

HUMAN RIGHTS – FACING DILEMMAS BETWEEN UNIVERSALISM AND PLURALISM OR CONTEXTUALISM

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In all consensual international documents about the social work profession Human Rights are mentioned as general regulative idea for social work theory, ethics and practice (see Supplement of the *International Journal of Social Work* of 2007). So, we can't avoid to reflect critically what this means, specially as the documents mention at many places that one wants to be sensible to „context-specific realities“ (p. 17) „*insofar*“ culture, religion, harmony etc. „*do not violate human rights.*“ Now, inspite of the Vienna Conference of 1993 where one reaffirmed the idea of universalism, there was much criticism about this.

And this criticism is worldwide. But as we are in Africa, let's start with the criticism of an African scholar, Makau Mutua¹

„International human rights fall within the historical continuum of the European colonial project in which whites pose as the saviors of a benighted and savage non-European world. The white human rights zealot (Eiferer) joins the unbroken chain that connects him to the colonial administrator, the Bible-wielding missionary, and the merchant of free enterprise. Salvation in the modern world is presented as only possible through the holy trinity of human rights, political democracy, and free market.“ (Mutua 2002, p. 2)

According to Mutua the corpus of human rights seeks to foster diversity, but does so only under the not negotiable idea of Western political liberal democracy as „final inflexible truth“ (p. 2). This means „freezing liberalism in time“. (p. 5)

Amartya Sen shows us - as one example of this historical continuity - the following paradox: one can't overlook that the G-8-States (with the exception of Japan) are the biggest producer and dealer of weapons on the world market. US alone signs for about half of the exports, while two thirds went in the last years to Africa. With this foreign policy of double-morality they clearly undermine „freedom and individual rights“ in *other*, non-western countries (2007, p. 109). But one could add that war is violation of almost all human rights.

Another African, Bénézet Bujo, shows the same Eurocentrism in different Articles of the UN-Declaration:

Art. 16,2: Marriage shall be entered only with the free and full consent of the intending spouses. – But according to many Africans, marriage is not a contract between two persons, but a covenant (Bund) between two communities.

Art. 17: Everyone has the right to own property alone as well as in association with others. – But according to the African tradition property is never private; the individual administers property in the name of the community.

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Art. 26,3: Parents have a prior right to choose the kind of education that shall be given to their children. – In many parts of Africa children don't belong only to their parents, but to all the living family members and the ancestors. The reason is, that parents aren't able to transmit the whole wisdom encompassing many generations of ancestors.

Along these notions, the individual isn't per se bearer of human rights; human rights are given to the individual by the community.

These and other criticism have led to the formulation of an African (the Banjul Charter on Human and Peoples' Rights, Oct. 23rd, 1986), an Asian, Islamic, Russian Charter or philosophy of Human Rights. So, one could say that the cultural diversity and pluralism approach to human rights is an answer to the colonial or hegemonic universalism of the West., especially Europe.

But there is also much criticism of this pluralist position:

- First, one would have to carefully diagnose who is making a plea for pluralism More precisely: who is going to benefit from this policy? For instance patriarchal men, political, especially corrupt political leaders, dictators? (Phillips 2007:1)
- Second, many critics identify the dominance of western culture and reject what they see as the imperialist, arrogant assertion of one true road to general or gender equality“. But they often found themselves unable to articulate criticisms of dominance, violence legitimated by religion or culture in other societies. (ibid. p. 2)
- Third, it is interesting to contrast the dominant discussion about cultural diversity and the rising anxieties concerning *cultural* segregation with the relative complacency regarding intensified class segregation. Does the multiculturalism debate divert from this very serious *sociostructural* problem of extreme wealth and poverty? (ibid. p. 6)
- Fourth, evoking diversity means mainly „cultural, ethnic, religious diversity“ (see also „Global Standards“, p. 24) which is a terrible simplification and reduction of individuals and societies to one dimension and the fiction, that one can explain and understand them relying only on culture.
- Fifth, the reduction of identity of individuals or groups to a single cultural, especially ethnic, religious dimension can be politically easily misused for the worst outbursts of intolerance, fanaticism and violence.

