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East versus West

A study on the 'Asian values' debate in official human rights language in Vietnam

Abstract

Many nation states in Southeast Asia have ratified human rights conventions without abiding by their stipulations. Among factors such as poverty and political disinclination something which has widely been called 'Asian values' is seen by some as a reason for why certain human rights laid out in UN conventions are not adhered to. The crux of the conflict is the claim that particular Asian values run contrary to those embedded in the conventions which can be seen as specifically Western. This involves a challenge to the idea of the universality of human rights. In this essay, I examine this debate by looking at the specific example of Vietnam. With a particularist perspective, I first explore what might be seen to constitute traditional Vietnamese values. I then investigate how the debate on Asian values is expressed in official Vietnamese discussions on human rights. For further depth, I examine a 2002 state report from Vietnam to the UN Committee on the Rights of the Child. To a certain extent, the official Vietnamese human rights discourse demonstrates adherence to claims that can be attributed to the 'Asian view' in this debate; in particular the claims that social and economic rights take precedence over civil and political rights, and that the collective takes precedence over the individual.

Contents

1 Introduction

1.1 Problem

Many nation states in Southeast Asia have ratified human rights conventions without abiding by their stipulations. Among factors such as poverty and political disinclination something which has widely been called 'Asian values' is seen by some as a reason for why certain human rights laid out in UN conventions are not adhered to. The crux of the conflict is the claim that particular Asian values run contrary to those embedded in the conventions which can be seen as specifically Western. This involves a challenge to the idea of the universality of human rights. However, what is meant by Asian values is rather vague as Asia is not only geographically expansive, but also demographically and culturally so (Li 2001 p. 398). Furthermore, if such a group of Asian values were to exist, in what way would they be incompatible with human rights? Xiarong Li identifies four claims made by the 'Asian view' in this debate:

1. Rights are 'culturally specific'
2. The community takes precedence over individuals
3. Social and economic rights take precedence over civil and political rights
4. Rights are a matter of national sovereignty

(2001 p. 399)

These claims clearly conflict with the idea of the universality of human rights and has sparked a lively debate about the validity of their professed universality.

1.2 Purpose

In this essay, I aim to explore the debate on Asian values versus universal human rights with the help of academic literature on the subject. In an attempt to make a deeper analysis of the debate I will also examine a specific country and its societal values and their compatibility with human rights; namely those of Vietnam. Consequently, my research questions will be as follows:

1. What types of values could be said to constitute 'Vietnamese values' as a contrast to 'Western values'?
2. In what ways do these values present themselves in the debate on Asian values and universal human rights?

3. How is this debate demonstrated by the official Vietnamese attitude toward children's rights?

I have chosen to focus on Vietnamese values for two reasons. Firstly, focusing on only one Asian country will make the subject more manageable. Secondly, having lived there I feel that I have a better grasp of Vietnamese values than those of other Asian nations.

In order to answer the second research question, I will not look at the debate on Asian values in its entirety. Again, this is in order to make the task of examining the debate more manageable. I will only focus on ways in which pronouncements by the Vietnamese state can be seen as being in accordance with the arguments from the 'Asian view', and what traditional Vietnamese values might be implied in the pronouncements.

For the sake of further depth, I will analyse a 2002 state report from Vietnam to the UN Committee on the Rights of the Child. Vietnam was the first Asian country and the second country in the world to ratify the United Nations Convention on the Rights of the Child (CRC) (Salazar-Volkman 2004 p. 3), which came into force in September 1990. According to Christian Salazar-Volkmann, the focus of socialist countries on social and cultural rights and the fact that most of the Vietnamese political leaders suffered violations as children during the war with the United States has contributed to the political support of the CRC in Vietnam "as a matter of principle" (2004 p. 45), while "human rights in general are still regarded with a certain degree of suspicion and sensitivity" (2004 p. 5). I will investigate how the 'Asian view' and Vietnamese values come into play in the official Vietnamese attitude toward children's rights as presented in the state report.

1.3 Method

I will begin this essay by examining theory that is relevant to the debate about Asian values. I will first look at universalism, particularism and cultural relativism in general. Subsequently, I will look at problems with liberal universalism and cultural relativism by mainly referring to the work of Anthony J. Langlois (2001). I will also look at some methods he suggests for the continued development of the current human rights discourse.

The theoretical section will be followed by an analytical section, which accounts for the bulk of the essay. I will begin this section by outlining some of the main points in the debate about Asian values. Next, I will explore some of the main influences on Vietnamese thought, namely Confucianism, Taoism and Buddhism in order to identify some of the values existent in Vietnamese culture. This part will also be complemented by a short discussion on the plurality of cultural influences on Vietnam. After that, I will look at how the Vietnamese values I have identified and the claims of the 'Asian view' can be recognized in official human rights rhetoric in Vietnam. I will also examine a 2002 state report from Vietnam to the UN Committee on the Rights of the Child to further analyse the utilization of the claims of the 'Asian view' and Vietnamese values in the official Vietnamese human rights rhetoric. Finally, I will relate some of the findings in the analysis to Langlois' suggestions for the continued development of the human rights discourse.

1.4 Material and delimitations

For the theoretical section, I will mainly refer to the work of Anthony J. Langlois. This is partly because Langlois bases his writing on the work of prominent theorists such as John Rawls, Cass Sunstein, Charles Taylor, Alasdair MacIntyre, Seyla Benhabib, Amartya Sen, Michael Walzer and others. It is also partly because he writes specifically on the debate about Asian values and therefore discusses the theory which is relevant to the debate.

For the section in the analysis devoted to distinguishing traditional Vietnamese values, the main source that I will use is a book called *The Ancient Civilization of Vietnam*, by Nguyễn Văn Huyên (2002). Though originally published in 1944, the work is still in print and explores aspects of Vietnamese society from its structural organization, to its religious life, to its intellectual and artistic life. It is based on the work of both French and Vietnamese studies on Vietnamese culture. It is published by a Vietnamese publisher, Thế Giới Publishers, which also makes access to it outside of Vietnam difficult.

