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HUMAN RIGHTS, HUMAN DIFFERENCE: ANTHROPOLOGY'S CONTRIBUTION TO AN EMANCIPATORY CULTURAL POLITICS

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The concept of universal cultural features or principles is not in itself incompatible with some forms of cultural relativism, but the idea of universal human rights poses special problems. "Rights," in the specific sense, cannot be universal attributes of "humanity," as anthropologically conceived, but general principles of right or justice may be so. Anthropology may be able to provide knowledge of universal attributes of humanity with ethical or moral implications that can help to define such concepts. More specifically, anthropological activism in defense of human difference provides an important lead for the formulation of a universal right to difference. This argument converges with a historical analysis of the social and historical origins of the concept of human rights and the ways the concept has become transformed and reoriented in the context of the contemporary crisis of the state and the rise of ethnic and identity politics. In this historical conjuncture, the criterion of difference has emerged as a central focus of rights struggles and discourses.

Human rights pose fundamental problems of both theory and practice for anthropology. The way these questions are dealt with will have important implications for the future of the discipline, both as a theoretical project and as a profession. In addition to the intrinsic theoretical and political importance of the issues they raise, the current surge of concern with human rights among anthropologists has been precipitated by changes in the way anthropology as a discipline relates to its subjects as well as by changes in the subjects themselves. The increased involvement of anthropologists with human rights issues clearly constitutes a cultural and historical phenomenon that calls for anthropological interpretation in its own right. The increasing commitment of the American Anthropological Association to an active role in supporting and protecting human rights has stimulated new theoretical reflection not only on the principles underlying "rights" but on the meaning of the adjective "human" as well. The field of human rights has thus become one in which activist practice has come, in important respects, to lead the development of theory.

The idea of human rights in its received Western formulations is an explicitly universal concept, which presupposes a universal notion of humanity capable of informing the adjective "human" with an operational meaning which can form the basis of "rights." This in turn implies the existence of some general notion of justice, equity, or a general principle capable of serving as the grounds for specific rights or laws, applicable to all peoples and cultures. Any attempt to derive such a universal principle, with its implications for rights or social ethics, from anthropological knowledge raises the fundamental ques-

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tion of whether it is possible to derive moral or political principles from objective knowledge (to the extent that anthropological knowledge can be so characterized) and, if so, whether anthropological knowledge and theory are up to the job.

I return to this issue at the end of this article. I begin by raising some general anthropological questions concerning the concept of human rights, including the compatibility of universal human rights with cultural relativism. I follow this with a brief account of the historical context of the development of the concept of human rights in early modern European nation-states. This leads to a discussion of how historical transformations in the relations of nation-states to the world system have contributed to the contemporary rise of human rights as an issue of concern, not only to anthropology but also to states, identity groups, social movements, and individual citizens. In conclusion, I return to an anthropological discussion of general features of culture and sociality that might be interpreted to imply principles of human right or rights and review some contributions of recent anthropological human rights activism to this theoretical question. In this latter connection, I refer specifically to the work of the Committee for Human Rights of the American Anthropological Association and its immediate predecessors, the AAA's Commission for Human Rights and the Task Force on Human Rights. As one of their principal charges, these bodies have had the formulation of a general statement on human rights in the light of anthropological knowledge and theory. A programmatic statement, intended both to clarify theoretical issues and to serve as a guide to policy and action on cases of human rights abuses by anthropologists, was completed in 1995 as the preamble to the guidelines for the permanent Committee for Human Rights established in October of that year by the Association (Commission for Human Rights 1995). The theoretical and practical issues with which the present article is concerned were exhaustively discussed in the preparation of this document. The ideas and opinions I set forth in this article were formed primarily through participation in these discussions, in which I took part as a member of all of these bodies.¹

ARE RIGHTS HUMAN?

The expression "human rights" can be understood to imply that being human automatically or intrinsically confers certain rights. It thus begs the question, from an anthropological point of view, of whether rights can legitimately be considered to be "human," in the sense of a universal attribute of humanity as such. It is not clear, however, in what sense this could be true. Rights are normally understood to consist of specific claims, enforceable against society in general or certain parts of it (e.g., private individuals, institutions, or the state) by persons, corporations, or groups. Such claims may be of various specific kinds: for the ability to exercise certain powers or capacities, to use or have access to certain resources or benefits, to be protected from certain forms of abuse, or to be compensated for damages. The ability to make such

claims is often assumed to imply or presuppose the existence of some institutional means of enforcing them, binding on the society that recognizes the rights in question (normally the state or some mechanism such as the feud in stateless societies). The question thus arises of how a universal, homogeneous condition (humanity, if indeed it can be understood as such) can be taken to imply such specific, particular claims as “rights,” dependent as they are on such specific, nonuniversal social institutions as states?

