Cosmopolitanism and Human Rights

- Cosmopolitanism is the ideology that all kinds of human ethnic groups belong to a single community based on a shared morality.

- may entail some sort of world government or it may simply refer to more inclusive moral, economic, and/or political relationships between nations or individuals of different nations.

- Transnationalism is a social movement and scholarly research agenda grown out of the heightened interconnectivity between people and the receding economic and social significance of boundaries among states.
• During the last 30 years a cosmopolitan legal culture has grown out of a transnational understanding of human suffering and the transnational constellation of progressive social actions to minimize this suffering.

  international human rights regime supported by transnational coalitions of local, national and transnational nongovernmental organizations (NGO's), having increased in number, range and effectiveness especially in the recent years.

• Two major topics:

  - international human rights advocacy vs. national sovereignty

  - Universalism vs. Particularism; The cross-cultural dialogue
International Human Rights and National Sovereignty

- The global human rights regime is built around three major documents and sets of standards:
  - the Universal Declaration of Human Rights (adopted on December 10, 1948)
  - the International Covenant on Civil and Political Rights (entered into force on March 23, 1976)

- It is a system of rules and implementation procedures centered on the United Nations – main organs: the UN Commission on Human Rights and the Human rights Committee.

- The postwar global human rights regime started out as a rather weak regime, and it still is today:
  - implementation and enforcement of international human rights were designed as largely a matter of state action

- The principle of national sovereignty saves the states from the threats and embarrassment that might derive from a too effective and international supervision over their human rights practices – why? – One thought that effective promotion of human rights would be a contradiction to the proper functioning of the states system.

- Ensuring human rights or building the institutions to guarantee its fulfillment were not collectively obligatory, the collective vision was weak and did not limitate national sovereignty.
• Result = a regime with extensive, coherent and widely accepted norms, but extremely limited international decision-making powers – a strong promotional regime
• But: a differentiation of 3-4 subregimes is possible:
  • the European regime
  • the Inter-American regime
  • the African regime
  • the Asian & Middle Eastern (lack of) regime

The European regime
• (established 1950 by the members of the Council of Europe) is characterized by the very strong monitoring powers of the European Commission of Human Rights and the binding decision-making powers of the European Court of Justice.
• Weaknesses:
  • internal borders are eliminated and the external borders are strengthened ➔ no protection for non-community citizens (immigrants, refugees)
  • EC failed to define human rights criteria on foreign aid, international trade + restrictions on the international activities of European-based multinational corporations.
The *Inter-American* regime

- substantively narrower than the European one
- main organs: Inter-American Commission of Human Rights; the Inter-American Court of Human Rights
- commission has no real enforcement powers
- activity subordinated to the geopolitical interests of the dominant power in the regime, (the US)
- striking moral weakness: the hegemonic power, (US) dominates the regime without being a party to the American Convention on Human Rights of 1969).

the *African* regime

- the African Charter of Human and Peoples’ Rights was adopted by the Organization of African Unity in Nairobi in June, 1981.
- contains two major innovations:
  - 1. adds collective rights to individual human rights + the right to development;
  - 2. introduces the concept of duty of individuals towards family, community & the state
- Provisions are very vague, commission has no/very modest investigatory powers
- No regional human rights court.
Asia and the Middle East

- No regime at all in Asia and The Middle East.
- Human rights debate is being discussed
- Important cultural barriers
- Human rights are often considered as an exotic, foreign, “Western” invention.

- Better future for human rights improbable
- Rights violations are still occurring everywhere
- In Europe: to the treatment of citizens by police or military forces, political killings in Turkey and Northern Ireland etc.
- In America: people's right to life and physical integrity may become an unfulfilled promise due to poverty
- Middle East: Palestinians & Kurds have been collective victims of the cruelest violations of human rights in the region
- In Asia: ethnic and religious intolerance and/or dictatorial regimes → massive violations of human rights in India, Pakistan, Malaysia, Indonesia, Sri Lanka etc.
Human rights advocacy vs. state sovereignty

- In many cases violation of human rights origin in state actions or omissions justified as prerogatives of sovereignty.
- The hegemonic democratic states are even responsible for so much violation of human rights in weaker countries and in their own countries.
- Genocide of the Maubere people in East Timor hidden from the Europeans throughout the decade to unburden the ongoing smooth and flourishing international trade with Indonesia -> “trade-offs” between commercial advantages and human rights issues.

Universalism vs. Cosmopolitanism

- Are human rights a universal concept i.e. part of a global culture or rather a Western concept?
- Are they universally valid or not?
- Human rights are only universal when they are viewed from the culture’s own point of view.
- To make cultures understand each others points of views in order to universalize human rights, it takes a “cross-cultural” dialogue.
The cross-cultural dialogue

- De Sousa proposes a diatopical hermeneutics

- Hermeneutics is a study of interpretation theory, and can be either the art of interpretation, or the theory and practice of interpretation.
Diatopical hermeneutics at the example of dharma

- *Dharma:* “...” is that which maintains, gives cohesion and thus strength to any given thing, to reality, and ultimately to the three worlds (triloka). Justice keeps human relations together; morality keeps oneself in harmony; law is the binding principle for human relations; religion is what maintains the universe in existence; destiny is that which links us to our future; truth is the internal cohesion of a thing [...] Now a world in which *Dharma* is central and nearly all-pervasive is not concerned with finding the “right” of one individual against another or of the individual vis-à-vis society but rather with assaying the dharmic (right, true, consistent) or adharmic character of a thing or an action within the entire theantropocosmic complex of reality.”

- Seen from the topos of *Dharma*, human rights are incomplete, because they fail to create a link between the part and the whole.
- Seen from the topos of human rights, *dharma* is also incomplete, due to its irrational thinking in favor of harmony, thereby eventually accepting injustices and ignoring the fact that a conflict may be a way to richer harmony.
Cultural Embeddedness and Cosmopolitanism

- cultural process often takes place while a superior local culture exploits and assimilates another subordinate culture
- in areas that have no *human* rights but live upon ideals of morality, human dignity etc., this kind of exploitation may lead to “abnormal” results (opportunistic adoption of human rights just to please the superior powers while actually not using/implementing them)

→ a mutual understanding is required in order to make a culture *truly adopt* human rights.
Shari’a (religious/traditional view)
- Segregation of women
- Non-Muslims have no rights

Modernist view
- Societies are free to organize their government in whatever manner they want

find one common cross-cultural principle, shared by all the cultural traditions, which, if presented in an enlightened manner may be able to support universal standards of human rights