Due to my limited abilities in formal Vietnamese and the lack of official Vietnamese documents related to human rights translated into English, I will rely on texts from outside Vietnam that discuss the human rights situation in the country and which mention the government's official references to Vietnamese values when defending its stance on certain

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issues. Furthermore, as this section pertains more generally to the official Vietnamese human rights discourse, there is less of a need to make a deep analysis of specific documents.

Finally, I will use a state report from Vietnam to the Committee on the Rights of the Child for two reasons. Firstly, because it is an official Vietnamese document translated into English of which I can make a deeper analysis. Secondly, I will use the report because children's rights are a matter of interest to me personally.

2 Theory

As the debate about Asian values involves a challenge to the universality of human rights, it is important to examine what universalism is about. Furthermore, it is also important to look at the theoretical viewpoints which stand in opposition to universalism: particularism and cultural relativism. These are the aims of the following section of the essay. It will also examine the liberal universalist origins of the current human rights discourse and its problems, as well as the problems of cultural relativism. In this endeavor, I will mainly use the work of Anthony J. Langlois, who bases his writing on the work of prominent theorists such as John Rawls, Cass Sunstein, Charles Taylor, Alasdair MacIntyre, Seyla Benhabib, Amartya Sen, Michael Walzer and others. I will also discuss Langlois' suggestions of using 'incompletely theorized agreement' and recognizing the politics of human rights in order to continue the human rights discourse from where it stands now.

2.1 Universalism, particularism and cultural relativism

The mainly UN-based system of human rights that has existed since the end of World War II implicitly involves a universalistic view on values, as exemplified by the Universal Declaration of Human Rights (UDHR). It is assumed that these rights are applicable in any geographical, cultural and historical context because they are geared toward protecting the individual human being's ability to make his or her own choices in pursuing their version of the good life.

Proponents of particularism, however, argue the opposite: that what can be considered to be rights and how they are understood vary with context. There can be several ways in which cultural factors affect the perception of rights: firstly, the prioritization of rights can vary according to context, which is significant in cases like Vietnam where resources are limited and trade-offs may have to be made in terms of which rights should be protected and promoted (although trade-offs between rights does not necessarily have to do with something as simple as a lack of resources). Secondly, the justification of rights can differ, even if it involves justification of the same rights (Bell 2004 p. 3). For example, the existence of children's rights may from a liberal point of view be important in order to protect the development of children as autonomous individuals, while an Asian communitarian argument might be that children's rights help protect an important part of the family and community.

Another important question is how rights should be interpreted and ultimately implemented (Peerenboom 2000 p. 299). Particularist theory argues that in order to develop human rights, these ways in which perceptions of rights can differ need to be taken into account.

Cultural relativism goes a step further in pointing out the differences between different cultures. According to this theory, conceptions of justice are different in all cultures and therefore "[v]iews on social justice that apply to members of other cultures must be judged by *their* social understandings, not ours" (Gutmann 1993 p. 173). As all values then are relative and can only be examined from the same place that they come from, it becomes extremely hard to set any standards of justice between people from different communities.

I find particularism to be the more compelling theoretical viewpoint as compared to universalism or cultural relativism. In order to show the shortcomings of the latter theories, I will, as mentioned, mainly refer to the work of Anthony J. Langlois.

2.2 Liberal universalism

Langlois considers the problem with the current dominant view of human rights to be that it is based on a liberal view of universalism. He is critical toward the conception that liberal ideas truly are universal as they have grown out of particular circumstances. He examines the development of liberal thought during the Enlightenment and criticizes the philosophers of this time who "established themselves in a dilemma by both talking in natural law terms and yet claiming humanity as their highest tribunal" (2001 p. 77). Although these philosophers were attempting to distance themselves from notions of god-given rights and base a system solely on the rationality of human beings, according to Langlois they were still not able to remove themselves from the idea of natural law. Langlois also sees the legacy of this kind of thinking as evident in the UDHR. He writes that "it is from Christianity that the universalist aspirations of the [Enlightenment] project are derived, and these may be observed in the philosophical anthropology of a 'generic humanity'; that all people everywhere are the same with respect to the essential matters of being human: to will autonomously" (2001 p. 82). He asserts that this view is present in the UDHR with its claims of universalism. The problem with this is not only that it marginalizes cultural difference (*ibid.*), but also that "the project to secure universal moral knowledge on the basis of Enlightenment thought failed because its own epistemological method was self-undermining" (Langlois 2001 p. 85).

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There are three other aspects of liberalism that Langlois is critical toward. Firstly, liberalism purports to be a neutral system. Secondly, it is based on the view of human beings as autonomous and rational, and thirdly, "the belief that it is possible for reason to be universally authoritative on issues of morality and human institutions" (Langlois 2001 pp. 87-88). Langlois argues that liberalism is not neutral because it is based on ideological assumptions; he claims that liberalism is

> individualist in that the moral primacy of the individual is asserted over claims advanced by any social collectivity; egalitarian because all persons are granted the same moral status, and moral worth is not a consideration in the relation between persona and political and legal institutions; universalist, as the human species as a whole is a moral unity, with cultural and historically specific forms of association being of secondary import only; meliorist inasmuch as it affirms that social organizations and institutions are capable of improvement and correction (2001 p. 89).

What Langlois opposes is not necessarily these aspects of liberalism in themselves but the idea that liberalism is neutral which, as the above has shown, is not strictly true. Langlois also disagrees with the idea of humans being autonomous, as "most people find themselves embedded in relationships and circumstances which penetrate and define our very own self-understanding" (2001 p. 90). Again, this defies the alleged neutrality of liberalism, since "in the liberal tradition individual free choice trumps the right of any community to collectively believe its truth claims" (*ibid.*). Finally, Langlois contends that a universal, abstract reason does not exist because our reasoning is derived from beliefs obtained through previous experience: "Reasons come from the realm of the particular" (2001 p. 93). The absence of neutrality in liberalism when it claims to be universal is problematic because it ignores the existence of pluralism. Langlois does not accept what he calls 'Enlightenment or liberal historiography' "in which cultural difference was an incidental, transitional aspect of being human" (2001 p. 94) because "not all people at all times have held to such [liberal] values, nor will they necessarily come to do so […] [and] because of their inability to claim a universal hold on reason" (*ibid.*).

