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I. Introduction

Upon submitting the Universal Declaration of Human Rights (UDHR), Eleanor Roosevelt, the key drafter, activist, and diplomat, stated that the Declaration “may well become the international Magna Carta for all men everywhere”. In the aftermath of the 20th century’s bloodshed, human rights were envisioned as a remedy -the “last utopia” of humanity.¹ Now, by general agreement, human rights are in crisis, and their foundational principles are being questioned, too.

Marking its 75th anniversary, the collective volume *The Universal Declaration of Human Rights: A commentary*, aimed to critically explore and revisit the theoretical and ideological foundations, as well as the drafting process, of the UDHR. This review focuses on a central theoretical theme that permeates the entire work: the concept of “universality”.

¹ Moyn, Samuel, *The Last Utopia*, Cambridge, Harvard University Press, 2010, p. 13.

II. Unraveling the “Universal” in the Universal Declaration of Human Rights

In the Foreword of the Book, Volker Türk, UN High Commissioner for Human Rights, describes the UDHR as a “deceptively simple document, drawn from cultures across the world”. A document with “no poor and rich, no right and left, no barriers of color, gender or class”.² “We are all born equal”, he concludes. Türk’s review speaks directly to the universal spirit of the UDHR, and to the natural rights tradition of human rights.

As is well known, universality is a key feature of liberal human rights theory. In essence, the universality principle holds that “all humans are endowed with equal human rights simply by virtue of their humanity”.³ Texts often considered historical landmarks of Western-liberal thought are grounded in this principle, which served as a touchstone in the formation and dominant conception of modern human rights philosophy.

Thus, the American Declaration of Independence (1776) states that “all men are created equal, [and] they are endowed [...] with certain unalienable rights”; the Declaration of the Rights of Man and of the Citizen (1789) seeks to expound “the natural, inalienable, and sacred rights of man [...] for all members of the social body”. Similarly, the UDHR (1948) “recognizes the inherent dignity and of the equal and inalienable rights of man [...] for all members of the human family”. This idea, as explained by Rivera Juaristi, “provided the theoretical scaffolding that sustains all human rights norms”.⁴

All in all, at least theoretically, these foundational documents were guided by a universal vision. Humberto Cantú’s review of the *travaux préparatoires* of the Declaration is especially clear in this regard. There is no doubt that key drafters expressed an overall “hope that the Declaration would be a starting point to establish moral, and legal principles applicable throughout the world”.⁵ However, as Cantú also notes, the Declaration is often viewed not

² Turk, Volker, “Foreword”, en *The Universal Declaration of Human Rights: A commentary*, Leiden, Brill, 2024, pp. 1-11.

³ United Nations, *Universality and Diversity: Especial Rapporteur in the Field of Cultural Rights*, Geneva, Office of the High Commissioner, 2021. <https://www.ohchr.org/en/special-procedures/sr-cultural-rights/universality-and-diversity>

⁴ Rivera Juaristi, Francisco, “Article 1 - Dignity and Equality”, in *The Universal Declaration of Human Rights: A Commentary*, Cantú Rivera, Fernando (ed.), Boston, Brill, 2024, p. 12

⁵ Cantú, Humberto, “The 75th Anniversary of the Universal Declaration of Human Rights”,

as a genuinely universal document, but as a Western values-oriented instrument.⁶ This speaks both to the morality ingrained in the Declaration, and to the ideological tradition it replicates.

As historians have often pointed out, the idea of universality and human equality embedded in the Declaration is closely tied to the liberal tradition inherited from Enlightenment thinkers. The UDHR, for example, drew direct inspiration from 18th-century political texts that reflected the influence of philosophers such as John Locke, who “maintained that in nature people were equal and free, and that the ideal society was based on a social contract between the people and those who governed”.⁷

But ever since Locke and the enlightenment thinkers proclaimed the “equality of [all] men by nature”, the contradictory political realities underpinning such assertions have been the subject of sustained critiques. There is an ongoing debate regarding the contradictions between the language of apparent universality used in the contractualist-emulating “foundational documents” and the deliberate marginalization of entire human groups, such as women, slaves, and the colonized, who were neither the intended recipients nor beneficiaries of the term “all men”.⁸

While a full assessment of these critiques exceeds the scope of this review, it is fair to say that the notion of universality has evolved. Today, at least in principle, human rights are understood to encompass a broader range of individuals, with a more explicit focus on the protection of humanity as a whole.

