incompatible with Asian cultural traditions. Confucianism will be discussed as an example; 3. The cultural prerequisite argument, as held by some relativists, is problematic; 4. It is a kind of strict moral positivism to assume the existing cultural traditions must be necessarily correct; and 5. There is no basis to hold that people in Asia are entitled to less

¹⁸ Davidson J.S., supra n.1, at p.37.
¹⁹ Art. 5, supra n.11.
enjoyment of human rights than their Western counterparts simply for the fact that they are living in the Asian societies.

1. What are “Asian Values”?

a. Culture Diversity in Asia

Traditionally, the distinct civilizations in Asia did not identify themselves with a common continental culture. In fact, Asia is never a culturally homogenous region. It covers a diverse number of ethnics, religions (such as Buddhism, Christianity, Hinduism and Islam), languages and cultures. For example, Singapore, one of the advocating states of the argument, was under the British colonial rule for centuries. Strictly speaking, its cultural root is not originally and wholly “Asian”. Instead, it is a multi-racial, multi-cultural, multi-religious and multi-lingual state, as reflected in its population comprising different ethnic groups.

The political ideologies, social systems and economic development in the region also vary widely - from Taiwan which practices universal suffrage to Burma which is under military rule; from the free market economy in Hong Kong to the communist North Korea, from Japan as an international financial center to Indonesia as a developing country.

The mere existence of the Bangkok Declaration does not show there is in fact a concept called “Asian values”, which prioritizes community interests to well-being of individuals. The argument tends to generalize and stereotype different values and

22 Tay S.S.C., supra n.15, at p.743.
23 Ibid, at p.762.
cultures existing in the region.26

b. Are Views of Asian People Truly Reflected?

Viewpoints of the Asian governments, as presented in the Bangkok Declaration, do not necessarily represent that of the Asian people. The discussion on human rights and culture is often monopolized and controlled by the regime.27 Government elites may be culturally distinct from the people whom they govern (for example, the PRC government and the Tibetans). Also, there is no guarantee that the governments necessarily speak for the people.28

For example, it is the Singapore government’s position that Confucianism is the core value in the Asian societies (see the discussion below). However, Englehart Neil pointed out that before the government’s Confucian Ethics campaign in the 1980s, few Singaporeans knew much about Confucius values.29

Particularly, indigenous peoples (for example, the Tibetans in the PRC) and the oppressed (for example, women in the Islamic societies) are not well represented in the decision-making process surrounding the claims of Asian values.30 There is no evidence showing that the views of people in Asia are truly reflected in the Asian values argument.

c. The Bangkok NGO Declaration

In response to the Bangkok Declaration, a number of Asian non-governmental organizations (“NGOs”) published an opposing declaration in 1993. In contrast with the governments’ claims, the NGO Declaration called for democracy to be fostered and guaranteed. It also urged the Asian governments to lift political constraints, to repeal repressive laws and to liberalize the political systems.

Endorsing their commitment to the principle of universality of human rights, it condemned cultural practices which derogate from universally accepted human rights.

Arguably, compared with governments, NGOs are in a better position to articulate the views and needs of people independently.

The NGO Declaration reveals the demand for human rights and democracy in Asia, which is very different from the “Asian values” as claimed by the governments.

d. Dynamic Culture, Globalization and Growing Awareness

Culture is never static, but is always open to influence. For example, women foot-binding was a common practice in China. As a result of the influence of the Western ideas such as liberation and women emancipation, it had been banned in the post-Qing era. Another example is the prohibition of slavery system in the American and European states, showing that not all Western cultural traditions have been consistent with human rights since day one. The contemporary human rights

32 Tay S.C.C., supra n.15, at p.747.
33 Ghai Y., supra n.17, at p.353.
regime has indeed been achieved through evolution.35

Furthermore, under the forces of globalization, culture is expected to become more evolving and dynamic than ever that different cultures may develop shared values through inter-cultural exposure and discourse.36

In fact, the Asian societies have been experiencing a growing awareness of the need for reinforcing the respect for human rights. The recent anti-military-government protests in Burma reflect people’s demand for democracy and human rights protection.37

To conclude, the cultural argument put forward by the Asian governments is problematic since culture is never a natural thing that pre-exists and determines whether human rights should be practiced in a different form and scope in Asia.38

2. Compatibility between Asian Cultures and Human Rights

a. Western Origin?

It is true that the Western civilization has made a significant contribution to the development of the modern concept of human rights. However, it does not necessarily mean that other civilizations have no practice of human rights or no knowledge of the concept.39

It is true that the Western nation-states had played a leading role in drafting the UDHR. However, nation-states like China (Republic of China), Chile, and Lebanon

35 Lo S., supra n.25, at p.11.
38 Tay S.S.C., supra n.15, at pp.757, 768.
39 Subedi S.P., supra n.9, at p.49.
also participated in the drafting process.40

It is also true that the General Assembly were dominated by the Western nation-states in the early years of the United Nations (“the UN”). Arguably, the General Assembly passed many resolutions during that time to suit the interests of the Western powers. However, most of the international human rights conventions (for example, the ICCPR) were formed after the developing countries had gained a majority in the General Assembly in the post-decolonization era.41

It is thus inaccurate to argue that the contemporary human rights regime is the product of the Western civilization alone. In fact, a number of Asian cultures and traditions show a component of human rights. One example is Confucianism, which will be discussed in the following part.

b. Confucianism and Human Rights

It is argued that classical Confucianism emphasizes rites (proper conduct) and duties rather than rights, consensus and collective interests rather than individual interests.42

The Singapore and PRC governments suggest that Confucian traditions in the Asian societies are proof of Asian values of order and authority above individual liberties and autonomy.43

However, as pointed out by Michael Davis, Confucianism in fact has a strong humanistic component.44 It is inaccurate to assume incompatibility between Confucianism and human rights.

