Universal Relativity:
An Exploration of the Universal Morality vs. Cultural Relativism Debate
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With this paper I will address the challenge posed to the whole human rights project by the current debate between what are typically called ‘universalist’ and ‘relativist’ positions. In summary, I suggest that the debate suffers from an essential failure to recognize the different positions taken within this discourse; that is, there are actually two (at least) conversations contained within the discourse. Without an explicit acknowledgement of the different positions taken, the debate will inevitably fail to be productive. I also argue that both the relativist and universalist positions are intrinsically flawed: close analysis reveals that they contain elements of each other, and their claims to exclusivity dissolve. A recognition of these similarities by both positions can enable the human rights movement to overcome the impasse caused by the perception of difference. However, I suggest that the human rights movement as a whole can nevertheless benefit substantially from a fuller engagement with the numerous valid points brought up by each position if those holding fast to one position or the other can recognize the good and bad in each. Finally, I argue that a conceptual shift on the part of the whole human rights movement away from the location of a right to protection in potential victims and a move instead towards the responsibility of potential violators will assist the whole movement in transcending the philosophical dead end exemplified by the failures of the present debate.

As Ronald Cohen (1989) has cautioned, “…it is at best irrelevant, or worse even mischievous, to assert and defend simplistic polarities of relativism versus universal moral imperatives. What is desperately needed…is a search for some middle ground.” I am in this paper intentionally focusing on the extreme end of both the universal and relativist positions; not to imply that all taking part in the debate are simplistic and extreme, but rather to tease out some of what I see as the core flaws within the debate. It should thus be borne in mind while reading this paper that few people likely hold the extreme positions I'm describing. However, by exploring the extreme end of both debates we will also be able to better understand some of the core assumptions of more moderate positions – just as a caricature, by emphasizing a few features, can sometimes clarify certain characteristics.

The Many Conversations Within the Discourse

It is first important to acknowledge a point which many proponents of both approaches appear to have missed. This is that it is not merely the argument as to whether the ideals of
human rights ought to be considered universal, applicable everywhere; or viewed as culturally
specific ideals which may not be appropriate to apply to all cultures. The disagreement goes
to the core of each project. Also, there is a distinction that can be usefully drawn between
arguments for either position in terms of some kind of ‘pure’ morality on the one hand, and as
a set of legally enforceable norms on the other. Addressing specific threads within the
universalist and relativist positions, I argue that the two approaches, though they have
very similar goals, have profoundly different understandings of how those goals should be
accomplished and even expressed. The result of this, in terms of the discourse, is that
misunderstandings are perceived as opposing views: because the foundation of each position
is close enough to be mistakenly considered the same and yet distinct enough to necessitate a
nuanced understanding of difference, there is an assumption of common ground that does not
exist and a consequent failure to see common ground that does.

For purposes of analysis, we may differentiate the main conversations about human rights as
one which deals with human rights as a purely legal regime involving treaties and various
enforcement mechanisms; and one which is essentially a moral debate about how to create a
more just society. Within this moral debate, there are two primary approaches, though there
certainly may be subsets within them. For our purposes here it is sufficient to differentiate
between an approach which ultimately aims for a society in which there will be no more
human rights violations (which I believe underlies the relativist position); and an approach
which aims for a society in which all victims of human rights violations will have redress, and
all violators punished or perhaps rehabilitated (which I believe is the foundation of the
universalist position). These are fundamentally different positions: though both are
ultimately working towards a better world and for empowerment and protection of victims
of human rights violations, the difference in starting point has a significant role in
determining means and method. Making these differences explicit can help substantially in
understanding the complexities of the present debate and in moving it forwards. With these
differences in mind, I will now examine the foundations of each of these moral positions.

