1 Introduction

Human rights is a key theme through which the old and the new ways of thinking about development and culture have been played out in international debates. Since the 1980s human rights have played an increasingly important role in development policies, North–South relations, and globalization. The first document that outlines human rights as a multifaceted and universal set of rights to which humans are born is the Universal Declaration of Human Rights (United Nations 1948). Two subsequent international and legally binding instruments, the International Covenant on Economic, Social and Cultural Rights (United Nations 1966a) and the International Covenant on Civil and Political Rights (United Nations 1966b), focus in greater detail on different and sometimes conflicting aspects of human rights. Several other documents have also emerged under the auspices of the United Nations (UN) to address the rights of particular groups, e.g. children and women (figure 6.1). While development discourse has always claimed universal validity, human rights only became an integral part of development policies when relations between the capitalist West and the communist East began to warm, and the Cold War to ease. In this chapter we explore how contemporary debates over human rights and their relevance to developing countries in many ways epitomize the debates over culture and development we traced in the earlier chapters of this book. Is the surge of
Figure 6.1  Key United Nations documents on human rights

1 Declaration – resolution by the United Nations General Assembly.
2 Convention – a legally binding international agreement between states or countries that provides standards of conduct for governments to fulfill. Conventions may also be called treaties, covenants, or pacts.
3 Year of adoption (approval of the final text of the convention by the committee which wrote it).
4 Year of entry into force (a convention enters into force after it has acquired a specified number of ratifications).
5 Number of countries which had ratified the convention by mid-1977 (and thus agreed to be legally bound by its provisions).
6 Covenant – see footnote 2 on Convention.
interest in human rights an indication for the degree to which the nations and societies of this globe have come to share principles and values concerning the relations between individuals, governments, and institutions? Or does it indicate a crisis of the very notion of universal human rights? A crisis which has been brought about by critiques of Western philosophical and political thought posing as universal truth, and by political challenges to Western political and cultural supremacy.

Contemporary debates about human rights characteristically revolve around one or both of two sets of dichotomies, that of universalism versus particularism, and that of individualism versus collectivism/communalism. What human rights advocates highlight as the main virtue of the concept – that human rights by definition apply to human beings everywhere and at all times – is criticized by a range of critics as its main fault; the claim to universal application ignores the fact that rights are based on cultural traditions and may vary from society to society. Other critics pay more attention to the ways in which human rights tend to focus on the individual, and argue that this artificially separates individuals from their communities, and underplays the importance of duties and sacrifice for the greater good. Another strand of criticism holds that human rights’ focus on the individual fails to recognize the common oppression which large groups of individuals experience in many societies. According to these critics the notion of rights vested in the sovereign individual are of little help to women, ethnic minorities, or the economic disadvantaged, who would be better advised to pursue their collective interests. Furthermore, there has been a long-standing debate over which human rights are the most relevant in a particular place and a particular time. In this debate, social and economic rights are often set against civil and political rights, based on arguments that draw on the other two dichotomies, and also on the political antagonism between socialist and capitalist perspectives.

In the context of development discourse, these three debates sometimes overlap and become projected onto the perceived cultural divide between the West and the non-West. A common view is that human rights are “grounded in the Western, natural rights philosophy” which was “first mooted by the Graeco-Roman philosophers and subsequently refined, during the Middle Ages, by Christian philosophers and theologians,” until it “ripened during the Enlightenment” into the idea of “the rights of man” to life, liberty, and the pursuit of happiness (Carmen 1996: 178). Critics argue that therefore, their application to non-Western societies can be opposed on the grounds that they do not form part of the cultural and political heritage of these societies, and their enforcement worldwide is another expression of Western cultural imperialism. S Jennifer among the human rights not suitable to non-Western countries, at least while they are struggling to develop, are civil and political rights. However, other scholars, speaking both from Western and Third World positions, have pointed out that the radical liberal thought underpinning the concept of human rights has been very useful in justifying anticolonial struggles, and maintain relevance for the new social movements mushrooming across the
world today. Some have argued that the concept of human rights has roots in all of the major world religions (Ishay 1997), and that the West can claim neither sole parentage nor that it has been a particularly rigorous foster parent.

We begin this chapter by asking what explains the heightened interest in human rights precisely at a time when notions of progress, modernization, and development are under attack. In subsequent sections, we examine the implications of the debates over human rights for three different policy areas, focusing particularly on the points where they intersect with discourses of development and culture. This involves, first, exploring the debate over civil and political rights versus social and economic rights, a debate which sometimes is simplified as one between human rights versus the right to development. In using the issue of child labor in developing countries to bring this debate into sharper focus, we acknowledge that child labor was the subject of human rights debates during the European industrialization in the nineteenth century, and has recently been identified as a human rights concern in many Third World countries by international institutions and national governments.

The issue of child labor brings out several contentious questions within the broader human rights debate, from the question of what constitutes childhood in different historical and cultural settings, to the question of whether a child’s right to a childhood should take precedence over a child’s right to a basic standard of living. It also opens up questions over development policies and globalization processes, as the struggle to defend children’s basic human rights sits uneasily with wider issues of economic restructuring, and the “conversion” of many developing countries to market economies. It can be argued that these processes have increased the use of children as workers in a world where increasing numbers of poor families have nothing but their labor to sell in order to survive. The issue of child labor therefore appears to reveal the contradictions between the social and economic rights of the Human Rights Declaration, and basic civil rights of children, within a context of global and local power relations that shape individuals’ ability to satisfy their basic needs.

Second, in looking at the ways in which the human rights debate is argued out in relation to the rights of women, we focus on cultural difference versus universal rights. When and why do claims that women suffer from similar rights violations across the globe work to undermine the role and status of particular groups of women, as well as imposing Western concepts of femininity on them? How, on the other hand, can an insistence on differences between women and their specific cultural heritage have similar effects? This extends the arguments in chapter 4 on the politics of difference.

Perhaps the most contentious dispute over human rights since the Second World War is over collective rights. The right to self-determination is therefore the focus of our third policy theme. As we have discussed in chapter 5, the right of nations to determine their own government gave political legitimation to anticolonial struggles for independence, despite its origin in the European Enlightenment. In recent decades the right to self-determination is claimed mainly by ethnic minority groups and indigenous peoples (many of whom
refer to themselves as First Nations), and is sometimes violently pursued by them, and fiercely resisted by the "nation-states" which govern them. Practices of genocide and "ethnic cleansing," which occurred in the 1990s in countries as different as Rwanda and Bosnia, take the right of an ethnic group to self-governance to its extreme, and deny individuals not belonging to that group the right to live in the same territory, or indeed to live at all. Genocide also demonstrates the importance of balancing seemingly contradictory human rights; it denies humanness to one group in order to implement the right to self-determination of another (Malkki 1995; see chapter 5). On the other hand, many of today's governments do not respect the human rights of all their subjects, and many ethnic minorities face systemic discrimination by their governments. Should ethnic minorities and indigenous peoples whose human rights are not being protected by their governments be able to count on international assistance in their quest for self-determination? Or is self-determination something that only the individual and her/his collective group can assert on their own, rather than an established principle, as suggested in the UN Declaration of Human Rights.

2 The human rights discourse and the discourse of development

The Universal Declaration of Human Rights was proclaimed by the General Assembly of the UN in 1948. Its preface states that "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind," indicating the historical moment at which it was drafted (United Nations 1948). Only three years earlier, the Second World War had ended in fascist Germany's defeat, which began to reveal the crimes against humanity committed by the German government and its many helpers. The UN Charter, which established the United Nations only weeks after the end of the war, was an immediate response to it. It pledges the intention of the initial member governments of the UN "to save succeeding generations from the scourge of war" and "to reaffirm faith in fundamental human rights" (United Nations Charter 1945). The terms "universal" and "fundamental" in these charters were important. They leave no doubt that these human rights are intended to apply to each and every human being, regardless of any difference. This is reaffirmed in Article 2 of the Universal Declaration of Human Rights, which states that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political and other opinion, national or social origin, property, birth or other status.

The final article of the Universal Declaration (Article 30) asserts the permanence of these rights and freedoms which no state, group, or person would be
permitted to destroy. Across the globe governments and people accept that the principle of human rights must be defended, but, as Steven Lukes (1993) points out, at the same time human rights are also violated virtually everywhere. Lukes argues that these violations are less an expression of well-founded challenges and criticisms of human rights – which we discuss below – than of hypocritical governments failing to uphold them because it may not be in their own interest. However, it is also possible that the human rights to material well-being, for example, are beyond the capability of some Third World governments. The Universal Declaration’s Article 28 thus recognizes the need for “a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” Is the increase in official documents and the rise in awareness about human rights in the last two decades a sign that we are moving toward an international order that is better suited to the respect of human rights?

Clearly, colonialism did not constitute an appropriate international order for the realization of human rights. At the same time as the major European powers and the United States prided themselves on their universal human rights charters and bills of rights, these rights were denied to their colonized subjects, as well as to women and other marginalized groups in the colonial motherlands. French philosopher Jean-Paul Sartre (1967: 8) captured the growing realization of the colonized that the West’s human rights discourse was only lip service, and did not apply to them. While at first the colonized patiently tried to explain to the West “your humanism claims we are at one with the rest of humanity but your racist methods set us apart,” a more belligerent position emerged in the 1950s when colonized people turned their backs on the West and “its universal rights of man”:

Leave this Europe where they are never done talking of Man, yet murder men everywhere they find them, at the corner of every one of their own streets, in all the corners of the globe.

