

HUMAN RIGHTS: BETWEEN UNIVERSALISM AND CULTURAL RELATIVISM*

Abstract

The concept of human rights over time has gained popularity and recognition. It has been observed that the evolution of human rights in the present era has aroused a lot of debate and controversy as regard its justification and applicability to a human being, by virtue of the Universal Declaration of Human Rights and the United Nations Conference in Vienna 1993. These international treaties reconfirmed the validity of the universality of human rights, which has attracted criticizing from cultural relativist scholars like Renteln that it is based on western origin. This paper adopted the doctrinal and analytical research method in examining cultural relativist views such as Renteln's argument on the Universality of Human Rights and Cultural Relativism if Universalism of Human Rights is Western Imperialism? Weakness and Challenges of cultural relativist View on human rights. It was therefore recommended that, in order to end the endless arguments on whether or not human rights are universal, there is a need to convene an international forum where at least a more significant number percentage of nations can form a quorum in resolving the issue.

Keywords: Human right, Universalism, Relativism, Cultural Relativism, Imperialism

1. Introduction

It has been argued by scholars that human rights are rights that apply to everybody by virtue of being human beings, and those rights must be protected by institutions and regulated by law¹. All human beings are holders of human rights², irrespective of what they do, where they come from, and where they live (i.e., their nationality and community³). However, the Universal Declaration of Human Rights, 1948 (UDHR)⁴, and the UN Conference in Vienna

*By Paul Atagamen AIDONOJIE, Lecturer, Department of Public and International Law, Edo State University, Iyamho, Edo State. Email: aidonojie.paul@edouniversity.edu.ng, aidonojiepaul2015@gmail.com, Phone No.: 07030294932, 08094714883; and

*Omohoste Patience AGBALE, Lecturer, Ambrose Ali University, Ekpoma, Edo State. Email: paulaagbale@yahoo.com. Phone No.: 08034085370; and

*Oyenmwosa Anne ODOJOR, Lecturer, Department of Public and International Law, Edo University Iyamho, Nigeria

odojor.anne@edouniversity.edu.ng. Phone No.: +234(0)8039702026; and

*Oluwaseye Oluwayomi IKUBANNI, Lecturer, Department of Jurisprudence and Public Law, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State, Nigeria. E-mail: ikubannioluwaseye@gmail.com. Phone No.: +234(0)8107295253

¹ Aidonojie P. A. & Egielewa P. (2020). Criminality and the Media: Perception and Legality of the Amotekun Security Agency in Nigeria. *International Journal of Comparative Law and Legal Philosophy*, Vol. 1 (3), p. 47-56; Masajuwa F. & Aidonojie P. A. (2020). Sustainability of Plea Bargain in Nigeria Legal System: A Comparative Analysis of the Past and the Present. *Nigeria Bar Association on Legal Practice Law Journal*, Vol. 9(1), p. 97-116.

² Chapter- V, 'Human Right: AIM and Scope' available at https://shodhganga.inflibnet.ac.in/.../10-chapter_I accessed on 26th May, 2020

³ Kirchsclaeger P. 'Universality of Human Rights' available at www.socionauki.ru/.../112-125pdf I accessed on 27th August, 2020

⁴ Universal Declaration of Human Rights, adopted on 10 December 1948, G.A. Res. 217A (III). UN Doc. A/810, at 71 (1948). Article 18 of the Declaration.

1993 reconfirming the validity of the universality of human rights has faced much criticism from different sides of scholars like Renteln because of its alleged western origin⁵ and also, the flagrant postulation that the western race and culture is superior to other race and culture. However, the contention about the universality of human rights is in two terms, which are ‘universalism’ and ‘relativism,’ which seem to build a pair of two contrary terms. The counterpart for the first postulation is that human right is ‘particular’ and ‘absolute,’ they believe that human right is inherent and inure in the individual by virtue of being a human being⁶. In contrast, the second postulators that universalism of human right can only be legitimated through absolute justification by various culture and that human right is relative to one’s culture⁷, i.e., it is the culture an individual belongs to that determined is right.

In light of the above controversial argument between ‘Universalism’ and ‘Relativism,’ it has now become challenging to determine the source of the universality of human rights. It is in this regard that this paper attempt to x-ray a discuss as regard Renteln ideas and view on universalism and relativism of human right, the historical aspect of the universalism of human rights, arguments on the universalism of human rights, the non-western culture and the concepts of human right if universalism of human right is an idea of western imperialism? Ways of justifying the universality of human rights as postulated by cultural relativists and the weakness and challenges of Renteln view on human rights. The majority of the analysis will be focused on Renteln view on the topic.