**Human rights as a universal morality**

From the ‘universalist’ perspective, there is essentially one morality which is valid
everywhere and for all people. This fits well with, in fact may even imply, a legalist approach. If there is
one morality then it is no great leap to imagine that one approach to violations of that morality will suffice. This approach sees itself as pragmatic in that it understands that people will always treat one another badly, for a variety of reasons; the best we can do is to provide redress for the victims and some sort of palatable retribution for the violators. The traditional methods of understanding the world or addressing various types of crimes or atrocities are no longer sufficient, in a globalizing and technological world. Precisely because we are living closer together than in the past we must find ways that we can all agree on certain issues: for instance, what constitutes a minimum standard of humane treatment and how we might achieve it, and how we will address situations where that standard is not met. Law, with its implicit capacity to deal justice, is an ideal way of approaching this situation. The challenge becomes finding a set of laws which can be universally applicable, and developing institutions which can apply them. This obviously leads into a very familiar debate in the human rights discourse: it deals with treaties, with enforcement, with venues and jurisdiction. From this perspective it is easy to understand why those who believe in this approach react strongly to the claims of relativism: the very concept undermines the foundation of not only the idea of a globally applicable morality but also the legal approach. If we develop law to enforce a globally applicable morality and that morality turns out not to be globally applicable, both the law and the morality—and thus the justification for the entire project—fail. It must be recognized also that most human rights activists with this perspective feel strongly about their work and are often dealing with issues which are (relatively) clear cut—war criminals, genocidiars, and torturers. From this vantage, relativist arguments against the whole system simply because of some squeamishness about telling someone they can’t beat their wife or mutilate their daughter’s genitals because it might be disrespectful of “culture” are absurd: indeed, offensive. It is difficult for many to get beyond the apparently obvious fact that a culture which would engage in whatever practice it is we find offensive is so clearly disrespectful itself that it doesn’t deserve protection. The ideal accomplishment of this universal morality would be a world in which every victim has their wrongs redressed and every violator is punished and perhaps rehabilitated.

Human rights as a relative morality

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* Another important and relevant discussion is the exact nature of the relationship between law and justice; however, this is not the place for it.
The ‘relativist’ perspective, while very willing to see that it is somewhat problematic to defend something that might be seen as obviously distasteful or even horrifying, is uncomfortable with what appears to be a slippery slope of imposed morality. This perspective raises numerous important questions: if there is a universal morality, who gets to decide what is inside that morality, and what is outside? There is a recognition that many times people within a culture might defend even their own subjugation to a practice we find offensive; who are we to judge whether they really want it or if it is only their culture making them thinking they want it? The cultural relativist sees that claims of universal morality must rely on assumptions of ‘false consciousness’—that though people within a particular culture may defend a practice ‘we’ find offensive, ‘we’ know that they are simply mistaken—and wonders how to address the inherent arrogance that this claim of false consciousness implies.

There remains, from this position, a strong desire to work towards the realization of a better world, a world in which people will not be subject to fear and pain and deprivation. The approach, however, is fundamentally different. Rather than attempting to develop a means of judgment (of morality) and enforcement (of standards) which is universally applicable, the hope is that people from diverse cultures will find their own way of addressing these issues. Ultimately, I think, both approaches are simply hoping to create this better world; I do not think there are many even who would count themselves as staunch relativists who really think we should encourage female genital mutilation to continue. Simply, they just think that those who are doing it should figure out how to stop it rather than outsiders coming in and locking them up for it. Thus the ultimate end of this position is not punishment of violators, but rather a world in which people simply will not violate human rights anymore. This clearly is a naïve caricature of the goal; but the hope is to encourage people to be good rather than punish them for being bad. Of course this, too, becomes ultimately a moral question; however, it is more about finding an internal morality—internal to the culture in question—which will ultimately reach the same ends by widely divergent means. It questions the morality of imposing one’s own view—however clearly justifiable it seems—on others, and hopes that they will find their own moral answer to the question that bothers us so much. The attempt to realize this goal lends itself easily to dialogical models, to education, to open discussion and an attempt towards mutual understanding. Relativists, like universalists,
consider themselves pragmatic: because the position takes into account that we are never
going to successfully impose a single version of morality and law on the diverse cultures of
the world, it starts rather from subjective (multiple) moralities. This position notes that only
by appealing to their understanding of their own world, by helping them to understand our
position (which of course has very good reasons for not treating other human beings in
these particular hurtful ways) we will help them to move towards their own moral
conception which will eventually encompass that change we are hoping for. As with the
universalist position, there may indeed be a ‘pure’ theoretical relativism which believes that
there really ought to be no judgment, no interference whatsoever. However, as it is not
possible to refrain entirely from influencing others, this model only remains cohesive if it
remains purely theoretical—and, as such, is irrelevant to any discussion which attempts to
grapple with action in the world rather than only ideas.