The accusation of Western hypocrisy regarding universal human rights endures even after most colonies have gained their independence. In the post-war decades the Cold War power struggle between the capitalist and the communist sectors of the world often operated as a shield for widespread human rights violations. As Immanuel Wallerstein (1995: 157) points out, between 1945 and 1970 human rights

were conspicuous by their absence or diminished role everywhere. From the purge trials in Eastern Europe to various forms of dictatorship in Third World countries . . . it was scarcely an era of the triumph of human rights. But even more significantly, it was not a period in which there was very much rhetorical concern with human rights by the world’s political movements. Advocates of human rights causes everywhere were seen as threatening national unity in the cold war struggle.
The United States' support of brutal dictatorships in Latin America and Africa from the 1950s to the 1970s is one example; the lack of protest over the killings of hundreds of thousands of Indonesian civilians during the military coup in 1965 is another. In contrast, the killing of six Indonesian student protesters in May 1998 by the Indonesian armed forces evoked an avalanche of protests across the world (e.g. Landler 1998; Shenon 1998). Since the mid-1970s, the higher international profile of human rights, and the accumulating treaties and declarations on human rights indicate a gradual shift toward an international climate that is more favorable to the universal pursuit of human rights. But the rosy images of a global world of nation-states working in partnership toward common goals conflict with the reality of widening economic disparities between the most highly and the least developed countries.

Hence, the Declaration on the Right to Development, adopted by the UN General Assembly in 1986, sought to give more prominence to the Third World countries' concerns with improving well-being through development. It stresses equality of opportunity as the main principle relating to both individuals and nations, and declares that states should cooperate with each other in ensuring development and eliminating the obstacles to development. However, the lack of support for the Declaration by some of the most important donor countries, including the United States, Britain, Germany, Japan, Sweden, and Denmark, reveals their resistance to establishing development in general, and development aid in particular, as a right which states can call upon (Tomasovski 1993a).

Worse, the policies which Western-dominated international institutions such as the International Monetary Fund and the World Bank formulated in the 1980s to address the economic problems of Third World countries often resulted in basic human rights being undermined. As Katarina Tomasovski (1993a: 4), a researcher at the Danish Center of Human Rights, highlights

The definition of “development” in the late 1980s did not leave much room for human rights. While human rights necessitate that governments create conditions for the realization of human rights, particularly in education, nutrition and employment promotion, the precepts of the time insisted on decreased public spending and diminishing the public sector.

Tomasovski (1993b: 5) thus calls “paradoxical” the prominence of human rights in the 1990s: global free markets as the dominant recipe for development remains, but Third World governments are now also requested to become more accountable to their citizens through free elections. “Some inherent link,” she claims, “is assumed therein where free elections produce free markets, and free markets lead to free elections.” While the right to own property in the Universal Declaration of Human Rights may be considered as a justification for a free-market approach, critics argue that it does not enshrine the free market as the only acceptable economic system, and should not overrule the right of people to decide over how they wish to organize their economy. Nevertheless, development assistance from Western donor countries and international agencies has increasingly been made dependent on the receiving country adopt-
An article in the *Guardian Weekly* describes as a yearly propaganda war the mutual human rights accusations between the United States and China (Gittings 1999). The article is illustrated with a table, which demonstrates clearly the long-standing debate over civil and political versus economic and social rights (see table 6.1).

<table>
<thead>
<tr>
<th>How the US sees China</th>
<th>How China sees the US</th>
</tr>
</thead>
<tbody>
<tr>
<td>How rights have deteriorated sharply with a crackdown on organized political dissent.</td>
<td>Poor, disabled, elderly, blacks suffer human rights abuses.</td>
</tr>
<tr>
<td>Prison conditions are harsh; numerous executions follow summary trials.</td>
<td>Huge prison population includes 200,000 mental patients.</td>
</tr>
<tr>
<td>Websites are blocked and some foreign broadcasts blocked.</td>
<td>Temperatures in Texas death row cells are unbearably high.</td>
</tr>
<tr>
<td>Force is used to compel abortion or sterilization.</td>
<td>Voter turnout is the lowest among all developed countries.</td>
</tr>
<tr>
<td>Subversive Muslim activity in Xinjiang is the subject of a crackdown.</td>
<td>Richest 1 percent of Americans own more than 90 percent of the wealth.</td>
</tr>
<tr>
<td>There are up to 10 million sex workers in China.</td>
<td>41.7 million Americans lack medical insurance.</td>
</tr>
<tr>
<td>Reports of female infanticide are credible.</td>
<td>The United States is an abyss of racial discrimination, especially in the jobs market place.</td>
</tr>
<tr>
<td>Independent trade unions are illegal and activists jailed.</td>
<td>Only 10 percent of members of the US Congress are female.</td>
</tr>
<tr>
<td>Controls over Tibetan monasteries are tight and Tibetan schools are closed down.</td>
<td></td>
</tr>
</tbody>
</table>

An article in the *Guardian Weekly* describes as a yearly propaganda war the mutual human rights accusations between the United States and China (Gittings 1999). The article is illustrated with a table, which demonstrates clearly the long-standing debate over civil and political versus economic and social rights (see table 6.1).

<table>
<thead>
<tr>
<th>How the US sees China</th>
<th>How China sees the US</th>
</tr>
</thead>
<tbody>
<tr>
<td>How rights have deteriorated sharply with a crackdown on</td>
<td>Poor, disabled, elderly, blacks suffer</td>
</tr>
<tr>
<td>organized political dissent.</td>
<td>human rights abuses.</td>
</tr>
<tr>
<td>Prison conditions are harsh;</td>
<td>Huge prison population includes</td>
</tr>
<tr>
<td>numerous executions follow summary trials.</td>
<td>200,000 mental patients.</td>
</tr>
<tr>
<td>Websites are blocked and some foreign broadcasts blocked.</td>
<td>Temperatures in Texas death row cells</td>
</tr>
<tr>
<td>Force is used to compel abortion or sterilization.</td>
<td>are unbearably high.</td>
</tr>
<tr>
<td>Subversive Muslim activity in Xinjiang is the subject of a</td>
<td>Voter turnout is the lowest among</td>
</tr>
<tr>
<td>crackdown.</td>
<td>all developed countries.</td>
</tr>
<tr>
<td>There are up to 10 million sex workers in China.</td>
<td>Richest 1 percent of Americans own</td>
</tr>
<tr>
<td>Reports of female infanticide are credible.</td>
<td>more than 90 percent of the wealth.</td>
</tr>
<tr>
<td>Independent trade unions are illegal and activists jailed.</td>
<td>41.7 million Americans lack medical</td>
</tr>
<tr>
<td>Controls over Tibetan monasteries are tight and Tibetan</td>
<td>insurance.</td>
</tr>
<tr>
<td>schools are closed down.</td>
<td>The United States is an abyss of</td>
</tr>
<tr>
<td></td>
<td>racial discrimination, especially in</td>
</tr>
<tr>
<td></td>
<td>the jobs market place.</td>
</tr>
<tr>
<td></td>
<td>Only 10 percent of members of the US</td>
</tr>
<tr>
<td></td>
<td>Congress are female.</td>
</tr>
</tbody>
</table>

ing a free-market approach, and advancing their citizens' civil and political rights, mainly by taking steps toward free and democratic elections.

The recent prominence of human rights in development policy revives one of the most enduring debates over human rights—the question whether the right to material well-being has precedence over other human rights, such as that to participate in one's country's government, or the freedom of expression. Some Third World governments have argued that social and economic development is their most urgent task, and that "human rights begin with breakfast!" In order to satisfy their citizens' basic needs, in a world of skewed power relations, unequal trade, and uneven development, it may be necessary to trade off other human rights, particularly those that are considered to be shaped by the Western tradition of liberalism. How is this trade-off justified between social and economic rights on the one hand, and civil and political rights on the other?

3 Human needs and human rights—a trade-off?

It was in the nineteenth century that social and economic rights emerged on political agendas in Europe. As Ishay (1997) points out, socialist thinkers challenged the unlimited pursuit of property rights, and argued that it precluded the universal political equality advocated by liberals: "They thus embraced rights that were not secured at the time by capitalism: the prohibition of child labor, the establishment of factory health and safety measures, and universal voting rights (including women's right to vote)" (Ishay 1997: xxv). Other so-called second-generation rights, such as the rights to a fair wage, social security, and equal pay, became later enshrined in several articles of the Universal Declaration of Human Rights (see table 6.2). When the Declaration was drawn up, the United States, Britain, and France and their allies wanted an emphasis on civil and political rights, while the Soviet Union and its socialist allies wanted to see a greater commitment to the right to a decent standard of living. The resulting document reflects the greater influence of the Western countries at the time, with only one article referring to the right not to be poor. As Nikki van der Gaag (1998) points out, after the demise of the Soviet empire it is now the countries of the "Majority World" which defend the right to material well-being as being more relevant than the other human rights spelled out in the Universal Declaration. This so-called "liberty trade-off" (Donnelly 1989: 165) is based on the assumption that the exercise of civil and political rights might threaten development plans, lead to short-term thinking geared to winning elections, and render governments incapable of insisting on unpopular but necessary sacrifices for development. Particularly in the 1970s and 1980s, some Western scholars sympathized with this view, and argued that "a more liberal political system may be incapable of producing and sustaining the reorientation in the economy necessary for these types of success" in satisfying basic needs, as shown in socialist Cuba and China (Stewart 1985, quoted in Donnelly 1989: 164), or in capitalist South Korea.
<table>
<thead>
<tr>
<th>Major aspects of human rights</th>
<th>Articles of the Universal Declaration of Human Rights</th>
</tr>
</thead>
</table>
| basic civil rights            | **Article 1:** “All human beings are born free and equal in dignity and rights.”  
**Article 2:** “Everyone is entitled to all the rights and freedoms . . .”  
**Article 3:** “Everyone has the right to life, liberty and the security of person.”  
**Article 4:** “No one shall be held in slavery or servitude.”  
**Article 12:** Right to protection of privacy, family home, correspondence, and honor and reputation.  
**Article 13:** “Everyone has the right to freedom of movement . . .” |
| political rights              | **Article 21:** “Everyone has the right to take part in the Government of his country.” |
| rule of law                   | **Article 5:** “No one shall be subjected to torture.”  
**Article 6:** “Everyone has the right to recognition everywhere as a person before the law.”  
**Article 7:** “All are equal before the law.”  
**Article 8:** “Everyone has the right to an effective remedy by the competent national tribunals . . .”  
**Article 9:** “No one shall be subjected to arbitrary arrest, detention or exile.”  
**Article 10:** “Everyone is entitled to full equality to a fair and public hearing . . .”  
**Article 11:** Right to be presumed innocent until proved guilty.  
**Article 14:** Right to asylum from prosecution. |
| freedom of expression and association | **Article 19:** “Everyone has the right to freedom of opinion and expression . . .”  
**Article 20:** “Everyone has the right to freedom of peaceful assembly and association.” |
| equality of opportunity       | **Article 16:** Equal right to marry and to found a family.  
**Article 23:** Right to work, equal pay for equal work, just and favorable remuneration, and right to form and join trade unions.  
**Article 26:** “Everyone has the right to education.” |
Table 6.2 contd.