Having taught and accompanied many students in social work education and training, in the last years within a Master of Social Work in „Social Work and Human Rights“, I could notice that they are very well aware of the heavy criticism of what is called the hegemonic western universalism of human rights. Thus, they are looking for an approach to human rights without having to claim superiority or to feel guilty about the history of colonialism of their nation, in Germany also of Nazism. In trying to avoid this pitfall, some of them switch uncritically to cultural pluralism and tolerance – encouraged and reinforced by the premises of postmodern constructivism. But how can we claim to identify and condemn violations of human rights, if every criteria is only of individual/subjective or local-contextual relevance? Is there a possible third position to escape this dualism or divide? My *provisional* answer and *thesis* is that we have to *differentiate* between *hegemonic universalism* and *fundamentalistic pluralism* -

which I introduced with the examples above - and *oppose both to moderate, deliberative and debatable forms of universalism and pluralism.*

So, what are the characteristics of hegemonic universalism and fundamentalistic pluralism?

Hegemonic and absolute universalism

- postulates, that individual and societal characteristics, especially ideas, values and norms are *existing for all, the whole world at any time and any place*; in this sense it is ahistorical
- if there is a need for legitimization, it recurs to axiomatic, un-conditional and thus unchangeable notions such as God, Nature, Reason or Freedom as axiomatic and only absolute right - and their eternal or natural laws
- *critical questions* are not heard or allowed, neither from inside nor from outside
- compromises between different claims aren't possible, because to give in would be a sign of weakness, even cowardliness
- each dissidence, deviance from universalist principles, is an uncivilised, barbarian or criminal act against mankind, nature or God which can't be tolerated and gives not only the right, but the moral duty to intervene, punish or persecute

If the representatives of a hegemonic *cultural universalism* become allied with power-holders in a *social power-structure*, it becomes inquisitory, expansionist, colonialistic, justifying just wars – and finally ending in more or less absolute dictatorship. Furthermore, the postulated universalism was most of the time, i.e. till to-day, a type of particularism. So, the first declaration of independence (Magna Charta of 1215) „forgot“, i.e. excluded the slaves and the women; the declaration of 1789 „forgot“ all women (remember the Declaration of the Rights of Woman and the Female Citizen of Olympe de Gouges 1791), but also working people without property or capital; then the third world became an issue and one realised that the special vulnerability of children, migrant workers, disabled, bisexually oriented etc. was ignored. So we have the paradox, that the proclaimed universalism of human rights was hiding and promoting particularism in defense of particular interests, f.e. the interests of white men, adults, of western capitalism, transnational organisations, etc. Axiomatic freedom of property became a freeway for maximising private property. Yet, till to-day there is no reflection and public debate over the fact, that -historically - the right to individual property didn't mean the right to property of huge transnational corporations and their chief-managers.

Fundamentalistic cultural relativism

- says that ideas, values and norms *differ from individual to individual, context to context, society to society*; therefore it is impossible to find common characteristics for all men, women, groups and societies
- assumes that there is no absolute or objective truth; truth is in the eye of the beholder
- *critical questions* from the standpoint of an outsider are not allowed
- every form of universalism, the search for consensus and compromise has to be criticised as hegemonic
- Fundamentalistic pluralism is the guarantee for tolerance: live and let live is the credo - which is in fact a credo about *tolerance as indifference*

If the representatives of a fundamentalistic *pluralism* get allied with *social powerholders*, they become unpredictable, particularistic and opportunistic. As group they develop a form of exclusive cultural identity politics and partisanship which doesn't allow to have empathy with other groups and possibly join them for action defending a common cause. This would qualify

as illoyalty. Fundamental cultural relativism or pluralism legitimizes with its notion of „impartial tolerance“ as „laissez-faire“ – implicitly or explicitly - not only subjectivistic self-determination, free market-fundamentalism, blind, unrestricted capital accumulation, but also any form of culturally determined structural discrimination, oppression and violence – be it racism, sexism, ageism, classism, but also religious oppression etc. History has shown, that cultural identities can easily be instrumentalised for culturally defined religious, ethnic and secular wars of all kinds.

Furthermore, fundamentalistic pluralism notions are – strange enough – in one sense universalistic, because they claim that diversity is axiomatically universal. This means that it is impossible and useless to look for common ideas, values and norms as a base for human mankind and especially human dignity, social justice and human rights.

