On the Relative Universality of Human Rights

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Abstract: *The dialectical relationship between the universality and particularity of human rights is a core issue in human rights theory and practice. This paper intends to conduct an analysis from three dimensions — basic concepts, values, and legal implementation — and clarify the relative universality of human rights by drawing on the distinction between "rules and principles" in jurisprudence and the logic of interpretation and application of rights provisions. At the conceptual level, human rights embody the proposition of universality, yet they exhibit relativity in both temporal and spatial dimensions. At the ideological level, political perspectives on human rights and cultural relativism (including meta-ethical relativism) remind us that human rights also possess the attribute of local knowledge. At the legal level, human rights norms mostly exist in the form of principles rather than rules; their high degree of abstraction leads to diversified interpretations, and the implementation mechanisms across different countries also demonstrate diversity. Recognizing and grasping the relative universality of human rights is conducive to a deeper understanding of the tension between universal principles and specific contexts, and also helps to avoid the biases and limitations that may arise from adhering to a single "universalism" or "particularism" discourse in practice.*

Keywords: human rights ♦ universality ♦ particularity ♦ cultural relativism ♦ legal implementation

The issue of the universality of human rights has always been one of the core topics in the basic theory of human rights.[1] It simultaneously touches upon fundamental questions such as the essential attributes of human rights, their legitimacy basis, applicable boundaries, and value evaluation. The proposition of the universality of human rights holds that human rights transcend differences in race, gender, nationality, religious belief, and culture, and are basic rights and interests that should be impartially granted to all human beings.[2] However, both in theory and practice, this claim of universality has

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[1] Chang Jian, Zhao Yulin, "The Interdisciplinary Debate about the Universality of Human Rights," *Journal of Nankai University (Philosophy, Literature and Social Sciences)* 5 (2014).

[2] Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 2019), 10.

always faced constant challenges from particularity: a country's adherence to national sovereignty integrity and cultural traditions, the differentiated interpretations of the connotation of human rights from the perspective of multiculturalism, and the practical dilemma of how to balance the priority of human rights protection under the condition of limited resources — all these pose profound questions to the claim of the universality of human rights.

Scholars at home and abroad have continuously attempted to reconcile the tension between the universality and particularity of human rights at the theoretical level; they have put forward concepts such as "the relativity of the universality of human rights" or "moderate universality," striving to take into account specific contexts while upholding universal principles, so as to provide a more inclusive and feasible guiding framework for practice.[3] Based on existing research, this paper attempts to approach the topic from different dimensions, including the basic concepts, values, and legal implementation of human rights. It introduces analytical perspectives from jurisprudence, such as the distinction between "rules and principles" and the interpretation and implementation of rights provisions, to construct a more refined hierarchical framework for the relative universality of human rights. The aim is to deepen the understanding of the relationship between the universality and particularity of human rights, and provide new theoretical support for promoting the construction of China's human rights discourse system and the path of human rights protection.

I. The Multiple Connotations of the Concept of "Human Rights"

As a term, "human rights" carries at least three layers of meaning. First, at the conceptual level, human rights refer to a series of inherent, inalienable rights that every individual is entitled to equally by virtue of being human.[4] The concept of human rights symbolizes a lofty moral ideal, embodies people's ethical aspiration for a better life, serves as a fundamental moral criterion for evaluating political decisions and social conditions, and is defined as a core goal of social progress and reform. Human rights mean that every person should enjoy basic living security and human dignity, on the basis of which they can achieve all-around development and self-realization — thus, human

[3] Mao Junxiang, "The Relativity of the Human Rights Universality," *Social Sciences in China* 1 (2025); Jack Donnelly, "The Relative Universality of Human Rights," 29 *Human Rights Quarterly* 2 (2007): 281-306; Andrew J. Nathan, "Universalism: A Particularistic Account," in *Negotiating Culture and Human Rights*, Lynda S. Bell, Andrew J. Nathan & llan Peleg ed. (New York: Columbia University Press, 2001), 349-368; Adam Etinson, "Human Rights, Claimability and the Uses of Abstraction," 25 *Utilitas* 4 (2013): 463-486.

[4] Lynn Hunt, *Inventing Human Rights: A History*, translated by Shen Zhanchun (Beijing: The Commercial Press, 2011), 8; Louis Henkin: The Age of Rights, translated by Xin Chunying et al. (Beijing: Knowledge Publishing House, 1997), 3.

rights have become a universal human ideal that transcends ethnic groups, social classes, and cultural attributes.[5]

Second, at the ideological level, human rights refer to a substantive understanding of human rights, particularly a systematic set of answers to questions such as: What is the foundation of human rights? What specific rights should be included in their list? And how should they be implemented? The core question at this level is whether a specific understanding or enumeration of human rights is universally valid. For instance, do the various rights recognized in the *Universal Declaration of Human Rights* truly have global applicability?[6] Or does the European conception of human rights apply to other countries or regions? However, various ideologies about human rights often transform into forms of social discourse (and even strategic rhetorical tools, or "discursive tactics"), which are used to achieve political goals in real-world contexts, and sometimes even evolve into weapons of public opinion.[7] Especially in the complex arena of international politics and international relations, human rights discourse often undergoes a process of being alienated: from a "weapon of the weak" to an "instrument of the powerful." What should have served as a moral and legal barrier to protect vulnerable groups from the abuse of power is repeatedly appropriated by powerful actors — to attack political opponents, interfere in the internal affairs of other countries, and even be weaponized in legal disputes and public opinion contests. Additionally, "protecting the human rights of people in other countries" often becomes a justification for military intervention and evolves into a rhetorical strategy to assert the moral superiority of specific countries or nations.[8]

Last, as a legal term, human rights refer to a detailed set of fundamental rights indispensable to human beings by virtue of their humanity. They embody universal principles that transcend the specific legal systems of individual countries, form a higher-level rights system that goes beyond the civil rights enshrined in national constitutions, and must be interpreted and implemented through legislative, judicial, and other means at both the international and domestic levels. From the perspective of positive law, this rights system is reflected in international law (in particular, international conventions on human rights) and also in the fundamental rights enumerated and protected by the constitutions and laws of various countries. Its purpose is to ensure that an individual's basic dignity, freedom, and equality are respected and protected

[5] Samuel Moyn, *The Last Utopia: Human Rights in History* (New Haven: Yale University Press, 2010).
[6] Declan O'Sullivan, "Is the Declaration of Human Rights Universal?" 4 *The International Journal of Human Rights* 1 (2000): 25-53.
[7] Michael Ignatieff, *Human Rights as Politics and Idolatry*, Amy Gutmann ed. (Princeton: Princeton University Press, 2001).
[8] Bob Clifford, *Rights as Weapons: Instruments of Conflict, Tools of Power* (Princeton: Princeton University Press, 2019).

wherever they are in the world — especially when they are in a foreign country. Thus, human rights are not only a cornerstone of values universally recognized by the international community but also an important reference standard for supplementing and improving the internal legal order of each country.

After distinguishing the various "referents" represented by the "signifier" of "human rights," we can then explore, at different levels and with greater precision, the issues of universality and particularity in the theory and practice of human rights.

II. The Relative Universality of the Concept of Human Rights

According to traditional understanding, the concept of human rights itself implies the proposition of universality. All specific rights covered by human rights belong unconditionally to every individual on Earth, and the fundamental reason resides in the fact that every person shares the basic attributes of being human. Individuals are entitled to human rights not because of their specific identity — regardless of who they are, which country they come from, what citizenship or ethnic/racial background they have, what social class they belong to, or what gender characteristics they possess — but solely based on their existence as human beings.