<table>
<thead>
<tr>
<th>Major aspects of human rights</th>
<th>Articles of the Universal Declaration of Human Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>material well-being</td>
<td><strong>Article 17:</strong> “Everyone has the right to own property ...”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 22:</strong> “Everyone, as a member of society, has the right to social security ...”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 24:</strong> “Everyone has the right to rest and leisure ...”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 25:</strong> “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family.”</td>
</tr>
<tr>
<td>cultural rights</td>
<td><strong>Article 15:</strong> “Everyone has the right to a nationality.”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 18:</strong> “Everyone has the right to freedom of thought, conscience and religion ...”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 27:</strong> “Everyone has the right to freely participate in the cultural life of the community.”</td>
</tr>
<tr>
<td></td>
<td><strong>Article 29:</strong> “Everyone has duties to the community,” including the duty to respect the rights and freedoms of others.</td>
</tr>
</tbody>
</table>

*Source: United Nations (1948).*

One particular manifestation of this position is found in some East Asian government leaders, e.g. Malaysian Prime Minister, Dr Mahathir Mohamed, and former Prime Minister of Singapore, Lee Kuan Yew, who have used the concept of “Asian values” to signal their countries’ adherence to principles that are different from universal human rights. An important place among “Asian values” is the right to economic development. Another “Asian value,” the willing subordination of the individual to the community and to higher authorities, tends to be interpreted by Western onlookers as a lack of civil and political liberties. Some Asian leaders have spoken out strongly against Western interference. They argue that Western countries use their preferred human rights – mainly civil and political rights – as a pretext to justify cutting aid and restricting trade with developing countries, in order to bolster their own economic dominance and keep the rest of the world poor. In this way, Western countries violate the right of poor people in developing countries to survive and to attain a decent standard of living.

It is not only conservative Asian leaders who make such allegations. Radical Indian author Winin Pereira has also come to the conclusion that Western powers use human rights as a political tool to “shore up oppression against the peoples of the Majority World” (van der Gaag 1998: 8). One way to re-
spond to these criticisms is to give more equal emphasis to the two kinds of rights, social and economic on the one hand, and civil and political on the other, and to stress their mutual connection. Van der Gaag (1998) sees such a shift occurring in a speech in 1997 by the High Commissioner for Human Rights, Mary Robinson, who stated that poverty was the source of numerous basic human rights violations. Others maintain that it was the World Conference on Human Rights in Vienna in 1993, when the world’s governments (185 states were represented) reaffirmed that all human rights were interconnected and interdependent, and pledged to promote the universal respect for, and observance and protection of, all human rights. If the Vienna World Conference can be seen to reflect the participating governments’ perspectives, then it indicates that there is universal agreement about the universality and the indivisibility of human rights. One right should not be traded off against another.

In practice, however, human rights often conflict with each other. One example where such conflict is evident is in the debate over child labor in the Third World.

3.1 Child labor and human rights

The images of young children cleaning shoes or selling sexual services in city streets, or working in coal mines, carpet factories, or as soldiers, rarely fail to evoke feelings of outrage among most observers, yet many children, particularly but not only in Third World countries, must work in order to survive. The International Labor Organization estimates the number of child workers under the age of 15 at 250 million, with the majority found in Asia. However, due to its smaller overall population, Africa is the continent of child labor – in some countries of sub-Saharan Africa, as many as half of all children between 10 and 14 are working (International Labor Organization 1997). The nature of their work is extremely varied, as a picture of just one city in the relatively prosperous state of Gujarat in India reveals (table 6.3). In this place, children are employed to clean cement bags (for recycling), cut diamonds, assist in shops, do domestic work, and many other types of activities (Swaminathan 1998). What is the problem with child labor? Why the outrage?

The case for abolishing child labor

One objection to child labor is that it frequently involves violating the human rights of child workers. Children (defined by UNICEF and the ILO as persons under the age of 16) are entitled to basic human rights under international law, and while they do not have the same rights as adults (e.g. the right to participate in their government), this is compensated by an acknowledgment that children have special needs with regard to care and protection. Some types of child labor, e.g. where the child is “sold” to an employer to repay the debts of
Table 6.3  Distribution of child workers in Bhavnagar (India) by occupation and gender, 1995

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Boys</th>
<th>%</th>
<th>Girls</th>
<th>%</th>
<th>All</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clean cement bags</td>
<td>332</td>
<td>10.6</td>
<td>708</td>
<td>28.2</td>
<td>1,040</td>
<td>18.5</td>
</tr>
<tr>
<td>Plastic rope plaiting</td>
<td>111</td>
<td>3.6</td>
<td>129</td>
<td>5.1</td>
<td>240</td>
<td>4.3</td>
</tr>
<tr>
<td>Diamond cutting</td>
<td>439</td>
<td>14.1</td>
<td>151</td>
<td>6.0</td>
<td>580</td>
<td>10.5</td>
</tr>
<tr>
<td>Family shops</td>
<td>104</td>
<td>3.3</td>
<td>30</td>
<td>1.2</td>
<td>134</td>
<td>2.4</td>
</tr>
<tr>
<td>Waste collection</td>
<td>172</td>
<td>5.5</td>
<td>125</td>
<td>4.9</td>
<td>297</td>
<td>5.3</td>
</tr>
<tr>
<td>Animal husbandry</td>
<td>130</td>
<td>4.2</td>
<td>148</td>
<td>5.9</td>
<td>278</td>
<td>4.9</td>
</tr>
<tr>
<td>Trades¹</td>
<td>120</td>
<td>3.8</td>
<td>155</td>
<td>6.2</td>
<td>275</td>
<td>4.9</td>
</tr>
<tr>
<td>Manual labor</td>
<td>82</td>
<td>2.6</td>
<td>53</td>
<td>2.1</td>
<td>135</td>
<td>2.4</td>
</tr>
<tr>
<td>Factory worker²</td>
<td>226</td>
<td>7.2</td>
<td>169</td>
<td>6.7</td>
<td>395</td>
<td>7.0</td>
</tr>
<tr>
<td>Construction</td>
<td>84</td>
<td>2.7</td>
<td>157</td>
<td>6.2</td>
<td>241</td>
<td>4.3</td>
</tr>
<tr>
<td>Domestic chores³</td>
<td>13</td>
<td>0.4</td>
<td>144</td>
<td>5.7</td>
<td>157</td>
<td>2.8</td>
</tr>
<tr>
<td>Domestic service</td>
<td>12</td>
<td>0.4</td>
<td>277</td>
<td>11.0</td>
<td>289</td>
<td>5.1</td>
</tr>
<tr>
<td>Shop assistant⁴</td>
<td>465</td>
<td>14.9</td>
<td>130</td>
<td>5.2</td>
<td>595</td>
<td>10.6</td>
</tr>
<tr>
<td>Tea stalls and hotels</td>
<td>508</td>
<td>16.3</td>
<td>13</td>
<td>0.5</td>
<td>521</td>
<td>9.2</td>
</tr>
<tr>
<td>Conservancy work⁵</td>
<td>16</td>
<td>0.5</td>
<td>30</td>
<td>1.2</td>
<td>46</td>
<td>0.8</td>
</tr>
<tr>
<td>Household production⁶</td>
<td>80</td>
<td>2.6</td>
<td>61</td>
<td>2.4</td>
<td>141</td>
<td>2.5</td>
</tr>
<tr>
<td>Ship-breaking⁷</td>
<td>106</td>
<td>3.4</td>
<td>19</td>
<td>0.7</td>
<td>125</td>
<td>2.2</td>
</tr>
<tr>
<td>Garage worker</td>
<td>102</td>
<td>3.3</td>
<td>2</td>
<td>0.1</td>
<td>104</td>
<td>1.8</td>
</tr>
<tr>
<td>Beggar</td>
<td>16</td>
<td>0.5</td>
<td>5</td>
<td>0.2</td>
<td>21</td>
<td>0.4</td>
</tr>
<tr>
<td>No response</td>
<td>5</td>
<td>0.2</td>
<td>2</td>
<td>0.1</td>
<td>7</td>
<td>0.1</td>
</tr>
<tr>
<td>Total</td>
<td>3,123</td>
<td>100</td>
<td>2,509</td>
<td>100</td>
<td>5,631</td>
<td>100</td>
</tr>
</tbody>
</table>


1 Trades refers to skills like potters, cobblers, tailors.
2 Factory work refers to a range of factories including iron smelting, cotton spinning and weaving, chemical, rubber, and engineering units, biscuit making and bakeries.
3 Domestic chores refers to unpaid domestic service for the family.
4 Shop assistants include vendors, and helpers in different types of establishments.
5 Conservancy work refers to cleaning and sweeping for the municipality (public spaces) and for offices and factories.
6 Household production includes cottage manufacture, such as bidi (local type of cigarette) rolling.
7 Ship-breaking refers to the dismantling and recycling of ships.

his or her parents, or in the cases of child trafficking and child prostitution, violate the basic human right to life, liberty, and the security of person (Article 3) and the right not be held in slavery or servitude (Article 4).