For anthropologists, in short, most existing legal and political formulations of human rights seem problematical because of their empirically unexamined and theoretically unproblematized use of the term “human.” In the Western tradition (the cultural tradition that has produced the conceptions of rights that form the basis of contemporary human rights discourse), the human is typically conceived as a property of the individual, meaning a social actor inhabiting an individual body. Anthropologists, however, have learned not to regard either social actors or social bodies as unproblematically “individual” in the common Western sense of the term. They have also come to recognize the fundamental role of social relations and groups in producing “human” (i.e., socially integrated and enculturated) individuals. Like many non-Western cultures, anthropology has consequently tended to emphasize the role of collective domains like “culture” or “society” in the construction of individual and collective persons, and thus of humanness. However, the implications of these theoretical perspectives on the nature of the human for notions of human rights—including the vexed question of “collective rights”—remain unclear. Clearly, the precultural, psychobiological constitution of human beings as individuals cannot be interpreted to confer anything as socially and culturally constituted as a “right”; but is there any common aspect of the social and cultural constitution of human beings that can be identified as implying, if not conferring, rights in this sense? The answer to this question, I believe, is “Yes,” as I shall try to explain later in this article. First, however, certain related issues must be clarified.

IS A UNIVERSAL PRINCIPLE OF RIGHT INCOMPATIBLE WITH CULTURAL RELATIVISM?

In confronting this question, anthropologists have to deal with the various forms of cultural relativism that have arisen within their own discipline. Some forms of cultural relativism are overtly incompatible with the idea of universal principles of justice, equity, or rights, but others are consistent with such a notion.

For many anthropologists, of course, “cultural relativism” is not a fully developed theoretical position but, rather, a commitment to suspending moral judgment until an attempt can be made to understand another culture’s beliefs and practices in their full cultural, material, and historical contexts. Elvin Hatch, in a perceptive critique of an earlier draft of the present article (see also Hatch, this issue) called this sort of nonjudgmental relativist approach

the “default mode” of social and political thought and emphasized the political value of the commitment to pluralistic openness it implies as an antidote to the narrow judgmentalism of the conservative and religious right. Davydd Greenwood, in another incisive commentary on the same earlier draft, similarly suggested that cultural relativism should be conceived in this way more as a method than a theory. These points are well taken, but they do not gainsay the need for a theoretically grounded transcultural principle of justice or equity capable of serving as a basis for human rights, nor do they clarify the relation between such a universal criterion and the modest form of cultural relativism they advocate. Such a “default” approach to cultural or ethical relativism only underlines the need for a transcultural criterion, because in itself it gives no guidance for dealing with cases which still appear to constitute violations of elementary justice or human rights even after the acts, practices, or beliefs involved have been analyzed and understood in their cultural context.

There is no question that rights come in a great variety of forms and contents in different societies and cultures. At one extreme of this continuum of variation, some simple stateless societies clearly lack notions of specific “rights,” in the sense of specific claims upon, or against, other members of the society or society as a whole, or differentiated social mechanisms for enforcing them. This is one reason why inductive efforts to discover a universal cross-cultural core principle or principles of human rights through a comparative survey of specific rights recognized by all the world’s cultures, as advocated for instance by Renteln (1985, 1990), seem unlikely to succeed. Specific rights claims, however, are implicitly (and in many cases explicitly) based on more general principles of fairness, rightness, justice, or equity. It is possible that such general principles might turn out to be shared by cultures and societies with dissimilar rights or even no conception of rights in the strict sense at all. Differing cultural formulations of rights might conceivably be understood as extrapolations under different contextual conditions of such common, transcultural principles of right, equity, or justice. These in turn might be interpreted as arising from some generic aspect or aspects of being human; that is, in the anthropological sense, of becoming enculturated as a member of a particular society and integrated into its system of social relations.

Even if a universal criterion of justice or right could be established by such an empirical survey, this would still not answer the crucial question of the cause of its universality: in other words, what aspect of human species-being makes the principle in question a universal basis of human rights? To answer this question, however, would necessarily involve going beyond cultural relativism in its strong form as a claim that there are no cross-cultural universals. A universal principle of right or justice, grounded in some general attribute of humanness, would become a critical principle, applicable as a standard of moral and political evaluation to all specific cultural formulations of rights. It would in principle also be applicable to cultures lacking any specific forms of rights, in either of two senses: firstly, as a reason for defending the rights of such societies against abuses by other societies or states and, secondly, as a justi-

fication for the protection of individuals or groups within a society, even if that society failed to recognize the relevant forms of rights.

Rights are not merely cultural concepts; they are also normative constructs that implicitly or explicitly apply more general moral and jural-political principles to social relations that demand their application in practice by social actors in appropriate contexts. They are, as such, dual constructs, combining general moral and jural principles and specific normative formulations that point beyond the sphere of cultural constructs to that of material social action. This pragmatic aspect of rights may be bracketed and ignored by an anthropological observer interested only in cultural conceptions of rights, but it is unavoidable by an anthropological activist seeking to put rights, or the principles on which they are based, into practice. In this crucial respect, human rights activism drives the development of a more pragmatically grounded anthropological theory of rights.