The universality of human rights exists in both temporal and spatial dimensions. "Human rights are universal. Not in the sense of being the same positive laws, at all times and places, but rather as being aspirational goals, at all times and places, and also as containing core values which are indeed universal."[9] Therefore, it is necessary to further explore the implicit premises behind the proposition of the universality of human rights from both temporal and spatial dimensions, particularly how it addresses the tension between universality and particularity, so as to gain insight into the relative elements inherent in the proposition of universality.

A. The temporality of human rights

On the surface, the universality of human rights seems to imply that the core content of human rights possesses transhistorical constancy — meaning the fundamental concepts of human rights permeate all periods of human social evolution. Thomas Paine argued for this point that human rights are the rights of all generations of people and cannot be monopolized by anyone.[10] If this is the case, the human demand for basic rights has existed consistently, whether in primitive societies or the digital age. Notably, this does not mean that all specific forms of rights remain unchanged. For instance, digital privacy rights or environmental rights were clearly unimaginable and inaccessible to people in ancient Rome, the Qin and Han dynasties, let alone to humans in the Stone

[9] Erie Engle, "Universal Human Rights: A Generational History," 12 *Annual Survey of International & Comparative Law* 1 (2006): 219.
[10] Thomas Paine, *Rights of Man*, translated by Le Guobin (Shanghai: Shanghai Yiwen Publishing House, 2018), 200.

Age. To interpret the universality of human rights as the unwavering continuity of specific rights forms throughout history is obviously illogical, even absurd.

A more compelling theoretical account of this issue would argue: The essence of the universality of human rights lies in the fact that while the specific forms of rights evolve with the times, the fundamental principles underpinning these rights are eternal themes that have endured through ancient times and will extend into the future. With digital human rights as an example, the universal principle of human rights can be interpreted as follows: At all times, every individual possesses the right to autonomous control over their body and its related information. This is an inherent basic right of human beings, unaffected by historical contexts, technological levels, or stages of social development. In other words, digital human rights are merely a "modern iteration of the ancient concept of human dignity." Under this interpretation, human rights have essentially become a set of moral principles, and the universality of these moral principles remains unchallenged by their specific application conditions or methods.

On the other hand, although the fundamental principles of human rights are consistent across historical periods, their specific manifestations, functions, and interpretive approaches undergo transformations with the times. For example, in the industrial age, the right to equality primarily targeted unreasonable discriminatory treatment based on gender and race in the workplace. In the era of gene editing, anti-discrimination requirements mandate that laws impose clear obligations on holders and processors of biological information. In the digital age, anti-discrimination norms have further evolved to combat algorithmic discrimination and prevent unfair treatment based on big data analysis. Within this framework, technological progress does not shake the basic moral foundation; instead, it clarifies the specific obligations that various subjects must fulfill in different contexts. From a historical perspective, the universality of human rights does not mean that all societies must respect human rights in the same way at all times—otherwise, human rights themselves would become extremely abstract and thus lose any practical significance.[11]

While human rights are regarded as universally significant in the temporal dimension, this does not mean that human societies have universally recognized and firmly practiced the basic concepts of human rights since their inception. Even if we trace the idea of human rights back to ancient Western civilization, we cannot ignore that the natural law concepts of ancient Greece and Rome did not fully incorporate the modern notions of an individual's independent personality and autonomy — this remained the case until the early

[11] Eric Blumenson, *Why Human Rights*?: *A Philosophical Guide* (London: Taylor & Francis, 2024), 21.

modern Western society.[12] In early societies, individuals were fully immersed in collectives, with no distinct personal autonomy or space for freedom.[13] With the spread of modern individualism and the deepening of inner consciousness, individuals' self-awareness gradually strengthened, and they gradually became independent from collective consciousness.[14] Modern states have largely promoted the emancipation of individual consciousness rather than restricting its development — because they can free children from patriarchal and family oppression, citizens from feudal and communal groups, and craftsmen and their employers from guild despotism.[15] In this sense, human rights are not inherently pre-existent to the state, but a product of modern state construction.

From a practical perspective, the proposition concerning the universality of human rights in the temporal dimension can be more precisely formulated as follows: Human beings have inherently possessed certain inalienable rights potentially since time immemorial; however, throughout the long history prior to the Enlightenment, human societies had not yet fully consciously and systematically recognized and institutionalized these inherent rights. The temporal universality of human rights is manifested more in transhistorical moral ideals — such as humanity's pursuit of a better life since ancient times — rather than in the consistent continuity of specific rights forms in historical practice. To establish a mature and practically meaningful concept of human rights in the temporal dimension, it is imperative to both reject the one-size-fits-all understanding that regards human rights as fixed and unchanging across history and avoid slipping into human rights nihilism, which denies the foundational basis of human rights. A more rational approach lies in acknowledging that while the basic moral ideals embodied in human rights have indeed existed in all periods of human history, their specific manifestations, realization pathways, and the obligations imposed on various social subjects have always undergone diverse historical developments. The universality of human rights should be understood as the continuity and renewal of value ideals, rather than the immutability of rights forms.

At the same time, special attention must be paid to guarding against the potential abuse of the proposition regarding the historical universality of human rights. Specifically, the temporality of human rights is often appropriated as a yardstick in international politics to distinguish and evaluate the "advancedness" and "backwardness" of different civilizations, countries, and nations. It even becomes a benchmark for measuring the "civilization level"

[12] Lin Guorong, *Human Rights in History* (Guilin: Guangxi Normal University Press, 2015), 150.
[13] Émile Durkheim, *Professional Ethics and Civic Morals*, translated & edited by Qu Dong et al. (Shanghai: Shanghai People's Publishing House, 2001), 61.
[14] Ibid., 62.
[15] Ibid., 69.

or "barbarism" of various cultures and social-historical stages.[16] Therefore, the proposition of the universality of human rights in the temporal dimension can easily evolve into colonialism, imperialism, or hegemonism in real-world international politics. It becomes a discursive tool and moral justification for the so-called "civilized nations" to dominate and interfere in other peoples. This is particularly manifested in the fact that the premise of the human rights concept lies in the definition of "human beings" — a definition that is easily influenced by certain views of civilization, narrowing the scope of "human beings." As the Swiss jurist Harro von Senger noted: "The term 'human rights' has two components: 'human' and 'rights.' However, in most Western analyses of the historical development of the human rights, the emphasis is put on only one of these two components, namely on the conditions and the process of the historical development of the 'rights.' As far as the other component, 'human,' is concerned, it is by the majority of authors taken for granted — or as one says in Chinese 'xiangdangran' (想当然) — that the word 'human' always 'of course' included all members of the human family, might they be of female or male sex, of white or other colors, young or old etc."[17]

B. The spatiality of human rights

The primary distinction between human rights (as an independent concept) and citizenship lies in the former's universal applicability, transcending national borders and ethnic-cultural boundaries. What sets human rights apart is their claim to universal validity across all countries and nations — especially their effectiveness across diverse cultural contexts. If the definition and application of human rights can only be monopolized by certain countries or cultures, or if there exists a "double standard" among nations (i.e., the human rights of citizens in some countries deserve respect and protection while those of others are belittled or denied), the universality of human rights will be questioned, and its authenticity will be completely eroded. "If human rights can only be defined by some countries and not others, or if the human rights of some countries need to be protected while those of others can be ignored, then human rights are a lie."[18] Only when human rights are universally recognized and treated fairly worldwide can the concept truly demonstrate its inherent legitimacy and authority.

