

**SOVEREIGNTY & ALTERITY:  
A CRITICAL APPROACH TO ETHICS AND HUMAN RIGHTS  
IN INTERNATIONAL POLITICS**

**A Master's Thesis**

**by**

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September 2002**

To my family

**BILKENT UNIVERSITY  
INSTITUTE OF ECONOMICS AND SOCIAL SCIENCES**

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**A THESIS SUBMITTED TO THE DEPARTMENT OF INTERNATIONAL  
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THE DEGREE OF MASTER OF INTERNATIONAL RELATIONS**

**Bilkent University  
September 2002**

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of International Relations.

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**Abstract:**

This thesis aims to problematize the inside-outside separation with regards to its impact on the question of ethics in international politics. In addition to the domestic and international antinomy, the self-other duality, which is at the basis of traditional (Kantian) ethics, is also problematized, as it excludes and suppresses the other.

Therefore, an understanding of justice established upon universal principles and abstract norms is done away with in favor of political ethics that is flexible and open to change. The narratives structured around presence of an essence and a sovereign source of truth (be it the human or the culture) is also found problematical, as what they represent is not independent from how they represent. The universal human rights norms are discussed in such a framework. The justificatory reference to a universal human nature or particular culture is criticized, as such foundations are established at the time of their proclamation and further utilized to tame the difference within. Accordingly, just like the ontic account of state and security discourses built upon it are exclusionary and suppressive, a discourse of human rights, which is universal and strict, is found disciplinary and suppressive towards the difference. As a conclusion it is argued that the treatment of ethics and human rights in international politics should be assessed in the light of the backbone assumptions of the IR theory, ethics and the discourse of human rights. It is also concluded that we can command an ethical position, only when we leave objectifying the state, the human or the victim.

## Özet:

Bu tez Uluslararası İlişkilerde içerisi-dışarısı ayrımını etik alana yansımaları bakımından ele almaktadır. İçerisi-dışarısı ayrımının yanı sıra, geleneksel (Kantian) etik anlayışının temelinde olan, benlik (self)-öteki (other) ikilemi de, öteki karşısında dışlayıcı ve baskıcı bir tutum oluşturduğundan eleştirilmektedir. Böylece, daha esnek ve değişime açık bir “siyasi-etik” anlayışı, evrensel ilkeler ve soyut normlar üzerine kurulu adalet kavramına tercih edilmektedir. Bir özün varlığı üzerine temellendirilmiş anlatılar, (ki bu öz insan doğası olduğu gibi değişmez kültürel değerler de olabilir), temsil edilenle eden arasında yapay bir ayrım yarattıkları için sorunlu bulunmaktadır. Evrensel insan hakları değerleri de işte böyle bir çerçevede içinde değerlendirilmektedir. Sonuçları bakımından ele alındığında, değişmez insan doğası üzerine inşaa edilmiş evrensel insan hakları normları da; her türlü eleştiriye kapalı kültürel görecelik kavramı da kendi içlerinde baskıcı ve totaliterdir. Buna göre, nasıl ontolojik bir devlet anlayışına ve bunun getirdiği güvenlik söylemlerine dayalı bir yaklaşım dışlayıcı ve baskıcı ise; aynı ölçüde evrensel ve değişmez katı kurallara dayalı bir insan hakları söylemi de günümüzde birçok farklı kimliği dışarıda bırakmakta ve hatta disiplin altına almaktadır. Bu bakımdan Uluslararası İlişkilerde etik ve insan hakları sorunsalı, yalnızca Uluslararası İlişkiler anlatısının temel varsayımları bakımından değil, geleneksel etik anlayışının ve insan hakları söyleminin de temel argümanları ışığında tartışılmaktadır. Bu çalışmadan elde edilen sonuç ise devleti, insanı veya mağdur kişiyi nesnelleştirmedığımız (“şey”leştirmedığımız) ölçüde etik davranabileceğimizdir.

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## CHAPTER I: INTRODUCTION

There is a poetry in human rights that defies the rationalism of law: when a burnt child runs from the scene of an atrocity in Vietnam, when a young man stands in front of a tank in Beijing, when an emancipated body and dulled eyes face the camera behind the barbed wire of concentration camp in Bosnia, a tragic sense erupts and places me, the onlooker, face to face with my responsibility, a responsibility that does not come from codes, conventions or rules but from a sense of personal guilt for the suffering in the world, of obligation to save humanity in the face of the victim<sup>1</sup>

This study aims to problematize some mainstream understandings regarding the place of human rights and ethics in international politics. In doing so, it is important to assess the issue from as many directions as possible. Studies that only criticize realist discourse of IR while remaining silent on the narratives of universal human rights or foundational ethics are deemed restricted. Similarly, the mere replacement of universality with cultural relativity would shift the ground of discussion while sustaining the simplistic reductionism. As will be discussed further in the following pages, if state is the black box of the IR theorician, and if culture is the blackbox of the anthropologist, human beings could be the black box of the philosopher. Simplifying life into units and facts while facilitating the job of the academician or the decision maker, at the same time results in a simplistic closure. Moreover, those who are left outside of the boundaries are taken as the first to be sacrificed. Thus, the constitution of boundaries is a process that brings violence with it. Ignoring this and building modern political life upon ontological descriptions of statehood legitimizes the violence behind it.

Also essentialist understandings of human nature behind the discourse of universal human rights apply the same logic to different actors. Taking into

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<sup>1</sup> Douzinas, Costas. 2000. *The End of Human Rights*. Oxford: Hart Publishing, p.245.

consideration that lots of atrocities are committed in the name of humanity, prioritizing “the human” is not much different from prioritizing “the state”. If taken from the victim’s point of view the justifying ideology does not matter much as long as s/he is left outside of it. In addition, there is not a big difference between the violence of the universalist intervener and the local warlord, if they both end in the termination of the other. Consequently, rather than confronting “state” interests with “human” interests, we aim to show that there are no interests as such. Yet this does not imply that there are no “interests” at all. The important thing is to situate the discussions regarding human rights in international politics within a framework. Our framework, in this sense, will be the postmodernist approaches to human rights and international politics. We will try to focus on arguments developed by David Campbell, R.B.J. Walker, Cynthia Weber, Costas Douzinas, and Michael Dillon in criticizing essentialist approaches to politics and ethics.