The problems of judgment and appropriate action remain after the best possible efforts at culturally contextualized, ethically relativist understanding have been made. It may also be suggested that if anthropologically principled grounds for defending the rights of disprivileged or marginalized persons and groups can be articulated, they would provide a stronger basis for defending the human and pragmatic cultural relativist approach advocated by Hatch and Greenwood against right-wing assaults on cultural and social diversity than the humble if practical defense of that approach as a "default method." What is really at issue here is whether anthropologists still believe in the possibility of discovering universal attributes or principles of human species-being that are specific enough to have definite implications for issues like human rights but are nonetheless flexible enough to make due allowance for cultural variation (this is perhaps a more delicate way of asking whether they still believe in anthropology as a discipline committed to discovering what it is to be human).

If anthropological analysis or interpretation can give substantive meaning to the generic fact of being human, then there is no logical reason why this could not be employed as a critical standard in investigating whether the practices and beliefs of particular cultures prevent the realization of such generic aspects of humanness by some of their members (or nonmembers). Such a transcultural critical principle would clearly be incompatible with subjective idealist forms of cultural relativism that hold that the conscious meanings and values of cultural forms for the members of a culture are the only legitimate standard by which the social conduct of its members can be judged. This position leads to the familiar argument that since culture X or society Y lacks any explicit concept of rights, or any notion of common humanity extending to people of different race or ethnicity, it is a violation of their cultural integrity to judge their beliefs or practices towards one another or others by reference to a universal cross-cultural standard. This was the position of Herskovits, in the statement he authored on behalf of the AAA explaining the Association's opposition to the United Nations Universal Declaration of Human Rights in 1947 (American Anthropological Association Executive Board 1947:539-43).

It is noteworthy that Herskovits framed the issue exclusively in terms of the illegitimacy of imposing *Western* values on other cultures, not the application of a transcultural standard on all cultures (although it is reasonably clear that he did not accept the possibility of such a culture-free critical standard).

Relativistic arguments of the Herskovitsian sort, however, fail to deal with the common humanity or species-being of all people, as members of all cultures. Given that all cultures are products of beings of the same (human) species, culture in an abstract sense can be considered a generic attribute of the species as a whole. At this abstract level, it seems reasonable, if currently unfashionable, to posit the existence of universal features of humanness and thus of culture. This in turn opens up the possibility, at least as far as logic is concerned, of universal principles of justice, equity, or reciprocity as constituents of all cultures. There is, after all, no logical incompatibility between a pragmatic cultural relativism, understood as a method of understanding how the specific content of social practices or cultural forms has been conditioned by their relations to their cultural, social, and historical context, and universal or transcultural principles considered as constituents of the human capacity for culture.

The mere existence of cultural differences does not logically preclude the possibility of cultural universals, any more than the specific differences among languages preclude the possibility of universal features of language. Discussions of the compatibility of cultural relativism with empirical or theoretical cultural universals should start from the recognition that cultural relativism is itself, paradoxically, a universal claim about the nature of culture in general that presupposes the proposition that all "cultures" are entities of the same type. It is only this implicit assumption that endows cultural differences with the significance they hold for the relativist (otherwise relativism would be reduced to the absurd insistence that cultural differences are merely dissimilarities between different kinds of things, which would make pointing to them both tautological and trivial).

That cultures differ in specific ways thus does not in itself contravene, but rather logically presupposes, the possibility that universal properties or principles of culture might exist at a more general level. The relativist argument that to be human is to be enculturated in a specific culture and social system, different in many respects from all others, does not gainsay that the processes through which people produce their societies and themselves in all their cultural uniqueness might themselves share common features. Processes of social and cultural production and reproduction, rather than cultural traits, values, or norms abstracted from the social processes in which they are produced and used, might thus be considered as the matrix of general attributes of human species-being. "Universal" attributes conceived in this way would be quite compatible with a pragmatic cultural relativism that understands specific cultural differences as the products of activities that mediate universal human capacities to contextually varying circumstances. Such universal capacities might in turn be interpreted as grounds of universal principles of justice, equity, or reciprocity and thus also of jural formulations of rights where they

exist. Cultural variation, in sum, is the result of processes that may themselves have universal properties.

At the same time, it is equally true that no such universal human qualities or capacities can be realized in the abstract, but only through the production of specific social and cultural differences. This fundamental anthropological point, however, has only gradually been related to the concept of human rights. Recent historical developments involving the state, the global economic system, and the development of new social movements and cultural politics have catalyzed this conjuncture in important ways. In the balance of this article, I attempt to trace this historical development. In conclusion, I discuss the formulation of an anthropological perspective on human rights in terms of a respect for human differences and their production, as articulated by the new Committee for Human Rights of the American Anthropological Association, and point out certain contrasts between this approach and a postmodern conception of "difference" as the basis of a theory of rights and justice.

UNCIVIL SOCIETY, THE CRISIS OF THE STATE, AND THE CULTURAL POLITICS OF HUMAN RIGHTS IN THE CONTEMPORARY WORLD CONTEXT

The legacy of Enlightenment Liberalism to current thinking about human rights is profoundly ambiguous. On the one hand, the categories of social relations, human nature, and human rights that comprised this vision were framed in universalistic terms abstracted from specific class relations, ethnic differences, or other social or historical conditions. Up to a point, these universal, ideological categories corresponded with the revolutionary achievements of early modern bourgeois social practice: the creation of universal, abstract categories of individual identity, space-time, and value, as embodied in the universal abstract forms of free and mobile labor, money, the commodity, and the market, all in turn based on capitalist social relations of property, production, and commodity exchange. These universal categories of Enlightenment social theory and concepts of rights, however, were formulated from the standpoint of the dominant class position of the bourgeoisie, which commanded free and universal access to the relations in question, a standpoint not shared by other groupings of the population, which remained beyond the Liberal field of vision. The political-economic and social class conditions of the universality of these political-economic categories remained unrepresented within the ideological system of categories itself. Their universality consequently assumed the guise of a natural condition; in other words, of inherent properties of human nature.