40 Subedi S.P., supra n.9, at p.61.
41 Ibid.
42 Peerenboom R.P., supra n.5, at p.37.
43 Lo S., supra n.25, at p.3.
Ruler’s exercising of power

In Confucianism, there existed a vertical relationship between rulers and the ruled, which may be argued as goes against the notion of human equality.

However, it is the admonition from Mencius, the second great thinker of Confucianism, that the given relationship between rulers and the ruled is conditional and reciprocal. His doctrine is echoed by another great thinker Xunzi, who stated that “[t]he ruler is like a boat, the people are like water. While the water floats the boat, it can also capsize it.”

In fact, a Chinese scholar Wejen Chang pointed out that the main purpose of casting social relationships and roles is to achieve an effective division of labour.

Moreover, the ruler is to serve his people. Mencius stated that “[t]he people… are of the greatest importance, the state comes next, and the ruler last.” Therefore, when he becomes autocratic and violates the basic principles of benevolence and righteousness, he can be rightfully deposed (which did repeatedly happen as shown in the Chinese dynastic cycles). Arguably, it is a kind of rights of the ruled in this given reciprocal relationship with the ruler. Confucian traditions of filial piety and fraternal submission do not imply blind obedience to the authority or an absence of personal dignity. There is no question of inequality when loyalty (of the ruled and government officials) attaches to principle (rightness), but not persons (rulers).

45 See further in Davis M.C., supra n.31, at pp.115 - 6.
48 Davis M.C., supra n.31, at p.116.
50 De Bary, supra n.21, at p.19.
Human Relationships

The Asian governments have drawn on the nuclear family value in distinguishing Asian values from the values of the Western civilizations.\(^{51}\) For instance, the Five Relationships, which is a fundamental principle in Confucianism, sets personal priorities, particularly within the family.

However, firstly, emphasis on family value is not necessarily equal to disregard of individual autonomy and right as a human being.

It is true that the obligations in human relationships under the Five Relationships are differentiated, but they are also mutual and shared.\(^{52}\) For example, a child owes filial piety to his parents, while the parents also owe deference and piety to their child. The relationship is in terms of mutual affection.\(^{53}\) This concept of mutual obligations in family is reflected in the current PRC Constitution that “[p]arents have the duty to rear and educate their minor children, and children who have come of age have the duty to support and assist their parents.”\(^{54}\)

Reciprocity and Mutual Respect

As shown above, Confucian traditions are rooted in a strong notion of reciprocity and mutual respect. It is also evident in the Confucian golden rule that “do not do to others what we would not want others to do to us”.\(^{55}\)

The degree of respect and responsibility in human relationships may vary in accordance with the specific relationships. However, the Confucian traditions emphasize benevolence, which means to love all men by respecting and treating them

\(^{51}\) Subedi S.P., \textit{supra} n.9, at p.47.
\(^{52}\) De Bary, \textit{supra} n.21, at pp.17 – 8.
\(^{53}\) \textit{Ibid}, at p.18.
\(^{54}\) Art 49.
\(^{55}\) Tu W., “Epilogue: Human Rights as a Confucian Moral Discourse” in De Bary T. and Tu W.(eds), \textit{supra} n.20, at p.301.
in a humane way.\textsuperscript{56} Therefore, there is always a basic respect required from each human being towards every other human being.\textsuperscript{57} The dignity of each individual member in the society is itself an important public interest,\textsuperscript{58} which is in fact consistent with the notion of equality in the contemporary concept of human rights.

Although the Confucians did not talk about “human rights”, the Confucian system is based on morality, reciprocity and mutual respect, and aims at ensuring people to enjoy a life of dignity. These ideas are consistent with the contemporary human rights regime.\textsuperscript{59}

Countries with Confucian Traditions

Japan, South Korea and Taiwan are influenced by Confucian cultures and traditions. However, they show observance of human rights and democratic practices. For example, the Taiwan constitutional court (the Council of Grand Justice) exercised its independent judicial review power and held that the electoral system unconstitutional, which finally led to amendment of the constitution and local popular elections.\textsuperscript{60} These democratic countries provide a strong rebuttal to the argument that human rights and democracy are unsuited to the Asian societies with Confucian traditions.

To conclude, Confucianism has a strong humanistic component and is compatible with the contemporary concept of human rights. It is a generalization and stereotype by the Asian governments to draw on Confucian traditions to argue that

\textsuperscript{56} Du G. and Song G., in Davis M.C. (ed), \textit{supra} n.2, at p.37.
\textsuperscript{58} Henkin L., “Epilogue: Confucianism, Human Rights, and Cultural Relativism” in De Bary T. and Tu W.(eds), \textit{supra} n.20, at p.310.
\textsuperscript{59} Tay S.S.C., \textit{supra} n.15, at p.758.
\textsuperscript{60} Davis M.C., \textit{supra} n.31, at p.137.
Asian cultures advancing the community over the individuals, authority over liberty, and duties over rights.\textsuperscript{61}

3. Cultural Prerequisites Argument

It is the relativist position that laws, which are not in accord with the values of a particular society, will be generally difficult to enforce in the society in question.\textsuperscript{62} Democratization in some Asian states is either difficult or nearly impossible in the absence of certain democratic cultural prerequisites.\textsuperscript{63}

The argument is problematic, at least, in the debate of Asian values.

Firstly, as shown in the discussion on Confucianism, Asian cultures and traditions do show consistency with the concept of human rights.

Secondly, China and Taiwan share almost identical cultural traditions and values. Comparing the failure of May Fourth Movement (1919) in China and the successful democratization of Taiwan in the 1990s, it appears that successful democratization depends on the existence of democratic institutions rather than the so-called cultural prerequisites.\textsuperscript{64}

Lastly, this argument underestimates the ability of the human intellect to adapt to unfamiliar concept (\textit{if} the concept of human rights and democracy are really unfamiliar to them).