This study is an attempt to go beyond the rationalist narratives of international politics and human rights at the same time. It is an attempt to bring into daylight the similar type of reasoning behind descriptions that take international politics as an endless clash of interests and the discourse that take fundamental normative principles above those contingent interests. The “dignity of human being” may be a shield against atrocities committed in the name of the “integrity of the state” and “integrity of state” may be the shield against the violation of “human rights”. But if taken from the philosophical point of view, they both rest upon an ontic account: ontology of state and the ontology of human being. It is argued, on the contrary, that responsibility starts when one does not

hide behind identity reinforcing banners but with courage to face the other with all its otherness; with all its *alterity*. As Jacques Derrida argued in the Force of the Law:

That justice exceeds law and calculation, that the unrepresentable exceeds the determinable cannot and should not serve as an alibi for staying out of juridico-political battles, within an institution or a state or between institutions or states and others...Not only must we...negotiate the relation between the calculable and incalculable... but we must take it as far as possible, beyond the place we find ourselves and beyond the already identifiable zones of morality or politics or law, beyond the distinction between national and international, public and private and so on<sup>2</sup>.

So we will first start with problematising the distinction between international and national. Taking Richard Devetak's interpretation on the treatment of ethics in international politics as a reference point, we will discuss the account of international politics that is framed by the separation of inside from outside. The first chapter of the thesis will be addressing issues like sovereignty vs. anarchy; security and insecurity. In our discussions we will try to stretch to meaning of concepts as far as possible. So a discussion of security will not be restricted to the state security vs. human security. Behind the discourse of security we will also try to understand the attempt to restore a sense of security towards the unknown. Furthermore, conducting a deeper etymological search of the word, we will understand how security is inclusive rather than exclusive of insecurity. Also we will understand how securitizing is a part of identity building. In this sense, the ontological statehood – accepting the state as an a priori unit of international politics- will be criticized as it ends up in the depolitization of the international order. Thus, problematising the 'domestic' in whose name the

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<sup>2</sup> Derrida, J. "Force of Law: The Mystical Foundation of Authority" in D. G. Carlson, D. Cornell, M. Rosenfeld, 1992, *Deconstruction and the Possibility of Justice*, New York: Routledge, pp. 3-67 in Edkins Jenny, and Pit-Fat (eds.) 1999. *Sovereignty and Subjectivity*, London: Lynne Reinner Publishers, p.9.

security narratives are structured, we will try to problematize ‘anarchic’ on account of which ethics is either left out or included in a restrictive manner:

Theories of international relations contribute to the depoliticization of the international and the domestic every time they take for granted the separation of the two, with domestic realm within the sovereign state being seen as the realm of the “political community” and the international arena as the domain of anarchy, where political or ethical community is replaced by the power politics in some raw state of nature<sup>3</sup>

The second chapter argues that apart from a particular account of the “international”, a particular perspective on ethics also play a prominent role in the treatment of ethics in international politics. We will, then, carry out a discussion on the philosophy of ethics and place of ethics in international politics. As a classical realist, Hans Morgenthau will constitute a prominent place in this discussion. Morgenthau’s idea that “International politics is not a terrain of ethics. Because politics treat people as means rather than as ends” is put under the spotlight. The philosophical background of this kind of argumentation will be discussed with reference to Kantian ethics. As a supplement to the discussion on the separation of the inside and outside that will have been focused in the first chapter; the second chapter will also contain a debate regarding the place of ethics in a realm of plural value judgements. John Rawls theory, “justice as fairness”, will find a place within this treatment of the international as a realm of contending conceptions of justice. Only after such a discussion, we will come to realize the common ground for philosophers of universal (deontological) ethics: the universal reason. Having drawn the reader’s attention to the metaphysical nature of such argumentations, we will pose the question that: “if ethics is something quite political rather than foundational, can we still sustain the separation between ethics and security?” Such a question is an important one,

given the fact that among the reasons that are given to explain the exclusion of ethics from international politics, it is often stated that the priority of security excludes ethical concerns. Nietzschean understanding of ethics as “interiorized form of social control”, will give us the hint that the separation of ethics and security is an artificial one; not an essential one.

The second chapter finally discusses the actors of ethics. Traditionally states are taken to be the primary actors of international politics. Ethics, on the contrary, is taken to be a realm of concern for the relations between individuals. While the attempt to attribute an intrinsic moral value to individuals remains an anthropocentric one, it also rests upon the belief that there is a subject capable of ethical calculation behind the actions. Thus an ethical account of individual being will be one of our targets in this study. Furthermore, it is because of and on account of this universal human nature that we care for the other, *even if*, s/he is outside of the boundaries. The belief that there is something universal, essential and of dignity behind difference acts like a ground for the construction of universal norms upon it, such as universal human rights norms. Concluding the second chapter, ethics is tried to be situated in between absolute presence and absence. Yet, the exploration of this area in between is left to the final chapter. Third chapter discusses human rights in international politics within the framework developed so far.

In the third chapter, we will move from the general discussions of ethics to a particular focus on human rights. International human rights norms are but one among the various themes of ethics at international. The choice of “human

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<sup>3</sup> Edkins, Jenny. 1999. *Poststructuralism and International Relations*. London: Lynne Reiner Publishers, p. 139.

rights in international politics”, as a subject, is shaped partially by the prominent place it occupies in daily politics. But even more than this concern for relevancy, the suitability of this subject for the exemplification of the discussions we have held so far constitutes the ground of our choice. The ontic account will continue to be problematized. The essentialist narratives of human nature upon which the universal human rights norms are established will be assessed as to their power of normalization and discipline. Just like ontological statehood is a project to tame the *internal* as different from the *external*, ontological humanness is, in a similar fashion, taken to be a narrative of something, which does not exist outside of this narrative. Consequently the idea that: “we should have human rights not because we are human, but to make us human”<sup>4</sup> will be further explored with reference to what lies behind this idea of “human”. The ideas developed by Michel Foucault, in especially the *Discipline and Punish*, will be used to stress the disciplinary role of naturalizing something, which is indeed quite political. In this sense, Douzinas’s argument that: “The essence of man lies in [the] act of proclamation in which he linguistically asserts and politically legislates without any ground or authority rather than himself”<sup>5</sup> will find its proper place.

The disciplinary role of human rights norms will be separately discussed with reference to their role in the hands of state as the authority regulating rights and duties balance. As an attempt to open up the role of international human rights norms in maintaining the societal order, and the state security, a case law from the European Court of Human Rights will help to concretize the theoretical discussion of this chapter. The third chapter also problematizes the attempts to

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<sup>4</sup> Booth, Ken. “Three Tyrannies”, in Dune and Wheeler (eds.), 1999. *Human Rights in Global Politics*, New York: Cambridge University Press, p. 52.

render culture as the essential, given and unchanging bedrock of human rights norms. Thus, we do not aim at the substitution of western interventionist with the local warlord. Every type of simplistic closures, (including some of the arguments known as “cultural relativism”) will be criticized.

