

FEMINISTS AND VEILED

Proposition for a Reconsidered Constructivist Theory of Human Rights

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Abstract

Looking for a stable reasoning for the universal application, George Ulrich has presented the Constructivist theory of Human Rights —a theory based on both the definition of universality as an “on-going project” and on the observation that in today's world modernisation and globalisation are spreading the Western views and lifestyle everywhere, and thus changing “the sphere of the world cultures”. The Constructivist theory argues that the implementation of human rights would not or at least no longer, bring about the changes feared by “the side of cultural relativism” on the debate on universalism and cultural relativism. Following Ulrich, human rights should be seen as *a framework within which it is possible to find solutions to the exigencies of the given historical and social moment*. Ulrich goes even further by arguing that human rights are meant to be the response to the effects of modernisation and globalisation and that they could, in some cases, be seen as protectors of cultures, both from the power of the modern state, and from the changes pushed by modernisation and globalisation.

The case study of the thesis demonstrates, with an interpretation of the case of Leyla Şahin v. Turkey in the European Court of Human Rights within the framework of the Constructivist Theory, that the *definition of cultural relativism as a methodological tool* would be an indispensable part of the theory in question. Consequently, the thesis introduces as its conclusions the proposition for the reconsidered Constructivist Theory of Human Rights.

The implicit message of this thesis is that the human rights movement would benefit from a change of paradigm concerning the notion of culture. Instead of understanding the variety of the local worldviews as an opposite stance and as a threat to universality, the possibilities of the methodological tool of cultural relativism could be seen as a way towards advancing the project of the universality of human rights. This thesis proposes examples of this possibility with a discussion of the Islamic veils.

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