 To sum up, Langlois argues that pluralism exists and as he has shown, liberalism cannot claim the kind of universalism that it professes to. Consequently, the current mainstream human rights system is built on shaky ground.

2.3 Moving away from relativism

However, despite his critique of liberalist universalism, Langlois is not a supporter of cultural relativism. Instead, what he seeks to do is "to provide a framework within which competing non-relativist systems of thought and being can come to a place of agreement about how they live together" (2001 p. 73). In *The Politics of Justice and Human Rights* Langlois presents two methods that could be used to create that framework for the human rights system: reaching incompletely theorized agreements and focusing on the political aspect of human rights.

Before moving on to these methods, I would like to explore some of the problems related to cultural relativism and why it is important to move away from it. The main problem is that it offers a view of cultures that is not only stagnant but also ignores the variety of perceptions existent within a culture, because it implies that people within cultures have homogenous identities (Gutmann 1993 p. 183). This notion that cultures are homogenous within themselves is what Seyla Benhabib calls 'mosaic multiculturalism': there is homogeneity inside cultural groups and though the groups can live alongside each other, like pieces of mosaic they never overlap or merge into each other, (2004 p. 27). Benhabib is however critical of this view as she sees cultures as continual creations, recreations and negotiations of perceived differences between 'us' and 'others' (*ibid.*). Amy Gutmann also supports Benhabib's position and states that "cultural groups are not internally homogenous or unalterably tied to a moral position by virtue of their identities" (1993 p. 183). She further goes on to say that "[n]ot only societies, but people are multicultural" (*ibid.*), thereby further undermining the idea of homogeneity within cultures. Cultural relativism is therefore theoretically unsound and not useful in discussing the determination of justice.

2.3.1 Incompletely theorized agreement

Langlois' method of incompletely theorized agreement deals with how human rights can develop despite differing opinions on the justification of rights. It is a method he borrows from Cass Sunstein who has explored it in the context of legal theory (Langlois 2001 p. 101). What incompletely theorized agreement allows for is the agreement on particular aspirations without having to concur on the abstract theories that justify these aspirations, similar to what Charles Taylor suggests (Taylor 1999 p. 129). This method carries with it several advantages, such as social stability in its recognition of pluralism (Langlois 2001 p. 104), the development

of morality over time since whole moral theories will not have to be renegotiated (Langlois 2001 p. 106) and greater possibility of participation among people who find it difficult to deal with abstraction (Langlois 2001 p. 107).

Furthermore, Langlois sees this method as preferable to that of trying to translate different traditions into the current human rights discourse because this would cause it to become "the object of different discourses of power which seek to legitimise themselves by ownership of the discourse" (2001 p. 111). Similar to the liberal approach which he criticizes earlier in the book, this would contribute to a "universalist-perfectionist approach to human rights theorisation" (Langlois 2001 p. 112).

Gutmann advocates a similar approach to incompletely theorized agreement, which she calls 'deliberative universalism'. This approach also recognizes the possibility of agreement on issues of justice without having to agree on the moral core of these issues. However, she holds that there must be agreement on "a set of substantive principles of justice that are unreasonable to reject or necessary for deliberation" (1993 p. 200). Furthermore, she sees a need for a set of procedural principles for this type of deliberation to be successful (*ibid.*) but does not elaborate further on what these principles might be. What is significant in her approach, however, is that "[w]here reason cannot resolve a disagreement about social justice (even if it can reject bad arguments and unreasonable resolutions) actual deliberation can provisionally justify a decision better than any available alternative" (Gutmann 1993 p. 201).

Applied to the human rights discourse, Langlois maintains that there are two tasks for theorists using incompletely theorized agreement. The first is to look at how the Western human rights discourse has developed historically. The second is to continue on this development to reach incompletely theorized agreements (Langlois 2001 p. 115) in a way which also invites other traditions to take part in the discourse. Langlois also points out that this method is already used in much of the practice of human rights law (2001 p. 116). Something else that is important is to understand the development of the traditions between which incompletely theorized agreements are made, because "[i]f the sense is strong on each side that the spiritual basis of the other is ridiculous, false, inferior, unworthy, these attitudes cannot but sap the will to agree of those who hold these views while engendering anger and resentment among those who are thus depreciated" (Taylor 1999 p. 138).

However, Langlois also recognizes two fundamental problems with the approach. The first is that the justification for using incompletely theorized agreement should be theoretically complete, but to arrive at a completely theorized agreement on this is difficult (Langlois 2001 p. 122). The second problem is the difficulty of arriving at a consensus on what grounds certain groups' norms should be selected over others' (Langlois 2001 p. 123). However, Langlois suggests a solution to the second problem that recognizes the politics of human rights.

2.3.2 Human rights in politics

Langlois uses an idea of politics used by Chantal Mouffe, whereby it connotes "that which in our interactions is based around power relations, struggle, conflict, antagonism and difference" (Langlois 2001 p. 125). Langlois is of the opinion that the human rights discourse already is part of the political arena because

> The human rights discourse is dynamic, evolving and changing. The internal debate and contradiction are part of that which stimulates a creative expansion of the discourse. It is as a consequence of a false philosophical method that human rights have ever been seen as other than political, in this sense (2001 p. 134).

Discourse brings about developments of different ideas of justice that produce contingent norms and practices, such as the way norms and practices associated with women's rights, slavery and torture have evolved over time. Another aspect that shows that the current human rights discourse is a political one is that there exist dominant paradigms and actors within the discourse (Langlois 2001 p. 150). Langlois sees this as an inevitable development, but stresses that as long as human rights are seen as something that is actually part of a discourse, hegemonies can change (*ibid.*). For example, the current hegemony of Western liberalism in human rights is not necessarily fixed as the discourse can bring about new or different norms and present norms can persevere or disappear. Langlois is of the opinion that this allows for a movement away from relativism in human rights because it combines the universalist and the particular. He sees universality in the way human rights centers on the common search among humans for norms of moral behaviour (2001 p. 145) and particularity in the content of this discourse about moral behaviour which bases itself on different traditions and institutions (2001 p. 147).