The final chapter of the thesis tries to substitute the simplistic closure, as discussed above, with an understanding of ethics that is undecidable. Here, the ideas of authors like J. Derrida, E. Levinas and Z. Bauman will be reflected upon. We will confront the Kantian ethics with, what may be called, the political ethics, in order to finalize the discussion started in the second chapter. The discourse of human rights that is problematized in the previous chapter, will be situated in this narrative of “political ethics”. Consequently, ontological descriptions of sovereignty, human nature, inside and outside will be done away in favor of more flexible and political concept of responsibility towards the other. Finally, sovereignty will be conceptualized as alterity rather than something above and beyond it. The ethical relation between the *self* and the *other* could then be understood as something beyond codes, conventions and rules. In other words, it is only, then, could be understood as a responsibility “in the face of the victim”; and only then can we come to the conclusion that: “there is a poetry in human rights that defies the rationalism of law”, as well expressed by Douzinas.

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<sup>5</sup> Douzinas C., 2000, *The End of Human Rights*, Oxford: Hart Publishing, p. 93.

At the end of the study we will conclude that an understanding of ethics, which is political and more flexible rather than the one built upon absolute principles and norms will save the “humanity”. Also that; the “humanity” is, again, not something above and beyond time and place. Finally, we will conclude that international politics, as long as rests upon ontic statehood (arguments like state security, national interest... etc.) will be complicit in the elimination of the other.



## **CHAPTER II: NARRATIVES OF INTERNATIONAL POLITICS**

Discussing human rights in international politics necessitates problematizing various concepts and assumptions of mainstream IR theories. Conventionally, morality has been distanced from the international domain. The “international” is based on a grand narrative of anarchy as the overarching and thus constraining condition of international politics. Traditional actors of international relations are taken to be sovereign states without much consideration. However, assuming such units as prior to international politics has severe limitations. It may be argued that similar acceptances govern our understandings of morality and human rights. The search for the formulation of general principles and statements concerning international politics, morality, human beings, and life in its broadest sense is the sovereign ground of scientific man.

This chapter is intended to draw the reader’s attention to the results of this attitude and to some extent its blindness to the plurality and contingency of life. We will particularly focus upon the narratives of international politics. As, like everything else in IR, ethical questions also get their share from those narratives:

The treatment of ethics in international relations usually begins with a description of how international relations is structured. It begins with an ontological description of state sovereignty, territoriality, and the distinction between inside and outside. This gives rise to an ethics based on distinguishing between fellow citizens and outsiders. Moral obligation is determined by the boundary that separates “us” from “them”. Ethics is therefore understood as something, which is more readily applicable relations within a sovereign state rather than relations between them.<sup>6</sup>

This description of international relations summarizes how we will problematize, in this chapter, units and security discourses. We can subsequently elaborate morality and human rights in international politics in the following two chapters.

## **2.1 Sovereignty-Anarchy**

Anarchy at the international realm is often defined as the absence of a central authority above sovereign states. Ever since the development of modern state system, in the 17<sup>th</sup> century, sovereign-state is depicted as the ultimate center of authority. The presence of sovereignty at domestic level requires the absence of an overarching sovereignty at international level under the principle of nominal equality of states. There is a rich literature devoted to the explanation /description of this ordering principle (anarchy) of the international domain. Consequently, it is necessary to look at why this anarchy-sovereignty opposition is a problematical one. We will criticize those discourses shaped around the acceptance of an anarchic international ‘structure’ or an international ‘system’. We will use two definitions of sovereignty, which complement each other. One is the sovereignty of state, and the other is sovereignty in the form of reason. The former can be shown as a more institutional definition of sovereignty while the latter takes the concept as the source of truth, in its broadest sense.<sup>7</sup>

Traditional IR Theory takes states as primary actors of the international realm. A state in this sense is formulated as ontologically prior to its relations

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<sup>6</sup> Richard Devetak, “Postmodernism”, in Andrew Linklater et al. 1996, *Theories of International Relations*, London: MacMillan, p.203.

with others. Some scholars, indeed, interpret this attitude as the continuation of liberal methodological individualism.<sup>8</sup>

Accordingly sovereign states, as similar units, are claimed to coexist and form the ‘international system’. Sovereign-state, then, is depicted as the ‘natural’ actor of international politics. This acceptance enables mainstream IR scholars to theorize anarchy as the absence of central authority. David Campbell, in his article, “Political Prosaics, Transversal Politics” defines this situation referring to Derrida’s terminology of “metaphysics of presence”. Accordingly, in pairs such as sovereignty/anarchy, inside/outside and domestic/foreign, the primary concept (sovereignty, inside, domestic) is taken as the natural, original entity, or as the source of interpretation.<sup>9</sup> The secondary concept (anarchy/outside/ foreign) becomes meaningful subsequently. In this sense, primary concepts are believed to correspond to an incontestable fact in international politics, while the secondary ones correspond to the absence of this fact. For instance, anarchy at the international realm is defined as the absence of a sovereign center comparable with that of the domestic realm.

We have to problematize this naturalness, originality, pureness, or unity of the concept of state sovereignty. We ask: Does it really correspond to or is representative of what it claims to be? If we take sovereignty as the reference point for anarchy, and challenge this reference point, then “anarchy” is also

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<sup>7</sup> Camilleri also argues that the function of ‘sovereignty’ “has been to act as a fundamental source of truth and meaning...” in Camilleri J. A. and Falk J. 1992, *The End of Sovereignty?: The Politics of a Shrinking and Fragmenting World*, Edward Elgar, Hants, p.11.

<sup>8</sup> Daniel Warner, for instance, criticizes the projection of liberalism’s ‘individual’ to the ‘state’ in international realm: “...the definition of individual that has been used in the analogy is wrong and because it’s wrong the analogy winds up glorifying the state in the same wrong head fashion that it glorifies the individual.” in Daniel Warner, 1991, *An Ethic of Responsibility in International Relations*, London: Lynne Rienner Publishers , p.45.

bound to be challenged. Campbell explains ‘anarchy’ as: “...anarchy, not anarchy in the sense of being without a central authority... but in terms of its Greek etymology, an-arche, that is being without being first principles, foundations or grounds.”<sup>10</sup> If sovereignty (or inside or domestic) is not the first principle; (or foundation), then we could only define its ‘opposite’ arbitrarily.