The result of all this is that when individuals begin talking about approaches to ‘human
rights’ as if this were a single concept, there are a number of possibilities. Someone might be
talking about the purely legal or treaty based concept of human rights; or about a universally
applicable morality which is to be applied through legal means; or about a common (if not
strictly universal) goal of achieving a better society which must be engaged by diverse actors
in diverse ways. Doubtless there are other conversations happening as well. Consequently
when a ‘relativist’ and a ‘universalist’ (if we could ever actually define people so simplistically)
talk about human rights, they may be, in essence, speaking two mutually exclusive languages.
Either position is anathema to the other; if either side makes a concession, everything they
work towards crumbles. Thus the difficulty in the two positions reaching what could be
considered a genuine communication: by not making explicit the differences in their
projects, they have elided any possibility of understanding; and simultaneously, by assuming
a common ground that may not be present, have ensured a misunderstanding of those goals
which are common to both projects.

The Conceptual Failure of Both Positions
From here I am going to make what may appear to be an odd claim: first, that the positions
taken by both universalism and relativism take are fundamentally flawed on a number of
grounds; and second, that we can still make use of many general ideas and arguments found
within the debate to inform potential action. Given the distinctions I have just drawn I need to make explicit that in describing *universalism* here I mean a project which attempts to apply a presumed universal morality through legal or other enforceable means, with the goal of realizing a more just world order; in describing *relativism* I am addressing a concept which also has its goal as realizing a more just world order, but seeks at bottom to have that order come from within or below, from the sites in question themselves, rather than seeking to impose it from outside. From here, it becomes apparent that the supposedly clear-cut line between the universal and relative morality is perhaps less defined than is often assumed. I will now address the failures within each position and then make some suggestions for finding a balance between the two.

1. The Failure of Universalism
As described above, the concept of universally applicable morals, with any kind of attempt to enforce their application, lends itself easily to law and judgment. Universalism’s first failure is that in its claim to being universally applicable, it nevertheless focuses only on a limited range of moral transgression: that of the state against the individual.

* There are numerous other common sites of human rights violation: the home (perhaps the most frequent site of violation of the rights of women); religion (which has often been protected or at least ignored by human rights);† and the workplace (sweatshops in the form of *maquiladores* springing up along the Mexico-US border and others mushrooming across Asia) providing only a few of many examples. It is also relevant to note the extent to which this particular shortcoming of universalism disproportionately fails women; Donoho (2000); Charlesworth and Chinkin (1993); and Sunder (2003), among others, have addressed this issue in detail. I submit that if those who advocate the universalist position wish to develop a consistent model, it is crucial to develop a means of applying the claimed morality universally and extend itself to universal protection of those who need protection: not merely those

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* This claim is the reason I’ve made explicit that I’m only referring to universalism in terms of a legally applied universal morality; there is another debate about a ‘pure’ universal morality which certainly may be exempt from this charge. However, unless it has a proposal for application which transcends this difficulty, I consider it irrelevant to this discussion.

† See Sunder (2003) for a description of the failure of human rights vis-à-vis the misogynist excesses of the Taliban regime in Afghanistan. The response to the scandal of widespread and arguably systematic sexual abuse of children by Catholic priests in the United States—civil authorities allowing the church to handle it internally, which often meant shifting priests into new districts where the abuse continued—is another tragic example of this particular failure of ‘universal’ human rights.
who need protection from their governments, but those who need protection from their parents, their husbands, their priests, their bosses. As Donoho (2000, 69) says, “…if your human rights are going to be violated, pray it is by someone who looks like a government, and that he already acted, and acted wrong.” Failing this, the universalists should abandon their claim to universalism, and argue instead that the attempt to develop a widely applicable legal regime for the protection of victims of human rights violations is one of various good places to begin in the project of creating a more just society: a position which obviously is quite close to that taken by relativism.