The severance of political-economic, jural, and cultural categories from their roots in pragmatic social practice and class relations has continued to limit and mystify contemporary approaches to human rights issues (not to mention anthropological and social theory more generally). On the other hand, the Enlightenment attempt to ground social and political relations in universal principles independent of existing social relations and cultural values, an inte-

gral aspect of the revolutionary program of the rising bourgeois class, had liberating implications and established, however incompletely, the modern tradition of critical social thought. For Enlightenment Liberal social thinkers, the crucial point was to grasp, imaginatively if not analytically, that humanity could become something different than it was under actual social conditions and could more fully realize its innate capacities by becoming more aware of those capacities and shaping society to permit their realization by the population as a whole. This vision was embodied in the Enlightenment conception of human rights; in Thompson's words,

The Liberal discourse on human rights is, then, a moral *argument* that societies need to establish the conditions in which human potentials for personal development can thrive and flourish. (Thompson n.d.:5)

It remains for contemporary anthropology, in partnership with other disciplines, to give a more adequate theoretical foundation to this vision and for anthropological activism, in partnership with other groups and social movements, to help realize it in practice.

Political, social, and economic developments in the last third of this century have propelled human rights to the center of the international stage as a concern of new social movements, nongovernmental organizations, national and international politics, and significant sectors of public opinion. One of these developments has been the domination of social policy in many states by neoliberal elites committed to narrowing the role of government as a defender of the interests of economically impoverished and unproductive elements of the population. Another has been the decline of nationalism at the state level and the rise of nationalist-style movements among ethnic, indigenous, racial, and cultural groups, as hegemonic state elites have increasingly reoriented themselves from exclusive identification with their states towards participation in the transnational system. The contemporary state has not so much lost power or importance as changed its functions and basis of legitimation. It now owes much of its legitimacy in practice to its role as a mediator between global economic processes and its internal economy and social system. The legitimation of the state has thus increasingly come to depend on its economic performance in this role as mediator of the transnational and national levels of the global system. This has been accompanied by a tacit abandonment of the principle of popular sovereignty by the ruling elites and hegemonic political cultures of First World countries (and many others). Instead, the sovereignty of the state is now based as much on its perceived efficacy as a guarantor of a satisfactory piece of the economic action to those sectors of its population in a position to demand it (i.e., those in a position to contribute to it) as on any power conceived to be uniformly vested in the people. The narrowing of the political and ideological base of national community has thus given rise to a latent crisis of sovereignty in the contemporary nation-state (Gill 1994; Turner n.d.).

The secular economic slump of the 1970s and 1980s left large sections of

the population of the states of the First, Second, and Third Worlds disillusioned with the failure of economic development under state auspices to deliver rising standards of living and personal social mobility. One impact of the converging economic and political crises has been to undermine the nationalist ideal of common citizenship, which previously served to hold together the disparate groups and social elements of national societies and multiethnic nation-states under the hegemony of ethnic and class elites. There has accordingly been a centrifugal tendency for minority, disprivileged, and marginal groups within the state to revalue and assert their social identities on the basis of the social and cultural differences that set them apart from the rest of the national "community," rather than to continue to seek assimilation in the national "melting pot." "Difference" in all its cultural, ethnic, regional, and gendered forms has thus become a political touchstone.

At the same time that they assert and defend their differences from the nation as a whole and other groups within it, the ethnic and "identity" groups and other new social movements of the past two decades have tended to appeal to universal standards of equality, justice, and rights as the basis of their collective claims against the state for recognition of equal rights, cultural value, and economic opportunities on a par with those of other groups within the same state. Differentiation at one level thus begets uniformization at another, and relativistic assertions of difference give rise to appeals to universal principles. The same pattern is replicated at the level of the world system: the same process of global economic development and political coordination that increasingly forces nation-states to disintegrate into heterogeneous ethnic and identity groups simultaneously compels all groups, nations, and states to conform to its uniform system of market relations, financial regulations, and forms of commodity consumption. Anthropological attempts to reconcile cultural relativism and human rights universals may be understood as one among many eddies in this global current.

Another effect of the overlapping economic and political crises is that considerable portions of the lower, working, and middle classes and marginalized or disprivileged minorities, etc., have become increasingly alienated from the normative political institutions and processes of their countries. Some of these groups have sought socially meaningful forms of parapolitical action, oriented above and beyond the political system of the state towards universal social, ethical, and cultural values. Human rights and environmentalism are the leading examples of such "new social movements." This tendency has thus converged with the tendency of ethnic and identity movements to legitimate their claims and goals by appeals to universal human values. Human rights as a current political and ideological cause has been both inspired and empowered by this convergence.