Returning to the problem mentioned at the end of the previous section of what grounds should lay the basis for choosing one group's view of justice over another's, Langlois sees it as inevitable that hegemony becomes the determinant. However, he also seems to be of the opinion that as long as the dynamism of the human rights discourse is recognized and the hegemony questioned, this does not have to be an obstacle, but rather a way of moving the discussion forward.

Nevertheless, some problems still remain. Though hegemony within the discourse may change, how can a procedural system be created that will allow everyone's voice to be heard? How can a guarantee be made that the hegemony won't just constantly shift between the same actors that base their power on other factors than the persuasion of their arguments? How should and how can *everyone* be included in the discourse?

2.4 Summary

The above discussion has shown that the claim of universality of human rights stems from an Enlightenment-inspired liberalist tradition which is not based on a neutral theoretical framework. Cultural relativism, however, does not provide a satisfactory theoretical alternative because of its denial of plurality and dynamism within cultures. Langlois' suggests using incompletely theorized agreement and recognizing the politics of human rights in order to continue the human rights discourse. Incompletely theorized agreement involves the agreement on particular aspirations without having to concur on the abstract theoretical justifications of these aspirations. By recognizing the politics of human rights the human rights discourse can continue developing because it implies constant transformation as hegemonies change. However, both incompletely theorized agreement and recognizing the politics of human rights involve problems.

3 Analysis

The analysis will examine the debate of Asian values versus Western-imposed human rights in the light of the theory previously discussed. Firstly, it will give a short background to how the debate has been initiated. Secondly, there will be an exploration of some of the belief systems that are held to have a large impact on the forming of Vietnamese values. This exploration is carried out with the essay's first research question in mind: What types of values could be said to constitute 'Vietnamese values' as a contrast to 'Western values?'. This section will also include a short discussion on the pluralism and dynamism of Vietnamese culture in order to demonstrate the inaccuracy of relativist theory on cultures, as outlined in the 'Theory' section above. Thirdly, I will attempt to answer the second research question by looking at how the Vietnamese government utilizes elements of these 'Vietnamese values' as justification for how it deals with current human rights norms. The next part of the analysis involves an examination of a country report from Vietnam to the Committee on the Rights of the Child in order to answer the third research question: to explore how the debate on Asian values versus universal human rights is demonstrated by the official Vietnamese attitude toward children's rights. Finally, I will relate some of the findings in the analysis to Langlois' suggestions of incompletely theorized agreement and recognizing the politics of human rights.

3.1 Asian values versus Western-imposed human rights

The debate on whether the liberalism-inspired human rights as laid out in UN conventions are compatible with what have been termed as 'Asian values' can partly be seen as having been triggered by the 1993 Bangkok Declaration on human rights. This declaration was drawn up in connection with a regional meeting for Asia of a World Conference on Human Rights and included the participation of 34 Asian nation-states, observers from other states as well as intergovernmental organizations, UN organizations, human rights institutions and nongovernmental organizations (General Assembly art. 6). It has received critique for its pronounced 'balanced approach' which according to Inoue Tatsuo

> paid lip service to all the major international human rights instruments officially ratified
> by Asian countries, only to defang them by emphasizing "the principles of respect for
> national sovereignty and territorial integrity as well as non-interference in the internal
> affairs of States, and the non-use of human rights as an instrument of political pressure"
> (1999 p. 31).

The proclamations made by certain Asian statesmen such as those made by Lee Kuan Yew, former prime minister of Singapore (prime minister from 1965-1990), and former Malaysian prime minister Mahathir bin Mohamad (prime minister from 1981-2003), provoked further criticism and debate. The former has, for example, made statements such as the following:

> The Confucianist view of order between subject and ruler helps in the rapid transformation of society … in other words, you fit yourself into society – the exact opposite of the American rights of the individual.
>
> I believe that what a country needs to develop is discipline more than democracy. Democracy leads to undisciplined and disorderly conditions. (Cristie & Roy 2001 p. 1)

Though the intentions of actors such as Lee may well be questioned, such opposition toward the, until now, mainly liberal-inspired human rights discourse sparked debate about the validity of this discourse, as well as about the existence of such a thing called 'Asian values'. According to Joanne R. Bauer and Daniel A. Bell, there are several other developments in Asia that have contributed to why this debate achieved such relevance during the 1990s. The growth of the civil society; the recovery of a sense of belonging is sought in relation to postcolonialism; rapid social, economic and political change which has contributed to the breakdown to the community and its safety; the expanding number of people with shared human rights concerns; and the international pressure to conform to human rights have all played a role (Bauer & Bell 1999 p. 3).

As shown in the introduction, according to Xiaorong Li, the main claims of the so-called 'Asian view' on human rights are the following:

1. Rights are 'culturally specific'
2. The community takes precedence over individuals
3. Social and economic rights take precedence over civil and political rights
4. Rights are a matter of national sovereignty

(2001 p. 399)

It is helpful to have these claims in mind when attempting to analyse the official Vietnamese attitudes toward human rights.

3.2 Vietnamese values

3.2.1 Vietnamese belief systems

The following section will look at some of the systems of ideas that are seen to have had the greatest influence on Vietnamese society, and which have originally developed within a distinctly Asian context. According to Nguyễn Văn Huyên, the main influences on Vietnamese culture come from Confucianism, Taoism and Buddhism (Nguyễn 2002 p. 282). However, religious perceptions are also influenced by animism and naturalism (Nguyễn 2002 p. 247) and Christianity and other Western ideas have also affected Vietnamese thinking (Salazar-Volkman 2004 p. 6).

Nguyễn considers Confucianism to be the system of thought with the greatest influence. For example, the many different cults or rites that permeate Vietnamese society, such as the important cult of ancestor worship, "are more or less inspired by Confucianism" (Nguyễn 2002 p. 248). Furthermore, Nguyễn states that Confucius' "cult has never been eclipsed. Vietnam has not ceased to consider him the Master of wisdom" (2002 p. 283). According to Patrich Hayden, the core idea of Confucianism is benevolence (2001 p. 271). The idea behind Confucian philosophy seems to be the creation of a system of government based on moral virtue rather than the rule of law. More specifically, the virtuousness of the sovereign affects how morally well-behaved his people are (Nguyễn 2002 p. 283). Virtue is reached by studying literature and music, performing specific rites and attaining moral perfection (*ibid.*). According to Wm. Theodore de Bary, the Confucian system relies on "the moral restraints of ritual to curb the excesses of autocratic power" (1998 p. 15), where the word 'ritual' denotes norms of behaviour (1998 p.30). There is also a strong focus on every person having a certain role that they need to fulfil in order for the society to run smoothly (Nguyễn 2002 p. 283). Another aspect of Confucianism which is often stressed is its focus on filial piety and respect toward elders. An excerpt from the *Analects*, a compilation of Confucius' teachings, reads as follows:

> The Master said, "A youth, when at home, should be filial, and abroad, respectful to his elders" (Hayden 2001 p. 272).