Thus, not only hegemonic universalism, but also fundamentalistic cultural relativism is *dogmatic* and *ethically conservative*. Because both don't allow criticism, although for different reasons. So, what could be a way out of this serious dilemma? In a very general sense it is to recognise that there is no refuge for axiomatic, unquestionable universalism or pluralism, claiming a superior objective or subjective *truth which doesn't need empirical verification*. Both bear the danger of being extremely inhuman - violating human rights. So, the question is: Are their forms of universalism and pluralism, which are critical of themselves and allow reciprocal criticism of other perspectives? Are there forms which allow to look for a common ground - bridging meta-criterias - which could facilitate at least partial consensus or compromise? I call these forms „moderate“.

Moderate, debatable universalism and pluralism – what do they have in common?

- They both start with descriptions of what is, of the actual situation and continue with the search for the *bio-psycho-socio-cultural causation* – i.e. explanations - of what exists. This includes also the cognitive-moral interpretations and values of their representatives
- These descriptions and explanations can be questioned, criticised and revised in the face of new empirical evidence.
- Moderate universalism and pluralism follow the assumption that all individuals all over the world share the same biological, psychic and social needs (universal dimension), but not the same wishes and preferences as well as sociocultural resources and practices to satisfy them (pluralism or contextual dimension) (Antweiler 2007). Thus, for each human need one could find at least one, but mostly several human rights to protect them; and for each human right one can postulate, that they protect at least one, but most of them several human needs.
- My thesis is, that the empirical evidence of and the according theoretical-ethical reflection of common human needs and the „good life“ allow the *only universality notion* which could *avoid the hegemonic universalism of human rights, be it cultural or religious*. (for an elaborate theory of needs see f.e. Nussbaum 1999, Obrecht 2006, Geyer 2007 and the theoretical traditions of social work, Staub-Bernasconi 200:113-132). To illustrate this just two examples:

In his autobiography The Long Way to Freedom, Nelson Mandela describes the impression which the assemblies in his hometown made upon him as a boy: „Everybody could speak who wanted to speak. It was democracy in its purest form. Their might have existed a hierarchy between the speakers, ... but everybody was heard, be it a chief or a simple man, a warrior or a medicine man, a shop-owner or a labourer.“ Sen comments this quotation as follows: the desire for democracy (the need

for social membership, acceptance, participation and procedural social justice, StB) – hasn't been imposed upon Mandela by a coercing West. It has its roots in his particular living context, his African home town and his personal experience in this context. And, paradoxically he – and many others – have fought to coerce the West to accept democracy in South Africa. That Mandela was successful at the end of a very long, extremely painful battle and 27 years of prison, was the victory of humanism – and not of a specific European idea. (2007, p. 68) And I would add: it was the universal need of women and men, to participate in and control the matters relevant for their daily life and being freed from discrimination, oppression, brutal violence and torture which was perfectly constitutionally legitimised by the laws and procedures of a white racist regime with a clear religious background.

In 1955, the ANC sent out fifty thousand volunteers into townships and the countryside to collect „freedom demands“ from the people of South Africa. Demands such as „Land to be given to all landless people“, „Living wages and shorter hours of work“, „Free and compulsory education, irrespective of colour, race or nationality“, „Peace and Friendship“ were synthesized in a final document by ANC leaders into the „Freedom Charter“ which was officially adopted on June 26th, 1955 at a Congress of The People in Kliptown/Soweto. The meeting was attended by roughly three thousand delegates who made their way through police cordons. It was broken up by police on the second day. The crowd had shouted its approval of each section with cries of „Afrika!“ and „Mayibuye“. Nelson Mandela only escaped the police by disguising himself as a milkman, as his movements and interactions were restricted by banning orders at the time. After the congress was denounced as treason, the South African government banned the ANC and arrested 156 activists, including Mandela (see Joffe: The State versus Nelson Mandela – The Trial that changed South Africa, 2007). It is seen by many as the foundation of South Africa's 1996 Constitution. Here, too, these cries and demands for freedom are not imposed by the West; here, too, the violation of basic human needs are at their roots. Freedom or liberty consists not only „of the power to do whatever is not injurious to others“ (article 4 of the French Declaration of 1789); „liberty and justice consists of giving back all what belongs to others to the ones who are entitled to it“ (as Olympe de Gouges reformulated the same article 4 in her Declaration of 1890).