As national polities have tended to fragment into subnational identity and ethnic groups, the newly assertive identity or ethnic groups have tended to appeal to universalistic values that transcend the state and its national political institutions: human rights, environmentalism, disarmament, etc. Such uni-

versal values and causes are now felt by many to confer a legitimacy superior to that vested in the conventional institutions and processes of state politics. The social vehicles and defenders of such universal values tend to be national or transnational movements, institutions, and consensus on the rights of minorities, "peoples," and categories such as women and children. This tendency marks a tentative reorientation of the concept of rights from norms proclaimed and enforced by the state to principles supported by global opinion, nongovernmental organizations, and sometimes intergovernmental institutions like the United Nations that can bring moral and political pressure to bear on states to recognize and enforce the rights in question.

Some of the identity groups and "new social movements" that champion such universal values have increasingly tended to communicate and collaborate in political actions and informational campaigns to further common political causes and struggles for rights. An emergent transnational community of movements and groups has begun to coalesce as a new, global extension of civil society, in complementary opposition to the longer-established sector of global civil society comprised of private transnational corporations. Strictly speaking, the term "civil society" is not wholly appropriate for networks of actors and movements motivated by collective and altruistic concerns rather than individual or corporate self-interest. Hegel, Marx, and other nineteenth-century thinkers employed the term "civil society" to refer to the sphere of individual activities in pursuit of self-interest, as represented by bourgeois business enterprise, while collective values and aims were defined as properly the concerns of the state.

The new nongovernmental organizations and social movements thus represent an anomaly in terms of the state/civil society dichotomy as originally conceived. I nevertheless use the term "global civil society" to apply to such movements, with the qualifications duly noted, as a way of emphasizing their independence of, and frequent opposition to, the state. Global civil society in this new sense takes the form of a great number of mutually independent organizations, environmental and rights activists, sectors of the media, and public opinion, which are increasingly tending to become loosely associated in latent partnerships that may be periodically activated in what Keck and Sikkink (1995) have called "issue-oriented networks." "Global civil society" in this sense, even in its present embryonic form, challenges both the political limitations of the existing system of nation-states and the unchecked power of private transnational capital, which constitute global civil society in the more conventional sense of private transnational capitalist corporations.

Despite the looseness and informality of their organization, such networks have nevertheless repeatedly proved capable of mobilizing *ad hoc* transnational coalitions of movements, groups, and opinion in support of the goals and causes to which they are committed. An impressive number of these attempts have succeeded in constraining or confounding "realist" planners and politicians committed to state and global political and development agendas. Neither the mobilization nor the effectiveness of this new form of global civil society would be possible without its connections to the media and the ability to make use of

the new, decentralized informational and communicational technologies—the personal computer, fax, e-mail, and the Internet—that form an integral element of the world system in which this global civil society has arisen.

Some of the crises that have led to mobilizations of global issue-oriented networks in recent years have centered on abuses of the rights and environments of indigenous minorities by states and national societies. In such crises, indigenous groups, the most peripheral elements of the periphery in the preceding, nation-state-dominated phase of the world system, have found themselves with increasing frequency at the center of transnational conjunctures of global and local forces, as when development projects implemented by state governments and supported by transnational financial institutions violate their environments and human rights and elements of international civil society take up their cause. Such conflicted conjunctures become crucibles in which the combined forces of states and the capitalist world economic system become pitted against those of the emergent global civil society. These confrontations have led to significant revisions in the balance of forces and operating constraints of states and transnational economic and political institutions in relation to local groups and global civil society. They have thus become fraught with significance for the development of the world system as a whole, far beyond the local conjunctures of events which occasion them.

This is the political and historical context in which issues of “human rights,” both individual and collective, have risen to unprecedented prominence at all levels of civil society—subnational, national, and global. In suggesting that the growth of the human rights movement in the past three decades (and related causes such as indigenous peoples’ rights) can be understood in part as a reaction to political alienation in contemporary states under conditions imposed by global capitalism, and in particular the effects of neoliberal policies, I do not intend to imply that human rights are merely a form of false consciousness or alienated displacement of underlying economic forces. On the contrary, the concern with human rights seems to me to spring from an all-too-well-founded feeling that the dominant economic, social, and political tendencies of contemporary states are destructive of essential aspects of sociality, civility, and thus of “humanity,” understood as implying a degree of mutuality and interdependence in the production of social life and co-responsibility for common social actions and decisions, all of which are excluded by current state policies and political-economic tendencies.

It is no accident, then, that human rights have emerged into global prominence as one of the main issues championed by new social movements at the same time that social, political-economic, and cultural changes have been transforming the pragmatic meanings of “society,” “culture,” “nation,” “civil society,” and “the state.” These changes have involved fundamental divergences from the social and political-economic structures and philosophical assumptions on which the Enlightenment Liberal approach to human rights was based. This approach, with its exclusively individualist concept of rights and its rigid distinction between civil society and state, according to which individual mem-

bers of civil society have and exercise rights and the state, as the embodiment of collective values and interests, defines and enforces them, has thus seemed to many to have been contradicted and rendered socially irrelevant by the very historical changes that have given rise to the recent human rights movement.