2. Historical Aspect of Universalism of Human Rights

It is a known fact that the norms that are operational at any point in history tend to reflect the views of those who are at the moment holding the prevailing mantle of power⁸. Human rights are often regarded as universal in the sense that most societies and cultures have practiced human rights throughout most of their history. It is true that all societies culturally and

⁵Donnelly J., (1982). Human Rights and Human Dignity: An Analytical Critique of Non-Western Conceptions of Human Rights, *American Political Science Review* Vol. 76, p. 303 – 316; Panikkar R., (1982). Is the Notion of Human Rights a Western Concept?, *Diogenes* Vol. 120, p. 75 – 102; Oba A. A., ‘Eurocentric Theories as Obstacles to Inter-Cultural Human Rights Dialogue Between The West And Africa’ available at <https://isud.typepad.com/files/oba1.doc> I accessed on 27th June 2020

⁶Donnelly J., (2007). The Relative Universality of Human Rights. *Human Rights Quarterly*, Vol. 29 (2), p. 281-306 at page 2, according to Jack Donnelly, he said; I also emphasize that universal human rights, properly understood, leave considerable space for national, regional, cultural particularity and other forms of diversity and relativity.

⁷ Renteln A. D., *International Human Rights: Universalism Versus Relativism* [hereinafter Renteln] According to Renteln; One way to determine whether human rights have universal relevance is by conducting serious, systematic research into the cultural systems of a number of societies.... If national practices appear to be similar to, or at least within the framework of the existing international formulations on human rights, that too would contribute to the search for universals. Cited in Reviewed by Panjabi R. K. L. ‘A. D. Renteln, *International Human Rights: Universalism Versus Relativism* Newbury Park, California: Sage Publications, 1990. 205 pp. ISBN 0-8-39-3505-6. ISBN 0-8039-3506-4 (pbk.)’. available at <http://www.elibrary.law.psu.edu/.../view...> I accessed 27th July, 2020

⁸ W. S. Thunder ‘The Origin of Human Rights and the Challenge of Universality’ excerpted from the book ‘9/11 and the Ruin of Human Rights’ Mouth Press, 2003. Available at http://www.thirdworldtraveler.com/Human_Rights/Origin_Human%20Rights_TL.html I accessed 28th September 2020

historically manifest the conceptions of human rights before the seventeenth century⁹.’ However, these human rights were relative to societies¹⁰. For example, in the Greek City-State, political rights and duties were conferred on free male citizens born legitimately of citizen parents. However, the US declaration of independence proclaims that ‘all men are created equal’ and endowed with certain inalienable rights. As opined above, human rights which the individuals possess within its society are exercised and realized in distinct ways¹¹. In this regard, there was nothing like the historical universality of values across time and culture before the seventeenth century. In this regard, it suffices to say that no society had a widely endorsed practice, or even vision, of equal and inalienable individual human rights¹². However, due to ‘standard threats’ and human brutality that occurs during the Second World War that threatens the existence of humanity, it provoked new remedial responses recognizing the right of a man. The remedy recommended was the universal declaration of human rights, which is conceived to be a western-oriented ideology and is unknown to non-westerner. According to Shweder R. A., he said; ‘that the suspicion was entirely conceived in 1947 when the Executive Board of the American Anthropological Association refused to endorse the United Nations Declaration on peoples' rights because it was an ethnocentric document¹³. Shweder further quoted the statement made by the members of the Executive Board asked: ‘How can the proposed Declaration be applicable to all human beings, and not be a statement of rights conceived only in terms of the values prevalent only in the countries of Western Europe and America.¹⁴ According to A. A. Oba, he said;

Since the end of the Second World War, the world moved to the age of human rights. Human rights were conceived as being universal and applicable to all peoples and cultures without exception. The problem is that the content of these universal human rights is defined without reference to Africans. It is only the West that has the exclusive prerogative to define particular rights. Developments in human rights since the 1960s have reflected the socio-cultural evolvement in the West. Human rights became the product of western experience exclusively.¹⁵

⁹ Pollis A. & Schwab P., (1979). Human Rights: A Western Construct with Limited Applicability, in *Human Rights: Cultural and Ideological Perspectives* (Pollis A. & Schwab P. eds., 1979) p. 15

¹⁰ Commission Website: Information for Students-Human Rights Essentials- Human Rights Timeline. Available at <https://www.humanrights.gov.au/education/students/human-rights-essentials/commission-website-information-students-human-rights#early> I accessed on 28th September, 2020