Another part of the *Analects* further underlines the importance of filial piety:

> The Master said, "In serving his parents, a son may remonstrate with them, but gently; when he sees that they do not incline to follow his advice, he shows an increased degree

of reverence, but does not abandon his purpose; and should they punish him, he does not allow himself to murmur" (Hayden 2001 p. 273).

Taoism has influenced all the religious beliefs of Vietnamese people, but has had much less of a philosophical impact than Confucianism (Nguyễn 2002 p. 284). In Taoism, human beings are seen as being part of a universal order based on a harmony between different opposites as defined by 'yin' and 'yang' (Nguyễn 2002 pp. 250-251). This manner in which the world is organized is called 'Đạo', or 'the Way' (Nguyễn 2002 p. 251) and this Đạo permeates everything in the universe (Nguyễn 2002 p. 285). Nguyễn says about this that "It is around this philosophic kernel that all kinds of heterogenous, religious, but above all magical elements are grafted later" (2002 p. 251). For example, there is a multitude of gods of Chinese origins included in Vietnamese religious beliefs that have been incorporated into the Taoist conception of the world. The society the gods have for themselves is organized in a monarchical manner (Nguyễn 2002 p. 243) with different gods presiding over different aspects of the universe (Nguyễn 2002 p. 253). Nguyễn also adds that "This cult is accompanied with incantations, exorcism, charms, [and] amulets of magical formulas" (*ibid.*). Returning to Taoism itself, Nguyen writes that inaction, rather than action, is something to strive for so as not to stir up the order of the universe (2002 p. 286). One must be free from passions and consequently, things such as science and education are not to be pursued (*ibid.*).

Buddhism is another system of beliefs that has made a big impact on Vietnamese culture. Nguyễn lists four Buddhist truths that are the basis for the religion: everything is pain; the pain stems from family ties and wealth; to rid the world of pain we must prevent reincarnation; and Buddha has found the way in which to achieve this (Nguyễn 2002 p. 287). This 'way' includes adhering to principles such as acting only for honest aims, avoiding sin, practicing meditation and being devoted toward reaching salvation (Nguyễn 2002 p. 288). Furthermore, there are six virtues that one must follow in the quest for deliverance: "to offer alms or donations, to have perfect morality, to be patient, to transcend science, energy and good will" (*ibid.*). The specific type of Buddhism mainly practiced in Vietnam is Dhyana school, where contemplation and meditation are more central to the pursuit of salvation than religious texts (Nguyễn 2002 p. 260). However, the Vietnamese version of this school is distinct in that it also includes the cults of ancestors and wandering souls (*ibid.*).

There are also other spiritual beliefs present in Vietnamese society. For example, there is a belief that people have different kinds of souls; material souls ('vía') and spiritual souls ('hồn') (Nguyễn 2002 p. 237). Those with a 'bad' vía can bring bad luck to others. For this reason, on the Vietnamese new year's day, for example, much importance is laid on the person who is the first visitor to enter one's house. Nguyễn goes on to say that

> In general, the rich, the happy, the well dressed and healthy men are believed at first sight, to have favourable *vía*. On the contrary, beggars, the poor, the badly dressed, sick persons and in general women, are viewed as having sinister *vía* (2002 p. 238).

Needless to say, these kinds of beliefs have a lot of potential to lead to the stigmatization of those less fortunate in society.

In Vietnam these belief systems do not tend to be practiced separately by different people. According to Nguyễn,

> The great majority of the people in the country have a very flexible and very soft popular religion characterised by a certain number of practices, some related to Confucianism, others to Taoism or to Buddhism, that are automatically obeyed on different occasions in life; for funerals, services are required from Buddhist priests, scholars and Taoist sorcerers; for marriages, Confucian rites are respected, etc. (2002 p. 249).

A. Terry Rambo refers to Father Léopold Cadière, who he calls "the foremost Western authority on Vietnamese traditional beliefs" (2005 p. 70) when he, in vein with Nguyen, states that there at least in pre-colonial times existed "but a single syncretic system of ritual and belief – The religion of Vietnam" (*ibid.*).

3.2.2 Vietnam and pluralism

However, in regards to the notion of 'Asian values', it is important to reiterate that Asia is a geographically expansive area that incorporates different cultures and religions and unevenly developed economic and political systems (Li 2001 pp. 398-399,). Furthermore, Vietnam is in many senses only a small part of the whole Asian continent, yet even within this one piece of the puzzle that is Asia, incredible pluralism can be found. The values explored in the previous section do play an important role in Vietnamese society. However, in order to avoid essentializing Vietnamese culture in the manner of cultural relativists, it is at the same time important to be aware of its pluralist and dynamic nature.

According to Joachim Schliesinger, "Vietnam, like the rest of the Indo-China Peninsula, forms one of the most ethno-culturally complex areas in the world" (1997 p. 1). Fifty-four different ethnic groups have been identified as residing within the country's borders, many of which practice traditions and speak languages that are quite distinct from one another and which have immigrated to Vietnam from different directions over thousands of years. According to Schliesinger,

> This situation gives rise to a diversity of lifestyles and cultures, and has created one of the most complex human environments in Southeast Asia. This is to say that the 54 ethnic groups and hundreds of subgroups have a variety of different traditions. Even the same group or subgroup in various localities has different characteristics (1997 p. 2).