- Moderate universalism and pluralism accept the notion of failibility and meliorability of their position, which means that truth, the good and the right are not given and absolute – neither objectively nor subjectively - but due to an ongoing process of giving voice to needs and entitlements, of comparing and matching ideas, values and norms with empirical facts – in our case human needs and their violation.
- They allow the search for cooperation and consens - which could also be a consens about dissens – or for a fair compromise referring to metanorms of social justice.
- If this is not possible, the parties allow to move out of an inhuman, repressive, exploitative social system (exit option); in this case they know that there must be a social and probably also economic support system for those who took the exit option.
- Tolerance is not defined by *indifference* or acceptance of any behavior legitimized by cultural or religious tradition, but by a *clear social respect* *inspite* of (minor) moral differences and a *clear demarcation*, *where tolerance has to end*, f.e. as „no tolerance for intolerance“, „no tolerance for discrimination, oppression and violence“ or „zero tolerance for torture“. (Forst 2003)

The main problem is: How to find a truly universal platform which respects the criticism and contributions of different cultural representatives and which leads to cross-cultural contamination of cultures in solving dilemmas and ethical incompatibilities, for example between freedom and social rights, universalism and pluralism, in a fair and just way. (Mutua 2002, p.7; see also Menke/Pollmann 2007)

To illustrate this in a very sketchy way the following example:

Social practice of deliberation of moderate universalism versus moderate cultural/religious pluralism

As I already stated before, war is a human activity which violates almost every human right, be it legitimized by pseudo-universal secular categories of a just war or the misuse of cultural/religious identities to hate, exclude and persecute the members of other cultural groups.

Imam Ashafa and Pastor James (Nigeria) were fierce enemies for a long period of war between Christian and Moslem soldiers, fighting for power over a specific region.

In 2001 the parties found together in Kaduna for a peace-agreement between eleven Islamic and eleven Christian leaders. This was the start for the foundation of a *Centre for Peace and Reconciliation*, which offers mediation services between Moslems and Christians in conflicts, but also social support for widows and children. Their common Credo, they said, was that real strength lies in diversity.

In 2004 very serious conflicts arose again between Moslems and Christians. One had detected mass tombs. It took five months of mediation to write a consensual peace declaration, where each party accepted their guilt and indebtedness to the other.

Ashafa and James had in addition a personal agreement: „We stay together, whatever dissents come up. If one hurts the other with his claim of superiority, the next step is to say: „I need your help!“. Separation is not possible. So, even if there is serious disagreement, f.e. about death penalty, they still go together during working hours to the people for mediation and conflict resolution. But in the evening, instead of staying together, they write „messages“ to each other and push them under the door of the other ... without saying good night or to reconcile in a cheap harmonising way. This agreement, they say, unites us in what they call a common higher or meta-level of both religions which is neither Christian nor Islamic.

What could social work learn from this living arrangement, combining moderate, debatable pluralism and universalism in reinstalling reciprocal respect and also human rights in everyday life after a long war-period?

- Reconciliation, peace and conflict resolution must be combined with social assistance and help to the needy, i.e. with the fulfillment of social rights
- Enemies need acceptance and respect for their beliefs and then they can be ready to enter negotiation, compromise and accept excuses from each other
- Many conflicts don't have a religious or cultural, but rather a sociostructural base (getting power over others, their resources, land property etc.); to define them as religious or ethnic conflicts makes them mostly unsolvable
- Thus every so called cultural or ethnic conflict has to be analysed separately according to its cultural (religious, ethnic or nationalistic) and socio-structural (socioeconomic, political, strategic-military) dimensions and their interrelations

- Concrete cooperation – daily working arrangements - are the empirical test for the values and norms one cherishes, their consequences and thus their faillibility and meliorability, but also the acceptance of the Other which leads to the plea for inter- and multicultural teams and helping as well as empowering arrangements
- Instead of dismissing the dialogue, when diverging, at first glance incompatible positions emerge, and taking refuge to an absolute – cultural or religious - position in saying „till to this point and no further step“, the decisive sentence is „I need your help to get clear“
- This is the base for the search for a more universal approach of thinking and action, which begins with being able to articulate human needs as a new common universal reference point

I close with a quotation from Walter Lorenz (2001): „It is the paradigmatic openness that gives this profession the chance to engage with very specific (and constantly changing) historical and political contexts while at the same time striving for a degree of universality, scientific reliability, professional autonomy and moral accountability.“

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