However, what exactly does the spatial universality of human rights mean? By definition, the idea of universal human rights embodies two core

[16] Tian Wenlin, "'Civilization vs. Barbarism' Narratives and the Hierarchical World Order," *CASS Journal of Political Science* 5 (2023); Han Chi, "Universality of International Law: Construction and Deconstruction," *Chinese Review of International Law* 4 (2024).
[17] Harro von Senger, "From the Limited to the Universal Concept of Human Rights: Two Periods of Human Rights," in *Western Theories of Human Rights (Part Two)*, Shen Zongling, Huang Nansen ed. (Chengdu: Sichuan People's Publishing House, 1994), 250-251.
[18] Zhao Tingyang, *The Global System: An Introduction to the Philosophy of World Institutions* (Beijing: Renmin University of China Press, 2011), 16.

characteristics: First, human rights are transcultural — As universal norms, they are not constrained by any specific cultural concepts, religious beliefs, or local value systems, aiming to ensure universal applicability and global inclusiveness. Second, like all normative claims with profound significance, the concept of universal human rights carries an undeniable binding force, meaning all social actors bear moral and legal obligations to respect, protect, and promote the realization of human rights. Regardless of location, beliefs, or cultural background, safeguarding and realizing universal human rights is a shared responsibility and mission of all members of society.

Nevertheless, cultural diversity remains an inescapable fact of human society — even in the era of globalization. For certain specific rights, distinct opposing attitudes exist across cultural systems: Some endorse polygamy, while others firmly oppose it; some advocate for women's full freedom to participate in social activities, opposing gender discrimination and traditional gender role stereotypes, while others insist that women should play more traditional family roles — a view deemed gender-discriminatory by the former; some argue that freedom of expression should include radical acts such as national flag burning, while other countries or ethnic groups hold that such acts should be excluded; some firmly believe that the right to freedom includes a woman's autonomy to decide whether to terminate a pregnancy, while others oppose arbitrary abortion based on their respective moral, legal, and cultural beliefs. Undoubtedly, when discussions descend to specific rights, differences in perspectives and positions clearly demonstrate the impact of cultural diversity on the understanding the concept and practice of human rights.

Therefore, overemphasizing the universality of human rights may lead to the emptiness of their connotation, or even the risk of invalidation.[19] This emptiness effect has further given rise to two diametrically opposed theoretical perspectives. One relatively extreme stance tends to lead to a form of human rights nihilism, arguing that overemphasizing universality reduces the concept of human rights to a superficial slogan, to the point where its value is thoroughly questioned. This perspective can be divided into two versions. In the strong version of human rights nihilism, moral responsibilities are regarded purely as derivatives of specific historical and cultural contexts, unable to transcend their unique environments to be endowed with universal significance. In the more moderate version, although human rights are theoretically universal, this universality often diminishes rapidly when it comes to specific practice and implementation. Human rights may be redefined or even replaced by the constitutional rights of specific countries in concrete legal provisions. The other possible insight is to uphold universalist principles while making

[19] David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton: Princeton University Press, 2004).

appropriate adjustments when necessary. Specifically, across different temporal and spatial contexts, the specific manifestations and application standards of human rights principles should be respected and valued — while emphasizing that these manifestations must closely align with higher-level normative principles. People must resolutely defend the core content related to the basic needs and interests of all humanity, such as firmly opposing crimes like genocide. On such major issues, considerations of cultural diversity should not hinder firm judgments on fundamental justice and basic morality.

Conceptually, the universality of human rights lies in affirming that all specific rights should apply to every human individual without discrimination. However, in terms of the composition of actual rights content and the specific implementation of safeguards, human rights exhibit significant particularistic characteristics. This requires us to deeply explore the specific connotations of human rights and identify which rights constitute indispensable basic human rights. In this process, the specific forms of human rights will inevitably be profoundly shaped by the cultural concepts, values, and social realities of various countries and ethnic groups. Therefore, while actively recognizing the universal principles of human rights, we must also fully acknowledge the practical significance of their particularity, strive to find a balance between universality and particularity, and ensure that human rights are effectively respected and earnestly protected globally — while accommodating reasonable differences and unique needs across different cultural backgrounds.

III. The Relative Universality of Human Rights Concepts

Fundamentally, the universality of human rights requires theoretical support to answer questions such as why humans possess certain rights and why these rights are shared by all. Proponents of universality often appeal to reason,[20] arguing that the "natural law" grasped by reason provides a foundation for human rights independent of any state-enacted law, rendering them "higher law" principles transcending national borders. This principle may originate from the moral philosophy of the natural law tradition or manifest as secular yet sacred normative standards — such as Kant's "Categorical Imperative," which emphasizes that behavioral norms should not vary with circumstances but apply universally. The natural law perspective thus asserts that humans' basic rights and freedoms are inherent and universal, not dependent on specific social cultures but derived from the laws of nature and

[20] There are also theories that argue that the theoretical foundation of universal human rights is based on human emotional capacity. See Richard M. Rorty, "Human Rights, Rationality, and Sentimentality," in *Truth and Progress: Philosophical Papers* (Cambridge: Cambridge University Press, 1998), 167-185; Liu Han, "Equality, Empathy, and Imagining the Other: The Moral-Emotional Foundation of Universal Human Rights," *Tsinghua Law Journal* 4 (2017); Gao Lijie, "From 'Reasoning' to 'Intercession':A Narrative Approach to Dispel the Conflict on Human Rights Concepts," *The Journal of Human Rights* 4 (2022).

human essence, thereby possessing timelessness and inalienability that transcend time and space.[21]

However, this view has encountered powerful challenges from political and cultural theories. Advocates of these theories emphasize that the understanding and practice of human rights should be determined by specific social structures, historical conditions, and cultural traditions. Human rights are not naturally existing but are products of specific political communities in the process of social development and cultural evolution, essentially a form of "local knowledge." Therefore, regarding the fundamental origin of human rights, a fundamental divide exists between naturalism and social theory: the former insists that human rights derive from the natural order and the essence of human nature, while the latter argues that human rights essentially arise from the interaction and development of human society.

A. The Political conception of human rights

From the perspective of the political conception of human rights, there indeed exist certain core "basic human rights," but the realization of these rights is predicated on political conditions rather than being merely a product of theoretical construction. "Basic human rights" do not directly derive from a particular moral-philosophical system; instead, they are the result of collective discussion and agreement among rational individuals within a social framework. This approach can also facilitate the pursuit of a global shared understanding of human rights issues through negotiation, transcending cultural and political regime differences.

This viewpoint is represented by Hannah Arendt's theory of human rights. She revealed a paradox in the idea of universal human rights: the rights deemed inherent and inalienable often fail those who need them most in reality. When an individual loses the protection of a political community, the widely proclaimed universally applicable human rights become empty rhetoric. A typical scenario is statelessness: once stripped of citizenship, an individual loses all legal rights protection. It follows that human rights are not abstract attributes independent of specific communities, but rather depend on whether an individual belongs to, and receives recognition and protection from, a political community. In this sense, the concept of inalienable human rights "focuses on an 'abstract' human being who does not seem to exist at all,"[22] thus losing its practicality. For Arendt, the effectiveness of human rights relies on their concretization within the system of civil rights. International provisions can hardly be effectively protected without being translated into domestic law and integrated into national practice. Detached from nationality and citizenship,

[21] Mao Junxiang, "The Relativity of the Human Rights Universality," *Social Sciences in China* 1 (2025): 128-130.

