

European Standards of Human Rights, Democracy and the Rule of Law and the So-called 'Asian Values'.

This is a summary of research based on various articles and publications concerning the above-mentioned topic. The list of the most relevant and topical (up-to-date) sources is presented at the end of this issue.

I. THE GLOBAL BACKGROUND

The rise of the East (China, India and other emerging powers) and the relative decline of the West have provoked much speculation on future global scenarios. One of the questions addressed in these analyses is whether the West will be able to promote its values within the new global balance of power. The values which constitute the conceptual basis of human rights, the rule of law and democracy, were born out of an intellectual and political process which took place in the West and came to the fore with the "Enlightenment". Although 'Western' by genealogy, they are regarded as universal. Present-day discussions suggest that the new shift in power will not be accompanied by the so-called westernisation of the East. The new "Oriental" powers will be able to preserve their cultural identity. Some experts predict that the weakening of the West and the loss of its ability to project Western values will result in global dystopia, 'political chaos and moral relativism', but other scenarios suggest the inevitable convergence between East and West in the cultural sphere. It is significant that some leading Western strategists like Brzezinski, Kissinger or Attali have started analysing the axiological basis of Asian cultures and how it can be accommodated within traditional Western values.

II. THE CONCEPT OF 'ASIAN VALUES'

The concept of 'Asian values' gained prominence at the beginning of the 1990s, when the fall of communism put pressure on the so-called 'managed democracies in East and South Asia', as well as on the more totalitarian regimes. 'Asian values' were proffered by the then leaders of Singapore and Malaysia, their main argument being, that in Asia, the precondition for economic growth was political stability, social order and respect for the traditional mentality of society. Politicians in East Asia were also concerned about the homogenising effect of globalisation and the impact that the West could have on their societies. To respond to that challenge, Asian leaders have tried to reassert Asian cultural identity and offer an attractive alternative to a Western model.¹ These concepts, characterised by putting hierarchy and order as a precondition for economic growth above democracy and human rights, sustained a severe blow by the crisis of 1997-1998. But then emerged the so-called "Beijing Consensus" which implied that democratisation is not a precondition of growth and that likewise growth cannot democratise societies by itself. The economic success of China helped it to become more

¹ Samuel Huntington spoke precisely of the 'rejection of individualism and the prevalence of a soft form of authoritarianism or limited forms of democracy' in East Asian societies.

assertive in its dialogue with the West on human rights, democracy and the rule of law.² China's aid based on the concept of "no strings attached" weakened Western calls for democratic reforms in the developing world. As one of the Cambridge scholars (Stefan Halper) eloquently put it, "For the West, failed states are a problem. For China, they're an opportunity". Not surprisingly, China's position in the field of human rights has been growing. According to the European Council on Foreign Relations, support for Chinese opinion on human rights at the United Nations jumped from 50 per cent in 2000 to 74 per cent in 2008. The Council also found that a large number of countries, from Africa to Asia to Latin America, who about 10 years ago were Western-voting allies on human rights issues, now support China and Russia.³ All in all, the concept of 'Asian values' has become more and more politicised and the dialogue on human rights and democracy in the framework of the United Nations has become less and less constructive.

According to many Western experts, 'Asian values' exist but they do not have to contradict so-called Western values. Confucianism for example is founded on deeply humanistic ideas and many followers of Confucius, including the noted philosopher Mencius⁴, stressed such concepts as 'goodness of a human being', and that "The human being is the most precious, the state is second, and the ruler the least." Likewise, Buddhism is based on the axiom of the dignity of the human being. Many experts highlight the need to understand and appreciate the Asian emphasis on collectivism, familial solidarity, and respect for authority and hierarchy.

III. HUMAN RIGHTS

Many experts observe that the very word 'rights' did not exist in Asian languages (in particular in Sanskrit). The concept of rights in Western philosophy was borne out of the idea of natural rights and the equality of human nature; an idea which is deeply-rooted in the religions of the Abrahamic family (Judaism, Christianity and Islam), whereas Asian religions were born in hierarchical societies. However, experts remarked that, for instance, in Buddhism the concept of rights is not associated with the inherent nature of human beings but derives from the relationship between human beings. The right of one person means an obligation for another. Thus, rights are always perceived in the context of obligations. Also, Confucianism, as evidenced in some parts of China (Taiwan, Hong Kong), can serve as a basis for the postulation of human rights.

The concept of 'Asian values' was interpreted by some of the proponents as denying the universality of human rights by reference to cultural differences. But other experts argued that Western values can and must be reconciled with Asian societies, and that taking into account a

² Stefan Halper in his book about "Beijing consensus" argues that the democratic, free-market model championed by the United States is being replaced by a combination of capitalism and dictatorship promoted by China.

³ Richard Gowan & Franziska Brantner, 'A Global force for human rights?', An audit of European power at the UN, European Council on Foreign Relations, 2008.

⁴ One of the most important early proponents of Confucianism, the Chinese philosopher (ca. 370-300 BC), often considered as humanist.

specific cultural context of Asian countries should be possible without undermining universal human rights.