4. Moral Positivism

It is a strict form of moral positivism to take the view that cultural traditions or

\textsuperscript{61} Davis M.C., \textit{supra} n.31, at p.111.


\textsuperscript{63} Davis M.C., \textit{supra} n.31, at p.120.

\textsuperscript{64} \textit{Ibid}, at p.122.
rules held by a certain group are necessarily correct.65

However, it is far from logical and sensible to accept long-standing cultural practices and traditions simply because they are long-standing, despite any undesirable consequences. In fact, a number of cultural practices and traditions have been banned or abolished because of their injustice and inhumane nature. For instance, sati (widow burning) is a practice of long history in Hinduism. It used to be accepted and practiced in communities in India,66 but has been banned since the enactment of the Prevention of Sati Act (1987).67

Therefore, even if the concept of human rights is incompatible with some Asian cultural practices and traditions, they are not necessarily right and do not automatically defeat the universality of human rights. Prohibition of the sati practice in India shows a good example that inhumane cultural practices are to be abolished under the contemporary human rights regime.

5. Equal Entitlement to Human Rights

It is an undeniable fact that the Asian and Western societies have different cultural traditions. However, as pointed by the Asian Human Rights Commission (a NGO), the differences in cultural traditions alone do not “detract from the universalism of rights which are primarily concerned with the relationship of citizens with the state and the inherent dignity of persons and groups”.68

Fernando Teson pointed out that “[t]he place of birth and cultural environment of an individual are not related to his moral worth or to his entitlement to human rights… There is nothing, for example, in the nature of a Third World woman that

65 Teson F.R., supra n.8, at p.894.
makes her less eligible for the enjoyment of human rights… than a woman in a Western democracy”.

Without legitimate justification, it is far from satisfactory to conclude that people in Asia are entitled to less enjoyment of human rights than their Western counterparts simply for the fact that they live in the Asian societies and have different cultural backgrounds.

C. Behind the “Asian Values” – A Government Tool

Interesting, in the debate of Asian values, the Asian governments are comfortable with socio-economic rights while are reticent towards civil and political rights.

Dianne Otto observed that the Asian governments raised the culture relativity debate on a purpose to limit international scrutiny of their authoritarian rules and to defer demands for basic human rights. The state-participants in the Vienna Conference shared a similar view that the Asian states, by advocating the Asian values argument, intended to promote a screen behind which authoritarian governments could perpetrate human rights abuses.

In the following discussion, I will show that the Asian values argument is in fact a justification used by some Asian governments for human rights abuses:

1. The interpretation and practice of the self-determination principle by some advocating Asian governments cast doubt on whether they truly value cultural traditions in their states, and the purpose for bringing up the argument; and 2. Some Asian governments suggest social stability and economic development should be

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69 Teson F.R., supra n.8, at p.891.
70 Muntarbhorn V., in Patman R.G. (ed), supra n.30, at p.82.
71 Otto D., supra n.10, at p.14.
placed over human rights protection. This argument in fact fails to appreciate the distinction between community interests and governmental interests.

1. Right to Self-determination

Originally, the self-determination principle had been developed against colonialism and foreign domination, guaranteeing political, socio-economic and cultural rights without external interference.73

There are two possible interpretations of self-determination, namely, external self-determination and internal self-determination. It is important to distinguish between the two interpretations.

External self-determination is founded on non-intervention principle, forbidding any foreign state from interfering with the internal matters of a state. The right to external self-determination is protected in the UN Charter, which immunizes state action relating to “matters which are essentially within the domestic jurisdiction of any state.”74

On the other hand, internal self-determination requires internal democracy and respect for human rights for all peoples within a state, particularly the indigenous peoples and different ethnic groups.75

The Asian governments favour the interpretation of external self-determination. They insist that the right of internal self-determination, held by the indigenous peoples and different ethnic groups in a particular state, is an internal affair of the state in question.

73 Teson F.R., supra n.8, at p. 883 – 4.
74 U.N. Charter, art. 2, para. 7.
75 Teson F.R., supra n.8, at p.880.
In the Bangkok Declaration, the Asian governments stressed that the right to (internal) self-determination “should not be used to undermine the territorial integrity, national sovereignty and political independence of States.” When facing criticism on its human abuses (for instance, religious oppression), it is the PRC government’s position that human rights are internal matters.

However, this interpretation of absolute external self-determination condemns any legitimate and proportionate external pressure for human rights compliance. It is extremely dangerous in a sense that it can be a rationalization for any form of human rights abuses within a state, particularly which lacks democratic elections and institutions safeguarding human rights.

Moreover, if the Asian governments argue that, due to cultural diversity, other states are not entitled to impose incompatible Western values on the Asian societies, the governments themselves then must accept the argument that they are not entitled to impose culturally incompatible values on different cultural/ethnic groups within a state (i.e., the right to internal self-determination).

Therefore, it is highly questionable that whether the PRC government (as an advocating state of the Asian values argument) is entitled to launch a “patriotic education” campaign in the mid-1990s requiring the Tibetan Buddhist monks to renounce the Dalai Lama, who has been regarded by all the ethnic Tibetans as a spiritual leader in the Tibetan cultural and religious traditions. Also, as shown in the recent protests in Tibet, the ethnic Tibetans indeed have been demanding for more

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76 Art. 13.
78 Lo S., supra n.25, at p.10.

It is important to bear in mind that the right to self-determination aims at protecting the individual’s right against external interference, but not a right (or a tool) of governments to limit international scrutiny of their rules.\footnote{Teson F.R., \textit{supra} n.8, at p.883.}

The interpretation and practice of the self-determination principle by some advocating Asian states cast doubt on whether the governments truly value cultural traditions in their states. If a government appears to abandon or suppress local cultural traditions and practices for the sake of governance, its purpose for raising the Asian values argument is dubious – whether to protect the cultural traditions and values within the state, or to manipulate it as a tool to deny demands for human rights.