[22] Hannah Arendt, *The Origins of Totalitarianism (Second Edition)*, translated by Lin Xianghua (Beijing: SDX Joint Publishing Company, 2014), 383.

human rights, while idealistic, risk becoming empty concepts. Her perspective echoes Edmund Burke's assertion: there are no abstract universal human rights, only specific rights tied to particular political communities — such as "the rights of Englishmen." This stance underscores that the practical foundation for realizing human rights lies in the institutional bond between individuals and their community.

Arendt pointed out that every human being is born into a specific political community, and this belonging itself constitutes a basic right. If an individual is deprived of their community membership, they not only lose concrete rights but also forfeit the protection of human rights. Therefore, a deeper-level human right lies in "the right to have rights" — the right to belong to a social community.[23] In this formulation, "rights" carry a dual connotation: The singular "right" refers to claims and entitlements based on the shared attributes of humanity, embodying an individual's moral belonging as a member of a community. However, it is not a right that can be directly enforced through law. The plural "rights," by contrast, are legal rights — civil rights explicitly guaranteed by constitutions and laws as a member of a political community, such as the right to political participation and social welfare rights. Within this structure, the former lacks a universally applicable international legal mechanism for implementation and is thus relatively uncertain; the latter is more stable, as it is generally stipulated and enforced by the legal systems of various countries. The key lies in the logical connection between the two: the verb "to have" implies that without the status of being a member of a political community, one cannot substantially enjoy that entire set of concrete rights. When a country's legal framework is inconsistent with the standards established in the *Universal Declaration of Human Rights*, the law should be reformed to better respond to human rights demands. Crucially, when facing human rights dilemmas, the solution should not be to simply negate or undermine the structure of existing political communities. For once an individual loses citizenship of any country, their human rights are often difficult to effectively protect.

The political conception of human rights, represented by Arendt, reminds us that when an individual loses national citizenship, they also lose all rights attached to that status, thereby becoming a wanderer in a "rightless vacuum." Discourse on universal human rights often overlooks a more fundamental dimension — the individual's right to belong to a political community. Only within a political entity that recognizes and enforces rights can concrete rights exert a practical effect. Any systematic rights system is ultimately a construction of a specific social and political organization, not a transcendent, a

[23] Hannah Arendt, *The Origins of Totalitarianism (Second Edition)*, translated by Lin Xianghua (Beijing: SDX Joint Publishing Company, 2014), 389.

priori natural law beyond the empirical world. Therefore, to explore the true meaning of human rights, we must return to the essence of the political community and how it endows individuals with identity and protection through institutional recognition.

B. Cultural relativism and meta-ethical relativism

The idea of universal human rights is built on the cornerstone of cross-cultural universality, striving to seek shared value recognition among all humanity. When discussing the right to education in the *Universal Declaration of Human Rights*, legal philosopher Joseph Raz stated: "Clearly the right here recognised is one that applies — if at all—to people who live in conditions not unlike ours. But if so then it cannot be grounded in our humanity alone."[24] Nevertheless, the idea of universal human rights has encountered challenges and criticisms from cultural relativism on this issue. Cultural relativists argue that values, customs, and understandings of human rights may vary significantly across different cultural contexts. Therefore, any attempt to construct a universal human rights system that transcends all cultural boundaries is likely to face in-depth questioning and reflection.

Cultural relativism's critique of the universality of human rights is not limited to ethnic differences and cultural conflicts that have become increasingly prominent in the process of globalization. Doubts about the universality of human rights had already emerged during the drafting of the *Universal Declaration of Human Rights*. For example, the American Anthropological Association (AAA) issued a statement in 1947, arguing that the concept of human rights cannot gain consistent recognition and practice across all cultural uniqueness and diversity: "Standards and values are relative to the culture from which they derive... Even the nature of the physical world, the colors we see, the sounds we hear, are conditioned by the language we speak, which is part of the culture into which we are born... man is free only when he lives as his society defines freedom."[25] In their view, "The individual realizes his personality through his culture, hence respect for individual differences entails a respect for cultural differences."[26] "Respect for differences between cultures is validated by the scientific fact that no technique of qualitatively evaluating cultures has been discovered... any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any declaration of human

[24] Joseph Raz, "Human Rights in the Emerging World Order," 1 *Transnational Legal Theory* 1 (2010): 40.
[25] Executive Board of the American Anthropological Association, "Statement on Human Rights," 49 *American Anthropologist* 4 (1947): 542-543.
[26] Executive Board of the American Anthropological Association, "Statement on Human Rights," 49 *American Anthropologist* 4 (1947): 541.

rights to mankind as a whole."[27] This critical voice anticipated subsequent debates over the understanding of human rights, continuing to influence the international community's discussions and reflections on the formulation of human rights standards and their implementation methods.

Although the American Anthropological Association later abandoned this stance, relativist critiques of human rights intensified. In particular, cultural pluralism, which emerged after the end of the Cold War, posed a severe challenge to the universality of human rights. At the 1993 Vienna Conference on Human Rights, relativism demonstrated a relatively strong position, especially in connection with Asian values. Asian representatives argued that compared to the so-called universality of human rights advocated by the West, family values, group values, and economic security hold a more fundamental position for individuals, and personal choice is not a primary human right.[28] At the turn of the century, human rights controversies arising from issues such as headscarf bans, polygamy, blasphemy, and stoning further highlighted the conflict between the universality of human rights and cultural diversity.[29] The vigorous development of social media in the context of globalization has made such conflicts increasingly prominent. With the continuous rise of religious extremism, and populism, related ethnic conflicts have further challenged the universality of human rights.

At the theoretical level, the emphasis on citizenship has also begun to challenge the universality of human rights.[30] At the end of the Cold War, amid claims of the "end of history," many believed that the concept of citizenship based on the nation-state and its legal system would tend to decline with the advancement of globalization. However, recent changes in national nationality and immigration laws across countries have shown that citizenship is far from becoming a thing of the past. In practice, some countries have abandoned their previously more inclusive immigration laws and policies, embracing a so-called "cultural turn"[31] — increasingly focusing on cultural integration and

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[27] Executive Board of the American Anthropological Association, "Statement on Human Rights," 49 *American Anthropologist* 4 (1947): 542.

[28] In the *Bangkok Declaration* issued prior to the 1993 Vienna Conference on Human Rights, Asian countries explicitly proposed that national and regional historical, cultural, and religious backgrounds should be taken into account alongside the principle of the universality of human rights. See Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights (The Bangkok Declaration), March 29, 1993, reprinted in Report in the Regional Meeting for Asia of the World Conference on Human Rights, U.N. Doc. A/CONF. 157/PC/59 (1993).

[29] Heiner Bielefeldt, "'Western' versus Islamic' Human Rights Conceptions? A Critique of Cultural Relativism," 20 *Human Rights Quarterly* 3 (1998): 587-617.

[30] Catherine Dauvergne, "Citizenship with a Vengeance," 8 *Theoretical Inquiries in Law* 2 (2007): 489-518.