Additionally, apart from indigenous traditions, Vietnamese people have also been greatly influenced by Chinese traditions of thought after more than one thousand years of Chinese rule (as evidenced by the strong influence of Confucianism and Taoism). French colonial rule in the late 1800s and early 1900s have also brought European influences to traditions and values in Vietnam (Marxism being the most striking example), and with the advent of modern modes of transport and communication, the process of emitting and receiving ideas has without a doubt become even more intense. Furthermore, not only are there a lot of different influences on Vietnamese culture, but these also combine in different ways (as exemplified at the end of the previous section) to create dynamism.

3.2.3 Summary

The main influences on traditional Vietnamese beliefs are Confucianism, Taoism and Buddhism. The key components of Confucianism are benevolence; filial piety and respect towards elders; the virtuousness of the ruler which guarantees the moral behaviour of his people; and the importance of fulfilling social roles. The core of Taoism consists of the belief of a universal 'way' and balance which must not be disturbed. Buddhism is based on six virtues that one must follow in order to reach salvation and avoid reincarnation and worldly pain. However, like all societies, Vietnamese society is pluralistic and dynamic. Not only have the above systems of beliefs combined and changed over time, but they have also been joined by other beliefs and values.

3.3 Vietnamese values in official human rights rhetoric

As mentioned in the 'Delimitations' section of the introduction to this essay, finding official Vietnamese documents related to human rights translated into English is a difficult task. Therefore I will rely on texts from outside Vietnam that discuss the human rights situation in the country and which mention the government's official references to Vietnamese values when defending its stance on certain issues.

Two of the main claims of the 'Asian view' (as identified by Li) utilized by the Vietnamese state are that the community takes precedence over individuals, and that social and economic rights take precedence over civil and political rights. Often these claims are intertwined. For example, Tine Gammeltoft and Rolf Hernø have specifically explored the Vietnamese implementation of, and official and private attitudes toward two very different rights: reproductive rights and economic rights. When comparing official and private attitudes toward these rights, they found that a common value stressed in both was the importance of duty toward the nation and its development (Gammeltoft & Hernø 2000 p. 171). Furthermore, they claim that the officially sanctioned 'Vietnamese values' focus on "social duties, obligations, collectivity and hierarchically ordered social relations" (Gammeltoft & Hernø 2000 p. 174). For example, in their investigation of reproductive rights in Vietnam, Gammeltoft and Hernø observed that family planning messages geared at encouraging couples to have only one or two children appealed to people "to place the welfare of their children, their families , and the nation before anything else" (2000 p. 163). During a National Assembly session in 1997, individualism was identified as a key factor in contributing to 'social evils' in Vietnam (Gammeltoft & Hernø 2000 Note 28 p. 176,). A statement was made at the 6th Party Congress that carries on in the same vein:

> The people's right to collective mastery should be institutionalised by law and
> organisation. Democracy goes hand in hand with discipline; so do rights and interests
> with responsibilities and obligations. Everyone must master their own labour, work with
> discipline, with high productivity and high efficiency, so as to make worthy contributions
> to the building of the country (Salazar-Volkman 2004 p. 3).

Similarly, Vietnam's Civil Code states that "civil rights and obligations must not infringe upon State interests, public interests, and legal rights and interests of other rights" (Salazar-Volkman 2004 p. 9). The emphasis on collectivity and hierarchy seem to have obvious parallels to Confucianism, where the fulfilment of certain roles is a prerequisite for society to run smoothly. Also, the United Nations Development Assistance Framework for 2001-2005

as worked out between Vietnam and the UN does not even mention the term 'human rights', and instead speaks only of social and economic rights or 'development rights' (Salazar-Volkman 2004 p. 5). Finally, according to Gammeltoft and Hernø, argument from conservative factions of the Vietnamese government which stress collectivity "shows obvious parallels to the 'Asian values' position, [but] the latter is rarely explicitly invoked, while more particularistic references to 'Vietnamese tradition' are becoming more common in the argumentation as Marxist-Leninist dogmas are wearing thin" (2000 p. 169).

In association with their research on economic rights in Vietnam, Gammeltoft and Hernø found that there is a focus on the rule *by* law, rather than the rule *of* law (2000 p. 170). That is to say, that the government creates laws to be utilized in the rule of the country, but not in order for it to be held accountable in its rule. Gammeltoft and Hernø see this as "implicit in the 'Asian values' complex" (*ibid.*). It can be seen to rely on the assumption that the government is virtuous and will do what is best for the people, because its moral position will prevent it from abusing its power. Again, it seems as though the government relies on Confucian ideals to justify its actions without necessarily attaining these ideals.

Kenneth Christie and Denny Roy identify other official justifications for limits set on certain rights. For example, the 1993 Law of Publishing allows the prohibition of some texts which, among other things, disseminate reactionary thinking and decadent lifestyles, and which distort history (Christie & Roy 2001 p. 113). According to a Human Rights Watch briefing paper, Internet sites can be closed down if they are seen to offend the "'traditional national way of life'" ("Key Human Rights Issues in Vietnam. A Human Rights Briefing Paper"). Again, there is apparent an attempt by those in power to dictate what constitutes that which is Vietnamese by rejecting what they define as reactionary thinking, decadent lifestyles and false history. Furthermore, through interviews, Gammeltoft and Hernøs study also demonstrates the obvious parallel existence in Vietnamese society of values that emphasize individualism and autonomy (Gammeltoft & Hernø 2000 p. 174). Despite this, the government still lays claims on what constitute Vietnamese values for the whole nation.

3.3.1 Summary

The main emphasis in official human rights rhetoric in Vietnam seems to be placed on duty to the community and social and economic rights. Also, importance is laid on the duties of

citizens rather than the accountability of the state. The prominence of these things could be influenced by, or be justified by, Confucian values. Furthermore, references to tradition in the rejection of things such as 'decadent lifestyles' involves making claims on what constitute Vietnamese values. These are all aspects that can be attributed to the side of the debate which argues for an 'Asian view' of human rights.