\section*{2. The Paradox of Priority Issues}

\subsection*{a. Economic Development}

Some Asian states, such as Indonesia, nominally accept universality of human rights but claim that economic backwardness forces them to prioritize economic development to individual human rights.\footnote{Harris S.R., “Asian Human Rights: Forming a Regional Covenant”, (2000) 1 Asian-Pac. L. & Pol’y J. 17, at p.10.} Similarly, the Malaysian government argues that civil and political rights (such as due process rights concerning arrest, detention, and a fair trial) are “luxuries that Asian states cannot afford until economic development eradicates poverty and assures basic economic and social rights”.\footnote{Whiting A., “Situating Suhakam: Human Rights Debates and Malaysia’s National Human Rights Commission”, (2003) 39 Stan. J. Int’l L. 59, at pp.63 – 4.} Randall Peerenboom suggested that promoting democracy in poor countries is in fact
“putting the cart before the horse.”

However, there is no basis to conclude that it is premature to focus on civil and political rights before a certain level of economic development is achieved.

Firstly, there is no reason to support that human rights must necessarily be traded-off for economic prosperity.

Also, governments may not necessarily speak for the demands of people. It is far from satisfactory to justify deference in human rights observance by way of governmental priority. In a plebiscite held in Russia in 1993, despite the economic difficulties within the country, the Russians showed a strong determination for political reform replacing the Stalinist style of totalitarian rule. The result showed that it is not always people’s priority of economic prosperity over human rights protection.

Secondly, according to Harvard University economist and philosopher Amartya Sen, there is little evidence to support a theory that political and civil rights hamper economic growth.

Moreover, a Chinese scholar Renren Gong suggests that the failure of the Great Leap Forward Movement in the PRC proves that freedom of speech and expression are complementary to socio-economic development.

The Great Leap Forward Movement was introduced by the leader Mao Zedong
in the late 1950s with the goal to speed up economic development in the PRC. Because of internal political struggles, the government at that time suppressed freedom of speech and expression. As a result, although the policies and measures adopted in the Movement were far from practicable and effective, no one was willing to give comment and advice. To make things worse, some government officials exaggerated production outcomes to please their supervisors. Facing the oppression of free speech, people and other officials feared to tell the truth. The consequence of the Movement was disastrous, leading to the Great Famine in the country.89 The failure of the Movement showed that the protection of freedom of speech and expression is supportive and vital to healthy socio-economic development.90

Furthermore, betterment of the people is the main purpose of social development. It is not convincing to say that social development only includes social stability and economic development. Instead, enjoyment of human rights should be taken into account for sustainable development.91

Lastly, even if it is correct to hold the view that it is premature and inappropriate to focus on human rights in poor countries, the view is only a temporary justification for deferring demands for human rights and democratic reforms.

In the Vienna Conference, a PRC official made stated that “[w]hen… people’s basic needs are not guaranteed, priority should be given to economic development. Otherwise, human rights are completely out of the question.”92 As a matter of fact,

91 Tay S.S.C., supra n.15, at p.755.
the PRC has been experiencing drastic economic growth in the recent years, the denial of human rights is no longer justified in the absence of economic hardship.\textsuperscript{93}

b. Social Stability

It is the PRC government’s position that social stability is a state’s pre-eminent concern as well as a prerequisite for any rights to be fulfilled. Thus, the government must prioritize its sovereignty over “any lesser rights” that benefit individuals to the detriment of social stability.\textsuperscript{94}

Firstly, it is important to distinguish the interests of the people from the interests of the regime in power (i.e., the government).

Peerenboom’s view is an example of failure to distinguish between the two kinds of interests. He stated that “…many Asian states, weakened by ethnic strife, economic crisis, and insurgent movements whose express purpose is to bring down the government, do confront challenges that could result in the overthrow of the government and the collapse of the state.”\textsuperscript{95}

In reality, overthrown of the government does not necessarily equal collapse of the state, for example, the 1911 Revolution did result in the collapse of the Qing Empire but not that of China as a nation state.

It is always important to bear in mind that the dignity of each individual member of the society is itself an important collective interest.\textsuperscript{96} When a repressive government fails to respect and protect the dignity of its people, reforms (or

\textsuperscript{93} Bell D.A., \textit{supra} n.87, at p.643.  
\textsuperscript{94} Harris S.R., \textit{supra} n.82, at pp.13 – 4.  
\textsuperscript{95} Peerenboom R., \textit{supra} n.62, at p.30.  
\textsuperscript{96} Henkin L., in De Bary T. and Tu W.(eds), \textit{supra} n.20, at p.310.
revolutions) may bring temporary social instability. However, it is in fact for the betterment of the people (in terms of human rights enjoyment and social stability) in the long run.

A state government should exist and work for the interests of its people. When a government makes use of social stability as a justification for its repressive or authoritarian rule, it appears to act for its own interests, rather than that of the community.

One recent example is the military government in Burma used force to end peaceful anti-government protests.97

Another example is the strict control over the press exercised by the Singapore government. The national press is subject to national interest requirements under the National Press Act. The foreign press is subject to sanctions if found to be engaging in domestic politics.98 In 1994, Christopher Lingle, an American academic who was teaching in Singapore, published an article in The International Herald Tribune suggesting that, without mentioning Singapore, some Asian leaders relied “on a compliant judiciary to bankrupt opposition politicians.” The government brought a criminal case against the newspaper and the author asserting that the article was in contempt of court because of its assertions about the Singapore judiciary. The two defendants were convicted and fined by a Singapore court.99 It is agreed that individual’s freedom of speech and community interests (such as public order) should be balanced. However, even if the article in issue was defamatory in nature, it is not likely that it would substantially harm the community interests or cause any social instability. Arguably, such strict control on the press aims at protecting the

97 Supra n.37.
98 Davis M.C., supra n.31, at p.128.
governmental interests (from criticism), rather than that of the community.