[31] Clara Rigoni, "The 'Cultural Turn' of the Debate around Immigration and Crime: Examples from European Legislation and Case Law," 135 *Zeitschrift für die gesamte Strafrechtswissenschaft* 2 (2023): 354-374.

identity recognition, and introducing assessments of language proficiency, social norms, and integration prospects for immigration and naturalization. For instance, some Western countries conduct tests on the personal beliefs and moral values of naturalization applicants, particularly targeting controversial topics.[32]

The deepening of human rights understanding through cultural pluralism is further reflected in relativism at the meta-ethical level. Unlike general relativist perspectives, meta-ethical relativism constructs a foundational theoretical relativism. It not only focuses on how different cultures profoundly shape the value connotations of human rights norms but also argues that all normative ideas are inherently local and contextual.[33] Any normative principle can only be accurately understood within a specific social and cultural context; universal norms transcending context lack validity. From the perspective of meta-ethical relativism, humans do share a certain basic sense of justice and morality. However, the universal principles shaped by this sense are often abstract and vague. In the process of practical operation and legal enforcement, concepts of fairness and moral standards must be integrated with local values. Meta-ethical relativism holds that various viewpoints may be considered legitimate within their respective frameworks. Yet, if they are divorced from their original contexts and are attempted to be used as mutually exclusive or opposing standards for judgment, these viewpoints may lose their inherent correctness and validity. As Siddhasena Divakara, a Jainist commentator, stated: "All viewpoints can be regarded as truth within their own domains, but when they are taken as negations of other viewpoints, they may fall into error."[34]

If taken to an extreme, human rights relativism evolves into human rights nihilism, completely denying the universality of human rights and even abolishing the concept of human rights distinct from citizenship. Obviously, once human rights lose their universality, transcending nations and states, they are immediately absorbed by the citizenship or constitutional rights of specific countries. However, in its more moderate form, human rights relativism contains a certain element of truth, which can offer two key insights for researchers and practitioners.

On one hand, to effectively advance the universal realization of human rights, people must deeply understand and embrace the highly differentiated

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[32] Djordje Sredanovic, "Standardised Integration Requirements for Naturalisation: Less Rights and Less Discretion?", 12 *Comparative Migration Studies*, Art. 33 (2024).

[33] Chris Gowans, "Moral Relativism," *The Stanford Encyclopedia of Philosophy*, https://plato.stanford.edu/archives/spr2021/entries/moral-relativism/.

[34] Siddhasena Divakara, "The Theory of the Versatility of Aspects (Anekānta) Is the Right Theory," in S. Sanghavi & B. Doshi eds., *Sanmati-Tarka,* vol. 1, Ahmedabad: Gujarat Puratattva Mandira Granthavali, 1924, verse 28.

and diverse belief systems, social practices, and national contexts exhibited by human society.[35] These factors not only shape different approaches to understanding and protecting human rights but also largely inform unique perspectives on the connotation and practice of human rights. Therefore, we should be cautious of overly simplistic and substantively empty universalist discourses, and instead respect and understand the personalized interpretations of the essence of rights by different ethnic groups in different contexts. The universality of human rights is not intended to erase diversity or force humanity into a single mold, but to explore and respect shared values rooted in differences. Only in this way can the concept of universal human rights truly take root in reality, rather than remaining a castles-in-the-air moral ideal unable to be transformed into practical social values. After all, for those in need of human rights protection, the core function of human rights lies more in shielding them from injustice — not in requiring every nation or state to restructure its social or political systems according to a specific cultural standard, nor should it be abused as a rhetorical weapon to interfere in the internal affairs of other countries.

On the other hand, scholars should consciously recognize and reflect on the positions and presuppositions they rely on when discussing international human rights issues.[36] Undeniably, everyone inevitably carries a specific perspective or cultural background, often unconsciously. For this reason, scholars must clearly recognize through which observational angles and cognitive frameworks they construct their understanding of human rights issues, and maintain necessary self-reflection. For example, when advocating for a new emerging right, scholars should clearly distinguish: whether their stance is based on the injustice of the laws or systems that prohibit this right, or merely on the moral intuition shaped by their own identity and historical context — such as the shared values of those living in affluent and open European societies in the 21st century, or the middle class educated at Ivy League universities in the northeastern United States. Of course, this does not mean that human rights discussions can only be confined to a specific perspective. It merely reminds us that when seeking a more universal and general stance, scholars must have a deep insight into and reflect on how their specific temporal and spatial contexts shape their cognition, strive to transcend these limitations, and avoid hastily elevating the value preferences of a specific community or group to universal normative claims.

In summary, there are indeed significant differentiated and particularistic expressions regarding the basic understanding of universal human rights. This is reflected not only in the divergent positions on the universality of human

[35] Eric Blumenson, *Why Human Rights*?: *A Philosophical Guide* (New York: Routledge, 2024), 49.
[36] Ibid.

rights itself — for example, human rights skeptics fundamentally question or even deny the universality and inevitability of human rights, arguing that human rights do not possess universal value transcending time, space, culture, and political systems — but also in the practice of ostensibly acknowledging the universality of human rights while understanding and interpreting its connotation through specific perspectives. Specifically, while proclaiming the principle of human rights universality, certain countries or political forces form specific interpretive frameworks based on their unique historical backgrounds, cultural concepts, value orientations, and interest considerations. They then promote, or even impose, their own interpretations and practical models on other countries or nations. This phenomenon results in the seemingly universal principle of human rights taking on a diversified appearance in practical operation. It may even become a soft-power tool in international relations or a pretext for interfering in the internal affairs of other countries, triggering in-depth reflections on the true meaning and practical effectiveness of human rights' universality.

IV. The Relative Universality of Human Rights Law

For legal professionals, human rights are more often understood as a legal term, whether at the international or domestic legal level. A further question arises: After the concept and even ideology of human rights are enshrined in international or domestic legal documents, and established as enforceable legal norms, what is their fundamental nature? Does universality exist in the interpretation and implementation of human rights? If so, to what extent does this universality extend?

Based on the legal attributes of human rights, we can conduct a detailed jurisprudential analysis of human rights. Here, we need not discuss the doubts raised by cultural pluralism and particularism regarding the formation of human rights norms (such as denying gender equality based on certain religious values). Instead, we will only conduct a jurisprudential analysis of human rights norms on which an initial consensus has been reached in human society — such as the various rights enumerated in UN human rights conventions. This, in turn, aims to further gain insight into the fundamental nature of human rights norms, particularly the manifestation of the relationship between universality and particularity within them.

A. The legal nature of human rights: rules or principles

In legal theory, legal norms are usually classified into principles and rules based on their content type, with significant differences in nature, application methods, and roles in legal decision-making.[37] Rules are norms with relatively

[37] Ronald Dworkin, "The Model of Rules I," in *Taking Rights Seriously* (Cambridge: Harvard University Press, 1977), 24-28; Robert Alexy, *A Theory of Constitutional Rights*, translated by Julian Rivers (Oxford: Oxford University Press, 2002), 47-48.

precise binding force, designed to prescribe specific legal consequences for particular behaviors or situations. Their application follows an "all-or-nothing" logic: if a real-world scenario meets the conditions set by a rule, the rule must apply; if not, it does not. For example, a traffic rule specifying a maximum speed limit of 30 kilometers per hour on a certain road is a strict rule. If a driver exceeds this speed, they are deemed to have violated the rule and shall be punished, regardless of the specific circumstances. Rules provide a clear and unambiguous framework for legal subjects (especially judges or law enforcers), minimizing ambiguity and discretionary space. They ensure consistency in law enforcement, offer stable expectations for law-abiding citizens, and thus create certainty and predictability within the legal system. Since rules are designed to cover a wide range of foreseeable situations at their inception, they simplify legal decision-making processes in subsequent applications and leave little room for interpretation.