In the midst of this an-arche though, it is not the case that anything goes. What may seem a contradictory but a necessary condition, of at least writing on international politics, is an organizing thought: a sovereign reason. Ulrik Enemark Petersen states that: “What must be thought in the wake of God’s death and the reconfiguration of finitude as radical historicity must be a new metaphysics and a new ontological principle through which to make our common existence intelligible, so as to counter the decay of nihilism.”<sup>11</sup> In other words, the place of unity and order becomes the reason. The complete absence of principles, foundations, grounds, or the awareness and consciousness of this absence would disable IR theorists, politicians or any actor in the “international” realm to talk about, theorize, and conduct policies. A simulacrum, a pretension is elementary for even discussing on international politics even in the absence of ‘realities’. Thus, at this point, the presence of at least one sovereign center is inevitable. Otherwise the result would be complete chaos. This center becomes nothing but reason in the ultimate sense. The order of disorder is achieved at nowhere but at the minds of theorists, lawyers, and practioner. This also challenges the ‘anarchy’ principle, because the central authority, in its

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<sup>9</sup> David Campbell, 1996, “Political Prosaics, Transversal Politics”, in Shapiro and Alker, *Challenging Boundaries*, University of Minnesota Press, Minneapolis, p.17.

<sup>10</sup> Campbell, “Political Prosaics, Transversal Politics”, p.23.

broadest sense, is bound to exist in the form of reason. This is the second ‘sovereignty’, we have mentioned above.

Richard Ashley is among the scholars of postmodern studies in International Relations, who challenges the anarchy assumptions of mainstream theories, by arguing how the international realm can be defined under the presence rather than absence of a sovereign voice. Ashley states the disciplining effects of anarchy principle at both the domestic and international levels. He writes in one of his articles that:

To say that the heroic practices that impose a global narrative of domestication have no need for a visible central agency engaging in conspicuous acts of global discipline is not to say that these practices dispense with the presupposition of a sovereign source of truth and power that arches the totality of global life.<sup>11,12</sup>

In the same article he also argues that the sovereignty of state, or the famous *raison d’etat*, derives from not an external source but from the reason of man.

In modernist discourse, the sovereignty of state, including the duty to obey the law it speaks, does not derive from any source external to man. Rather, the state’s sovereignty obtains in its establishing as the principles of its law, those historical limitations that modern reasoning man knows to be the necessary conditions of his free use of reason. [Time and place bound]. It consists, more succinctly, in subordinating *raison d’etat* to the reason of man, making the former the guarantee of the possibility conditions of the latter.<sup>13</sup>

In Derrida’s terms, as there is no outside of this reason, international domain, as to its ordering principle, cannot be much different from the domestic one. Extrapolating from this idea, we downgrade and ignore the authoritative force of discourse in organizing international politics, defining anarchy, as the absence

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<sup>11</sup> Ulrik Enemaark Petersen, 1999, “Breathing Nietzsche’s Air: New Reflections on Morgenthau’s Concepts of Power and Human Nature”, *Alternatives* 24, p.92.

<sup>12</sup> Ashley, Richard, “The Powers of Anarchy: Theory, Sovereignty and the Domestication of Global Life”, 1988, in Der Derian (ed.), 1995, *International Theory, Critical Investigations*, New York University Press, New York, p.106.

<sup>13</sup> Ashley, “The Powers of Anarchy”, p.110.

of central authority. Without an authoritative principle or discourse, it would not have been possible even to talk about international politics, or an international order constituted by sovereign states, failed states, rouge states and non-states. Taxonomy in international politics may be said to be indicative of sovereignty.

Using Derrida's terminology the opposition, sovereignty versus anarchy, which dominates modern IR theory, can be attributable to 'metaphysics of presence': we distinguish anarchy from sovereignty by accepting sovereignty as a given, as an ontological a priori to our theorization, and as a cause, rather than the result of our actions at the international domain. Nevertheless, this is not the all. In addition to the separation of sovereignty and anarchy, sovereignty is privileged over anarchy, as the normal state of affairs, as a normal terrain of politics and ethics. The latter [anarchy] is the result of the former. It is only reserved for power struggles, competition, technical calculations, and mechanical relations. Roy Boyne's account of Derrida's critique of presence, which results in the domination of one of the terms in a binary opposition over the other, can clarify our point. Boyne argues that binary pairs, like inside and outside, good and evil, heaven and earth, nature and culture, speech and writing, white and black... are not simple alternatives. They are hierarchical oppositions; one side of each opposition has privilege over the other.<sup>14</sup>

One of the consequences of privileging sovereignty over anarchy is the substitution of politics by technology in international politics. J. Edkins accuses theories of international relations in the depolitization of international and

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<sup>14</sup> Roy Boyne, 1990, *Foucault and Derrida: The Other Side of Reason*, London: Unwin Hyman, p.125.

domestic levels, as they take the separation of the two for granted.<sup>15</sup> If anarchy is depicted as the constraining condition of the international realm, and, similarly, if Hobbesian state of nature is projected onto this realm, then international politics becomes nothing but a technical endeavor to maintain survival. Conventionally, survival is given as a prerequisite for secondary concerns about the good way of life. Regarding this ‘logic of technology’ Richard Ashley argues:

...the economization of international politics can only mean the purging of international politics of those reflective capacities, which however limited, make global learning and creative change possible. It can only mean the impoverishment of political imagination and the reduction of international politics to a battleground for the self-blind strategic clash of technical reason against technical reason in the service of unquestioned ends.<sup>16</sup>

This technology is the culmination of metaphysical thought, the calculative instrumental thinking, for Heidegger.<sup>17</sup> Metaphysical thinking, in this case, is the account of anarchy (as the absence of sovereignty). It leaves us with nothing but calculations to best meet the contingencies of this anarchy. It turns “international” into a realm of strategic and contingent calculations. Thus international realm is characterized by conflict, and the domestic one with harmony. Walker states: “it is the claim to community and justice inside that permits the negative claim to anarchy outside.”<sup>18</sup> The state of emergency “outside” is the normal condition, and this blocks the way to politics in a domain of conflict. As is argued at the beginning of this part, the sovereignty of state and

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<sup>15</sup> Jenny Edkins, 1999, *Poststructuralism and International Relations*, Lynne Reiner Publishers, London, p.139.

<sup>16</sup> Ashley, Richard, 1984, “The Poverty of Neorealism”, *International Organization*, 38, 2, Spring p.279.