Importantly, harmony in a society does not demand sameness of thought and interests. Rather, harmony means a peaceful solution to potentially conflicting differences in the society.\textsuperscript{100} It is thus far from convincing to justify any form of suppression in the name of community interests (such as social stability/harmony).

\textbf{D. Conclusion}

Discussion in Part III shows that there are no valid grounds to support the Asian values argument. Instead, the argument is a tool used by the governments to put their human rights practices out of reach of criticism. As Y. Ghai commented, the Asian values argument in fact “politicises the question of human rights in an unproductive way.”\textsuperscript{101}

\textbf{IV. Universal Human Rights}

This part will discuss what universal human rights are.

In Part A, I will first discuss the inappropriateness and undesirable consequences of adopting absolute universalism and unrestricted relativism, following a suggestion to adopt culturally sensitive universalism\textsuperscript{102} in the debate.

\textbf{A. Culturally Sensitive Universalism}

\textbf{1. Unrestricted Relativism}

As noted earlier, it is inaccurate for relativists to assume human rights regime is


\textsuperscript{101} Ghai Y., \textit{supra} n.17, at p.344.

\textsuperscript{102} Engle K., \textit{supra} n.16, at p.322.
necessarily unsuited to non-Western societies.

In a practical sense, a radical form of relativism is undesirable because it implies an absence of human rights. According to this view, human rights are completely determined by the culture in which they originate. It is extremely dangerous that this absolute relativist approach can be used in defence of any form of human rights abuses, such as ethnic cleansing.\(103\) As commented by Jack Donnelly, radical cultural relativism is “morally indefensible”.\(104\)

2. Absolute Universalism

It is an extreme form of universalism to completely deny that the existing universal standards may themselves be culturally specific,\(105\) and to insist human rights must be uniform in meaning, content, and application.\(106\)

Donnelly pointed out that absolute universalism is in fact a form of “moral imperialism”, implying a complete denial of national autonomy\(107\) and showing no respect to other cultural traditions and customs.

In practice, international human rights instruments always give allowance regarding implementation of the provisions in a particular nation state, provided that the derivations are within a prescribed limit. For instance, the Vienna Declaration asserts that the “[u]niversal nature of these rights and freedoms is beyond question.”\(108\) while suggests on the other hand that cultural and religious

\(103\) Svensson M., in Jacobsen M. and Bruun O. (eds), supra n.27, at p.200.
\(105\) Otto D., supra n.10, at p.8.
\(107\) Donnelly J., supra n.104, at p.402.
“particularities… must be borne in mind.”

3. A Mid-Way Approach - Culturally Sensitive Universalism

Both absolute relativism and unrestricted universalism are inappropriate and will result in undesirable consequences. For the sake of practicality, we should seek an intermediate position.\footnote{Para 5, \textit{ibid}.}

Donnelly suggested an idea of “weak cultural relativism”.\footnote{Donnelly J., \textit{supra} n.104, at p.406.} According to this view, human rights are prima facie universal, but we recognize culture as a source of exceptions and principles of interpretation. Application of human rights may vary and be specific after taking into account the cultural divergence which exists in a particular society. However, firstly, some core human rights values must be preserved. Secondly, the limited deviations are permitted at the levels of form and interpretation.\footnote{\textit{Ibid}, at p.401.} Significant variation is not allowed as it may render the right exists on paper but not in practice.\footnote{\textit{Ibid}.} (The freedom of religion in the PRC is an example of such a situation, which will be discussed in Part V.)

Former Indonesian Foreign Minister Ali Alatas once stated “…the implementation of human rights should be in the national context.”\footnote{Subedi S.P., \textit{supra} n.9, at pp.67 – 8.}

It is true that all the major human right instruments recognize discretion of states in limiting the application of some rights, such as freedom of thought, conscience and religion (for example, Article 18 of the ICCPR) and freedom of association (for example, Article 22 of the ICCPR). However, this discretion is not unlimited. Instead,
states have to comply with the prescribed limits. The European Court of Human Rights held in *Toonen v Australia* that the interference with right to privacy (Article 17 of the ICCPR) must be proved by a given state as proportional and necessary in the circumstances.

The given limited allowance, regarding implementation of some rights, itself does not deny the universality of these rights. People in a particular society are still entitled to the rights, it is just that cultural differences require some proportionate deviations in the society in question.

Karen Engle names it as a kind of “culturally sensitive universalism”, which does not deny the universal nature of human rights, while recognizes the reality of needs for limited cultural variations.

**B. What are Universal Human Rights?**

The UDHR was passed in the UN in 1948. It is a set of rights formulated to protect basic human values. It is said to represent a high degree of international consensus on a minimal standard on human rights, supporting universalism.

The Vienna Declaration, which was adopted by consensus by all participating states from all over the world in the Vienna Conference, states that “[a]ll human rights are universal, indivisible and interdependent and interrelated.” The universal nature of human rights is in fact beyond doubt.

However, the difficulty is what human rights are universal and how to justify

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115 Davidson J.S., *supra* n.1, at .46.
116 CCPR/C/50/D/488/1992
117 Engle K., *supra* n.16, at p.322.
118 Davidson J.S., *supra* n.1, at p.43.
120 Supra n.108.
121 Subedi S.P., *supra* n.9, at p.68.
those basic human rights should be applied universally.\textsuperscript{122}

In the following part, I will show certain norms of human rights, which are found universally in common practices in different cultures and international instruments, to demonstrate that fundamental and universal human rights do exist.