A second failure of the universalist position lies in its ambivalence towards the so-called ‘second generation’ rights – that is, economic, social, and cultural rights. Assuming that there is any moral component at all to the universalist conception of human rights, it is difficult to understand how we are to accept a universal morality which seeks to insure due legal process to all humans everywhere, but does not concern itself with a billion hungry people; as Simma and Alston (1988) say, “…[I]t must be asked whether any theory of human rights law which singles out race but not gender discrimination, which condemns arbitrary imprisonment but not capital punishment for crimes committed by juveniles or death by starvation…is not flawed in terms of…the theory of human rights.” Again this may be a question of different conversations about human rights: it may well be justifiable in some sense to focus the efforts of the human rights project where it is likely to have an impact. If Amnesty International can free political prisoners but not feed the hungry, it is hardly arguable that they should stop trying to free political prisoners as a consequence. But Amnesty does not claim a universally applicable morality; they claim that imprisoning people for their political opinions is wrong. The universalist position needs to be explicit about which conversation it is engaging. If there is a claim to universally applicable morality, and not merely a claim to universal protection of civil or political rights, then the universalists need to come up with a creative justification for not finding room for hunger or homelessness or lack of health care in their project; or, better, a way of including them. Further, if the justification appeals to the pragmatic reality that human rights can only do so much, I would seriously question whether this can uphold a claim to universality—or whether it begins to resemble relativism, at least in its application.
This argument may be vulnerable to charges that the legal regime propounding universal human rights actually does support the full acceptance of the so-called first, second, and possibly even third generation rights. The Universal Declaration of Human Rights (UDHR) signed in 1948, contained rights now viewed as part of the first and second generation. However, the debate very soon afterwards broke down along cold-war lines and the effort towards a subsequent legally enforceable version of the exhortatory UDHR was torn into two documents: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In this context the failure of the very concept of universal human rights is announced: if ‘universal’ human rights can be separated into types based on political considerations, it becomes very difficult to defend the assertion that they are universal.

2. The Failure of Relativism

The first and primary failure of relativism is that ultimately it relies on one universal moral: that we should not interfere with the cultural practices of others on any grounds. This becomes, in the relativist conception, the golden rule by which all human rights activists must live. There are a number of obvious problems with this: since the most common site of objection to interference is in ‘traditional’ cultures, and cultures which are held to have already been ‘modernized’ are somehow held to be more fair targets of human rights activism, there is some assumption of preservation of some ideal of ‘pure’ or Edenic culture. And so the cultural-relative human rights activist ends up in the position they condemn in the universalist: making a judgment about which cultures it is acceptable to change and which not.

A related problem with the cultural relativist position is what Rhodda Howard (1993) has described as ‘cultural absolutism’. This is the acknowledgement of the fact that the cultural relativist position actually does claim that there is a universal morality from the standpoint of the individual culture; that each culture, having developed its own morality, ought to stick to it, and that other cultures ought not to interfere. The fatal flaw in this argument is that it treats culture as static or petrified; if no culture’s morality changed over time, it would be one thing, but as it is all cultures are changing to some more subtle or dramatic extent all the time. The question of why then we should work to protect the particular cultural morality
which happens to be expressed within a culture at the moment is a difficult one, as is the question of how to address the primacy of one culture which apparently at this moment in history feels it moral to protect others (on its own terms) whether they are within its purview or not. Another problematic aspect of this logic is the treatment of culture as paramount, as the concept itself is arguably too malleable and contested to be used in such a way. What are we going to count as a valid culture and what not? What about subcultures within a dominant structure? How do different cultures sharing the same physical public space deal with widely differing sets of “morals”, as more and more frequently occurs in areas with large numbers of immigrants?

We can see through these various arguments that the positions taken by the self-proclaimed universalists and relativists are not so pure and hermetically sealed as they claim. The relativist position is ultimately relying on a universal moral against interference in other cultures; and the universalist position, by the very fact of including some morals in a list of universals and excluding others, is determining relative importance of various ideals. There has of course been a relatively recent attempt to base a universal morality on ideals found throughout the world in many cultures or religions. However, this logic also ultimately stumbles at the point of choosing which cultures are important enough to contribute, and brings up other complexities as well. If every culture has some practice of excluding outsiders in some way should we adopt that as a universal moral? For many years many people argued that the nearly universal practice of male domination justified keeping women out of politics and in the house: why do we decide this is not a universal moral (anymore) but something else is? If their claim were that, though it has not been standard practice in most cultures globally, gender equality is a noble goal towards which we should work, it would be one thing; however, to claim that because of some recently discovered inherent right to equality all cultures are required to change fails on moral as well as on rational grounds. A further concern is that ultimately this logic may point towards a global