As Kothari (1991), an acute Indian critic of the Western individualistic approach to human rights and of the Indian human rights movement that is directly derived from it, has recently argued, the Western approach is too state centered. It seems helpless to deal with the ironic contradiction that the state has become the main abuser of human rights, while simultaneously remaining the sole source of redress envisioned by the human rights movement. As a result of its dependence on the state both to provide and protect rights and its reliance on a legalistic conception of "civil society," Kothari charges, Indian human rights activists have tended to ignore the pragmatic role of other social collectivities and processes in producing, defining, and defending social persons and groups. Furthermore, as Kothari argues, the concepts of civil society and the individual with which human rights movements operate ignore the roots of individual identity in such collective groups and processes, as well as the extent to which society is directly constituted by such collective groups and communities, rather than by either individuals or states. They also ignore the ideological character of the concept of civil society as a mystified representation of middle-class hegemony:

A conception of rights based on universal norms of freedom, equality, ownership and opportunity ignores historic specificities and community contexts that define human roles and undermines the position of less privileged groups in society. (Kothari 1991:27)

As Kothari points out, "civil society" in the sense presupposed by Western Liberal philosophical and legal thought has never existed and does not now exist in most of India and other parts of the Third World. The attempt to impose the legal forms and standards of "civil society" upon traditional and communally organized societies may therefore itself become a socially destructive abuse of rights. What then, he asks, can be the theoretical basis of the definition and defense of the rights of persons and groups comprising what he calls "communal" as contrasted to "civil" society?

Kothari's criticisms of the inapplicability of Liberal Western rights concepts to Indian society converge with the critique of Enlightenment Liberalism's approach to rights I have offered above and are ironically becoming increasingly applicable to contemporary Western society as well, if for partly different reasons. As Western nations and civil societies progressively differentiate themselves into various kinds of subnational groupings and heterogeneous cultural identities, they increasingly present problems of communal and collective rights inconsistent with received Western notions of civil society but similar in key respects to the problems of Indian society discussed by Kothari. Collective rights and "the rights of peoples" are consequently among the most

controversial topics among human rights theorists. There is no space here to deal with the many theoretical and practical policy problems that have arisen (a useful review is provided by Thompson n.d.). Suffice it to say that the issue of collective rights in its various forms has emerged as one of the most important areas in which changing social and political-economic realities in the First World and at the world system level have converged with Third- and Fourth-World challenges to the individualistic Liberal approach to human rights.

Kothari aptly entitles his essay "Human Rights: A Movement in Search of a Theory." The title is as apt for the human rights movement in the West as for its Indian counterpart. It is certainly apt for the attempt to apply concepts of human rights to "Fourth World" or tribal societies and indigenous minorities, insofar as these remain organized in ethnically and/or culturally distinct communities. It may seem that issues of indigenous rights constitute a relatively small and insignificant corner of the field of human rights as a whole and a relatively diminutive factor in the world crisis of late capitalist society. Indigenous peoples' rights issues, however, have a significance for the human rights movement as a whole and for its theoretical foundations out of all proportion to the size and social role of indigenous groups in most national states. This is partly because indigenous groups pose the issue of collective rights in a uniquely compelling way, being both legally defined and politically and economically abused as collective groups, while in many cases, at least, lacking internal counterparts of "civil society" and "individualism" in their Western Liberal senses. It is also because the social distinctness and political status of indigenous peoples within national societies are so clearly based on cultural difference, and the issue of their collective rights therefore appears as an issue of the right to cultural difference.

Recent historical developments affecting the world system, the nation-state, and civil society, in sum, have converged with issues raised by anthropological human rights activism and human rights movements in the Third World to transform the social, political, and cultural context in which human rights became defined in Enlightenment Liberalism, which remains with few essential changes the dominant tradition in discussions of human rights today. As a result of these historic transformations, issues of cultural and ethnic difference and collective rights have become salient, and the axiomatic link between human rights and the state has been called into question. To a significant extent, these issues have entered theoretical discourse on human rights in anthropology and other disciplines by way of the practical experience of human rights activists, who have been forced to deal with them pragmatically in their work.

HUMAN RIGHTS AND HUMAN DIFFERENCE: AN ANTHROPOLOGICAL PRINCIPLE OF RIGHT

Largely as a result of the practical experience of the members of the Committee for Human Rights of the AAA, as activists dealing with abuses of the rights of indigenous peoples and other cultural minorities, the issue of difference assumed a central place in the Committee's Draft Declaration on Human

Rights. This formulation was intended as a working definition that could provide a basis for action by the Association on cases of human rights violations. The key passage from the Committee's statement on guidelines for action on human rights issues, to which I referred earlier, runs as follows:

Anthropology as an academic discipline studies the bases and the forms of human diversity and human unity; anthropology as a practice seeks to apply this knowledge to the solution of human problems. As a professional organization of anthropologists, the AAA has long been, and should continue to be, concerned whenever *human difference* is made the basis for a denial of rights—where “human” is understood in its full range of cultural, social, linguistic and biological senses. (emphasis added; Commission for Human Rights 1995; passage published in Commission for Human Rights 1993)

In the terms of the document, “human difference” is a criterion of human rights because it comprises the concrete specificity of what humans, individually and collectively, have made of themselves, evolutionarily, socially, and culturally. As used in the text, “difference” refers to specific cultural, social, linguistic, or biological features, which are contrasted, as variable and contingent products, to the universal human capacities that enabled their production: in the familiar anthropological phrase, the human “capacity for culture.” The “capacity for culture” is essentially the power to produce social existence and thus to determine its meaning and social form. “Difference,” as a principle of human rights, denotes the products of the realization of this power. It is thus essentially a principle of empowerment.