\textbf{1. Right to Life}

The respect for human life is a moral value shared by all cultures. John Finnis stated that “[a]ll human societies show a concern for the value of human life… in none is the killing of other human beings permitted without some fairly definite justification.”\textsuperscript{123}

On the basis of the notion of equality, the right to life is the first and foremost right of any human being. It is universal to all of us and should be applied universally, regardless of differences in ethnic, culture, age, gender, etc. In fact, it is guaranteed in all international and regional human right instruments, such as the UDHR.\textsuperscript{124}

The right to life is not a product of Western philosophical ideologies alone. Instead, it is protected in all major Asian civilizations, for examples, the Buddhist philosophies are based on the principles of non-violence and equality.\textsuperscript{125}

Some may argue that if the respect for human life is rooted in practices of all cultural traditions and the right to life is universal, why the practice of sati and other inhumane torture exist.

However, as discussed earlier, it is a strict form of moral positivism to hold that cultural practice by a certain group is necessarily correct simply on the fact of its

\textsuperscript{122} Peerenboom R., \textit{supra} n.62, at p.13.
\textsuperscript{123} Quoted in Lo S., \textit{supra} n.25, at p.5.
\textsuperscript{124} Art. 3.
\textsuperscript{125} Subedi S.P., \textit{supra} n.9, at p.58.
existence, despite any undesirable consequences. The abolition of the practice of sati in India shows that cultural practice, which violates basic human rights, is to be abolished.

Furthermore, as pointed out by Donnelly, a number of inhuman practices, such as arbitrary arrest and detention, is entirely without cultural basis. The fact that it is practiced by a particular regime of power is never a plausible defence/justification for its existence on the ground of cultural relativity.

2. Freedom from Torture and Mutual Respect

Teson observed that the freedom from torture, which is based on the idea of mutual respect, is absolute in the sense than even cultural traditions may not override it.

An-Ni’am suggested that all traditions recognize the golden rule of reciprocity that “one should treat others as one would wish to be treated oneself”. Reciprocal bonds between rulers and the ruled have been established in major traditional communal customs and practices.

Under the rule of reciprocity, human rights are not absolute, but are limited under certain circumstances (such as infringing others’ rights and freedom). The human right regime is thus a mechanism for protecting the autonomy of each individual to live his life in a way consistent with the freedom of others.

The practice of chattel slavery seems to show a contrary example to the idea of

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126 Donnelly J., supra n.104, at p.413.
127 Teson F.R., supra n.8, at p.873.
129 Donnelly J., supra n.104, at p.413.
130 Lo S., supra n.25, at p.9.
mutual respect and the freedom from torture. However, this practice, which was customary in numerous societies, is condemned and banned by all major traditions today. Furthermore, individual’s autonomy is guaranteed in the UDHR.\textsuperscript{131} Freedom from torture is nowadays a universal right and should be universally applied based on the rule of reciprocity.

\section*{C. Conclusion}

In theory, it is possible to conclude whether a particular right is universal only if values in all existing cultures and societies are investigated. Obviously, the empirical process is an ongoing one. However, it does not fail the universalist approach. For example, through investigating the values in all the existing societies, it is concluded that the right to life is universally held. It is then logical to treat this right as being universal until shown to be contrary in a particular society.\textsuperscript{132} Even if a contrary cultural basis is found in a particular society, in order to fail universalism, that authentic cultural basis has to be both (i) morally defensible and (ii) incompatible with the implementation of the basic right to life.\textsuperscript{133}

\section*{V. Recommendations}

\section*{A. Introduction}

In practice, it is difficult to determine what values should be universal and what cultural differences should be respected.\textsuperscript{134} I will suggest vertical and horizontal

\textsuperscript{131} Articles 1, 2 and 7.
\textsuperscript{132} Lo S., \textit{supra} n.25, at pp. 7 – 8.
\textsuperscript{133} Donnelly J., \textit{supra} n.104, at p.417.
\textsuperscript{134} Lo S., \textit{supra} n.25, at p.1.
dialogues for the determining process.

I will also discuss measures to promote and fully protect human rights. Though human rights are individualistic and owned by each individual, it is the state’s responsibility to safeguard human rights and to ensure its enjoyment by individuals.

This paper will not discuss areas of public international law (such as legitimate foreign intervention and external supervising mechanism). Instead, I will focus on internal/ national arrangements and institutions for safeguarding human rights.

B. Informed Dialogues

Criticism alone does not help in solving conflicts. In practice, nation states can reach consensus on determining what basic human rights are/ should be universal through a process of horizontal/ international dialogue. Through the process, they can also determine what cultural differences should be respected by way of allowing limited deviations at the form and interpretation of some human rights.

To be effective, a horizontal dialogue must take place on an equal footing.\textsuperscript{135} The politically dominating powers may have to interrogate privileges they enjoy, and to admit every different voice of minor powers.\textsuperscript{136}

At national level, individual participation in a vertical dialogue (between the government and its people) can genuinely reflect the values in a particular society and avoid the government’s manipulation of cultural claims.

However, it is possible that an oppressed group may agree with a particular practice which is indeed in breach of universal human rights.\textsuperscript{137} For example, female

\textsuperscript{135} Otto D., supra n.10, at p.33.
\textsuperscript{136} Ibid.
\textsuperscript{137} Lo S., supra n.25, at p.11.
genital mutilation is still practiced in some African communities. The African women may not disagree with this practice because of lack of education and information. Human rights education is then important to enhance human rights consciousness. Meaningful and genuine dialogue is possible only when the oppressed group has a chance to speak, is well-informed of what human rights are, and understands they are not fatalistically to accept whatever treatment imposed on them.\textsuperscript{138}

Human rights education, as a prerequisite to a vertical dialogue, is more likely to succeed if it is done by cooperation between local NGOs and the government.\textsuperscript{139}

\textbf{C. Adequate Institutional Safeguards}

Both the international Vienna Declaration\textsuperscript{140} and the regional Bangkok Declaration\textsuperscript{141} agree that states have a fundamental role in promoting and protecting human rights. The most fundamental and effective measures are to introduce a liberal constitution and to provide adequate institutional safeguards for implementing constitutional rights.