<sup>17</sup> Campbell, Dillon (eds.), 1993, *The Political Subject of Violence*, Manchester University Press, Manchester, p.21.

the assumption of domestic harmony ultimately lead to the principle of anarchy at the international domain. All can be pronounced at the expense of unquestioned acceptance of domestic harmony. A critical appraisal of the discourse structured around anarchy-sovereignty antinomy may reveal the immanent relation between the two. Sovereignty may be an effect of anarchy discourse. The discourse of anarchy, in other words, may constitute sovereignty in its political-practical form. Writing on postmodern analysis of state sovereignty, Caygill argues, “The state... does not act as an identity but is constituted as identity through its acts with respect to what is perceived as ‘foreign’ or ‘other’”<sup>19</sup> Yet ignoring this fact, and assuming state sovereignty as “the primary constitutive principle of modern political life... reifies the practices of state sovereignty –the disciplining of boundaries, the affirmation of inclusions, the defamation of foreigners, the inscription of danger, the legitimation of violence.” in Walker’s terms.<sup>20</sup>

Quoting Ashley, Devetak underlines the importance of the anarchy discourse, for the constitution of domestic harmony. He draws our attention to the violence on the way to this ‘harmony’ and argues that heterogeneity at the international level can only be claimed through the achievement of homogeneity inside.<sup>21</sup> Hence, the discourse of anarchy at the international level needs to be accompanied by a discourse of harmony at the domestic level to be credible. If harmony, consequently, is an effect of discourse rather than the ‘reality’, it can

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<sup>18</sup> R. B. J. Walker, 1993, *Inside/ Outside: International Relations as Political Theory*, Cambridge University Press, Newcastle , p.74.

<sup>19</sup> Howard Caygill, “Violence, Civility and Predicaments of Philosophy”, in Campbell, Dillon (eds.), 1993, *The Political Subject of Violence*, Manchester University Press, Manchester, p.66.

<sup>20</sup> R. B. J. Walker, “Sovereignty, Identity, Community: Reflections on the Horizons of Contemporary Political Practice”, in R. B. J. Walker, Saul H. Mendlovitz, 1990, *Contending Sovereignties Redefining Political Community*, London: Lynne Rienner Publishers, p.160.

<sup>21</sup> Richard Devetak, “Postmodernism”, in Andrew Linklater et. al., 1996, *Theories of International Relations*, London: MacMillan, p. 192.



only be achieved violently and arbitrarily. As such, policies and discourses shaped around concepts like security, national interests, state interests, and integrity of the state ...etc. exemplify how sovereignty and attempts to maintain domestic security justify violence directed against domestic dissenters, minorities, and underrepresented groups.

Another implication of the sovereignty-anarchy antinomy is the organization and discipline of identities/subjectivities. This is done through a hierarchical ordering; those of the domestic society and those *off* the domestic society. Nevzat Soguk reflects upon the role of refugees in this ordering:

The efforts to construct the citizen (as constitutive of domestic community) by constructing an inadequate refugee or a migrant (a noncitizen) are directed in the final analysis at affirming the “sovereignty claims” that there exists a coherent domestic community from which the state receives its legitimacy and authority and on whose behalf state acts.<sup>22</sup>

We will also dwell upon the immanency of violence and sovereignty/security, when we focus more on the traditional concept of security. For the time being, however it suffices to keep in mind that to take sovereign states as entities ontologically prior to our theorization has political effects on people of ‘inside’ as well as ‘outside’. This demonstrates the naturalization of the boundary between ‘inside’ and ‘outside’. Cynthia Weber’s following expression can be shown as supportive of this idea: “... sovereign subjectivity is an affect of practice and not a stable ontological category in itself. Ontology only appears to “be” because of the deeds that seemingly give it substance.”<sup>23</sup> Thus, there is an

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<sup>22</sup> Nevzat Soguk, “Transnational/ Transborder Bodies”, in Shapiro and Alker, 1996, *Challenging Boundaries*, University of Minnesota Press, Minneapolis, p.294.

<sup>23</sup> Cynthia Weber “Masquerading and the US Intervention Of Haiti”, in Edkins, Pin-Fat (eds.), 1999, *Subjectivity and Sovereignty*, London: Lynne Rienner, p.51.

immanent relation between defining (constructing) the international order as an anarchic one and taking state/sovereignty as given, ontologically a priori, and organizing subjectivities, within, outside, or in between of borders. Citizens, minorities, refugees, beggars and dissenters...the existence of all these categories indicates the existence of a sovereign center that organizes and labels. Walker puts this issue as follows: “The state has managed to successfully claim not only monopoly over the legitimate use of violence, but also over the meaning of human community and human identity.”<sup>24</sup>

While discussing the constitution of subjectivity, Edkins underlines the importance of a master signifier, a center that organizes, and ‘provides a nodal point around which meaning is articulated’. She puts sovereignty as one of the master signifiers in modernity.<sup>25</sup> It’s hardly possible to put sovereignty and suppressed subjectivities in completely opposite poles if we take the sovereignty as constitutive of subjectivity. It would also be problematic to put human rights and state sovereignty at two opposite poles on the political spectrum. Both national security, in the name of which domestic violence is perpetuated, and human dignity around which the banners of human rights activists are raised, are discourses of modernity. Michael Dillon’s following expression also emphasizes the inseparability of sovereignty and subjectivity and resulting relations: “More disturbingly for modern discourses of emancipation, neither can [the] call of justice arise from understanding human beings, as individual rather than

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<sup>24</sup> R. B. J. Walker, 1988, *One World, Many Worlds: Struggles For a Just World Peace*, Lynne Rienner Publishers, Colorado, p.103.

<sup>25</sup> J Edkins, Persram and Pin-Fat (eds.) *Sovereignty and Subjectivity*, London: Lynne Rienner Publishers, 1999, p.6.

collective sovereign subjects, as isolated and autonomous entities comprised of rights”<sup>26</sup>

We should also keep in mind that the domestic realm is not exclusive of anarchy, heterogeneity, plurality, and conflicts. If it had been such, the strongest official justification of state violence towards its citizens, i.e. the phrase ‘preserving the integrity of state with its nation and territory’ would be senseless. Similarly, we could not have understood why the state should be defined, in Weberian sense, as the only legitimate source of violence domestically. Even historically, the emergence of modern state is based upon the suppression of plurality inside the borders. The Westphalian state system, in the very end, took the place of decentralized political arrangements, characteristic of feudal society. This centralization was at the expense of domestic plurality.<sup>27</sup> Consequently, the association of domestic society with harmony, rather than conflict, leaves in shadow the violence in the practice of border drawing, i.e. harmony construction. Lawrence J. Hatab discusses, from a Heideggerian point of view, the correlation of sociality and conflict. He argues that “the social” need not be identified with something like harmony or homogeneity since conflict is no less a social relation”.<sup>28</sup>

Taking into consideration anarchy at the domestic realm, and overarching sovereignty at the international realm, along with the an-arche principle, (if not ‘anarchy’), we can challenge the separation of domestic and international politics

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<sup>26</sup> Micheal Dillon, “The Sovereign and Stranger” in Edkins, Pin Fat (eds.), 1999, *Subjectivity and Sovereignty*, London: Lynne Rienner, p.122.