“Difference” appears in the statement as a more general criterion than “rights.” The latter, while not directly defined, are treated by implication as relatively more specific claims. While difference is explicitly cited in the statement only as an invalid basis for denying rights, rather than a positive principle of right in itself, the implication is that the right to difference may constitute a positive, transcultural basis of human rights. The statement does not specify or imply that the general human capacity for culture, defined as the power to produce culturally significant difference (i.e., to be or make oneself different in some socially significant cultural, social, linguistic, or physical respect), is vested exclusively either in individuals or social groups. Rather, the implication is that it inheres in both. The criterion of difference as formulated in the statement thus implicitly provides a positive conceptual basis for the recognition of the rights of individuals *and* collectivities to realize their mutual potential to produce or realize themselves as meaningfully distinct (“different”) beings.

Also implicit in the criterion of “human difference” as a fundamental human right (and explicit in the preceding paragraphs of the statement) is that it is equally present among all human groups and individuals. It is thus inconsistent with claims by any individual or group to have the right to be able to realize its identity or values at the expense of other, different groups or indi-

viduals or to prevent their realization of themselves in ways different from its own. It certainly gives no license for the suppression of cultural differences between communal groups or individuals by a state government acting in the name of a supposed collective “right to development,” as certain regimes have recently argued. Instead, it provides a positive conceptual basis for the promotion of the rights of individuals *and* collectivities to be able to realize their potential for mutual self-production. At the same time, the criterion of difference is open-ended: it implies that people have a right not only to the different identities they have produced for themselves in the past, but also to those they might produce in the future. It points, as such, not to a concept of culture in terms of inert and historical structures composed of essentialized traits or canons, but to the active historical process of creating cultural (and social and linguistic) meanings, identities, and forms.

As far as the authors of the Guidelines of the Committee for Human Rights of the AAA were concerned, the criterion of difference emerged from the need for a common principle or general rule of thumb to guide action on the cases that were constantly being brought to the Committee and encountered by anthropologists in the field. In contrast to the Enlightenment Liberal standard of universal human nature conceived as embodied in self-existing, presocial individuals, the Committee’s formulation in terms of human difference is a context-sensitive principle, grounded in pragmatic contexts of contrastive social identity and practice. It equally emphasizes the collective and individual dimensions of “humanness.” Collective differences, in other words, are considered to be equally as “human” as individual differences, and all individual rights are considered to imply a collective dimension. At the same time, the criterion of human difference as adopted by the Committee attempts to combine a universal principle with a cultural relativist recognition of the fundamental importance of cultural, social, and individual difference.

DIFFERENCE, RIGHTS, AND CONFLICT: PRINCIPLES, POLITICS, AND PLURALISM

To say that people have a right to their differences (as the AAA statement does) does not, on the other hand, imply that they have a right to impose them on one another or to force others to accommodate their different values and social practices at the expense of realizing their own. Nor does it imply that the equal realization by everyone of their different values, social forms, and identities should result in an euharmonic society free of conflicting rights claims by different parties. On the contrary, conflict over rights is to be expected as a by-product of social relations of cooperation and competition among parties to social situations in which each acts to achieve differing needs and values, on the basis of different capacities. In this perspective, the criterion of human difference implies a reconception of the role of social practices and institutions, such as the state, as mediators, arbiters, and regulators of multiple, divergent, and potentially conflicting cultural identities. Advocacy and defense

of human rights thus carries over into the complex struggle for pluralist civility, with its intrinsically political corollaries of accommodation and compromise, after the battles for fundamental rights have been fought and won. The defense of the right to difference thus points toward the essential continuity of rights advocacy and political struggles for empowerment, liberation, and civility. The ultimate futility of the attempt to isolate human rights from political issues implies that the human rights movement, and above all anthropologists as human rights theorists and activists, must assume a more broadly political conception of their task. Here my argument reconverges with Kothari's critique: in his words,

Involvement in a politics of transformation on the one hand and a politics of conserving ecologies, cultures and life-styles on the other—alongside preserving the dignity and values associated with the feminine gender and ethnicity—must of necessity become the concern of a broadly defined human rights movement. (Kothari 1991:23)

A DISTINCTION OF DIFFERENCES: POSTMODERN DIFFERENCE AS PRINCIPLE OF JUSTICE?