¹¹Donnelly J., (1982). Human Rights and Human Dignity: An Analytical Critique of Non-Western Conceptions of Human Rights, *American Political Science Review* Vol. 76, p. 303 – 316. According to Jack Donnelly, he said; Human rights—equal and inalienable entitlements of all individuals that may be exercised against the state and society—are a distinctive way to seek to realize social values such as justice and human flourishing. at page 5

¹² Ibid p. 5; Rhoda E. H., (1986). Human Rights in Commonwealth Africa, Cited in Jack Donnelly, at p. 6

¹³ Richard A. Shweder. ‘Relativism and Universalism’ available at <https://www.ind.genouspsych.org/.../> I accessed 10th July, 2020

¹⁴ Ibid

¹⁵ Oba A. A., ‘Eurocentric Theories as Obstacles to Inter-Cultural Human Rights Dialogue Between The West And Africa’ available at <https://isud.typepad.com/files/oba1.doc> I accessed on 27th June 2020

One cannot flout the above quote of Oba as he had exposed the fact that the word ‘universal’ touches on all peoples and facets of the world¹⁶ no matter their status or who they are, and but the content of the human right as postulated by the westerner is not about Africans but the western ideology. He further stated that the so-called universal human right by the western is unknown to non-westerner who have their cultural ideology different from the western culture and as such has generated a lot of controversies, that human right is relative, not universal.

3. The Argument over Universality of Human Right and Cultural Relativism (Renteln’s view)

Whether the right recognized in the Universal Declaration of Human Rights¹⁷ and the international Human Rights covenant are universal? Is a question that has led to many human right scholars to pose a controversial debate on the aspect of the universality of human rights? Like order scholar who has centered their controversies on the nature of the human right, its source, justification, and origin, but Renteln’s argument deals with the issue of universality of human right which is aim to achieve an international commitment in the implementation of human rights though with respect to the concept of cultural diversity¹⁸. However, it is the theory of the universalism that human rights are universal and are inherent in every individual by virtue of being a human being¹⁹, but for cultural relativist like Renteln, she believes that if human right exists, such right is relative to one’s culture, for Renteln It is futile and perhaps over counterproductive merely to assert the existence of universal human rights in the face of cultural diversity. According to Renteln, she said;

The Marxist view of individual rights is that they are a bourgeois illusion. In the presence of vast inequality, professing a commitment to human rights ends up meaning little than saying that an individual can decide under which bridge to sleep. Presumably, this applies largely to political rights because the Marxist would favor economic rights until equality is achieved and the state withers away²⁰.

Renteln’s view above emphasizes that standards and values are relatives to the culture from which they are derived. In this regard, any attempt to formulate any universal standards and

¹⁶ Ibid, according to Oba; This Declaration was made virtually with no African input. Most of the countries in Africa were under colonialism at that time. The absence of African participation meant that African perspectives and values were not adequately articulated. The result is that the emergent document portrays essentially western values.... at page 16 The problem with the West is that it uses its cultural specifics as universals for all peoples. In pristine Eurocentrism, ‘man’ meant Europeans or Caucasians. This accounts for its inability to accept and accommodate non-western cultures

¹⁷The United Nations, Universal Declaration of Human Rights 1948. Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

¹⁸Renteln A. D., *Relativism and the Search for Human Rights*, 90 *Am. Anthropologist* 56 (1988), cited in Donnelly J., *Op cit* at pg 15

¹⁹Renteln A. D., (1985). *The Unanswered Challenge of Relativism and the Consequences for Human Rights*. *Human Rights quarterly*, p.519, also as provided in *The United Nations, Universal Declaration of Human Rights*. It was stated in the preamble as follows; Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

²⁰ Ibid p. 517

values is outside the beliefs or moral codes of one culture, which is an aberration and not applicable to humanity universally, but rather to the westerner. No doubt, Renteln's view against the westerner terming human rights as universal is very brilliant because she was able to expose the fact that what was obtainable in the western world is an egalitarian system, which is not a universal phenomenon²¹. Furthermore, a close examination of Renteln's postulation also represents some facet of the viewpoint of the American Anthropological Association (AAA), which holds the view that 'Man is free only when he lives as his society defines freedom.'²²

4. The Non-Western Culture and the Concepts of Human Right

It has always been the west ideology that the concept of human rights is unknown to non-western nations, thereby lack the perception of understanding the concepts of human rights. According to Renteln, one of such provocative thoughts was by Jack Donnelly when he said thus; 'Most non-western cultural and political traditions lack not only the practices of human rights but the very concepts. As a matter of historical fact, the concept of human rights is an artifact of modern western civilization'²³. The reason for Donnelly claiming that the non-western culture is bereaved of the concept of human right is that he believes that the non-western societies do not handle rights issues such as life, speech, religion, work, health, and education as rights but as duties, and he said these duties are neither derivatives nor correlatives to human rights²⁴. However, Renteln has a counter that:

The basic problem is that the discourse on rights comes from the western political tradition... this does not mean, however, that other societies lack the ideas expressed in the western rights framework. It may simply be the case that they articulate the values and needs in another rhetorical form²⁵,

From Renteln's perspective, it is very evident that it is the western misconception to believe that non-western culture lacks the idea of human rights. Having a retrospective view of the historical aspect of the most non-western nation, most of these states have one time, or the order demonstrated some element of human right in respect of their cultural practice. It is even the western countries that destroy this viable practice of human rights during their colonial rule in African countries and lay a shabby practice of discrimination not within the context of the moral of this non-western state. In supporting this view, Renteln relied on Rhoda Howard's work entitled 'Women's Right in English-Speaking Sub-Saharan Africa,' which exposes how westernization had led to the destruction of the right of Luo women of Kenya, who usually have a customary land right before the British introduced a formal land registration system and further started the practice of registering land in men's name only²⁶.

²¹ Ibid at p 517

²² Exec. Comm.; Am. Anthropologist 539, 543 (1947) cited in Donnelly Jack, Op cit, at pg 15.

²³ Donnelly j., (1982). Human Rights and Human Dignity: An Analytic Critique of Non-Western Human Rights Conceptions, American Political Science Review, Vol. (76) p. 303

²⁴ Renteln A. D., Op cit, at p 526

²⁵ Ibid, at p 517

²⁶ Howard R., (1984). Women's Right in English-speaking Sub-Saharan Africa. Chapter 3 in Human Right and Development in Africa, eds; Claude E. Welch, jr., R. I. Meltzer (Albany: State University of New York Press, 1984): p. 46-47.

Furthermore, it is also the view of the westerner that most non-western nations do not even have the competence in terms of language to express the term human right. Therefore they lack a better expression of what is understood as human rights²⁷. In a candid opinion, the fact that a person lacks the language of a particular culture (western language) to express a particular concept does not mean such a person does not understand what that concept is all about in his language. For example, a baby may not know how to talk when he/she is hungry but have a better language (either by crying or showing signs of discomfort) of expressing it to his/her mother or guardians. In this regard, if one is to accept the ideology of the westerner, it then means that we would be having many babies dying of starvation because the only reason for anybody to believe that anybody is hungry is when such a person can speak it out in a vocal language that is understood. In this regard, the western nation concept and practice of human rights is actually one-sided because while the west concept of human rights is based on individualism, in most non-western states like African, an individual right is never considered isolated from his community or society²⁸. This is the reason Renteln reply Donnelly that the moment the westerner saw that the concept of rights in the non-western nation is not identical to theirs; they concluded that the culture of African lacks the concept of human rights²⁹.

5. Is Universalism of Human Rights an Idea of Western Imperialism?

It has been the argument that global human rights regimes require the national implementation of human rights to attain universality. However, it is a known fact that the idea of universal human rights emanated from the Declaration of Human Rights³⁰. This has been tag to be the concept of the western nation to dominate the non-western nation, the rationale for terming it as a western ideology is as stated by Sinha, who argues that the current formulation of human rights contains three elements which reflect western values when she said; ‘One, the fundamental unit of society is the individual, not the family. Two, the primary basis for securing human existence in society is through rights, not duties. Three, the primary method of securing rights is through legalism, where under rights claims are and adjudicated upon, not reconciliation, repentance, or education.’³¹ Renteln commenting on the work of Laqueur and Rubin in their work ‘in the introduction to The Human Rights Reader³², which denies that the concept of human rights is a western concept, said;

This is view is actually quite a concession of major continents of the world. Furthermore, the texts included in the reader are virtually all American and European. That they take their own view to be correct and self-evident is clear. Though they say they recognized the need to understand the status of

²⁷ Renteln A. D., at p 527, this Is as said by Donnelly when he said ‘how the Chinese manage to claimed rights without the language to make such claims’ quoted by Renteln

²⁸ Chapter-V ‘Human Rights: Aim and Scope’ p. 12, available at https://www.shodhganga.inflibnet.ac.in/10_chapter I accessed on 6th June, 2020. also see Renteln, at p. 528

²⁹ Renteln A. D. at p 527

³⁰ United Nations Universal Declaration of Human Rights 1948 by the United Nations (UN)