In most cases, child labor infringes the right to education (Article 26), as it
Deterring child labor in export garment factories in Bangladesh

One example of Western opposition to child labor is the “Child Labor Deterrence Act,” introduced as a bill to the United States’ Senate by Senator Tom Harkin in 1992. In an article in the New Internationalist, Shahidul Alam (1997) reports that the intended beneficiaries, the children working in the garment factories of Bangladesh, feel they are worse off now:

According to a press release by the garment employers in October 1994: “50,000 children lost their jobs because of the Harkin Bill.” A UNICEF worker confirms “the jobs went overnight.” . . . A senior International Labour Organization (ILO) official has no doubt that the original bill was put forward “primarily to protect US trade interests”—Tom Harkin is sponsored by a key US trade union, and cheap imports from the Third World were seen as undercutting American workers’ jobs. “When we all objected to this aspect of the Bill,” says the ILO official, “which included a lot of resistance in the US, the Bill was amended, the trading aspect was toned down, and it was given a humanitarian look.” It was when it was reintroduced after these amendments in 1993 that the Bill had its devastating impact in Bangladesh.

The child workers themselves find it particularly hard to interpret the US approach as one of “humanitarian concern.” When asked why the buyers have been exerting such pressure against child labour, Moyna, a ten-year-old orphan who has just lost her job, comments: “They loathe us, don’t they? We are poor and not well educated, so they simply despise us. That is why they shut the factories down.” Moyna’s job had supported her and her grandmother but now they must both depend on relatives. Other children have had no alternative but to seek new kinds of work. When UNICEF and the ILO made a series of follow-up visits they found that the children displaced from the garment factories were working at stone-crushing and street hustling—more hazardous and exploitative activities than their factory job. . . .

[Factory owners see Tom Harkin as a well-meaning soul with little clue about the realities of garment workers’ lives. “As a student, I too hailed the Bill,” says Sohel, the production manager at Captex Garments. “I was happy that someone was fighting for children’s rights. But now that I work in a factory and have to turn away these children who need jobs, I see things differently. Sometimes I take risks and, if a child is really in a bad way, I let them work, but it is dangerous.”]

The notion that a garment employer might be helping children by allowing them to work may seem very strange to people in the West. But in a country where the majority of people live in villages where children work in the home and the fields as part of growing up, there are no romantic notions of childhood as an age of innocence. Though children are cared for, childhood is seen as a period for learning employable skills. Children have always helped out with family duties. When this evolves into a paid job in the city neither children nor their families see it as anything unusual. In poor families it is simply understood that everyone has to work.
hampers the child’s opportunity to go to school and develop skills, knowledge, and other human capabilities. Connected to this argument is an understanding of children as being entitled to a particular way of life which corresponds to their status as children – the entitlement to a childhood which is protected from the concerns of the adult world.

A second strand of argument pursued by opponents to child labor is based on economic considerations. It is argued that the tasks children are asked to do can jeopardize their health, welfare, and safety; that working conditions are often poor and unregulated, and pay is generally much lower than for adults. Children are usually not in a position to defend their rights as workers, and are therefore more easily exploited by employers than adult workers. Child labor undermines efforts to achieve development in Third World countries because it tends to lower wage levels, fosters a poorly educated labor force, and imposes future costs on society as a result of impairing workers’ health through inappropriate work at a young age. Furthermore, in the view of some Western countries, a soft line on child labor in many Third World countries encourages migration of labor-intensive low-skilled industries to these countries, with the result of reducing employment opportunities in Western countries which take a harder line. This perspective has inspired controversial campaigns against child labor in the West – controversial because they seem to be fueled mainly by partisan economic interests, rather than a concern for the rights and well-being of children (see box). As Ben White (1996: 6) points out, well-publicized initiatives such as the Harkin Bill in the United States, and the campaigns to boycott products made with child labor, mainly focus on the export sector in Third World countries, “which represents a very small percentage of child employment in most countries, and with some exceptions (the South Asian carpet industry may be one) is not the sector in which the worst working conditions and abuse of children are found.”

The case for regulating child labor

In 1989, the UN adopted the Convention on the Rights of the Child, which specifies a wide range of rights to which children are entitled under international law. Among the long list of articles, one (Article 32) stipulates the right to protection from work that threatens the child’s health, education, physical, mental, spiritual, moral, or social development, and requests governments to set a minimum age of employment and to regulate working conditions. However, this does not rule out child labor as such, and other articles can be interpreted to legitimize certain acceptable kinds of child labor. For example, Article 3 states that the best interests of the child must be the primary consideration, and Article 27 confirms the right of a child to an adequate standard of living.

Another position, taken by some development organizations, governments, and children’s representatives, therefore maintains that child labor should be regulated, rather than simply prohibited. Poor children should be given the
opportunity to earn an income through safe and non-exploitative work, at the same time as being provided educational opportunities. In defending a regulationist viewpoint on child labor, some refer to the history of European development, and point out that every industrializing society goes through a period where cheap labor – including that of children – is exploited. Others take a cultural angle at the issue and argue that the prevailing ideas of childhood in many non-Western societies are different from those of the West, in that they perceive childhood as an “apprenticeship for adulthood,” during which children learn useful skills for later life, and contribute to family incomes. This view is shared by many of the child workers who attended a Conference on Child Labor in Amsterdam in 1996 as representatives of the emerging child workers’ movements in various parts of the Third World. Finding himself in conflict with the abolitionist policy of the adult trade union movement and the International Labor Organization, one Peruvian child workers’ representative, Vidal Coca Mamani, stressed the pride and sense of responsibility which child workers feel when they are able to contribute to family incomes. Thus the right to work should not be restricted to adults (Swift 1997: 21). The 1989 UN Convention on the Rights of the Child makes space for such a possibility, with articles on children’s rights to freedom of expression and association (Articles 12 and 15), suggesting a redefinition of children as “capable social actors” (Ennew 1995: 23–4, quoted in White 1996: 7).

The regulationist perspective, with its many facets, requires that a distinction be made between “child work” – the more acceptable forms of children’s work which may be beneficial – and “child labor” – the exploitative forms of

Figure 6.2 Children washing clothes at the lake in Udaipur, India
children's work. Such a line, however, is not easy to define, and, as White (1996: 10) suggests, "[t]he term 'child labour' itself has over the years become laden with such emotional connotations, and with such long institutional history, that it might be best to scrap it completely from future discussions." Instead, he suggests that we think of child work along a continuum from intolerable on one end of the spectrum, through detrimental and neutral to beneficial on the other end. This would enable policy makers and society more generally to focus on the removal of children from the intolerable, exploitative types of work, while otherwise aiming to transform children's employment from detrimental to neutral or beneficial types of work.

But there are other problems with taking a regulationist perspective. One is that regulations already exist in many countries, but are not always effectively enforced. Where laws on child labor have been tightened up and more actively enforced easy to tion, or tion of chi 75–85 pi family W Wright, lack of a that "w working cultural children argues:

4 Human rights

The deb structs o 1998, bi a nutshe cultur ing ri nonun "West with li specia such, i

A curso suggests human r ing this . Enlighte in a posi human r ment rig rope wa thus tak of the m people c aspects ( Preis 19' moderni
enforced, the employment of children tends to become more hidden and less easy to count and regulate – take, for example, domestic work, child prostitution, or family workshops. There is little information available about the situation of children working in small workshops or family establishments, although 75–85 percent of all child workers in Asia, for example, are to be found within family activity in rural areas alone (Falkus, Blackburn, Brasted, Kaur, and Wright, 1997), which is often unpaid and sometimes highly exploitative. The lack of attention to these forms of child labor is partly based on the assumption that “working for one’s parents, at home, without pay is more acceptable than working for others, outside the home, for money” (White 1996: 5). However, cultural constructions of the family as a caring and nurturing environment for children do not always correspond with reality, and therefore, as White (1996) argues, many children prefer work in factories to work at home.

4 Gender, cultural difference, and the universality of human rights

The debate over whether human rights are universal, or culturally specific constructs of the West, has waged for almost two decades now (Pollis 1996; Narayan 1998), but originates with the birth of the Universal Declaration (Preis 1996). In a nutshell,

... cultural relativists see the Universal Declaration of Human Rights as enumerating rights and freedoms which are culturally, ideologically, and politically nonuniversal. They argue that current human rights norms possess a distinctively “Western” or “Judeo-Christian” bias, and hence, are an “ethno-centric” construct with limited applicability. Conversely, universalists assert that human rights are special entitlements of all persons. They are grounded in human nature and as such, are inalienable. (Preis 1996: 288)

A cursory look at the texts included in the Human Rights Reader (Ishay 1997) suggests an almost pure Western, or Judeo-Christian, intellectual heritage of human rights, especially since the Enlightenment period. One way of interpreting this situation, from a universalist stance, is to point out that the European Enlightenment and subsequent emergence of industrial capitalism put the West in a position to transcend the limitations of local experience, reflect on universal human morality, and establish state legal and administrative systems to implement rights. Human rights are based in European liberalism only because Europe was the first region to modernize. Some Western human rights scholars thus take an evolutionist approach, similar to the “stages of development” view of the modernization school of development (see chapter 2), and suggest that people choose “which aspects of a ‘new’ culture they wish to adopt and which aspects of the ‘old’ they wish to retain” (Donnelly and Howard 1987, quoted in Preis 1996: 296). The implication is that as societies modernize, cultures also modernize and become more in tune with the liberal doctrine of human rights.
However, cultural relativists – both scholars and politicians – have long argued that in many non-Western societies, the liberal doctrine of human rights does not resonate with people's views of the world and of social relations, and that notions of rights will continue to vary from one culture to another (Pollis 1996). East Asian societies are often cited as evidence for the claim that particularly in highly developed non-Western societies, culturally specific values and social principles – such as the so-called "Asian values" – are vehemently defended by their leaders against claims of human rights' universal validity (see chapter 2). Whether the leaders of non-Western countries faithfully reflect their society's cultural traditions or redefine them in selective – and politically advantageous – ways is a question which has also raised discussion (e.g. Narayan 1998; Pollis 1996), and will be considered below.