I will illustrate my following arguments with the example of the current 1982 Constitution of the PRC (“the Constitution”). Under the Constitution, a wide range of human rights (such as freedom of speech, press, association, and religious belief and practice) are protected. Except for Article 51 (stating exercise of individual interests may not infringe upon the state’s interests)\textsuperscript{142}, the Constitution is largely liberal. However, inadequate institutional safeguards for enforcing these constitutional rights render the promised rights exist only on paper but not in reality.

\textsuperscript{138} \textit{Ibid.}
\textsuperscript{139} Claude R.P., “Human Rights Education in Asia: the Case of the Philippines and Beyond”, in Jacobsen M. and Bruun O. (eds), \textit{supra} n.27, at p.297.
\textsuperscript{140} Para 37, the Vienna Declaration and Programme of Action, \textit{supra} n.108.
\textsuperscript{141} Art 5.
\textsuperscript{142} This article has been criticized for allowing the government to justify human rights infringement. See Davis M., in Davis M.C. (ed), \textit{supra} n.2, at p. 10.
This paper is not intended to evaluate human rights conditions in any given state. I will not go through a comprehensive discussion on institutional safeguards and human rights abuses in the PRC. I will focus on the absence of checks and balance, and the absence of competitive democratic elections in the discussion of inadequate institutional safeguards in the PRC. For infringement of the promised constitutional rights, I will discuss the freedom of religion in the state.

Absence of Checks and Balance

The Standing Committee of the National People’s Congress (NPCSC) is the supreme legislature in the PRC. However, under Article 67 of the Constitution, it is also the body which interprets and enforces the Constitution and laws. Constitutional rights are unlikely to be fully guaranteed in the absence of a judicial body which interprets the Constitution and legislation independent of the ruling regime (i.e., the Chinese Communist Party, “the CCP”).

Furthermore, the CCP dominates all aspects of the government, from the legislature, the executive to the military. In the absence of separation of powers as well as checks and balance, there is no efficient mechanism to ensure that the state does serves the people. Instead, it highly relies on the ethics of the government officials and internal monitoring for the purpose of safeguarding constitutional rights, which creates a danger of authoritarian rule.

Absence of Competitive Democratic Elections

Competitive democratic election is another important institutional safeguard for enforcing constitutional rights. By freely electing representatives of the government

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143 Peerenboom R., (1993), supra n.5, at p. 34.
144 Ibid, at p. 47.
and the legislature, people are able to participate in the governance of the state. Compared with a state under one-party dictatorship, public opinion can be fully reflected in a state with competitive democratic elections.\textsuperscript{145}

In the PRC, though other parties do exist, they are required to submit to the CCP leadership.\textsuperscript{146} This is far from a genuine multi-party system.

Also, there is no direct election of deputies to the National People’s Congress\textsuperscript{147}. At the village level, direct election for the People’s Congress was introduced in the late 1980s.\textsuperscript{148} However, no independent candidates had participated in the “direct elections” until 2003. (But still, independent candidates for village elections are rare examples.)\textsuperscript{149}

Despite the reform on village elections and the existence of “other parties”, it can hardly be concluded that the PRC practices a competitive democratic election system, in which public opinion can be fully reflected.

**Freedom of Religion**

Article 36[1] of the Constitution guarantees freedom of religious belief, however, it is subject to two limitations.

Firstly, the state protects “normal religious activities” (Article 36[3]).

It is the commentators’ view that “normal religious activities” mean legal

\textsuperscript{145} Du G. and Song G., in Davis M.C. (ed),\textit{ supra} n.2, at p. 53.
\textsuperscript{146} Davis M., in Davis M.C. (ed),\textit{ supra} n.2, at p. 10.
\textsuperscript{148} Frolic B.M., “Reflections on Civil Society and Human Rights”, in Mendes E.P. and Lalonde-Roussy A.(eds),\textit{ supra} n.89, at p.28.
religious activities.\textsuperscript{150} The PRC government officially recognizes five religions, namely, Buddhism, Islam, Daoism, Catholicism, and Protestantism. There are eight registered religious associations (National Associations) which are accountable to the government through the Religious Affairs Bureau (RAB).\textsuperscript{151} Any religious activity performed outside of these registered associations is “illegal” and can lead to harsh punishment.\textsuperscript{152}

Furthermore, the government exercises strict control over religious activities through the RAB. For instance, all places of worship and religious activities have to be registered to the RAB.\textsuperscript{153} To be eligible for baptism, a candidate must submit his application to the RAB for approval.\textsuperscript{154} Government officials examine and may limit the number of religious personnel, and only those deemed “politically reliable, patriotic and law-abiding” are allowed to perform religious duties.\textsuperscript{155} In 1999, a resolution banning cults was passed. However, this resolution does not define what constitutes cult activity,\textsuperscript{156} implying that a very broad interpretation is possible.