<sup>27</sup> Joseph A. Camilleri, and Jim Falk, 1992, *The End of Sovereignty? The Politics of a Shrinking and Fragmenting World*, Edward Elgar Publishing, England, p.14.

<sup>28</sup> Lawrence J. Hatab, 2000, *Ethics and Finitude: Heideggerian contributions to moral philosophy*, Rowman and Littlefield Publishers, Lanham, p.177.

in foundational terms. If anarchy and sovereignty are not two essential conditions of political organization but quite immanent, congruent, and compatible principles that are conditioned by our practices, practices of 'states', academicians, media, civil society, ...etc., then separation of the two must have some political consequences. We already have focused on some of these consequences like depolitization of international politics, domestic violence, and constitution and control of subjectivities. These should not be taken as irrelevant items. Quite the contrary, they imply one another.

Finally, one of the greatest consequences of this metaphysical attitude to international politics is the securitization of domestic realm. Differentiation of foe from friend, secure from insecure, and ultimately truth from fault, instigates a fight against doubt, foe and the other in our case. Identification of foe (threat) in security discourses first requires identification of friend (non-threat). Manning states in this sense that "... quest for protection against the unknown culminates in a tightening of the borders of the nation, the home and the self, resulting in a truncated life that conforms to the rationally knowable and the causally sustainable."<sup>29</sup> The search for security may be shown as the cause of political organization in its modern form. As home-like structures are established to conquer the feeling of insecurity, they are secure habitable places.<sup>30</sup> This is not a novel idea, as at the root of Hobbes's *Leviathan* stands the search for security in the state of nature. On the other hand, the search for security, the desire for the elimination of the threatening other, presupposes the establishment of a common identity based on which the other is to be defined. Security is both constituted by

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<sup>29</sup> Erin Manning, 2000, "Beyond Accommodation: National Space and Recalcitrant Bodies", in *Alternatives* 25, p.53.

a common identity and constitutive of a common identity. Then, the security-sovereignty relation turns out to be a chicken-egg problem.

## 2.2 Security

‘Security’, ‘strategy’ and ‘interest’ constitute the key words of traditional IR theories. They organize our thoughts in such a way that, they become the litmus paper for theorizing and policy formulation. Competing policy formulations and theories, founded upon this matrix of international politics, can do nothing but stabilize and secure this matrix. In Caygill’s words:

All the categories can do is to specify the original matrix in some way; they cannot justify its particular structure. They allow us to measure, manipulate, exchange objects within this structure, but not to justify how it is we came into possession of it in the first place.<sup>31</sup>

In this section, we will try to explore security from a different perspective. We will for instance, contrast national security and human security, showing how the former can oppose the latter. Yet before enjoying a trip in this security matrix, we need to enjoy a distance from it. We will try to uncover, “how we came into possession of ‘security’ in the first place?” Security, as a concept, rather than security of this or that will concern us here.

Dillon problematizes the concept of security in the broadest possible sense. Dillon identifies modern politics with the security project; politics has always been ‘thought within’, ‘through’, and ‘by continuous reference to truth’.<sup>32</sup> Dillon thus commands a Nietzschean sense of security, in which the very

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<sup>30</sup> Manning, “Beyond Accommodation”, p.54.

<sup>31</sup> Howard Caygill, “Violence, civility and the predicaments of philosophy”, in Campbell, Dillon (eds.) 1993, *The Political Subject of Violence*, Manchester University Press, Manchester, p.58.

<sup>32</sup> Michael Dillon, 1996, *Politics of Security*, Routledge, London, p.14.

act of knowing is an act of security against the unknown. Nietzsche expresses this idea in *The Gay of Science* as follows:

Isn't our need for knowledge precisely this need for the familiar, the will to uncover under everything strange, unusual and questionable, something that no longer disturbs us ... And is the jubilation of those who attain knowledge not the jubilation over the restoration of a sense of security.<sup>33</sup>

As we have mentioned previously, the unity of security and insecurity cannot be ignored just like the unity of anarchy and sovereignty. Dillon also focuses on this point suggesting that security engenders, rather endangers the (in) security of the 'other', the one, which is seen as a 'threat'.<sup>34</sup> We can better comprehend 'security', pursuing an etymological examination of the concept. The Oxford English Dictionary provides us with the following definitions of security:

(a) The condition of being protected from or not exposed to danger, safety. (b) Freedom from doubt, confidence, assurance. (c) Freedom from care, anxiety or apprehension, a feeling of safety of freedom from/ absence of danger.<sup>35</sup>

Also the Greek origin of the word 'security' (asphaleia) draws our attention to the place of the other, i.e. insecurity (fault) in the very root of the word itself. As 'sphallo' means, in Greek, "to err, to cause to fall, or to fail, to bring down", translated into Latin as fallo, whose noun form in English is fault.<sup>36</sup> As such, we can see the relation between security and threat, not as causality, but as immanency: security contains threat. Dillon's reference to Greek mythology is

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<sup>33</sup> Nietzsche, "The Gay of Science", in Dillon, 1996, *Politics of Security*, Routledge, London, p.17.

<sup>34</sup> Dillon, *Politics of Security*, p.121.

<sup>35</sup> Dillon, *Politics of Security*, p.122.

<sup>36</sup> Dillon, *Politics of Security*, p.124

quite interesting with respect to Poseidon's (God of security) identification also as the earth-shaker, "one who makes the earth tremble." So Dillon argues in this sense that: "Poseidon, in short is a precise figure of the very duality of (in)security who serves to recall the intimate relation between the secure and insecure."<sup>37</sup> Again referring to Poseidon, Costas Constantinou draws the reader's attention to the togetherness of security and ambiguity in ancient Greece, in his article "Poetics of Security". He defines security as freedom from the *care* of danger, not from danger. In his words: "To remain afloat, one must cast an airy chest, learn to live with fluctuidity and instability..."<sup>38</sup> This unity of security and ambiguity or insecurity means in concrete form that security simultaneously leads to insecurity, or security endangers, or "...the god who more than all others is bound to bring you low as he brings you up."<sup>39</sup>

It is important and necessary to pursue an etymological search on 'security', as Constantinou argues: "A political narrative gains prominence...by erasing the fact that the words it is using [like security/asphaleia] as translated across ages and languages, are in and of themselves narratives and as such become a frontier for the clash of narratives."<sup>40</sup> The examination of the narrative of security teaches us that security can never be achieved in its popular political sense (protection from danger).