Paradoxically, both sides of the universalist–relativist divide have drawn support for their arguments from discussions on gender and human rights. Supporting the notion of universality, Ernesto Laclau (1995: 106) points out when Mary Wollstonecraft, in the wake of the French Revolution, defended the rights of women, she did not present the exclusion of women from the declaration of rights of man and citizen as a proof that the latter are intrinsically male rights, but tried, on the contrary, to deepen the democratic revolution by showing the incoherence of establishing universal rights which were restricted to particular sectors of the population.

On the other hand, feminists and non-feminists have resisted claims that human rights are universal, with the argument that many human rights-based interventions into cultural practices affecting Third World women smack of colonialism, and reflect a Western lack of understanding for non-Western cultures and femininities. The debate about sati (whereby a widow is burnt on her husband's funeral pyre) in India is one example where these arguments have been heard (see chapter 5).

4.1 Cultural relativism and the notion of culture

Over the past two decades, several developments have bolstered the arguments of cultural relativists. Postmodernist critics of the Enlightenment project claim that its premise of the universality of reason and science is without basis. As McGrew (1992: 97) explains, postmodernism "denies the possibility of universal reasoning and accounts of the social life which claim universal validity," and instead views the human world as pluralistic and incoherent, refusing any attempt "to impose order on it through totalizing and universal theoretical discourses." In claiming that there is no such thing as a universal truth, or a universally applicable theory, postmodernism leads to a relativist stance on human rights.

Further support for the relativist position comes from some aspects of postcolonial critiques which brand universal rights as a Eurocentric invention, relevant only to the dominant sectors of nineteenth-century Europe. In an excellent disc on to Chris God, who c miracles, or Jesus. The European lation of t particular of a unive other cul identities between an expression

Thus Europ set itself up on universal re son for tak universal at Eurocentris rather, the decentered, sive.

Besides s tural relatif in chapter 1 ence betwe not only of rejections of can Anthro| Twentieth C culture“ (Hers.

In recent th first six thropolog postmodern culture as a ing numbertures“ view consists of different frc polological cr
cellent discussion of the relationship between universalism and particularism, Laclau (1995) argues that European culture of the nineteenth century indeed considered itself as the incarnation of the universal. Pre-modern Europe held on to Christianity's conception of the universal being comprehensible only to God, who can choose to convey it to humans through irrational events, such as miracles, or by giving it a particular body, such as in the incarnation of God in Jesus. The Enlightenment sought to replace God with universal reason.

European universalism had precisely constructed its identity through the cancellation of the logic of incarnation and, as a result, of the universalization of its own particularism. So, European imperialist expansion had to be presented in terms of a universal civilizing function, modernization and so forth. The resistances of other cultures were, as a result, presented not as struggles between particular identities and cultures, but as part of an all-embracing and epochal struggle between universalism and particularism - the notion of peoples without history expressing precisely their incapacity to represent the universal. (Laclau 1995: 97)

Thus Europe, by assuming that it represented, for a time at least, the universal, set itself up as superior to other cultures, and in effect legitimized inequality - based on class, race, culture, gender - by claiming to be the privileged agent of universal reason (see chapter 1). In some critics' view, this presents ample reason for taking a cautious or even hostile approach to human rights' alleged universal applicability. Laclau himself, however, argues that the link between Eurocentrism and universalism should not lead to the rejection of universalism; rather, the universal principles Europeans were the first to advocate should be decenttered, separated from social agents, and expanded to become more inclusive.

Besides such philosophical arguments, the main source of support for cultural relativism comes from the anthropological tradition. As we pointed out in chapter 1, anthropological theories of culture have stressed cultural difference between the West and the non-West or Third World, depicting it as a gulf not only of lifestyle and belief systems, but also of time. Among the earliest rejections of the Universal Declaration of Human Rights was that of the American Anthropological Association, on the grounds that “the rights of Man in the Twentieth Century cannot be circumscribed by the standards of any single culture” (Herskovits 1947: 543, quoted in Preis 1996: 286–7).

In recent years, however, the theory of cultural relativism, so dominant for the first sixty years of the twentieth century, has lost its relevance within anthropology. Under the impact of decolonization, globalization, and postmodernism, anthropologists have gradually abandoned the conception of culture as a homogeneous, integral, and coherent unity (see chapter 1). A growing number of anthropologists no longer subscribe to the “peoples and cultures” view underpinning cultural relativism, which assumes that the world consists of separate societies, each with its own distinctive culture, radically different from others. Gupta and Ferguson (1997) point out two lines of anthropological critique emerging since the 1950s. One line, influenced by depend-
ency theory and Marxist analyses of the capitalist world system, argues that ideas of cultural separateness and isolation have been made redundant by powerful regional and global forms of connectedness – economic as well as cultural. The other, more recent line focuses on the critique of representation (e.g. Clifford and Marcus 1986), revealing “[t]he apparent boundedness and coherence of culture as something made rather than found” (Gupta and Ferguson 1997: 2). In particular, the postcolonial experiences of social marginality, brought about by colonial domination, diaspora, displacement, have shattered “[t]he natural(ized), unifying discourse of ‘nation,’ ‘peoples,’ or authentic ‘folk’ tradition, those embedded myths of culture’s particularity” (Bhabha 1994: 172). This shift in anthropological thinking about culture should help in re-evaluating the contemporary relevance of the universality–relativity debate.

Perhaps more important than these theoretical developments, at least for the practice of human rights, are the ways in which human rights values are interpreted and appropriated at the local, everyday level. Notwithstanding their European origins, human rights have become a vehicle for articulating a multitude of concerns all over the globe (Preis 1996: 289), often revealing deep social divisions and conflicts over cultural traditions in Third World countries. The fact that “remote” indigenous peoples in Australia, local women’s groups in Vanuatu, and child workers in India draw on human rights in order to advance their particular interests may seem paradoxical, but becomes less so if we remind ourselves of the work of Stacey Pigg (1996) and others, described in chapter 3. In researching how universal discourses, such as development or human rights, are interpreted on the ground, Pigg (1996) points out that the local is not simply a homogeneous and spatially delineated place dominated by traditional culture, but rather “comes into being through engagement with the wider systems of many beyonds” (Pigg 1996: 192). In terms of our examples, if indigenous peoples, local women, and child workers came into their contemporary being through the wider systems of colonialism, patriarchy, and capitalism, then why should now the universal discourse on human rights be irrelevant to them?

In the next section, we explore these arguments in relation to the debates on gender and human rights. As we indicate in chapter 4, cultural relativist arguments are also invoked in discussing the question whether development – and, more specifically, international development assistance – should aim toward achieving equality between women and men. The relativist–universalist dichotomy thus re-emerges in Martha Nussbaum’s (1995a: 4) question, “whether . . . we should seek a universal measure or measures of quality of life for all men and women, or defer, instead, to the many different norms that traditional cultures have selected.”

4.2 Male bias, cultural essentialism, and women’s human rights

Over the past two decades, local and international campaigns on women’s human rights have gathered momentum, marked by strong representations at
recent UN conferences on human rights (in Vienna in 1993) and on women (in Beijing in 1995). What explains the push for women’s human rights to be recognized and protected? Based on the assessment there is no country in the world where women’s quality of life is equal to that of men (Nussbaum 1995a), and that “the unequal status of women . . . results from gender discrimination” (Tomasevski 1993b: ix), human rights activists and some feminist scholars argue that the concept of “human” in human rights be expanded to include women. According to this perspective, two key factors have hampered the recognition of women’s rights as human rights. First, male bias in the early formulations of human rights as the “Rights of Men” has been carried into the Universal Declaration of Human Rights, both in terms of language (the frequent use of “his” and “he”), and in its tendency to view human rights as rights exercised by male heads of households against each other, and against their government. Susan Moller Okin (1998: 34–5) elaborates on the need to rethink human rights in the light of women’s experiences:

A growing body of feminist human rights literature argues that the male bias of human rights thinking and its priorities had to change for women’s rights to be fully recognized as human rights. The problem is not so much that men’s claims to rights A, B and C have been recognized, whereas women’s claims to these exact same rights have not – which is not to say that this never happens. The problem is that existing theories, compilations, and prioritizations of human rights have been constructed after a male model. When women’s life experiences are taken equally into account, these theories, compilations, and prioritizations change significantly. Examples of issues that come to the fore, instead of being virtually ignored, include rape . . ., domestic violence, reproductive freedom, the valuation of childcare and other domestic labor as work, and unequal opportunity for women and girls in education, employment, housing, credit, and health care.

By reading the reality of women’s lives into the gaps between the abstract formulations in the key human rights conventions, a reprioritized and retheorized catalogue of human rights emerges in which women’s difference from men is acknowledged and incorporated (Brems 1997).