* We might also take note of the irony apparent in the fact that some elements in “Western” culture have suddenly gotten cold feet at the thought of influencing other’s cultures just at the point at which the intention of that influence is arguably better intentioned and more hopeful than ever before. We made it through slavery, colonial rule, eugenics, the White Man’s Burden, and various other culture-changing projects with few objections. Now that there is a cultural project which has the potential to genuinely improve the prospects for people in other cultures, “we” have suddenly developed arguments for staying out of the way.
uniformity, rather than a genuine understanding, of which morals can usefully be treated as commonly accepted among diverse cultures: it seeks to ensure that whatever seems to be common everywhere be enforced everywhere, without problematizing the logic of conformity this implies.

**Finding a Balance Between the Two**

From a human rights perspective, the only useful question that can really come out of these questions is how we can best proceed, to find, as David Kennedy (2004) says “…the gap between our good impulses and their bad expression.” I suggest that both the relativist and universalist positions, despite their flaws, have made and can continue to make valuable contributions to our understandings of how best to approach this project of making a better world. The age has passed in which it was viewed as justifiable to name one culture, or one set of ideals, as superior to all others. In order to maintain any level of credibility on a global level, the human rights movement must construct itself as willing to question its own ideals and goals from a variety of perspectives, both cultural and conceptual. At the same time, the movement must not lose sight of the fact that its relevance lies, as put by Mutua (2005), at the intersection of power and powerlessness. If human rights is unable help certain victims because they are perceived to be behind an impermeable wall of culture, the movement has no purpose. Rather than attempting to prove each other wrong, both perspectives ought to recognize the contributions of the other: approach the disagreements as an opportunity for a constructive dialogue rather than a threat to be overcome. This need to recognize the other perspective can also be purely pragmatic: even if someone holds that there is but one universal morality, it is clear enough that sending in the commandos to force cultural change is not an appropriate response. Regardless of one’s personal perspective on a cultural practice one must approach that culture, if at all, as if the practice were completely valid and moral: only by understanding it to that extent, understanding it from the perspective of those directly involved, can we hope to understand it sufficiently to effectively go about changing it.

Isabelle Gunning’s (1991) description of a “world traveling” approach to other cultures is valuable here. Gunning suggests a three part approach: first, understanding the deep historical underpinnings of one’s opposition to, and experience of, the practice or culture in
second, understanding the practice and culture as far as possible within its own context; and third, understanding given those factors how one is going to be viewed by that culture in the context of whatever the practice in question is. She describes this in the context of what she calls “female genital surgeries”. First, a human rights activist from the west opposing the practice would have to consider the western history of similar practices, including, for example, the fact that clitoridectomy was practiced in the US until as late as 1937, for (among other things) “curing” lesbianism or kleptomania. Women in western countries were not infrequently relieved of their uteruses because of the perceived relation of the uterus to hysteria. There are numerous other examples which would help a western human rights activist to understand that the issue is more complicated than simply that there are savages in Sudan mutilating their daughters. Gunning’s second step, understanding the practice and culture in its own context, would recognize that however much we oppose the practice, and however flawed we may perceive the assumptions that go along with it, the practice actually does have significant benefits for the women in question: while we may have a problem with the fact that a woman who has not been circumcised will not be able to marry and thus has no economic or social prospects, we must begin from the understanding that this is the situation. It is important to address the issue holistically, including all aspects, rather than just campaigning against the surgery without recognizing the negative impacts its removal may have on individual women. And third, to understand one’s self from the perspective of the culture in question would include asking how our own commonly accepted cultural practices like surgical breast augmentation (known to have health hazards as well as potentially causing painful scarring within the breast) or anorexia and bulimia (understood from a culture which commonly has too little rather than too much food) would be perceived from the other side.*

The relativist position, likewise, needs to genuinely grapple with the question of what happens to its whole project if there is not some universal component of protection. As