For a long time Asia and the Pacific region has been the only geographic bloc that does not have a regional human rights instrument. In this context, however, it is worth mentioning that ten countries of Southeast Asia recently undertook political work on human rights issues at regional level in the framework of the Association of South East Asian Nations (ASEAN). At the end of 2012, during the 21st summit of the organisation, the ASEAN Human Rights Declaration was adopted. As is often the case, a declaration can be a precursor to a binding treaty; therefore this could be seen as the first step towards greater protection of human rights in the region.

We cannot present here an exhaustive list of problems concerning human rights in Asia, but we would like to use this occasion to draw attention to some of them.

One of the biggest problems undermining the application of human rights is definitely the caste system. It is known that 65 million untouchables and 150 million people in total experience daily discrimination in India. Despite the on-going efforts of the international community and the governments of India and Nepal, the problem continues to persist.

Another big human rights and demographic problem of the Asian societies, especially in China and India, is the phenomenon of ‘missing girls’ as a result of gender-selective abortion or infanticide. Due to social and economic pressures, prenatal gender determination often leads to gender-selective abortion, especially where the ‘one child policy’ applies. This issue is causing a growing distortion in demographic proportions and is already resulting in very serious consequences for Asian societies.

An interesting prospect for human rights promotion has opened up in China as hundreds of millions of internet and social-media users are using this space for the freedom of expression. The so-called ‘Weibo generation’ is rising and according to the European Council on Foreign Relations, Europe should use digital diplomacy to go beyond censorship and stale state-driven dialogues such as the EU–China human-rights dialogue (do “Weiplomacy”).

IV. RULE OF LAW

Francis Fukuyama in his latest book, ‘The Origins of Political Order’, devotes a significant portion of the book to explaining why the concept of the rule of law is culturally difficult or even impossible to be understood by Chinese society. In addition, historically, the fundamental structure of state in several parts of Southeast Asia was weak, which prevented the concept of the rule of law from developing. Nowadays, what aids the development and consolidation of the rule of law is the adoption and practice of a liberal capitalist model. This combined for instance with the Confucianism idea of fair punishment strengthens the resolve for the supremacy of law. However, without democratic practices and the rule of law, economic systems are open to corruption and all the ensuing negative consequences for the economy,

society and social justice. That is why there is an increasing tendency among many East Asian countries to demand transparency, justice and the rule of law.

V. DEMOCRACY

The Western concept of liberal democracy puts emphasis on electoral efficiency, representative decision-making, and executive responsibility and accountability. On the other side, the Asian concept of democracy includes: a strong sense of communitarianism, respect for authority and a strong state buttressed by a centralised bureaucracy. In the political discourse of the 1990s, the 'Asian-style democracies' exhibited different characteristics to Western ones and emphasised different values, but nowadays the concept of 'Asian values' should not serve to justify authoritarian rule, lack of legitimacy for opposition or competitive elections. Researchers point out that the alleged compatibility of 'Asian values' with authoritarian forms of government is more a matter of wishful thinking rather than fact. Researchers also underline that the existence of Confucian writings clearly denotes support for democratic institutions.

The main problem confronting the spread of the Western model of democracy is the so-called meritocratic system. Even Francis Fukuyama recognises that so-called meritocracy works better than democracy when it comes to solving big questions in the short-term. But he points out that meritocracy does not work in the situation of a crisis. At the same time, Western experts predict that the global rise of the middle class will inevitably put decisive pressure on the introduction of transparency in government and in the democratic process.

It is arguable that economic development contributes to democratisation via the emergence of civil society and increased individual wealth. Therefore, the economic success of Asian countries may contribute to the downfall of undemocratic leaders. According to some analysts (like Larry Diamond), China 'will face a new opportunity for democratic transition in the next two decades and possibly much sooner'.

According to many authors the dynamics of modernisation and democracy are becoming increasingly clear. The notions of 'cultural relativism' or 'Asian values' are being increasingly questioned by Asian people themselves and mass pressure for liberalisation is emerging. As democracy is becoming more widely supported and encouraged in some Asian countries, some governments and organisations are establishing their own set of indices to track their society's progress towards democratisation (for example, Mongolia).

VI. IMPLICATIONS

The so-called 'Asian values' can have little impact on European standards. There is a low risk, if any, of their import. The only neighbouring area potentially affected is Central Asia, although the central elements of Islamic tradition will probably prevent it. At the same time, the present politicisation of discourse on values spoils to some degree the atmosphere surrounding relations between Asian and Western countries. The Asian partners must understand that the West will never abandon its efforts to fight oppression and dictatorship. At the same time, to

gain credibility the West must start building cultural bridges with the East. It must be admitted that at present there is very little intellectual interplay. For example, the United Nations Alliance of Civilisations is largely focused on dialogue with the world of Islam. An additional difficulty is the lack of common projects which would escape the politicisation factor. The joint fight against corruption could be a good starting point. Global instruments, including the Convention⁵, are not yet the focus of dialogue with Asia. The Council of Europe can assist in the realisation of such projects.

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⁵ The United Nations Convention against Corruption (UNCAC) - the first global legally binding international anti-corruption instrument.