In contrast to rules, principles are broader and more general norms. Unlike rules, which directly prescribe specific legal consequences, principles serve as references for interpreting and applying rules. For instance, a requirement that drivers maintain a "safe speed" on certain roads is a principle rather than a strict rule. Similarly, "justifiable defense exempts one from punishment" is largely a principle, not a specific rule. Unlike the "all-or-nothing" application of rules, legal principles do not directly determine the legality of an act or state. Instead, they provide value guidance or operational directions in different contexts to ensure decisions align with higher-level moral, political, or social ideals. Multiple principles may apply to the same case or situation, requiring balancing against each other. For example, in a state of emergency, both the principle of safeguarding national security and the principle of protecting basic human rights may apply simultaneously. Competent authorities need to conduct a comprehensive assessment based on specific circumstances to reach an appropriate conclusion and judgement.

The distinction between legal rules and principles is also reflected in the process of legal reasoning. The application of legal rules is typically deductive: rules establish the major premise of a syllogism. As long as the case facts (minor premise) meet the conditions set by the rule, the corresponding conclusion and legal consequences are relatively clear and fixed. In contrast, when judges and lawyers invoke legal principles, they primarily engage in balancing different principles. They must consider how one principle coordinates with other relevant principles or rules, often using the proportionality principle for analysis and determining the most appropriate outcome based on the specific details of the case. Unlike rules, principles cannot directly lead to conclusions through deductive reasoning. Instead, they serve as justificatory grounds, introducing broader considerations to make necessary adjustments or exceptions to established legal rules. The generality,

flexibility, and openness of principles provide legal subjects with a relatively broad discretionary framework and balancing space, allowing them to judge specific decisions in individual cases based on fairness, justice, or moral principles. However, precisely due to this generality, flexibility, and openness, relying solely on principles cannot directly yield the final ruling on a case or dispute. Legal principles only assist legal subjects in constructing the reasoning process in a guiding manner.

When applying the above classification to human rights-related legal provisions, we find that the vast majority of human rights clauses are more akin to principles than specific rules. For example, Article 11, Paragraph 1 of the *International Covenant on Economic, Social and Cultural Rights* stipulates: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." Clearly, this provision cannot provide a clear, all-or-nothing judgment for specific cases or disputes. After all, there are no specific, clear requirements for what constitutes an "adequate standard of living," leaving significant discretionary space for interpreting "adequacy." Such questions cannot be resolved solely through the wording of the provision itself. Another example is Article 19 of the *International Covenant on Civil and Political Rights*, which enshrines freedom of expression while emphasizing the need to balance it with "the rights or reputations of others" and "national security or of public order (ordre public), or of public health or morals." This is a typical expression of a legal principle. Similarly, there is little dispute that everyone has the right to life — but this is merely a principle, which cannot directly resolve controversies such as whether individuals have the right to end their own lives (the right to suicide or even euthanasia).

Understanding the principled nature of human rights provisions allows us to further comprehend why the dialectic between universality and particularity manifests in the interpretation and implementation of human rights in real legal contexts: at the level of abstract principles, there is broader universal consensus on human rights; at the level of specific rules, however, there is greater diversity and relativity. The inherent principled characteristics of human rights provisions grant them considerable room for legal interpretation in practical application, and their implementation often incorporates more social considerations. This leads to diverse interpretations of human rights clauses and varied implementation mechanisms across different legal systems and sociocultural contexts. As a result, while human rights have universal legal expressions, they exhibit significant relativity and particularity in specific practice.

B. The diversity of human rights norm interpretations

Due to its universal presupposition, human rights exhibit strong abstractness, making specific interpretation a crucial issue. As Professor Zhao Tingyang noted: "The concept of human rights has not obtained a worldwide interpretation; instead, each country interprets it independently. Thus, there arises an epistemological meta-interpretation problem of 'interpreting interpretations,' as well as a Foucauldian knowledge-politics issue of 'knowledge/power.'"[38] In essence, when principles are elevated to high-level abstract categories, they often lose specific forms and details. In the process of practical application, the connotation and implementation effects of these principles are inevitably profoundly influenced by social structures, institutional arrangements, and value preferences in specific contexts, easily becoming objects of negotiation and shaping by different political and social forces. Although countries and ethnic groups may reach consensus on certain basic moral norms — such as firmly opposing genocide and prohibiting cruel, inhuman treatment — they often hold sharply differing views on broader issues. These include abortion rights, sexual orientation, and other matters touching on moral customs and lifestyle choices, which may even lead to "clashes of civilizations." The universality of human rights does not equate to uniformity in specific content, but only signifies commonality at the principled level. Sometimes, this commonality merely exists at the level of verbal expression. At the substantive level, differences in values, ideologies, and legal systems often hinder the formation of consensus.

Specifically in the legal field, due to the principled nature of human rights provisions, significant divergences often exist in the doctrinal understanding of specific rights. As mentioned earlier, to uphold the universality of human rights, human rights law provisions inherently carry abstractness and generality — thereby introducing ambiguity and uncertainty that prevent direct application to problem-solving. The key question thus becomes: how to derive specific standards from abstract principles, fill vague norms with substantive content, and delineate clear boundaries to enable their use in judicial trials and dispute resolution. In this process, legal interpretation based on the judicial practice and legal research of specific countries plays a pivotal role. Each country and region constructs unique legal institutional frameworks, rights hierarchies, and judicial evaluation criteria based on its own legal sources, social background, cultural concepts, and value orientations. This allows universal human rights principles to be interpreted and applied in a context-adaptive manner in practice.[39]

[38] Zhao Tingyang, *The Global System: An Introduction to the Philosophy of World Institutions* (Beijing: Renmin University of China Press, 2021), 63.
[39] Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006).

We can take freedom of speech as an example. Almost all international human rights conventions and national constitutions enshrine it as a basic human right. However, significant differences exist among countries in defining and interpreting the scope of protection for freedom of speech (e.g., whether speech includes conduct, pornographic works, or commercial speech) and the degree of protection (e.g., whether freedom of speech tolerates defamation or is restricted by national security interests) — even within Western countries. Regarding hate speech, the United States and Europe hold distinct levels of tolerance and adopt different legal constraints: Constitutional courts in many European countries, the Supreme Court of Canada, and the Constitutional Court of South Africa have imposed extremely strict restrictions on hate speech (such as denying the Nazi Holocaust or inciting racial or religious hatred).[40] In the United States, however, even hate speech is protected by the First Amendment, provided that such speech does not incite or pose a "clear and present danger" — i.e., it does not directly trigger social unrest or disorder. This means the boundaries of freedom of speech are relatively broader in the United States. Speech remains unrestricted by law as long as it does not involve calls for specific actions that could immediately endanger public safety.[41] In terms of constitutional adjudication methodology, the scope and intensity of the proportionality principle's application, as well as the reconciliation or balancing mechanisms adopted when facing conflicts between different rights, also vary by country.

Another example is that while "equality" is widely accepted worldwide, controversies and divisions persist over its practical interpretation — specifically, whether it entails special protection for vulnerable groups or equal treatment for all. Even within a single country, significant differences may exist. For instance, the principle of opposing racial discrimination, in a cultural context that strictly adheres to hierarchical systems, may require quota systems for ethnic minorities or historically oppressed groups in the distribution of public resources to ensure fairness. In an egalitarian social environment, however, it may manifest as ignoring racial differences, upholding formal equality and equal opportunity — i.e., "treating everyone the same" — and opposing preferential treatment for specific groups based on race or ethnicity.