* These ironies could be highlighted in an interesting and informative (and entertaining!) way through a short film, documenting the experience of a group of circumcised women, perhaps from Sudan, who hear about what they perceive as terrible abuses of women in the United States—for example, they hear somewhere about plastic surgeries and breast augmentation. Their indignation at such a terrible treatment of women prompts a group to collect money to make a trip to Beverly Hills so that they can protest outside the offices of plastic surgeons and develop an information campaign to educate American women on the dangers of such practices as well as trying to help them understand that their value as women doesn’t only lie in the size of their breasts or the angle of their cheekbones.
argued by the French government in some female circumcision cases, if they were to allow
the practice on cultural grounds it would amount to discrimination against girls from certain
racial or cultural backgrounds, the government guaranteeing their parents the right to treat
them in a way which would constitute severe abuse of a ‘biologically’ French girl. If the
typical relativist question is, “Who am I to tell them what is wrong?”, perhaps it should
rather be “Who am I to decide that people from that culture can be treated this way while
people from my own cannot?”

Thus in practical terms I advocate a dialogical exchange of ideas from these two
perspectives. But any project must have a conceptual foundation as well, and the objections
to this mix-and-match approach may be stronger here. It is arguable that the whole project
must have a coherent philosophical foundation in order to proceed, that it cannot straddle
the fence as it appears I am suggesting.

**The Re-Conception of Human Rights**

A significant challenge to the conceptual foundations of the entire human rights project
leads to a failure of both universalist and relativist positions, though I would argue that
relativism fails less egregiously. This is the claim that human rights are inherent in the
individual: that due to some more or less mysterious fact of human nature, we have human
rights as a matter of course. There are two primary problems with this position.

First, it is readily apparent that most if not all cultures or societies throughout history have
taken great liberties in their definition of human; Richard Rorty (1993) has analyzed this
tendency through description in terms of which type of “featherless biped” a culture is going
to consider *in* and which *out*. The common tactic of those preparing to engage in a
widespread human rights violation, a genocide or ethnic cleansing operation, is to first
dehumanize the intended victims: the Tutsi were widely described as cockroaches prior to
the 1994 Rwanda genocide; Serb forces frequently called Bosnians dogs; American soldiers
in Abu Ghraib called their Iraqi victims animals. There are likely as many criteria for
exclusion from the human club as there are cultures: those who don’t look like us, eat like us,
believe like us, dress like us are all considered *less* than fully human, less deserving of respect
or sympathy or humane treatment. Further, within cultures there are very often groups
which are privileged as ‘more’ human or marginalized as ‘less’ human: women are the prime example. I make the claim that the relativist position fails less egregiously on this ground because, claiming that there are numerous valid moralities and views of the world, it is already substantially accepting of this problem; however, by not making it explicit, it fails to grasp the opportunity posited by this potential understanding.

The second problem with the claim that human rights somehow stem from human nature is that this nature to which we are appealing is the same nature from which we apparently need protection. The current way out of this quandary it seems the whole movement is seeking is to claim that all the good things (our potential for kindness and understanding, our possession of human rights) stem from actual human nature; all the bad things, like our propensity to exclude certain types of people and torture or kill them, stem from human experience. This essentially is a convenient appropriation of the (now somewhat tired) nature vs. nurture debate; it argues that no one, given proper care and feeding throughout their life, would ever do these terrible things to other people. Good human tendencies, that is, come from nature and bad ones from nurture. As expressed by a teacher of ‘problem’ children recently, her school’s approach was that “everyone is a good person, it’s only behaviour that isn’t good.” This saves us: all humans are intrinsically good; we can breath a sigh of relief knowing that we really are justified in claiming human rights for ourselves and simply need to realize a society in which people are socialized not to torture each other.

For conceptual purposes, I suggest that the entire foundation of human rights needs to be shifted slightly. Rather than arguing that humans have innate rights, that we have a natural right to protection from certain types of treatment, I submit that the essential ethos of the human rights project should be located in the actor: we all are born with an inherent obligation to treat others—all others—with the respect and dignity we would like to have for ourselves. This transcends many of the conceptual stumbling blocks of the human rights project as it stands now: how to reconcile the fact that the nature we claim protects us is the same nature from which we need protection; the fact that our definition of human varies