³¹ Sinha S. P., (1981). Human Rights: A Non-Western Viewpoint, Archiv fur Rechts-und sozialphilosophie Vol. 67, p. 77 cited in Renteln, at p 517

³² Renteln A. D., at p 519

human rights in each specific context, some practices, to them, are obviously intolerable³³:

The international human right emanates as a result of a reaction against sovereign abuse of unfettered power³⁴. However, looking at the true nature of the universality of human rights as postulated by the western nation is a presumption because non-western countries like Africa and Asian³⁵ were notably represented when the Universal Declarations of Human Rights³⁶ was formulated³⁷. Even at the time, human rights were declared globally. Most Africa countries were still under the subjugation of the British and French colonization. However, the defence the Universalist put forward as against the above is that the universal declaration of human right is the right inherent in the human person by virtue of being a human being; in this regard, it applies universally to all cultures and not to a particular culture, neglecting the fact that though all cultures perceive human rights, they all have a different approach. According to Renteln;

The basic problem is that the discourse on rights comes from the western political tradition. A perusal of *The Human Right Reader*, for example, reveals the dominance of western theory on rights. This does not mean, however, that other societies lack the ideas expressed in the western rights framework. It may simply be the case that they articulate the values and needs in another rhetorical form.³⁸

Renteln has further countered that it is futile and perhaps even counterproductive merely to assert the existence of universal human rights in the face of cultural diversity³⁹. It is Renteln's view, as capture in her work that Donnelly has tried to prove that the concept of human rights is a western concept and that other nations should adopt the same. However, she counters as per cultural differences that it is only a 'universally embraced moral' principles that recognise the variety of ethical and religious systems that can create a global basis for the adoption and implementation of human rights; otherwise, it will be cultural imperialism⁴⁰. In this regard, in

³³ Ibid, at p. 520

³⁴ The United Nations was born out of the sincere efforts of the international community to prevent the atrocities of World War II from recurring. To that end, the Charter of the United Nations was drafted at Dumbarton Oaks and signed in San Francisco on 26 June 1945 by representatives of the original 50 Member States. Available at <https://maryhadalittlewebsite.files....> I accessed 26th July, 2020

³⁵ Are Rights Universal? Theories of International Human Rights: Universalism, Relativism, and the Dangers of Cultural Imperialism. Available at <https://maryhadalittlewebsite.files....> I accessed 26th May, 2020

³⁶ Ibid

³⁷ Oba A. A., Oba A. A., 'Eurocentric Theories as Obstacles to Inter-Cultural Human Rights Dialogue Between The West And Africa' available at <https://isud.typepad.com/files/oba1.doc> I accessed on 27th June 2020, at p 11-12, according to him, he said; 'Modern international human rights law is traceable to Universal Declaration of Human Rights, 1948 (UDHR). This Declaration was made virtually with no African input. Most of the countries in Africa were under colonialism at that time. The absence of African participation meant that African perspectives and values were not adequately articulated. The result is that the emergent document portrays essentially western values'

³⁸ Renteln A. D., at p 517

³⁹ Ibid, at p. 13

⁴⁰ Ibid, at p. 529

assessing Renteln's view and an argument is valid, and there is some sense of truth in her argument, the reason being that we must understand that different civilizations or societies have different ideologies of human well-being. In this regard, the majority of civilizations of the world have a different attitude towards human rights issues⁴¹, though some countries may have near similar attitudes towards a human right issue, but have a different approach in resolving issues as regards human rights. According to Oba;

The parameters used in human rights as formulated by the West do not simply make any sense in some African communities such as the Yoruba. What emerges for a critical analysis of the Yoruba of southwestern Nigeria is that within the group, gender status and gender roles are neither clear-cut nor a basis for discrimination⁴². For example, when considering women's participation in the public sphere, the West tends to *count* the number of women in public offices. A higher proportion of woman in public offices to them shows gender 'equality.' The fallacy in this is that these women officials are in office in their individual personal capacities and not as representatives of women. Thus, their interest in women issues is dictated by their personal preferences..... Whereas, in traditional Africa, women's participation in the decision-making process is ensured in many communities by an effective representation of women, by women who and there as representatives of women and who speak for women. For example, among the Yoruba, the Iyalode is the representative of women in the King's council. She must be consulted in all matters relating to women, but she only forms an opinion after she has consulted with other women leaders who too must have consulted other women. The result was that the view of the Iyalode is the view of the women in the town⁴³.