Therefore, to fully and profoundly grasp the complexity and diversity of universal human rights principles in practice, scholars must conduct localized interpretations of human rights connotations in specific contexts, rather than making "deductive" judgments based solely on abstract ideas or a particular

[40] Holocaust Denial Case, 90 BVerfGE 241 (1994); *R. v. Keegstra*, [1990] 3 S. C. R. 697 (Canada); South Africa Constitution, §16 (2).

[41] James Weinstein, "An Overview of American Free Speech Doctrine and its Application to Extreme Speech," in *Extreme Speech and Democracy*, Ivan Hare & James Weinstein eds. (Oxford: Oxford University Press, 2009), 81-91.

model. A 2006 case in Thailand best illustrates this point. At that time, the Thai government explicitly demanded that Google remove user-uploaded videos insulting King Bhumibol Adulyadej from its YouTube platform, threatening to block YouTube nationwide if the request was not met. Under Thailand's Lese-majesté Law, any act deemed insulting or defamatory to the king constitutes a crime, punishable by up to 15 years in prison. Initially, Google and its legal team struggled to understand why a mere parody of the king could lead to imprisonment. However, after traveling to Thailand, engaging deeply with local society, and truly experiencing the Thai people's love and reverence for their king, they ultimately changed their stance. They realized that telling the Thai people "we won't remove the videos; you must accept it" from their offices in California — based solely on U.S. laws and values — would not only disregard Thailand's national conditions and public sentiment but also show disrespect for other cultures and values. Eventually, after consultations with the Thai government, Google agreed to comply with local laws and block the relevant videos in Thailand.[42] This case demonstrates that when understanding and addressing human rights issues, we must uphold the universality of basic human rights principles while maintaining necessary sensitivity to cultural differences.

In fact, even when international bodies have clearly defined specific standards for a particular human right, courts in some countries may adjust such standards based on their national circumstances. For example, the UN Committee on Economic, Social and Cultural Rights (CESCR) has developed the "minimum core" standard when interpreting the state obligations to realize economic, social and cultural rights under the *International Covenant on Economic, Social and Cultural Rights*.[43] While this standard appears to establish a one-size-fits-all universal requirement, the Constitutional Court of South Africa explicitly rejected its application in housing rights cases. Instead, it adopted a gradualism standard of progressive realization, only reviewing whether the government's measures to progressively achieve the goal are reasonable under current circumstances.[44]

Furthermore, different countries adopt distinct approaches to balancing conflicting rights, reflecting differing preferences shaped by profound influences of cultural traditions, legal frameworks, and social values. For instance, when weighing freedom of speech against human dignity, national judicial systems determine which right takes precedence in specific contexts based on factors such as cultural understandings of freedom of speech and the

[42] Kate Klonick, "The New Governors: The People, Rules, and Processes Governing Online Speech," 131 *Harvard Law Review* 6 (2018): 1623.
[43] CESCR, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the ICE-SCR), December 14, 1990, U.N. Doc. E/1991/23.
[44] *South Africa v. Grootboom*, 2001 (1) SALR 46, 65-66 (CC).

degree of emphasis placed on reputation protection. In the U.S. constitutional tradition, freedom of speech generally holds priority. In the landmark New York Times Co. v. Sullivan case,[45] the U.S. Supreme Court established the "actual malice" standard for public figures in defamation lawsuits. The Court emphasized that even if defamatory speech might harm a public figure's reputation, restrictions on freedom of speech should be avoided as much as possible. This ruling reflects the U.S. judicial system's tendency to protect freedom of speech when it conflicts with public officials' dignity, safeguarding the public's right to know and the right to supervise through public opinion.

In contrast, Europe leans more toward protecting human dignity — with some countries showing a strong preference for it. In France, for example, public officials' right to reputation and privacy receive greater protection than those under U.S. law. Courts strictly limit the public's right to know about officials' personal information and privacy to content relevant to the performance of their public duties, resulting in a narrow scope of protection for freedom of speech.[46] In the internet era, compared to the U.S. legal path of protecting freedom of information dissemination and reducing the liability of internet platforms, Europe prioritizes the protection of personal data and privacy. In the Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González case, the European Court of Justice (ECJ) ruled that individuals have the right to request search engines to remove search results related to them — especially when such information is no longer relevant or is outdated — even if the information itself was legally published. This, in turn, established the "right to be forgotten."[47] Building on this ruling, France set stricter standards. The Commission nationale de l'informatique et des libertés (CNIL) required Google to remove personal privacy-related information globally, not just within Europe.[48]

The aforementioned judicial practices reflect the complex interaction between universal principles and territorial specificities. This helps explain why technical approaches have emerged within the current international human rights law system to grant state parties to human rights conventions a certain degree of discretion. For example, in interpreting and applying the E*uropean Convention on Human Rights* (ECHR), the European Court of Human Rights (ECtHR) has developed the "margin of appreciation" principle. This principle allows state parties to exercise discretion in the manner and extent of fulfilling

[45] *New York Times Co. v. Sullivan*, 376 U. S. 254 (1964).
[46] Ioanna Tourkochoriti, "Speech, Privacy and Dignity in France and in the U.S.A.: A Comparative Analysis," 38 *Loyola of Los Angeles International & Comparative Law Review* 1 (2016): 155-156.
[47] *Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González,* Case C-131/12, Judgment of the Court (Grand Chamber) of May 13, 2014.
[48] *CNIL Orders Google to Apply Delisting on All Domain Names of the Search Engine*, CNIL (June 12, 2015). http://www.enil.fr/english/news-and-events/news/article/enil-orders-google-to-apply-delisting-on-all-domain-names-ofthe-search-engine/.

their human rights obligations under specific circumstances — such as addressing complex social, cultural, moral, and public security issues. States may impose restrictions on rights within a reasonable scope based on their own national conditions, particularly on moral and cultural issues involving freedom of speech and privacy. The ECtHR first articulated this principle in the 1976 Handyside v. United Kingdom case.[49] A British publisher released *The Little Red Schoolbook*, which discussed sex education and students' rights. The British government deemed the book harmful to the morality of minors, seizing and destroying it under relevant publishing laws. The publisher was prosecuted and ultimately lost the case. The publisher then appealed to the ECtHR, arguing that the British government's actions violated freedom of speech guaranteed by Article 10 of the *ECHR*. In its final judgment, the ECtHR held that while freedom of speech is a fundamental human right, states have a margin of appreciation in protecting public morality and minors, and may restrict freedom of speech in light of national circumstances. Therefore, the ECtHR ruled that the British government's actions did not violate the *ECHR*.

C. The diversity of human rights implementation mechanisms

"Virtue alone is not sufficient for the exercise of government; laws alone cannot carry themselves into practice." (*The Mencius: Li Lou I*) As lofty moral ideals and legal principles, human rights face a relatively urgent challenge of implementation. Due to their inherent abstractness and generality, the values embodied by human rights — even after being translated into legal provisions — still need to go through specific links such as political processes, legal transformation, social policies, and judicial systems to truly gain feasibility in practice. In this series of processes, relativity is unavoidable: every human rights norm needs to be gradually constructed and improved according to different actual circumstances. That is, it must be concretized and flexibly applied in light of specific contexts, undergoing a localization process, to be effectively implemented.