A different approach would prefer to see a truly universal human being emerging from a revised concept of human rights. Martha Nussbaum believes that our concern for women’s rights and needs requires that we “focus on what is common to all, rather than on differences,” i.e., “the capabilities and needs that join all humans, across barriers of gender and class and race and nation” (Nussbaum 1995b: 63, 61). In what is at the same time a universalist and an anti-essentialist argument, Nussbaum strongly argues against defining women’s capabilities differently from men’s, on the grounds that gender-specific spheres and norms often involve female spheres and norms being devalued, and that “in the present gender-divided state of things we cannot get beneath culture reliably enough to get the necessary evidence about basic capabilities” (Nussbaum 1995b: 102). With this view that gender is culturally and socially constructed, Nussbaum is able to circumvent both patriarchal and feminist claims to women’s essential difference which have, in different ways, under-
pinned arguments about the irrelevance of human rights to women. Male bias in the earlier human rights documents is a reflection of the society that produced these documents, and more recent declarations and conventions have made significant steps toward widening the definition of human rights to include women (Okin 1998). The Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) (United Nations 1979) was one such step, and the Vienna Declaration (United Nations 1993) and the Beijing Platform for Action (United Nations 1995) constituted further progress along this path.

The second factor which, human rights activists and some feminists argue, has undermined the application of human rights to women is related to culture. They point out that discrimination on the grounds of sex, despite being prohibited in the Universal Declaration of Human Rights, is “frequently justified as being in accordance with many of the cultures – including religious aspects of these cultures – practiced in the world today” (Okin 1998: 33). A large number even of those governments that have ratified the CEDAW are either unable or unwilling to enforce its provisions. This indicates that many governments adopt a cultural relativist position on human rights which does not go as far as rejecting altogether the relevance of human rights to their female citizens, but which allows them to reject specific rights, or to reject the interpretation of specific aspects of rights. Even more subtly, some cultural relativists might accept a right with all its components and with its general interpretation, but reject the classification of a particular cultural practice as a violation of that right. The interpretation of female circumcision as a legitimate cultural practice, rather than as cruel, inhuman, or degrading treatment under the Convention for the Abolition of Torture, is one frequently cited example (Brems 1997: 144; Okin 1998: 38).

In the eyes of those who want women’s rights to be recognized as human rights, “respecting cultural differences” has increasingly become a euphemism for restricting or denying women’s human rights” (Okin 1998: 36). The link between cultural difference and gender difference is such that Martha Nussbaum argues for a choice to be made between “the voice of tradition and a critical universalism” (that is, a universalism able to critically examine the basis of its own assumptions), on the grounds that “many traditional norms do not make full equality in the many functions of life a goal for females” (Nussbaum 1995a: 4). In the lead-up to the UN Conference on Human Rights in Vienna (United Nations 1993), feminist human rights campaigners successfully lobbied at the local, governmental, and international levels for women’s human rights to be recognized as prevailing over the rights of communities to practice their culture. The final document of the Vienna Conference spells defeat for the cultural relativist cause, stating that

While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote
and protect all human rights and fundamental freedoms. (Vienna Declaration, quoted in Brems 1997: 151)

Two years later, the UN’s Fourth International Conference on Women in Beijing again reasserted the universality of human rights, this time making direct reference to the conflict between women’s rights and cultural rights. In the Beijing Declaration and Platform for Action, which emerged from the conference as an international guideline for women’s policies, we read

Any harmful aspect of certain traditional, customary or modern practices that violates the rights of women should be prohibited and eliminated (Beijing Declaration 1995: 112, quoted in Okin 1998: 46)

While these developments are celebrated as a victory by feminist human rights activists, they also have raised concern among other groups, as we discuss below. First, however, we should consider two issues that contributed in bringing together the critiques of male bias and cultural relativism. One is the realization that the private sphere of the household has been the site where the human rights of women are most vulnerable to abuse, while at the same time being perceived by many nationalists as the “inner sanctum” of a country’s culture (Chatterjee 1993: 121; see chapter 5). As Okin (1998) points out, the individual’s right to privacy in “his” personal and family life (Universal Declaration of Human Rights, Article 12) may hide, and even legitimize, the abuse of women’s human rights. At the same time, the family home, and particularly its female inhabitants, has been heralded as an important site for protecting and nurturing cultural traditions. Opening up the notion of human rights to include violations not only of the private sphere but in the private sphere thus brings together feminist critiques of male bias and universalist critiques of cultural particularism.

Globalization is the second issue that has promoted the convergence of these two strands of critique. There is widespread evidence of global capital undermining women’s human rights to equal pay for equal work, just remuneration, and the right to form and join trade unions across the world, taking advantage of local cultural practices which render women more vulnerable to such violations (see chapter 4). Multinational companies and local businesses alike can hide their exploitation of women’s work, while at the same time claiming to respect cultural traditions. In order for women and men to get fair treatment and equal opportunities in a global capitalist labor market, international labor and human rights must be enforced everywhere.

Some problems with the universalist stance on women’s human rights

Despite the support which the campaign for women’s human rights has received among human rights activists, feminists, and governments across the North–South divide, the debate over cultural and gender difference has not been laid to rest. Within feminism, dissenting voices argue that the notion of
“women’s human rights” invites inappropriate generalizations about women’s experiences, and assumes that these experiences differ from men’s in some fundamental or essential way. Even where this difference is subsumed within an expanded notion of the human individual, as in Nussbaum’s (1995) approach, some feminist scholars remain suspicious. As Judith Butler (1992: 7) argues, “[t]o establish a set of norms that are beyond power or force is itself a powerful and forceful conceptual practice that sublimates, disguises and extends its own power play through recourse to tropes of normative universality.” In other words, extending the notion of universal human rights to women inevitably shores up the power of the norms underpinning it. Both the critique of gender essentialism and of universalism are frequently linked with a concern about Western cultural imperialism. However, as Uma Narayan (1998: 89; see also chapter 4) points out, this conflation “ignores the degree to which cultural imperialism often proceeds by means of an ‘insistence on Difference,’ by a projection of imaginary ‘differences’ that constitute one’s Others as Other, rather than via an ‘insistence on Sameness.’” The assumption that cultural imperialism operated to level cultural differences around a Western norm leads many feminists into another trap – that of cultural relativism based on essentialist pictures of “national culture and traditions.”

It can be argued that essentialist views of culture are not only found among those who are concerned that political demands for justice, equality, rights, or democracy are symptoms of the “cultural corruption” wrought by “Western ideas” (Narayan 1998: 91), whether they be postmodern feminists or conservative fundamentalists. They arguably also underpin Martha Nussbaum’s (1995a) dichotomy between universal rights and cultural traditions, which suggests that cultural traditions – particularly in the Third World – are the key obstacle to women’s social and economic advancement. Okin’s (1998: 39) suggestion that “ethnic and religious groups, too, can develop the same distaste for being seen as condoning serious harms done to women,” while indicating that views can change, nevertheless assumes that ethnic and religious groups tend to condone the violation of women’s human rights. It also begs the question, “the same distaste as whose?” Hers? The West’s?

Narayan argues that the temptation to polarize “Western” and “non-Western” values should be resisted. It hides the degree to which Western and non-Western elites collaborate in eroding the rights and quality of life for many citizens in both Western and Third World contexts. Instead of uncritically accepting the essentialist picture of a culture, we should inquire how this picture has been put together (see chapter 5). As she points out, “those with social power conveniently designate certain changes in values and practices as consonant with ‘cultural presentation’ while designating other changes as ‘cultural loss’ or ‘cultural betrayal’” (Narayan 1998: 95). A final nail in the coffin of the cultural essentialism thesis is the fact that in most societies we find dissenting views about cultural practices and their meaning and relevance, and therefore no perspective should be granted “the status of being the sole authentic representative of the views and values of a particular culture” (Narayan 1998: 102).
Situating women’s human rights

The literature we have discussed thus far has kept us at a highly abstract level, which is emphasized rather than mitigated by the use of some highly emotive examples of human rights abuses. Little information is offered about the non-Western cultures in the arguments on either side of the universalist–relativist divide. Ann-Belinda Preis (1996: 315) suggests that by exploring the “unpredictable, fragmentary and partial nature of human rights” in the everyday life of social actors, it may be possible to move beyond the impasse of the debate. Bearing in mind that cultures are made, not simply inherited, and that the construction of culture is laden with conflicts, the question whether human rights are “recognized” or “rejected” in any particular cultural context becomes more difficult to answer.

One example of such an exploration is found in Margaret Jolly’s (1996) article on the Vanuatu Women’s Center’s engagement with domestic violence. At the center of her discussion is the question whether culture and tradition, referred to as kastom in Vanuatu, is “only to be seen as impediments to the realization of women’s natural rights?” (Jolly 1996: 171). Jolly explains that kastom is the selective retrieval, during Vanuatu’s transition to independence, of traditional values and practices which had been modified and adapted under colonial and missionary influence from the nineteenth century onwards. As kastom is tied up with Vanuatu citizens’ self-understanding as an independent nation, it is important that the Vanuatu Women’s Center, an indigenous non-governmental organization, locates itself on the side of kastom in its fight against domestic violence. Failing to do so could jeopardize the women’s ability to influence indigenous men, especially as the Center’s funding through overseas sources could “lay them open to the charges of undue foreign influence and, worse, a betrayal of kastom” (Jolly 1996: 180). During a Conference on Violence and the Family sponsored by the Vanuatu Women’s Center in 1994, the judiciary was represented mainly by white men who took the view that violence against women was often exacerbated by kastom practices. In contrast, many of the women represented at the conference did not want to see their culture denigrated as inherently violent, or set themselves apart as “modern” women in opposition to “tradition” and to their men. In their own arguments against domestic violence, the women endeavored to tread a fine balance between kastom and Christian views of the family, and a human rights position on women’s rights to education and empowerment, by demanding newly created traditions and collective values which are non-violent and respectful of human rights.