* Arthur Koestler (1967) addressing some of the more absurd behaviorist claims, expressed concern that he would be take to task by the SPCDH—the Society for the Prevention of Cruelty to Dead Horses.
† In an overheard conversation; please forgive me for using eavesdropping as a research methodology.
tremendously from one culture to another (and thus the very obligation to treat humans well can become an obligation to cleanse the world of non-humans); and so on. This should not be perceived as arguing that we should abandon the attempt to protect victims and prosecute, in one way or another, the perpetrators of what we agree (on one scale or another) are violations of a minimum standard of behaviour. But rather than saying to these perpetrators, in essence, *This person should not have been treated that way,* we are saying *You should not have acted this way.*

The Nuremburg tribunals, often cited as one of the foundational events of the modern human rights project, came quite close to this stand in arguing that following orders was not a valid defense. People should *know* that certain behavior is quite simply wrong, without having to rely on a philosophical argument that individuals are born with an inherent right not to be treated in certain ways. By failing to address the behavior as such rather than only the victims of the behavior, there is left behind a general assumption that such behavior might be appropriate, sometime. We might draw an analogy to selling cars with speedometers going up to 220 km/ph and asking that everyone should please drive only 160. There is an underlying assumption that there must be a certain situation in which it is okay to drive faster; otherwise why would they make cars that go faster? Similarly by saying that people should never be treated in certain ways but being apparently too squeamish to consider that individual people have to make conscious decisions to engage in such treatment, a small door is left open through which can crawl various justifications why, just in this case, we might validly treat someone that way. If we thought instead that if we were ever to act that way we would lose some small but vital part of what makes us human, I suspect that the approach of individual soldiers ordered to ‘soften up’ prisoners might be different. Seymour Hersch (2004) reports that Sergeant Frederick, stationed in Iraq and working Abu Ghraib, wrote in his journal about one prisoner “They stressed him out so bad that the man passed away…” The dissociation of the individual with the action is quite clear here. The sergeant apparently can see that this may have been a violation of the man’s rights but does not see it as anything he or his men have done wrong: the ‘passing away’ of the man was due to imposed stress, not a physical attack. By focusing on protecting the individual from the excesses of the state, ample space is left open for the individuals who make up the state to assume that their actions are somehow justified because it is not really
them acting; it is the state. Locating the central tenets of what human rights attempts to accomplish in the actors rather than the victims would close this conceptual space; the assumption facing any of these ‘hard cases’ on the part of the individual would be that s/he must ask how the action in question would construct him or her as a human: would s/he become more or less human because of it?

One objection that may be offered to this re-conceptualization is that it appears that an obligation may have the same problems with inherency as a right; essentially, that there is no rational basis for arguing that we are simply born with rights or obligations. I am suggesting that we have an obligation to treat others well. However, I do not understand this to be inherent to human nature; quite clearly humans have not generally felt an obligation to treat one another well. I perceive this obligation to be rather one of potential, connected to what kind of world we would like to live in. In my conception—and it is entirely possible that this is only my conception—respectful treatment of other human beings is a better realization of human potential than a non-respectful treatment. This is a value judgment – and one that I do not feel we ought to be ashamed of. Perhaps unique among life forms on this planet, humans have an ability to consider the ramifications of their actions, and the impact of those actions on others. We can use this potential to work towards a more peaceful and just world, or not. It is our ability to make that choice which sets us apart.

Conclusion
I have argued that the debate currently taking place in the human rights discourse and framed as an opposition between relativist and universalist positions needs to be understood in more complex terms. The debate would benefit significantly from an examination of the subtleties of the various positions taken, recognizing that there are actually numerous conversations which might be taking place with substantially similar language which are nevertheless mutually exclusive. Further, the apparent exclusivity of the two positions is illusory: those who consider themselves on one side or the other need to re-examine some of their presuppositions, which will reveal that the apparent dichotomy is not nearly so clear. The human rights movement, which I see as essentially a project to create a better world for all inhabitants, can make use of contributions made by proponents of both of these positions to better inform their attempts to realize that project. And finally, both positions,
and to an extent the entire human rights movement, has made a conceptual error in locating essential protection in the potential victims of human rights violations rather than locating an essential obligation in the potential violators of human rights. By conceptually shifting the core of human rights from the victim to the actor, many of the apparently intransigent problems addressed in this perceived universal-relative debate can be transcended, and the foundation of the entire movement strengthened.

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