The relativity of human rights at the level of enforcement mechanisms stems not only from differences in national legal systems but also reflects the lack of a centralized global law enforcement system. Although the international human rights law system aims to promote human rights protection worldwide, there remains a significant gap in enforcement capacity and legal technical implementation compared with domestic legal systems — particularly in the absence of a universal law enforcement and judicial body with authoritative coercive power and efficient execution capabilities. While the *Universal Declaration of Human Rights* and other international human rights instruments have established numerous core rights, a comprehensive global law

[49] *Handyside v. United Kingdom*, Application No. 5493/72, European Court of Human Rights, Judgment of December 7, 1976.

enforcement and judicial system has not yet been fully established. Existing international institutions, although endowed with certain human rights protection functions, have obvious shortcomings in their respective mandates and enforcement effectiveness. The International Court of Justice (ICJ), for instance, mainly addresses disputes between states and lacks the function of directly protecting individual rights; the enforcement of its judgments relies on state voluntary compliance. The International Criminal Court (ICC) focuses on prosecuting the most serious international crimes, such as genocide, war crimes, and crimes against humanity, and can only act when a specific state consents to its jurisdiction or the case is authorized by the UN Security Council. Institutions like the UN Human Rights Council and the Office of the High Commissioner for Human Rights play a positive role in monitoring and promoting human rights protection, but they usually can only encourage compliance with international norms through moral persuasion and procedural tools, without the power of mandatory enforcement or judicial sanctions.[50] It is evident that global human rights protection currently faces the dilemma of "easy declaration, difficult implementation."

The lack of a unified enforcement mechanism confines the global commitment to human rights protection within the framework of national sovereignty in practical implementation. While the universality of human rights holds moral appeal as an ideal, local adaptations and even variations in actual execution are inevitable. When translating universal human rights principles into specific legal rules and even concrete decisions across different countries and regions, full consideration must be given to local legal traditions, cultural backgrounds, and practical needs. The tension between universality and particularity needs to be alleviated through localization strategies — not only to ensure the effectiveness of human rights principles but also to avoid resistance or conflict.

The first aspect is the diversity in enforcement mechanisms. In some countries, legislative and administrative measures are the primary means of realizing human rights, typically implemented through the issuance of specific social policies and the establishment of regulatory frameworks. For example, in Sweden, economic, social, and cultural rights such as healthcare, education, and housing are mainly enforced through comprehensive welfare policies and administrative regulations. Similarly, France leverages its legislative system to enforce labor rights and anti-discrimination laws, systematically promoting economic and social rights through legislation. In other countries, judicial remedies serve as the main avenue for human rights protection. In India, for instance, the activist judiciary has played a pivotal role in expanding the scope of human rights. The Supreme Court of India established guidelines to prevent

[50] Eric Posner, *The Twilight of Human Rights Law* (Oxford: Oxford University Press, 2014), 40-43.

workplace sexual harassment in Vishaka's Case, effectively creating a legal framework in the absence of specific legislation.[51] Indian courts have also interpreted a series of economic and social rights, such as the right to a clean environment, education, and healthcare, from the constitutional right to life.[52] Conversely, in countries with underdeveloped political and legal systems, or those plagued by corruption and inefficiency, human rights implementation may face severe obstacles. Legislative, administrative, and judicial mechanisms may be compromised by political interference, insufficient resources, or corrupt practices, thereby undermining their ability to protect human rights and necessitating reliance on international organizations. In Venezuela, for example, political interference and corruption in the judicial system have made it difficult for citizens to seek legal remedies through domestic channels, often forcing them to rely on the intervention of international bodies such as the UN Human Rights Council.

The second aspect is the differences in prioritization of rights protection. While the enjoyment of human rights is unconditional, their realization is constrained by practical conditions.[53] Limited by scarce resources, a country's prioritization of various rights and trade-offs when they conflict are the crucial issues in the process of human rights implementation. Public authorities inevitably face difficult choices when formulating laws, designing policies, and allocating resources. The rationale behind these choices is closely linked to social values, economic development status, and the urgent needs of the people. Metaphorically, the list of human rights is more like a menu. Constrained by factors such as limited ingredients in the kitchen and a shortage of chefs, determining which dishes are main courses and which to prepare first becomes extremely critical.

For example, when balancing the protection of economic and social rights related to basic livelihoods (such as education, healthcare, housing, and labor rights — needs that directly impact quality of life) and the active promotion of individual freedoms (such as privacy and freedom of religious belief), different societies may prioritize certain human rights upon a higher level based on distinct historical trajectories, developmental stages, and public acceptance. The goal is to maximize human rights protection with limited resources. Deeply influenced by liberal traditions, Western countries typically place liberties at the forefront. They emphasize rights such as freedom of speech, press freedom, and freedom of assembly and association, regarding them as the core content of human rights and priority objects of protection. For instance,

[51] *Vishaka and others v. State of Rajasthan and others*, (1997) 6 SCC 241; AIR 1997 SC 3011.
[52] *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598; *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666; *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37.
[53] Zhao Tingyang: "Which Concept of Human Rights Can Be Better Defended?" 283 *Revue internationale de philosophie* 1 (2018): 31-38.

social and economic rights are not enshrined in the U.S. Constitution, and federal judicial practice and constitutional doctrine do not recognize them as fundamental rights.[54]

In contrast, developing countries — especially those with a history of colonial rule or economic backwardness — attach greater importance to economic, social, and cultural rights. In their governance philosophy and constitutional consciousness, only when the basic living conditions of social members are guaranteed can higher-level rights demands be met. For example, China regards the right to subsistence and development as the primary human rights, emphasizing the importance of economic growth and social stability, and holding that improved economic conditions are the foundation for realizing other rights.[55] Many African countries (such as South Africa) have incorporated economic, social, and cultural rights — even including the right to health and housing — into their constitutional system of fundamental rights, safeguarding them through a robust constitutional review mechanism to address long-standing poverty and improve citizens' basic living conditions.[56] Affected by prolonged social inequality and economic unrest, some Latin American countries (such as Colombia) also focus on economic, social, and cultural rights in their constitutional texts and judicial practices to tackle poverty and social division.[57]

Conclusion

As a practical endeavor, the realization of human rights must be deeply rooted in the specific national conditions and practices of each country. Human rights embody universality at the level of values and ideals, yet their interpretation and application exhibit significant relativity, constrained by factors such as the cultural traditions, social structures, developmental stages, and resource endowments of different countries and regions. The uniqueness of diverse cultural and social environments determines the variety of cognitive frameworks and practical paths for human rights. Therefore, the practice of human rights is inherently a dynamic and evolving process — it not only reflects the governance philosophy and cultural logic of a specific society but also requires seeking balanced and adaptive approaches among diverse rights claims. Only by appropriately understanding the "relative universality" of human rights at the three levels of concept, ideology, and implementation can we advance the realization of universal values while respecting differences,

[54] Cass R. Sunstein, "Why Does the American Constitution Lack Social and Economic Guarantees," 56 *Syracuse Law Review* 1 (2005): 1-32.
[55] the State Council Information Office of the People's Republic of China: "Seeking Happiness for People: 70 Years of Progress on Human Rights in China," *People's Daily*, September 23, 2019, 14.
[56] Richard J. Goldstone, "A South African Perspective on Social and Economic Rights," 13 *Human Rights Brief* 2 (2006): 4-7.
[57] Manuel José Cepeda-Espinoza, "Transcript: Social and Economic Rights and the Colombian Constitutional Court," 89 *Texas Law Review* 7 (2010): 1699-1705.

thereby better promoting the protection and development of human rights in reality. The true universality of human rights does not lie in the uniformity of specific rights forms, but in the collective recognition of certain fundamental value ideals alongside respect for the diversity of humanity itself. Universality is eternal at the ideological level, yet enriched by differences in the practice of human society. It is within this tension that human rights continue to grow and thrive.

(Translated by *LI Donglin*)