3.4 Vietnam and children's rights

Although human rights in general are still not fully accepted in Vietnam, according to Christian Salazar-Volkmann, "[c]hild rights are a field of human rights that can be discussed openly and widely in Viet Nam" (2004 p. 5). However, the official standpoint on child rights, though in many ways positive toward the stipulations of the UN Convention on the Rights of the Child, can also be seen to employ certain aspects of the 'Asian view' in its implementation of child rights. The following section attempts to demonstrate this by examining a 2002 state report from Vietnam to the UN Committee on the Rights of the Child. The state report describes the status of child rights in Vietnamese national law and policy, how the terms of the convention are being implemented, as well as what future plans to strengthen the rights exist. The main patterns that can be found in the text that relate to the 'Asian view' are that there is a prioritization of social and economic right; there is a sense that the community takes precedence over the individual; and references to tradition are made throughout the document.

3.4.1 Prioritizing social and economic rights

As mentioned, one aspect of the state report that is very noticeable is the strong emphasis on social and economic developments as compared to that on civil and political developments and, to a large extent, the absence of the word 'rights'. This certainly seems to be in accordance with the claim of the 'Asian view' that social and economic rights take precedence over civil and political rights.

The most apparent example of the emphasis on social and economic development is that the phrase 'protection, care and education of children' is frequently used in the state report instead of 'child rights'. For example, in the section of the report entitled *A. Harmony between the Convention and national legislation*, it is stated that "[o]ver the years, in order to better protect, care and educate children and properly implement the Convention, the State has

revised, supplemented and issued a number of legal instruments related to children" (§ 22). Furthermore, the main Vietnamese law that pertains to children is called the 1991 Law on Protection, Care and Education of Children, rather than having a title that contains the word 'rights'. Similarly, the principal government organization responsible for children is the Viet Nam Committee for Protection and Care of Children (§ 29). The reason why this phrasing is used instead of 'children's rights' may be due to the idea of indivisibility of rights; if 'rights' had been used, it would also implicitly incorporate civil and political rights. However, by using this other formulation it becomes clear that social and economic rights are the priority.

Almost throughout the state report, the provisions of the CRC are referred to in relation to social and economic development. For example, there are many mentions of "social development objectives" (§ 3), "social development strategy" (§ 15), "socio-economic development policies", "social programmes" (§ 204) and "socio-economic organizations" (§ 25) that are all intertwined with the implementation of the CRC (§ 25). Though 'rights' are mentioned, this is mostly in the section *I. General measures of implementation* which comprises the beginning of the report, and rarely in the sections that account for the specific articles of the CRC. Something else that emphasizes social and economic rights is that the sections of the report that discuss the right to health (*B. Health and health services*) and the right to education (*A. Education*) are much more extensive than the sections devoted to other rights. However, it is also possible that the reason for this is that these are the areas of child rights in which Vietnam has made the most progress.

However, civil and political issues are not completely neglected. The introduction of the report notes that "[i]mportant progress has been made in the field of political democracy" in Vietnam (§ 3) and refers to several ways in which this has happened. There is also a section in the report devoted to those articles of the CRC which pertain to civil rights, such as the right to birth registry, freedom of expression, freedom of association and peaceful assembly and the right to privacy. On the other hand, it can be argued that these rights are not as far-reaching as the CRC allows. The freedom of thought, conscience and religion, for example, is limited in the Vietnamese constitution since "'No one is allowed to violate the freedom of belief and religion or to abuse it to violate the laws and policies of the State'" (§ 100). Most importantly, though civil and political rights are included in the state report, the comparatively overwhelming references to social and economic development give a clear indication that they are the priority.

3.4.2 The community before the individual

The claim that the community should be prioritized over the individual is another one made by the 'Asian view'. In the state report, there are two ways in which the important role of the community is emphasized. One is by highlighting the importance of the whole society taking part in promoting child rights, and the other is by underlining that together with rights, children also have associated responsibilities and obligations.

The importance of the whole community taking part in advancing children's rights is stated throughout the report. For example, in section *I. General measures of implementation*, there is a paragraph which discusses the development of policies and programs associated with children, and states that "programmes to encourage the whole society to participate in the protection, care and education of children" have been of special priority (§ 25). In this same section, it is also simply expressed that "[i]mplementation of child rights is not only the responsibility of the State and family, but also of the community and people as well" (§ 33). A paragraph discussing penalties of juvenile criminal offenders states that "the prosecutors and the court usually apply educative and preventive measures" and that "[t]he family, school and community also undertake these measures" (§ 63). Another paragraph considers several national campaigns which are seen to have contributed "to the enhancement of the family's role in society" (§ 124). Although it is certainly important that all parts of society contribute to the well-being of children, the emphasis on community responsibility as expressed in this state report could be seen to shift some of the responsibility laid on states in UN conventions to other actors.

In the report, it is also mentioned several times that children not only have rights, but also responsibilities and obligations. For example, there is a reference to children's forums that have been developed to give children a platform from which to express themselves, but also "to learn more about their responsibilities, rights and obligations" (§ 38). Furthermore, "At schools, children have participated in competitions designed to enhance general knowledge of the Convention and the National Law [on Protection, Care and Education of Children], their rights and obligations" (§ 40). The right to education also carries with it "tasks and rights of learners" (§ 206 (a)). Moreover, a 1998 Ordinance on People with Disabilities addresses "the rights and obligations of people with disabilities, including children" (§ 52 (c)). Another

ordinance from 1995 on HIV/AIDS prevention and control prevents discrimination of adults and children with HIV/AIDS, "but they must practice prevention measures to protect the health of the community" (§ 52 (d)). While the existence of responsibilities and obligations of rights-holders do not specifically negate their rights, it does emphasize that the community is at least as important as the individual. It is also very much in line with the Confucian ideal that everyone needs to fulfil a specific societal role. In addition, it also seems to imply the importance of filial piety and respect toward elders so important in Confucianism and Vietnamese society in general. This is also evidenced by the 1992 Constitution which states that "[p]arents are responsible for raising their children to be good citizens. Children have the duty to respect and take care of their grandparents and parents" (§ 130).