5 Human rights of ethnic minority groups

In this final section, we address some of the questions raised by the application of human rights to culturally distinctive groups such as ethnic minorities or indigenous peoples. The last decade, in particular, has put “ethnic national-
isms” in East and Central Europe, and indigenous rights movements in many parts of the First and Third Worlds, firmly on a map that already featured longer-standing “communalisms” in Asia and “tribalisms” in Africa (Kahn 1998: 1). While chapter 5 discussed some of the reasons for this alleged resurgence of cultural politics, several important issues have remained under-researched, particularly in relation to human rights.

“Ethnocultural minorities around the world,” claims Will Kymlicka (1996: 22), “are demanding various forms of recognition and protection, often in the language of ‘group rights.’” This is regarded by many commentators with a weary eye, as a new trend that could threaten the international consensus on the importance of the individual rights laid down in the Universal Declaration. They warn that group (or collective) rights may lead to the imposition of group identity on individuals, and subordination of individual rights to the interests of the group (e.g. Lukes 1993). Some point out that legitimizing group rights based on ethnic identity “promises to entrench rather than to erase existing forms of disadvantage and disempowerment” (Comaroff 1995: 264). However, others dispute that there is a chasm between individual and group rights, claiming instead that it is precisely these so-called individual rights which form the basis for many claims raised by minority groups. We explore this debate over individual versus group rights against the background of a growing number of indigenous and ethnic rights movements, using examples from both First and Third World contexts.

Even broader, and at the same time more complex, is the question whether the human rights that emerged from a particular context – European liberal democratic tradition – are “sufficient to accommodate the legitimate interests which people have in virtue of their ethnic identity” (Kymlicka and Shapiro 1997: 4), often in a rather different historical, economic, political, and social context. The proliferation of “cultural politics,” of movements claiming to represent particular group interests on the one hand, and of international covenants and declarations on specific rights issues (such as indigenous rights, children’s rights, etc.) on the other, suggests that existing instruments are not adequate. Indigenous peoples’ demands for land rights, for example, cannot be easily read into the Universal Declaration’s “right to own property.” Indeed, the individualistic definition of property in the European tradition has often been used to justify their expropriation, as in the case of Australia being declared an “empty land” by colonial settlers.

An equally valid argument, however, could be made for the case that further elaborations of human rights in the light of group interests will do little to improve their enforcement. One reason is that human rights are mainly to be enforced by governments within their national territories, but these are becoming less and less able to do so. Global flows of communication, capital, finance, etc. are “eating away” (Comaroff 1995: 253) at the boundaries of the nation-state, and thus undermining the sovereignty and power to act of governments. The nation-state is also being challenged from within its own boundaries, by the very movements that contribute to the “explosion of cultural politics” (Comaroff
1995: 259). Many of these movements can be seen as a reaction against the effects of globalization, and the national governments’ inability or refusal to take the basic human needs of its citizens seriously. Another reason against the establishment of group rights brings us back to the changing ways of thinking about culture. If primordial explanations of ethnic and indigenous identities are rejected as outmoded or false, and constructionist perspectives adopted instead, then such cultural identities cannot be possessed by individuals or groups. Instead, cultural identity is a “mobile, often unstable relation of difference” (Gupta and Ferguson 1997: 13).

5.1 Ethnic minority group rights versus individual rights

The debate over ethnic minority group rights overlaps to some extent with the relativism–universalism debate discussed in the previous section. Underlying both debates is a view of human rights doctrines as being based on the idea of the inherent dignity and equality of all individuals, and focuses mainly on the rights which individuals hold against each other, and against their government (Okin 1998). While those in favor of recognizing the rights of ethnic groups see this as an obstacle, critics fear that a strengthening of group rights would lead to a dangerous undermining of already precarious basic civil rights. Let us examine the case for ethnic group rights first.

**Defining indigeneity**

The term “indigenous” can relate to individuals, communities, peoples, and nations. One frequently used definition is by Martinez Cobo, which identifies as “indigenous” a group which has historical continuity with pre-invasion and precolonial society, and considers itself distinct from the now dominant sector of society. Indigenous groups “are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and level systems” (United Nations 1986/7, quoted in Pritchard 1998: 43). However, in practice, as well as in its Draft Declaration on the Rights of Indigenous Peoples, the Working Group on Indigenous Populations leaves the task of defining who is indigenous to indigenous peoples themselves.

Proponents of group rights argue that most nation-states are ethnically heterogeneous, a situation which results in some degree of “tension between promoting the identity of a particular community and encouraging integration
into the majority group that controls the state” (Phillips 1993: 7). These tensions can develop into violent conflict and involve serious abuses of the human rights of members, particularly of minority groups. Examples range from bombing raids on Kurdish settlements in Iraq and Turkey, to arson attacks on Muslim Indians in the “communal” riots in Mumbai, to Pakistani British citizens by racist gangs in London, to the forcible separation of indigenous children from their families so as to integrate them into mainstream society in Australia. People suffer such human rights violations not so much as individuals, but rather on the grounds of their group belonging, and the assertion of their human rights therefore requires that their group identity be protected and promoted.

Minority rights are signaled in Article 27 of the UN Covenant on Civil and Political Rights, which declares:

In those states in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

This right, however, is contingent on being recognized as a minority group, that is, as having a group identity which is different from others. Furthermore, it has a number of ramifications which are not immediately obvious; for example, an indigenous group’s culture, religion, and language may be so closely linked to a particular way of life and resource base that modernization and the development of this resource base by a dominant center effectively undermines the group’s right under Article 27. In response, the group may seek self-government, or even independence, which would allow it to “enjoy their own culture” and consolidate their resource base (Eide 1993). For the Working Group on Indigenous Populations, set up in 1982 to address the “limited relevance of UN activities to the situation of Indigenous peoples” (Pritchard 1998: 40), the right to self-determination is both a crucial and controversial issue: “While Indigenous participants [in the Working Group] oppose any restriction upon their right of self-determination, most governments continue to call for some qualification” (Pritchard 1998: 46). The 1994 Draft Declaration on the Rights of Indigenous Peoples (Working Group on Indigenous Populations 1994) recognizes indigenous peoples’ right of self-determination, but it remains to be seen what kinds of changes it will undergo as it advances through the UN system.

Native tongues refuse to be silenced in Australia

In 1998, the Northern Territory government, in the north of Australia, decided to abolish the bilingual education programs in seventeen mainly Aboriginal-controlled schools. In an angry newspaper article in
The Australian, Maria Ceresa (1998) argues that this decision flies in the face of Article 14 of the draft declaration of the UN Rights of Indigenous Peoples, affirming their right to be educated in their own languages. It also indicates that the government is inconsistent in supporting this right for indigenous people in the Third World but not Australia’s own. She writes:

Jeannie Nungarrayi Herbert will never forget her school days on the remote Warlpiri Aboriginal community of Lajamanu in the Tanami Desert, 800 km south-west of Darwin. Now 46, she remembers being “flogged with a cane until black and blue” for speaking her mother tongue in the classroom. This strategy did not wipe out her Warlpiri. Today, this Batchelor College graduate [Northern Territory, Australia] is a passionate advocate for Aboriginal-controlled bilingual education.

The philosophy of transitional bilingual education is that indigenous children learn first in their own language and later switch to English. It is supplemented by English as a second language programs. It has resulted in community control of the school curriculum, increased retention rates and unassailable pride in language and culture. The bilingual programs also have started to address the chronic shortage of interpreters in Aboriginal languages, so vital in healthcare and the justice system.

English literacy rates among indigenous children in the Northern Territory remain a national disgrace. ... [A] 1996 study found indigenous children in remote areas were seven years behind other Australian children in literacy. This is hardly surprising, considering 75 per cent of Aboriginal people in the Northern Territory speak an Indigenous language. For many, English is their second, third, fourth and sometimes fifth language.

In response to claims that results in English attained under bilingual schools are “at best inconclusive,” [the Education Minister] scraps the bilingual programs. ... Nevertheless, the Government does see merit in supporting bilingual programs for other nations’ indigenous people: in Papua New Guinea and Vietnam, for example.

Other countries treat their indigenous languages as national treasures. The survival of the Welsh language has depended on crucial support from Westminster. This year the Brazilian Government moved to revive hundreds of Indian languages in the Amazon for the first time since Brazil’s colonisation by the Portuguese 500 years ago.

In Australia we are dealing with survival, not revival. According to a 1990 study, The loss of Australia’s Aboriginal language heritage by linguist Annette Schmidt, two-thirds of the original 250 Aboriginal languages are extinct. Of the 90 surviving languages, 20 are in a relatively healthy state. But Schmidt predicts that during the next 30 to 40 years, the number of surviving languages will be fewer than 10.

Meanwhile, like many ethnic groups, the Darwin Greek Orthodox School receives a government subsidy to run language and cultural classes. In a multicultural society that is fair enough, but if that funding were withdrawn tomorrow, the sons and daughters of our Greek-born Australians would have the opportunity to return “home” to learn the language of their forefathers. No such option exists for Herbert’s relatives.
Many proponents of group rights refer to examples of indigenous peoples in order to support their argument. However, there are also several other types of minority groups: migrants who are culturally different from the dominant society; and ethno-nationalists who seek a share in state power, or to dominate a heterogeneous society, or to secede from it (Eide 1993). Expansionist, exclusivist, and secessionist modes of ethno-nationalism are a threat to international order and human rights protection and should be counteracted, argues Eide (1993: 12). This should be done not through repression of ethnic groups, but through "an appropriate and effective policy of minority or group protection." The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations 1992) is one step in this direction, calling on states to protect and promote the identity of minorities and to ensure that they do not suffer any form of discrimination in the larger society. At the same time, however, the rights of ethnic groups should not prejudice the human rights and fundamental freedoms enjoyed by all, or "sovereign equality, territorial integrity and political independence of States," according to Article 8 of the Declaration on Minorities.