The association of security and truth as well as the link between doubt and insecurity remind us the metaphysical position that there is an Archimedean point of view from which those concepts (truth vs. fault/doubt ) can be differentiated.

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<sup>37</sup> Dillon, *Politics of Security*, pp.124, 125

<sup>38</sup> Costas Constantinou, 2000, "Poetics of Security", in *Alternatives* 25, p.292.

<sup>39</sup> Constantinou, "Poetics of Security", p.292.

<sup>40</sup> Constantinou, "Poetics of Security", p.303.

In this sense, security is the metaphysical ground of the political, transforming politics into technology (again in the Heideggerian sense of calculative instrumental reasoning). Politics, then, becomes a calculation, addressing the questions like how, through which policies, following which paths can we secure security (truth) in the best possible way? Given the constitutive role of security for politics in modernity, what is uncontested, and indispensable is the search for security (truth) per se, rather than its more concrete manifestations as the national security or the human security. We can discuss human security, environmental security, and planetary security vs. state security, international security, and national security. Yet, why do we need to be loyal to the word ‘security’? This impoverishes politics from the beginning, by creating two categories only: secure and insecure and grouping life with all its plurality under one of them. Thus security limits the possibilities. Another point is that security brings insecurity. As it attempts to build and maintain what it takes to be natural.

### **2.2.1 Security Endangers**

Now, for practical purposes risking the distance, we have tried so far to keep away from the concept security, we will now enter into the matrix of security, and concentrate on critical security approaches as far as they are relevant to our main topic.

Harmony between the representative (state) and the represented (the community/individual) is the leitmotif of traditional security studies. Richard Wyn Jones, writing on critical security studies, quotes from Christian Reus-Smith and underlines the fact that the consistency and coherence of traditional security



studies depends upon “the ideal of the state as a unified and relatively homogenous, coherent and peaceful community.”<sup>41</sup> However, this does not mean that the account of these traditional security studies correspond to an actual harmony inside. This harmony can only be achieved through these accounts of political life. Examination of National Security Doctrines may be a case in point.

Walker puts national security as “... the easiest rationale available to any regime wishing to engage in internal repression or establish more effective curbs on democracy”<sup>42</sup> Also; Alex P. Schmidt conducts a research aimed to uncover some of the discourses before the perpetuation of gross human rights violations by states and state-supported agents.<sup>43</sup> Schmidt argues that: “Gross human rights violations as a matter of state policy requires a Manichaeian ideology (based on enemy-friend dichotomy) that justifies it. The ideology utilized is the National Security Doctrine before [the perpetuation of] gross human rights violations.”<sup>44</sup> Likewise, Jack Donnelly indicates how National Security Doctrines are used in Southern Cone countries (Latin America) saying that: “National Security Doctrines of the 1950s and 1960s, provided an all-encompassing ideological framework for the military regimes of the Southern Cone”.<sup>45</sup> Prohibitions and limitations on civil and political life are represented as necessary, unavoidable precautions for the *maintenance* of national security, integrity of society. The ‘maintenance’ rather than the ‘constitution’ of societal integrity leads us back into

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<sup>41</sup> R.W. Jones, 1999, *Security, Strategy And Critical Theory*, Lynne Rienner Publishers, London, p.98.

<sup>42</sup> R. B. J. Walker, 1988, *One World, Many Worlds: Struggles For a Just World Peace*, Lynne Rienner Publishers, Colorado, p.37.

<sup>43</sup> A. P. Schmidt, 1989, *Research on Gross Human Rights Violations Second Enlarged Edition*, C.O.M.T. (Centrum Voor Onderzoek Van Maatschappelijke Tegenstellingen/ Center for The Study of Social Conflicts), Leiden, p. 85.

<sup>44</sup> Schmidt, *Research on Gross Human Rights Violations*, p.94.

<sup>45</sup> J. Donnelly, 1998, *International Human Rights*, Second Edition, Westview Press, Colorado, p.40.

the famous separation between sovereignty and anarchy that we have discussed in the previous part. Walker, in his article “The Subject of Security” defines discourses of national security as normative or idealist doctrines which “...idealize the sovereign state as the norm against which international anarchy is projected by negation.”<sup>46</sup>

The idea that preservation of the national security, or the integrity of the state with its citizens, constitutes a just ground for the limitations on and violations of human rights, and thus used by perpetrators of injustices as a way to legitimate their actions before a domestic or international community, raises the question of sovereignty with respect to representation. Starting from the 17<sup>th</sup> century and culminating in the 19<sup>th</sup> century, modern democratic state is understood “as the reflection of the will of its citizenry.”<sup>47</sup> In this sense, the representation of the will of community became the ultimate measure of sovereignty. Political authorities’ actions are most of the time justified referring to the will of the community, if not that of its ‘individual’ members. If this had not been the case, restricting the rights of the citizens, imprisonment, or in the broadest sense punishment could have threatened the legitimacy of the political authorities, who got their power from the ‘people’. Yet, Cynthia Weber, in her book addressing the uncontested concept of sovereignty, with specific reference to intervention, finds it problematic to talk about not a membership to a community, but the community itself, given that boundaries are quite volatile. They are not natural but politically contestable, especially in the face of

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<sup>46</sup> R. B. J. Walker, “The Subject of Security” in Keith Krause and Michael C. Williams (eds.), 1997, *Critical Security Studies*, University of Minnesota Press, Minneapolis, p.71.

<sup>47</sup> Cynthia Weber, 1995, *Simulating Sovereignty: Intervention, the State and Symbolic Exchange*, Cambridge University Press, Cambridge, p.8.

transgressions by economy, interdependence, ecology, technology (e.g. nuclear weapons), and most important of all domestic groups excluded by the state.<sup>48</sup> In this sense, the representation crisis may manifest itself also in the relation between the signifier, i.e. state, and the signified, i.e. the community. Weber refers to Saussure:

...And even though as Saussure argued, this relationship between the signifier and signified is a cultural and not a natural phenomena, the relationship between a signifier and a signified remains within a logic of representation so long as it is held that a signifier must refer back to a signified.<sup>49</sup>

Therefore, if community, who is the legitimate ground of sovereignty, the signified, is contestable, then legitimation of sovereign practices referring back to this imagined society might in turn become quite contestable. In this sense the independence of justifications from practices also become contestable. Then the legitimization of practices may refer back to nothing but practices themselves. National Security Doctrines become arbitrary discourses meant to empower political authorities. We will also raise the point that grounds are constituted verbally at the time of their declaration, when we discuss human rights in the following chapters. But for the time being, Nietzsche argues that:

Will to power designs purposes, reasons and uses for its manifestation. These purposes, a purpose of a punishment for instance, are quite arbitrary, and subject to change. The driving force behind man's actions is the will to power.<sup>50</sup>

Remembering the unity of security and insecurity, it may not be fair to depict the state as only the source of insecurity: the source of security is again the

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<sup>48</sup> Weber, *Simulating Sovereignty*, p.6.