3.4.3 Referring to tradition

In the state report, there are also several instances where references are made to 'tradition' or where certain situations are described as negative, presumably in contrast to the positive and traditional. For example, according to the report, "[t]he moral degeneration of some adults, the pursuit of materialistic lifestyles among youth and the infiltration of indecent and violent materials are linked to growing social evils, such as drug addiction, prostitution, and trafficking of women and children" (§ 15). The obvious conclusion to be made from this type of statement is that a traditional, morally decent and non-materialistic Vietnam would not have left room for the development of such 'social evils', nor is the state directly to blame for this. Similarly, the "deterioration of illegally rich people and the influence of a materialistic way of living" are seen to have contributed to the increase in crimes such as sexual offences against children (§ 268). Furthermore, the report claims that "children who come from broken families account for a high percentage of street children and children in conflict with the law" and that this "indicates a need to pay more attention to strengthening family values", among other things (§ 136). The implied message seems to be that had Vietnamese family values been stronger, these children's rights would perhaps have been easier to secure since they would have been safer within their families.

That there is seen to exist a need to teach the general population about family values also indicates a paternalistic view in which the way the state regards its people. This is also evidenced by the types of public education campaigns mentioned in the report, such as "A Family's Cultural Lifestyle" and "Exemplary Adult, Dutiful Child" (§ 115). The report also

states that "Reconciliation groups, the Women's Union, the commune CPCCs [Committees for the Protection and Care of Children] and the commune authorities all play important roles in helping families properly carry out their responsibilities towards children" (§ 126).

Both the references to tradition and the paternalism of the state can be seen as part of the 'Asian view'. The need for children's rights is not contested in the report, but the view seems to be that one of the reasons for why they are needed is that Vietnamese traditions are not being upheld. The view of a paternalistic state that needs to educate its citizens on traditional values also seems to be an idea inspired by Confucianism where the moral virtuousness of the ruler supposedly guarantees the moral behaviour of his people.

3.4.4 Summary

The analysis of the 2002 state report from Vietnam to the Committee of the Rights of the Child demonstrates similar patterns to those found in the general official human rights discussion in Vietnam: prioritization of social and economic rights, the view that the community takes precedence over the individual and references to tradition. However, the latter seem to often be used in this context to justify the need for children's rights, rather than the rejection of them.

3.5 Incompletely theorized agreement and human rights in politics

It appears to me that the way in which the Vietnamese government responds to children's rights in the 2002 state report bears elements of incompletely theorized agreement. Many of the rights stipulated in the CRC are ones that the Vietnamese government strongly advocates, though the reasons to why it does so probably differs from why a liberal would support those same rights. For example, the right to education may in Vietnam be based on a Confucian theoretical ground where education contributes to the virtuousness of the individual and thereby the well-being of the society, while a liberalist viewpoint would be that education enhances the ability of the individual to make his or her own choices.

Attempts by Asian governments, such as the Vietnamese, to influence the international human rights discourse also demonstrates that the discourse already belongs in the political arena, like Langlois claims. Though it is positive that the hegemony of the liberalist stand in human

rights is being questioned, the theoretical ground for the claims of the Asian governments (or the lack thereof) may not have been what has contributed to the development of the discourse. However, the debate on Asian values also demonstrates the problem of hegemony in the political aspect of the human rights discourse: in Vietnam, for example, it is clearly the government that dictates the human rights discourse within the country, which is not highly conducive to its continued development.

3.5.1 Summary

The analysis has shown some examples of how Langlois' suggestions on how to continue developing the human rights discourse are already functioning, though they also involve some problems.

4 Conclusions

1. What types of values could be said to constitute 'Vietnamese values' as a contrast to 'Western values'?

As the theory I have discussed in this essay has shown, "cultural groups are not internally homogenous or unalterably tied to a moral position by virtue of their identities" (Gutmann 1993 p. 183). Therefore, what count as 'Vietnamese' or 'Western' values cannot be distinguished through geographical borders. Values can be distinguished by their theoretical starting points and geographical origins, but as they travel across these boundaries and evolve within and between them, they no longer 'belong' to a certain place or certain people. However, if only the historical and geographical origins are to be looked at, the main Vietnamese values could be seen to stem from Confucianism, Taoism and Buddhism (although, to be fair, none of these belief systems have their historical origins in Vietnam). The most important values associated with these belief systems that have come up in this essay are filial piety and respect towards elders, virtuousness of the ruler to guarantee the moral behaviour of his people, and the importance of fulfilling social roles: all attributed to Confucianism.

The idea of 'Western values' faces the same problems as those of 'Vietnamese values'. However, in the debate about Asian values and universal human rights, 'Western values' have been used to denote the values implicit in liberal universalism, the most important of which can be said to be the autonomy of the individual.

2. In what ways do these values present themselves in the debate on Asian values and universal human rights?

The value of strengthening the community as found in Confucianism is used as a reason to support the promotion of social and economic rights over civil and political rights. Confucianism also argues for the virtuousness of the ruler in order for his people to behave morally. This is a view that seems to be used in justifying the emphasis on the obligations of citizens rather than the accountability of the state toward its citizens, because the state is assumed to act in a way that is morally right. This perception can also be seen to be the reason as to why the state sees itself as the authority of what constitutes traditional and moral values.

3. How is this debate demonstrated by the official Vietnamese attitude toward children's rights?

The official Vietnamese attitude toward children's rights as demonstrated by the 2002 state report to the Committee on the Rights of the Child is more open than it is toward many other human rights. However, as in other areas, the emphasis is on the priority of social and economic rights over civil and political rights, the precedence of the community over the individual and there is also an attempt to make claims on what constitute traditional Vietnamese values. However, there are no attempts at justifying the way the rights stipulated by the CRC are implemented by arguing that rights are culturally specific, nor any direct assertions that rights are a matter of national sovereignty.

4.1 Reflections

This short section is devoted to some reflections I have made in the process of writing, but the exploration of which do not fit in the way this essay is framed:

- Much of the official reasoning around human rights in Vietnam, such as the emphasis on social and economic rights, presumably also utilizes a number of justifications from the Marxist-Leninist tradition.

- Though the failure to live up to certain human rights standards may be due to political reasons covered up by references to tradition and values, poverty also plays a significant role.

- It is difficult to always be able to determine the intentions of the Asian government in the way they develop their human rights rhetoric. Although it may often be associated with the maintenance of power, this does not necessarily always have to be the case.

- The relative openness shown by the Vietnamese government toward the CRC may be an indication toward a positive trend in terms of the corporation of human rights and the development of the human rights discourse in the country.

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