"Difference" has played prominent though contradictory roles in recent theorizing about both culture and human rights. To avoid confusion on both the practical and theoretical levels, it is important to clarify the differences among these conceptions of difference and their contrasting implications both for action and social theory. To this end, Young's attempt, in her book *Justice and the Politics of Difference* (1990), to construct a theory of justice and rights on the basis of a Derridean notion of difference provides a useful point of critical contrast.

Young's discussion well exemplifies the advantages and limitations of the Derridean approach. She offers an excellent deconstructive critique of distributive theories of justice and develops an alternative theory of rights as freedoms to act, thus appearing to converge with the treatment of difference as the product of self-productive action I outlined in the preceding section. Her attempt to frame her approach in postmodern terms derived from Derrida, Adorno, and Irigaray, however, involves her in a series of logical contradictions that inevitably become political confusions. Seeking to realize "the emancipatory implications of postmodernism" (as stated by Ben-Habib, on the cover of Young 1990), Young advocates an "egalitarian politics of difference" based on a "fluid and relational" definition of difference "as the product of social processes" (Young 1990:156). So far, so good; but the concept of difference she attempts to graft onto her argument for difference as "social product" is one that defines social actors and their products (i.e., discourses and identities, and thus by implication society *tout court*) as themselves the *products* of difference, conceived as a self-acting demiurge.

As Young (1990:157) says, "At stake is the meaning of difference itself." She develops a theoretical argument based on a Manichaean contrast between "the

logic of identity,” defined as “the suppression of difference” and identified, by way of Derrida’s “metaphysics of presence,” with received legal and democratic theories and social-scientific approaches, and “the logic of difference,” conceived as “the play of concrete events and the shifting differentiation on which signification depends” that “outruns totalizing comprehension” and thus remains open to the “sensuous particularity, ambiguity and flux of experience” (Young 1990:98). While inveighing against essentialization, she seems unaware that her formulation is itself an essentialization of difference. She denounces the repressive social homogenization which she sees as the political consequence of the grounding of received forms of democratic theory in an essentialized “logic of identity,” but she overlooks the far more repressive forms of gender, class, and ethnic inequality that have historically been based on essentialized “logics of difference.” It is precisely against such abuses of human difference that the statement of the AAA Committee for Human Rights is directed.

Young realizes the contradiction inherent in conceiving difference as “absolute otherness” and correctly insists that it can only be understood as relative contrast; social identity, she writes, is “a combination of identity and contrast, [or] background/foreground contrast” (Young 1990:98). The nature and derivation of such unifying background principles of identity, however, are never made clear, and the main thrust of her argument elsewhere is that difference is a logical and political principle incompatible with “totalizing systems in which the unifying categories are themselves unified under principles” (Young 1990:98). In such formulations, Young seems to reject any role for “unifying” principles (i.e., universals or invariants underlying variation). Her main argument thus assumes a form analogous to extreme cultural or ethical relativism of a kind that leaves no room for universals (with the one apparent exception noted below).

Young’s conception of “difference,” in sum, is logically incompatible with any universal, or in her terms “unifying,” principle of justice or rights other than difference itself; but here we come to the fundamental contradiction and point of essentialization in her argument. In her Derridean conception of difference, there can be no nonarbitrary connection between the representation of difference in discourse and any real social actions or relations that may have served as its referent. The latter would survive, if at all, only in “deferred” form as a “trace” with no determinate relation to the floating signifiers through which it receives cultural expression. To suggest that difference as a principle of justice or rights might be grounded in the “identity” of the human capacity for self-production, conceived as a real quality actualized in material social activities, or to denounce a denial of equal rights on the grounds of a racist interpretation of difference as inequality would alike become impossible, because both would imply an appeal to the “metaphysics of presence” (i.e., real human activity by real human subjects as the source of the differences in question).

Against this view, I have argued that difference, as a fundamental feature of social, cultural, or human biological phenomena, is a product of action by human agents; it cannot be conceived as a producer of itself. Only productive

action can be the universal ground of the infinitely various and open-ended human differences it produces. The only possible unifying ground of identity of this infinitely variable productive activity is the capacity of human agents to engage in it, a capacity they can only realize in relations of social cooperation. To substitute for this productive power a reified abstraction of its own product (“difference/differance”) is not so “emancipatory” as might at first appear, since it deflects the focus of critical consciousness and support from the agency of human subjects to the objectified products of their activity and gives no basis for the critique of real social conditions both through discourse and organized activity, whether of resistance or support. In contrast, the statement of the AAA Committee for Human Rights, in denying that human difference in any form can legitimately be used as a pretext for denying rights, avoids the fetishization of difference at the heart of Young’s treatment of “difference” as an essentialized principle of justice and points the way to a genuinely emancipatory politics of supporting and defending real human differences.

NOTE

1. Elvin Hatch, as discussant of this paper at the 1995 AAA Invited Session in which it was presented, made several valuable criticisms that I have tried to take into account in the much changed present version. Davydd Greenwood also wrote a challenging and perceptive critique that led me to rethink and reformulate several of my main points. The readers of the draft for the *JAR* made numerous thoughtful criticisms which resulted in major changes. I also wish to thank Richard Thompson for permission to quote from his unpublished article, “Ethnic Minorities and the Case for Collective Rights,” to appear in the *American Anthropologist*.

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