Secondly, religious bodies and affairs cannot be subject to any “foreign domination” (Article 36[4]). It is the government’s policy that all religious groups must be self-administered, self-supported, and self-propagated. As a result, Catholics are not permitted to recognize the authority of the Vatican, an essential tenet of Catholic beliefs.\textsuperscript{157} Catholic Bishop Fan Xueyan, who died in police custody in 1992, served fifteen years of hard labor for the crime of establishing “foreign tie” with the Pope.\textsuperscript{158}

\textsuperscript{150} Georgiou E., \textit{supra} n.77, at p.372.
\textsuperscript{151} Reinstein E.S., \textit{supra} n.79, at p.11.
\textsuperscript{152} Georgiou E., \textit{supra} n.77, at p.375.
\textsuperscript{153} Reinstein E.S., \textit{supra} n.79, at p.15.
\textsuperscript{154} \textit{Ibid}, at p.16.
\textsuperscript{155} \textit{Ibid}.
\textsuperscript{156} \textit{Ibid}, at p.9.
\textsuperscript{157} \textit{Ibid}, at p.17.
\textsuperscript{158} Georgiou E., \textit{supra} n.77, at p.377.
The State Council of the PRC claims that “[t]he Chinese government respects the generally accepted principles regarding religious faiths in the international community, [but] hold[s] that [international] principles must be applied ...and ...carried out according to the domestic law of each country.”\textsuperscript{159}

However, it is far from convincing to conclude the freedom of religion has been respected and protected in practice in the PRC.

The right to freedom of religion is guaranteed in the UDHR. Article 18 provides that “[e]veryone has the right to freedom of thought, conscience and religion; this right includes [the] freedom to change [one's] religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Freedom of religion is hardly practiced and respected in the PRC when the Catholics are not allowed to recognize the authority of the Vatican, when baptism is subject to the state’s approval, when religious personnel is subject to state’s examination and approval, etc.

Freedom of religion is promised in the Constitution. However, its formulation and interpretation by the PRC government is far below the international standard. The great deviations render the right exists only on paper, but not in practice.

Stringent institutional safeguards are essential for the protection and promotion of human rights which are contained in the Constitution and legislation. The implementation of religious freedom in the PRC shows that the lack of adequate institutional safeguards can hamper the enjoyment of genuine rights by citizens.

\textsuperscript{159} \textit{Ibid}, at p.379.
D. Enforcement of International Human Rights Instruments

Customary international law binds all nation states. A practice is an international custom when it is nearly universal and generally perceived as obligatory by all nation states.\(^{160}\) Therefore, only a limited number of rights have become norms of customary law, such as prohibitions against genocide and torture.\(^{161}\)

International human rights instruments are then another principal source of human rights protection. However, an international human rights treaty only legally binds a nation-state that ratifies it.\(^{162}\)

Taking the PRC as an example, though it has signed the ICCPR in 1998, it has not ratified yet.\(^{163}\) Therefore, the treaty cannot be enforced in the PRC. The PRC government, strictly speaking, is not bound by the ICCPR to observe the human rights provisions contained (such as Article 18 which guarantees the right to freedom of religion and Article 27 which protects religious minorities.)

The PRC government has indicated more than once that it intends to “ratify the ICCPR when the conditions are right.”\(^{164}\) However, it has been ten years time since the signing of the ICCPR, it is unclear that why the government has not yet ready for the ratification.

Since international human rights instruments are a principal source for human rights protection. At national level, governments should commit to these instruments/treaties by signing, ratifying and enforcing them.

\(^{160}\) Donnelly J., *supra* n.104, at p.405
\(^{161}\) Tay S.S.C., *supra* n.15, at p.749.
\(^{162}\) Harris S.R., *supra* n.82, at p.15.
\(^{163}\) See the website of the Office of the High Commissioner for Human Rights, http://www2.ohchr.org/english/bodies/ratification/4.htm
E. National Human Rights Institutions

It is stated in the Vienna Declaration that national human rights institutions have an important and constructive role in the protection and promotion of human rights through supervision against governments, advice to governments, human rights education, and remedial functions.\textsuperscript{165}

National human rights institutions can be independent NGOs or government-supported.

For independent NGOs to carry out supervision against governments effectively, they should be vested with wide competence to investigate, report, and publicize human rights concerns without any adverse governmental influence.

If the institutions are government-supported, their independence should be ensured, for example through adequate funding and a representative membership selected through a transparent and consultative process.\textsuperscript{166}

Suhakam, a national human rights commission, was established by the Malaysian government in 1999. The institution was established by the government without adequate consultation with human rights organizations and the public. The members, who are not expertise on human rights, were all appointed by the executive. Instead of aiming at human rights protection, the former Foreign Minister explicitly stated that its establishment was “to ensure that human rights issues do not continue to be played up by groups providing a cynical or inaccurate picture.”

Its lack of independence fails its function of supervising the government on human rights issues.\textsuperscript{167} Suhakam avoided addressing the human rights implications of

\textsuperscript{165} Whiting A., \textit{supra} n.83, at p.72.

\textsuperscript{166} \textit{Ibid}, at p.73.

\textsuperscript{167} \textit{Ibid}, at pp.75 - 6.
two widely publicized incidents in Malaysia that involved sensitive racial issues, despite being asked to do so.\footnote{Ibid, at pp.79, 88 – 95.}

With governmental support (or, at least, non-intervention), national human right institutions can play a constructive role in human rights protection at national level.

\section*{VI. Conclusion}

This paper examines the philosophical debate between universalism and cultural relativism, the Asian values argument, and some real-life incidents. It is concluded that there is a commonality in human beings, providing a set of fundamental human rights which are universal in nature and should be applied universally.

A culturally sensitive universalism is suggested in the debate, i.e., different approaches to practice human rights can be justified on the basis of culture differences.

However, no significant deviations should be allowed if they will render the rights only exist in name. Importantly, limited deviations are allowed for the purpose of respect for cultural differences, but not as a tool for any government to override human rights. It is neither a defeat to universalism nor a prohibition of cross-cultural supervision.\footnote{Davidson J.S., supra n.1, at p.40.}

Lastly, it is the government’s responsibility to safeguard and promote human rights in order to ensure its people can enjoy a life of dignity.
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