According to Oba's perspective of comparing western postulation of gender equality, that women should be given equal opportunity with men in all ramifications, i.e., if not all women but the majority should be involved and given equal participation in politics. However, in Nigeria, using Yoruba as a case study shows that what is operational in the system is that the women we have to handpick a leader among themselves (Iyalode) who will represent their view. In-view of the controversy of both the ideology of the westerner and that of the Yoruba practice in Nigeria, one can easily see the very similarity because they emphasize the

⁴¹ Lee M., (1985). North Korea and the Western Notion of Human Rights, in *Human Rights in East Asia: A Cultural Perspective* 129, 131 (James C. Hsiung ed., 1985). Cited in Donnelly, Jack, 'The Relative Universality of Human Rights'

⁴²Oyewumi O., (1997). *The Invention of Women: Making an African Sense of Western Gender Discourses* (University of Minnesota Press); Oyewumi O., 'Conceptualizing Gender: The Eurocentric Foundation of Feminist Concepts and the Challenge of African Epistemologies' available at <http://www.codesria.org/Links/Conference/gender/OYEWUMI.pdf> . I accessed, 23rd of July, 2020

⁴³ Oba A. A., 'Eurocentric Theories as Obstacles to Inter-Cultural Human Rights Dialogue Between The West And Africa' available at <https://isud.typepad.com/files/oba1.doc> I accessed on 27th June 2020

principles of democracy, which could be direct⁴⁴ or indirect⁴⁵. In this regard, the difference here in addressing human rights in the manner of approach is either direct or indirect, which the westerner has failed to recognize that there is nothing like gender discrimination, but is just their tactic and excuse of imposing their ideology to a less developed country. This can be term as cultural imperialism, under the disguise of global civilization.

6. Ways of Justifying Universality of Human Rights as Postulated by Cultural Relativist

It is the ideology of the Universalist as claimed in the preamble of the Universal Declaration of Human Right⁴⁶, that the standards or parameter for justifying the universality of human right is by virtue of being a human being and the adoption of the Universal Declaration of Human Right. The implication of the above import of the Universal Declaration of Human Rights is that every human being possesses and is entitled to an inherent inalienable right that may be exercised against the state or society to which the individual belongs to, which has been frowned at and flawed to be western-oriented. Renteln, in this regard, has questioned this international forum of the universal declaration of human right by castigating the fact that nations of the world were notably represented or consorted, and even if they were represented, they are not properly and adequately represented by their elites who stand as trustees of their societies interest, in this regard she views the aspect of the adoption of Universal Declaration of Human Right by the universalist as a standard of ascertaining the universality of Human Right as a fundamental flaw in the face of cultural diversity. Renteln stated thus;

Resorting to ratification as a basis of authority is also not free from problems. First of all, those who ratify are the elites whose views may not correspond to those of the rest of the citizenry in a given state. Secondly, ratification may simply serve political and not humanitarian interests... it may be necessary to operate under the assumption that ratification of human rights instruments conveys agreement with the concepts as outlined and confers legitimacy upon it. Still, it is not true that ratification proves that there is a universal concept of human rights.⁴⁷

However, on the aspect of the inherent inalienable right as postulated by the individualist (westerner), that it is attained by virtue of being a human being and that the individual can exercise such right against the state or society, has been further countered by the Relativist on the ground of cultural diversity. According to Renteln, she said for a human right to be accorded universalism, it must be accorded wide divergent cultural acceptance to be in tune with the moral and cultural practice of various societies of the word⁴⁸. The Relativist culture provides absolute standards of evaluation. Renteln beliefs that universal human rights are possible, but such possibilities can only be guaranteed concerning the extent to which the

⁴⁴ Direct democracy is a system were all citizen come together in taking a unanimous decision as it affect their society, this system f democracy was practice in the ancient Greek city state

⁴⁵ The indirect democracy is also known as representative democracy were citizens elect those who are to represent their interest. It is the present day democracy practice globally

⁴⁶ Declaration of Human Right, Op Cit. Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world

⁴⁷ Renteln A. D., at p 519

⁴⁸ Ibid., at p 538

concepts of human rights are embraced worldwide⁴⁹. However, if one is to assess the controversy between the Relativist and Universalist, the postulation of Renteln we be a figment of the imagination and unreliable as it will not be possible for relativist ideology of human right to form part of the standard of measuring universality of human rights, since the relativist gives priority to culture over individual rights that is inherent and inalienable in an individual. Donnelly J., commented on this when he said; 'To accommodate the non-Western approaches... We would have to establish an order in which an extensive set of social rights and duties prioritizes individual rights. In such circumstances, human rights will be, at best, largely a formality in practice'⁵⁰.