Critics argue that this balance is difficult to strike. Measures aimed at promoting group identities may involve positive discrimination, such as the reservation of certain jobs and educational opportunities for members of minority groups in India. Similarly, the right of minorities to run their own institutions may prejudice the human right of all citizens to be treated equally, and may limit the basic human freedom of minority group members who deviate from

\[ \text{Figure 6.4 Pro-independence demonstration in Dili, East Timor, just moments before the 1991 massacre} \]
group norms and values. As Rhonda Howard (1992) explains, individual and group rights are incompatible because the individual rights are held against state and society, while group rights can only be exercised by those who belong to a group. Some governments have justified their failure to promote minority rights and identities by pointing out that this might lead to ethnic and racial conflict. Third World governments are concerned about threats to national integrity and political stability, and the negative impact they may have on the development process. For example, granting land rights to indigenous peoples could strengthen their resistance to economic developments, such as mining on these lands, from which all citizens could benefit.

A third position in the debate over group rights and individual rights holds that they are closely related, rather than opposed to each other. To live your own life, argues Lukes (1993: 30), you do not only need rights as an individual; social and cultural preconditions must also exist, and this “may well involve the protection and even fostering of collective goods,” such as institutions, education, and culture. As Kymlicka and Shapiro (1997: 4) point out, “many of the claims raised by ethnocultural groups seem to fall on the ‘individual’ side of the ledger.” Mick Dodson, the former Aboriginal and Torres Strait Islander Social Justice Commissioner, sees the strengthening of indigenous rights as a way of seeking “justice from a higher authority” in the face of governments’ “consistent failure to deliver justice” (Dodson 1998: 19), rather than conferring special rights on indigenous peoples. Referring to Australia, he reminds us of:

The 20,000 Aboriginal people without adequate water, the 5,000 homeless Indigenous families, the 14,000 Aboriginal people in Western Australia who live without proper sewerage systems, power sources, or other essential services. These people, along with the children who don’t get pre-school, let alone secondary or higher education, could all find suitable provisions under the [International Covenant on Economic, Social and Cultural Rights and the Convention on Racial Discrimination]. (Dodson 1998: 28–9)

In Dodson’s view, the Draft Declaration on the Rights of Indigenous Peoples seeks to ensure that “the body of international law does what it set out to do: protect and promote the rights of all peoples” (Dodson 1998: 21). It makes indigenous peoples visible, enables them to claim their rights, and thus enhances their status in domestic power struggles (Wilders 1997). Referring to ethnic groups in Nigeria, Eghosa Osaghae (1996: 177) takes the view that group rights are integral to a human rights approach: “without redressing inequalities, the entrenchment of individual human rights would be meaningless to members of disadvantaged groups.” Nigeria’s federal system tends to favor the dominant ethnic groups in each state, and the right to non-discrimination in the country’s constitution has not been able to protect the basic rights of ethnic minorities. In order to be able to “enjoy the same rights that others enjoy,” the right of ethnic minorities to exist, preserve their culture, share power and resources, etc., have to be recognized (Osaghae 1996: 186).
5.2 Globalization and human rights

Surrounding the debate over the relationship between group rights and human rights are changes in the ways we think about culture which have shifted our understanding of key concepts involved in the debate. As is already evident from the definitions of “indigenous” and “ethnic” (see box), the beneficiaries of group rights are difficult to identify clearly. This is in part due to the theoretical shift from a primordialist view of ethnic/indigenous identity as a consequence of birth, to a conception of ethnicity as a historical construction, something that evolves and changes. Globalization has played its role in this theoretical shift, and has shaped the global context within which ethnicities, nations, and indigenous communities exist.

In discussing “the world-historical context of recent identity politics,” Comaroff (1995: 251) stresses that “the signs and practices of ethnicity and nationality are always products of a dialectic of forces local and global.” But the “gathering momentum” of globalization in recent times, characterized by an unprecedented growth in global institutions, people movements, communication flows, etc. (Comaroff 1995: 252; see also chapters 1 and 3), poses questions of identity-based rights more starkly. At the same time as rights-based social movements and identity politics are claiming center stage, “the language of rights and obligations, so central to the modern myth of a people, has become increasingly inadequate to describe the condition of many populations, such as the migrant, diasporic, and refugee populations” (Bhabha 1994: 175). The spatially bounded concept of culture, which dominated social sciences in the first part of the twentieth century (Gupta and Ferguson 1997) and still haunts the human rights articulations, is being pulled apart. As Comaroff asks, “where does society begin and end? At the borders of Turkey? Or does it take in Berlin?” (Comaroff 1995: 255). It is conceivable, indeed likely, that being Turkish may mean different things in different places, and give rise to different rights claims.

Another paradox raised by processes of globalization relates to the enforcement of human rights. While the state retains the key responsibility for ensuring that all human rights are observed, the deconstruction of state boundaries through global currency, trade, capital, and labor flows undermines the state’s ability, even if it wanted, to ensure its citizens’ social and economic needs are met and to regulate violence. Comaroff (1995: 259) suggests that globalization and the “crisis of the nation-state” leads to two simultaneous processes, one being the defensive and sometimes oppressive assertion of sovereignty and control by the state, the other an “explosion of identity politics within the national community.” As he points out,

nothing is as likely to ensure that humans will assert (or invent) their differences than being made aware . . . of the indifference of the state to their predicament. . . . Nor is it hard to understand why, when faced with such indifference, subordinated groups stress their cultural distinctiveness in agitating against their disempowerment. (Comaroff 1995: 261)
Take, for example, the upsurge in indigenous movements in Mexico, highlighted by the “Zapatista Rebellion,” which began in the southern state of Chiapas on January 1, 1994, the day that the North Atlantic Free Trade Agreement went into effect. The guerrillas’ declaration of war identified them as the “original descendants” of Mexico, and called on all Mexicans to join them in opposing the government:

Today we say enough is enough! To the people of Mexico: Mexican brothers and sisters: We are a product of 500 years of struggle: first against slavery, then during the War of Independence against Spain led by insurgents, then to promulgate our constitution and expel the French empire from our soil, and later [when] the dictatorship of Porfirio Díaz denied us the just application of the Reform laws and the people rebelled and [revolutionary] leaders like [Pancho] Villa and [Emiliano] Zapata emerged, poor men just like us. We have been denied the most elemental education so that others can use us as cannon fodder and pillage the wealth of our country. They don’t care that we have nothing, absolutely nothing: not even a decent roof over our heads, nor land, nor work, nor health care, no food, and no education. Nor are we able freely and democratically to elect our political representatives, nor is there independence from foreigners, nor is there peace nor justice for ourselves and our children. (Comandancia General del EZLN, quoted in Collier and Quarantiello 1994: 2)

Mexico’s inclusion in NAFTA made the situation worse, with cheap corn imports from neighboring USA threatening the meager livelihood of the small rural producers (The Economist 1994: 19) who constitute the majority of Mexico’s estimated nine million indigenous people. In other parts of the country, too, indigenous Mexicans have started to demand the right to self-determination for their communities (e.g. Payne 1996).

Comaroff (1995: 264) is skeptical about the promise of group rights helping to “erase existing forms of disadvantage and disempowerment,” arguing that oppressive structures based on the triangulation of race, class, and gender are unlikely to be dismantled through a politics of group rights, advantages, or entitlements. As Laclau (1995) points out, inversion of the particular relation of oppression – e.g. by granting special rights to a particular group – would leave the form of oppression unchanged. What needs to be inverted is the form of oppression – with its universal reference to oppressors and oppressed – and that would radically change the identities of both. This kind of argument, against the background of processes of globalization, throws us back on universalist conceptions of human rights, whereby the universal becomes a “symbol of missing fullness,” rather than a concrete list of rights. As Laclau (1995: 103) explains, considering the universal in this manner implies that “no particularity can be constituted except by maintaining an internal reference to universal-ity as that which is missing.” If we apply Laclau’s viewpoint to our previous example, the Zapatistas’ definition of their indigeneity is inextricably linked with the human rights missing from their lives – the rights to life, health, work, education, and to participate in their government – and which other, more privileged, Mexicans have long been able to enjoy.
6 Summary

This chapter has focused on human rights as a component of the contemporary debates over the meaning of development. The recent prominence of human rights as a development issue has been described as paradoxical by a number of writers, because human rights, while ostensibly important to Western civilization and international development policy, have been accorded a marginal role in the practice of development. The reasons why human rights have had such rhetorical prominence in recent years are linked to the impact of social movements, such as postcolonial struggles and the women’s movement; the reconfiguration of global politics following the demise of the Soviet empire; and an increasingly vocal intellectual and political critique of the discursive dominance of Western knowledge.

The three key areas on which the chapter focuses bring out different aspects of the old and new ways of thinking about development and culture. The discussion of child labor sheds light on the age-old debate about human needs versus human rights – which comes first, freedom from poverty, or civil and political freedom? Cultural constructions of childhood and the family are essential in determining the position one takes regarding prohibition or regulation of child labor, and the broader issue of the rights of the child.

The question of cultural relativism discussed in chapter 4 is also central to the debates over the universality of human rights. As the discussion on the rights of women indicates, there are no simple answers. There are strong arguments for supporting both the universalist and the relativist stance on women’s human rights. One possibility in overcoming this impasse is to recognize the constructedness of culture, and to pay more attention to how the universal principles are understood and interpreted in local contexts.

The weakening and fragmentation of the nation-state, discussed in chapter 5, has accentuated the contradictions between collective and individual rights, as the tensions between majorities and minorities become acute, and increasingly articulated in terms of primordial identities. Indigenous claims to self-determination further complicate the debate over collective versus individual rights. However, as Laclau points out, the arguments for specific group rights do not necessarily address the causes of these conflicts. Simply asserting group rights over other kinds of rights does little to change the forms of oppression. The example of apartheid South Africa stands out as a case where the recognition of group rights underpinned a racist political economy.
References

(no author)