The UDHR, along with the legal instruments that have built upon its framework —core treaties, optional protocols, monitoring mechanisms—, and the progressive development of rights reviewed in the book, all serve as an enduring testament to this progress. As Cantu Rivera aptly describes, the Declaration is “a living document instituting the recognition of fundamental rights and freedoms for all men and women in the world”.⁹

in *The Universal Declaration of Human Rights: A commentary*, Leiden, Brill, 2024, p. 3.

⁶ *Ibidem*, p. 5.

⁷ Magnarella, Paul, “International Human Rights: Roots of a Progression”, *Journal of Third World Studies*, vol. 19, no. 2, 2002, pp. 11-21.

⁸ For further discussion of contradictions between social contract theory, see Pateman, Carole, *The Sexual Contract*, Cambridge, Polity Press, 1988.

⁹ Cantú, Humberto, “The 75th Anniversary of the Universal Declaration of Human Rights”, *cit.*, note 5, p. 4.

While the theoretical commitment to universal human rights is well established, in practice, its full realization remains elusive, as people around the world continue to face systematic exclusion from fundamental rights protections. In this context, a pressing question arises: Is universality truly achievable in practice, or are we still clinging to an illusion? Are there alternative theoretical approaches? Can we imagine different ways to conceptualize and ensure human rights?

III. The Limited Scope of Universality

Although universality serves as a foundational concept in human rights theory, various schools of thought have contested both the idea itself, and the parameters established by the UDHR.¹⁰ In this context, the book may be enriched by asserting how certain scholars moved away from an “essentialist understanding of human rights”¹¹ and instead approached the subject as a social construct, or from utilitarian or communitarian perspectives. Among these, communitarians posed the greatest challenge to the notion of universality.¹²

As explained by Daniel Bell, communitarianism contend that “human identities are largely shaped by different kinds of constitutive communities (or social relations) and that this conception of human nature should inform our moral and political judgements as well as our policies and institutions”,¹³ Bell uses this conceptual framework to argue that communitarians have “sought to

¹⁰ Dembour, Marie-Benedict, “What are Human Rights? Four Schools of Thought”, *Human Rights Quarterly*, vol. 31, no. 1, 2010, pp. 1-20.

¹¹ Deflem, Mathieu and Stephen Chicoine, “The Sociological Discourse on Human Rights: Lessons from the Sociology of Law”, *Institute for Social Development and Policy Research (ISDPR)*, vol. 40, no. 1, 2011, p. 111.

¹² The communitarian theory begins by shifting the emphasis from the individual to the society that has shaped them. Authors like Charles Taylor contested that liberal thought takes the “primacy of rights” of individuals as a starting point, implying a “principle of unconditional ascription of rights to men (while rejecting) a principle of belonging and obligation (to society). See Taylor, Charles, *Philosophy and the Human Sciences: Philosophical papers*, Montreal, Cambridge University Press, 2012.

¹³ Bell, Daniel, “Communitarism”, in Zalta, Edward N. (ed), *The Stanford Encyclopedia of Philosophy*, 2023.

deflate the universal claims of liberal theory".¹⁴ From a communitarian perspective, the study of rights and justice emphasizes understanding the distinct and varied experiences of specific groups and societies, rather than adhering to a fixed, universal concept.

According to communitarians, standards of right and wrong, just and unjust, are fundamentally shaped by the values of particular societies, not by individual abstract reasoning. In contrast, liberal thinkers from Locke to Rawls¹⁵ ground their theory on a universal notion of justice that is inherently intertwined with our individual humanity. The juxtaposition has been defined by Daniel Bell as the struggle between "universalism", upheld by a liberal Western tradition, versus "cultural particularism" sustained by a communitarian thought.

For the purpose of this review, it is important to emphasize that this perspective highlights the role cultural factors play in shaping how human rights are *prioritized*, especially when conflicts between rights arise. Likewise, cultural factors can affect how the existence and application of a right is *justified* and can provide moral foundations for "*distinctive* political practices and institutions".¹⁶

In this vein, the abstract and universal normative nature of rights enshrined in the UDHR and rooted in the liberal rights tradition loses significance if the differentiation, justification, and prioritization of human rights vary according to cultural context. As a result, communitarians' critique of liberalism is based on the purported universality used to define human rights. They claim that this fundamental assumption ignores and denies the importance of cultural values and social differences in that role.

As can be inferred, communitarian thinkers tend to hold relativist standpoints (as opposed to universal positions). In "Spheres of Justice" Walzer famously stated that "all [fair] distributions are just or unjust *relative to the social meanings* of the goods at stake".¹⁷ In this perspective, the concept of justice and the status of the rights that arise from it is neither universal nor shared by everyone; rather, its distribution and meaning vary depending on the specific-relative social context in which it is rooted.