Finally, Renteln set out a parameter in ascertaining the universality of human rights by carrying out comparative research on cross-cultural data to ascertain a general acceptance of the universality of human rights by all cultures of the world's society. As she stated thus;

To find out if human rights are truly universal, it would be necessary to evaluate diverse cultures to see if a concept of human rights exists there. If it does, the next question is whether or not the concept resembles that expressed in international human rights documents. It would be advantageous for the purposes of this investigation to undertake a comparative study of the concept of human rights⁵¹.

The question is, how realistic is Renteln postulation? Renteln's assertion is not practicable; it will be a fallacy of the highest order to suggest that the only way human rights can be seen to be universal, is when it is evidential that all or some culture of various countries of the world have demonstrated an acceptance. Furthermore, there must be a marshaling out of cross-cultural data in formulating universality of human right. In a candid opinion, it is self-contradicting to hold that it is not possible to have universal human rights in the face of cultural diversity and further proffer a solution of cross-cultural data in defining the term universal human right. However, if Renteln would have held that not all right can be seen to be universal (i.e., inalienable and inherent) such that the society which the individual lives in can dictate what is obtainable with regard to such right within the confine of their society⁵² moral and ethical values, and also further have an international conference debate where at least not less than two-thirds of the countries of the world to form a quorum to trash out issues as it relates to those right which may be term as universal and inalienable inherent in an individual to capture cultural difference of various nation of the world. Furthermore, it is essential to share the view of James Hsiung when he said;

a) Human rights have 'human' origins...

⁴⁹ Ibid, at p 540

⁵⁰ Donnelly J, Op cit, p. 8

⁵¹ Renteln A. D., Op cit, at p531

⁵² as in the case of same sex marriage pass into law by the US government, make it a right to consummate marriage with opposite sex, but which have been vehemently condemned in other countries and Nigeria even enact a law banning same sex marriage, SAME SEX MARRIAGE (PROHIBITION), ACT, 2013. A BILL FOR AN ACT

b) Since their origins are human and derived from a consensus among fellow humans to answer the needs of all, the rights of individuals do not outweigh those of society . . . They are human ‘rights’ only if they do not spawn human ‘wrongs’ against society.

if only both the relativist and the universalist can adopt Hsiung view, there would be much controversy because his definition of what human right entails capture both the theory of universalism which says human rights have a human origin and they are human right if they did not spawn human wrongs and also the relativist theory which put cultural beliefs above individual rights, as Hsiung put it that the rights of the individual should not out weight that of the society. In this regard, Hsiung's definition of human rights set out a better parameter of ascertaining the universality of human rights without conflicting interest.

7. Weaknesses and Challenges of Renteln’s Cultural Relativist View on Human Rights

Not minding that Renteln has effectively dealt with the issue of human rights as it relates to universal acceptance as postulate by the western nations. However, Renteln view as it relates to the universality of human rights is not without weakness and questionable. Some of these weakness and challenges are as follows;

There is no Appropriate Standard and Concept for defining the Universality of Human rights: this is evident from the fact that for cultural relativity, cultures determine what is good and bad for every individual in that society⁵³, though this builds a society moral code to achieve personal goals. But the dangers as to this is that if every culture is to have their own moral code in very salient issues like human rights that affect the world at large, this may not really go down well with the existence of man on planet earth. For example, if a society has a right to take its citizens' lives at will indiscriminately⁵⁴. In this regard, cultural relativism will not allow anyone to judge a particular culture unjustly taking anyone’s life is terrible and against humanity.

Criticism of the Westerner (western cultural imperialism) as being bias and Suggesting Cultural Relativity (cultural interest) can be term as bias. Though cultural relativity seems to command and accord respect to cultural diversity by eradicating cultural imperialism, that is, one culture lording it over another culture which the western nation is mainly known for. However, for Renteln to hold that there cannot be the universality of human right in the face of cultural diversity⁵⁵ is based on cultural self-interest, which in this regard eliminate bias by creating a new bias which is culturally based. The question is, how many cultures actually secure, provide, and protect human rights effectively?

⁵³ Renteln A. D., Op cit, at p 520

⁵⁴ a good a example is Nigeria of which in some certain part of the country having a twins is an abomination, if such practice was not put to stop by Mary Slessor, may be such practice would have still be effectively practice and such person like the popular star musician p2 would not have live to this extent. as matter of fact it is still the practice today in some part of Nigeria that this practice of killing of twins is very much on, this as reported in <http://www1.CBN.com>video>twins-face-ritual-killing> ... I accessed on 7th February, 2020

⁵⁵ ASIA – PACIFIC Economics BLOG ‘Cultural Relativism Pros and Cons’ <http://apecsec.org/cultural-relativism-pros-and-cons/> I accessed on 7th July, 2020

Inadequate Provision for some Core Human Rights by Most Relativist Societies: it is so unfortunate that the right Renteln term as western origin⁵⁶ because of its individualistic nature seems to be even more appealing and reasonable in its enforcement to the maximum benefit of its citizen⁵⁷, for example, right to education, rights to gainful employment, and to clean environment and good health are a core aspect of human right which in most western state are adequately provide and cater for⁵⁸. However, but in non-western nations, these rights are merely regarded as a principle which the state may strive to satisfy⁵⁹, and as such is not even enforceable but is just there like a flower garden to decorate the constitution. In this regard is a fundamental defect on the part of the relativist to have neglect these rights hiding under the disguise of group morality that whatever a culture says is bad and whatever a culture term as good is good. if one is to interprets this, it follows that the 1999 constitution of Nigeria⁶⁰ which is the ground norms of the state, which provide that the enforcement of chapter 2 of the 1999 constitution⁶¹ which embodies those core value of life which are right to clean and enable environment, education, gainful employment, and good health, etc. are by virtue of section 6(6)(c) 1999 constitution⁶² bad to enforce such right. With all due regards, this makes a mesmerized and ridicule of humanity and the dignity of the human person since law is made for man and not man for law.

Giving Priority to Culture in Place of Human dignity: though it is very evident that the western nation has a very bad record with most non-western nation during colonization of their territory and even after the declaration of human rights. One can easily hold the view of Renteln that the Universal declaration of human rights is not universal but western as there cannot be the universality of human right in the face of cultural diversity. Given the fact that it is the society the individual lives in that determined his right, in this regard, whatever culture holds to be wrong is bad and whatever culture holds to be fair is good. However, the universalist put the individual right as a core value of the society having the regard for human beings as a sacred creature worth protecting, while the relativist is concerned with protecting a group's culture even if it causes threat and harm to the individual in the society. It is against this backdrop I reiterate again that law is made for man and not man for the law.

⁵⁶ Renteln A. D., Op cit, at p 517 and 519

⁵⁷ Ibid, at p 518, the only defence she gave in respect to the fact that most non-western state is unable to provide for those right is that because the western state are far more developed than most non-western state and she further put forward a question "the question is whether or not it makes sense to put forward a human right in a society not yet able to provide that right?" for me development is not a thing of necessity to provide the core value of life as far the resource is available. just like Nigeria wil always claim to be bless with human natural resource but yet unable to provide for its citizens

⁵⁸ Ibid, at p 518

⁵⁹ a good example of this is the chapter 2 of the 1999 constitution of the federal republic of Nigeria (as amended) 2010, which is couch as the fundamental principle and objective of state police. of which by virtue of section 6(6)(c) of the 1999 constitution this right is regard as not enforceable

⁶⁰ ibid

⁶¹ ibid

⁶² ibid

8. Conclusion

Given the above analysis concerning Renteln's view on the universality of human rights, it is very clear that Renteln has a salient point in questioning the Universal declaration of human right in the face of cultural diversity. However, it is right to respect the culture of every given society, as all culture has a different historical background and ideology as postulated by Renteln. In this regard, in as much the Universalists see any good in transforming human right to be universal, they must learn how to do the needful by having an effective forum were at least a greater percentage of nations could come to term in resolving issues amicably. And the westerners who are majorly the Universalist should also understand that no nations are superior to the other. However, it is also important to also point out that, though, Renteln has also made a point for respect to be accorded to the culture of various nations of the world. Furthermore, she also made an attack on the universal declaration of human right to be of western origin; she and other scholars of relativist should not forget that even in the face of their contending arguments against the universality of human right, that the concept seems to be having more acceptance every day by most individual even by those contending against it because of some weakness and challenges that are existing in cultural relativism. It is in this regard that it is further suggested that in order to end these endless arguments going on concerning whether or not human rights are universal, there is a need to convene an international forum where at least a greater number percentage of nations of the world can form a quorum in resolving the issue as it relates to human rights. And in so doing, they can also consider the view of James Hsiung in resolving issues as it relates to the universality of human right when he said the better way to consider the universality of human rights are as follows; a) Human rights have 'human' origins... b) Since their origins are human and derived from a consensus among fellow humans to answer the needs of all, the rights of individuals do not outweigh those of society . . . They are human 'rights' only if they do not spawn human 'wrongs' against society.