¹⁴ *Idem.*

¹⁵ Rawls magnum opus "A Theory of Justice", is explicitly based on the social contract theory.

¹⁶ Bell, Daniel, *op. cit.*, note 13.

¹⁷ Walzer, Michael, *Thick and Thin*, Chicago, University of Notre Dame Press, 2002.

Whereas human rights' universality focuses on the ascription of rights to the individual, stating that their content is inherent in the person, absolute, and self-evident. Communitarians do not focus on rights from an individual standpoint, nor do they speak in absolute terms; instead, they strive to comprehend social and cultural particularities that end up constructing the sense of what is just or unjust in specific contexts.

IV. A Reframed Understanding of Universality

In this article, I have explored the core notion of universality embedded in both the UDHR and in the schools of thought that adopt its framework. The collective volume reviewed here includes contributions from authors such as Volker Türk, Cantú, and Rivera Justini, who together offer insights into how the concept of universality was constructed, drafted, and embedded within the Declaration.

I have also examined schools of thought that challenge the concept of universality, focusing particularly on the communitarian perspective. This approach departs from liberal Western theory, arguing that cultural particularisms influence and shape human rights across different regions, contexts, and societies. The cultural sensitivity advocated by communitarian thinkers does not imply abandoning human rights. Rather, it calls for a rethinking of how rights are implemented, justified, and prioritized.

Besides the difference between schools of thought, communitarians like Taylor or Walzier acknowledge the desirability of a “minimum and universal moral code” or a “core set of human rights” that protect uncontested rights and protections such as the “prohibition against slavery, genocide, or torture”.¹⁸

Perhaps the communitarian counterpoint to liberal universalism offers a final point of reflection. One day, as the drafters of the UDHR envisioned, the world may adopt a kind of Magna Carta or international gospel of human rights. But for now —amid warfare, genocide, and crimes against humanity— universalism might best focus on establishing a “minimum universal code” that is compelling enough to prevent such atrocities.

¹⁸ Walzer, Micheal, *op. cit.*, *apud.*; Bell, Daniel, *op. cit.*

To rephrase the words of Dag Hammarskjöld, former Secretary-General of the United Nations: it is time to think of human rights not as a way to open the gates of heaven, but as a means to close the gates of hell.¹⁹

V. Bibliography

Bell, Daniel, “Communitarianism”, in Zalta, Edward N. (ed), *The Stanford Encyclopedia of Philosophy*, 2023.

Cantú, Humberto, “The 75th Anniversary of the Universal Declaration of Human Rights”, in *The Universal Declaration of Human Rights: A commentary*, Leiden, Brill, 2024, pp. 1-11.

Deflem, Mathieu and Stephen Chicoine, “The Sociological Discourse on Human Rights: Lessons from the Sociology of Law”, *Institute for Social Development and Policy Research (ISDPR)*, vol. 40, no. 1, 2011, pp. 101-115.

Dembour, Marie-Benedict, “What are Human Rights? Four Schools of Thought”, *Human Rights Quarterly*, vol. 31, no. 1, 2010, pp. 1-20.

Magnarella, Paul, “International Human Rights: Roots of a Progression”, *Journal of Third World Studies*, vol. 19, no. 2, 2002, pp. 11-21.

Melber, Henning, “Why normative framework? An introduction”, *Development Dialogue*, 2011, pp. 3-13.

Moyn, Samuel, *The Last Utopia*, Cambridge, Harvard University Press, 2010.

Pateman, Carole, *The Sexual Contract*, Cambridge, Polity Press, 1988.

Rivera Juaristi, Francisco, “Article 1 - Dignity and Equality”, in *The Universal Declaration of Human Rights: A Commentary*, Cantú Rivera, Fernando (ed.), Boston, Brill, 2024.

Taylor, Charles, *Philosophy and the Human Sciences: Philosophical papers*, Montreal, Cambridge University Press, 2012.

Turk, Volker, “Foreword”, en *The Universal Declaration of Human Rights: A commentary*, Leiden, Brill, 2024, pp. 1-11.

United Nations, *Universality and Diversity: Especial Rapporteur in the Field of Cultural Rights*, Geneva, Office of the High Commissioner, 2021. <https://www.ohchr.org/en/special-procedures/sr-cultural-rights/universality-and-diversity>

¹⁹ Melber, Henning, “Why normative framework? An introduction”, *Development Dialogue*, 2011, pp. 3-13; Dembour, Marie-Benedict, *op. cit.*

Walzer, Michael, *Spheres of Justice: A Defence of Pluralism and Equality*, Oxford, Blackwell, 1983.

Walzer, Micheal, *Thick and Thin*, Chicago, University of Notre Dam Press, 2002.