<sup>49</sup> Weber, *Simulating Sovereignty*, p.7.

<sup>50</sup> Keith Ansell-Pearson, (ed.), 1994, *Nietzsche, On the Genealogy of Morality*, Cambridge University Press, Cambridge, p.55.

state. The modern political organization appears as the source of both security and insecurity of its subjects. Walker shows the modern sovereign-state as a force that enables us to *imagine* “what security could possibly mean”.<sup>51</sup>

A practical remedy to this imbroglio may be the broadening of the concept of security. However, this has its drawbacks. Some of them are stated above. We will restate problems arising out of the concept of ‘security’ itself. Incorporation and acceptance of nonmilitary issues even by traditional security scholars<sup>52</sup>, such as environmental security, threats arising from international migration and resurgent nationalisms...etc., indicate both broadening of security and the development of new exclusionary practices. Those policies addressing the ‘threat’ of migration and refugees may strengthen dominant discourses shaped around sovereignty-anarchy dyad. They identify subjects of inside and outside as argued previously. Environmental security may conflict with the security of indigenous cultures. Securitization of an issue may close the communication channels and prevent politics. Security starts where politics ends. Landscape burning traditions of Malagasy peasants and punitive policies developed by environmentalists and governmental officials in the name of environmental security are excellent illustrations. One reporter argues about the detrimental effects of securitization of environment in Madagascar:

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<sup>51</sup> R. B. J. Walker, “The Subject of Security” in Keith Krause and Michael C. Williams (eds.), 1997, *Critical Security Studies*, University of Minnesota Press, Minneapolis, p. 68.

<sup>52</sup> Jones mentions the acceptance of nonmilitary issues even by the most prominent journal in the field of security studies, ‘International Security’. Referring to the introductory article by Lynn-Jones and Miller. Lynn-Jones and Miller, *International Security*, 1995:4 in R.W. Jones, 1999, *Security, Strategy And Critical Theory*, Lynnee Reinner Publishers, London, p.105.

The result of these politics- the regulation and even criminalization of a traditional agricultural practice- closes the lines of communication. ...Farmers know that fires are strictly forbidden...Yet they depend on this useful tool, and so to protect themselves fire is not discussed, it occurs at night, and is blamed on “passers by” or “evil people”.<sup>53</sup>

In conclusion, we can say that how we define threat and formulate ways to eliminate threat depends very much upon how we define it. James Der Derian in one of his articles tells about different accounts of security. This depends on how we formulate political life. Accordingly, security is a natural outcome of power struggles for Hobbes. These struggles are again natural responses to anarchy that is the overarching condition of natural society. Whereas for Marx, security constitutes a response to power struggles and alienation that develops as a result of capitalist economy. However, Derian quotes Nietzsche: “the history is one of individual’s seeking an impossible security from the most radical ‘other’ of life, the terror of death, which once generalized and nationalized, triggers a *futile* cycle of collective identities seeking security from alien others... who are seeking similarly *impossible* guarantees.”<sup>54</sup> It was this Nietzschean understanding of security; we have tried to project in this part. The stress on futility and impossibility of this security against alien others shows once more the problematic separation of same and the other. Ethics structured around this separation or conditioned by this separation appear problematic. Does this lead to Kantian cosmopolitanism? The answer to this question will be given in the next chapter. Extrapolating from this Nietzschean understanding of security, it may be argued that, if security from death is the condition of life, then the security from

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<sup>53</sup> Christian A. Kull, “Observations on Repressive Environmental Policies And Landscape Burning Strategies in Madagascar”, [http:// web.Africa.ufl.edu/asq/v3/v3f2al/htm](http://web.Africa.ufl.edu/asq/v3/v3f2al/htm).

<sup>54</sup> James Der Derian, “The value of security: Hobbes, Marx, Nietzsche and Baudrillard” in Campbell, Dillon (eds.), 1993, *The Political Subject of Violence*, Manchester University Press, Manchester, p.101. (Emphasis added).

the threatening other becomes the condition of political society. Consequently, security appears as a constitutive force behind identity construction.

Drawing boundaries, differentiating inside from outside, friend from enemy, secure from insecure, and finally (but also primarily) truth from fault is the metaphysical ground of modern politics. Mainstream narratives and representations of international politics are built upon the same ground. Those accounts of morality in international politics are constrained by a particular description of this area. That description, narrative, or discourse of international politics, is questioned so far. In this chapter, the basic vocabulary of mainstream IR theories is problematized. This problematization was not exhaustive. Nevertheless we argue that the treatment of the ethical question, like human rights in International Relations is bound to be limited and problematic unless we question and destabilize the basic assumptions of the discipline.

The treatment will be equally limited, if narratives on morality/ethics in both domestic and international domains are not questioned. The next chapter addresses this task.

## **CHAPTER III: ETHICS IN INTERNATIONAL POLITICS**

In the previous chapter, we have argued that ethics is taken to be applicable to relations within states rather than between, because of a particular narrative of international politics. It is the aim of this chapter to show that this is also a consequence of particular representation of *ethics*. In this chapter we will focus upon the treatment of ethics in international politics. For this reason we will question some of the mainstream acceptances governing the discussions on the ethics at international realm. In order to do this in a proper manner, we need also to refer to philosophy of ethics. However, rather than being exhaustive we will offer a limited discussion on the philosophy of ethics. Not each and every conception of morality will be analyzed. For example utilitarian approaches or moral philosophies of Ancient Greece and medieval philosophies with regards to moral realm will be left out. We will particularly concentrate on Kantian ethics, because of its dominant position in the modern accounts of moral realm and its impact on the mainstream discussions of morality in IR. It may be important to draw a distinction between ethics and morality from the beginning. While morality is something of the empirical realm, ethics is beyond that realm. However, during our discussions below, we may change our discourse between ethics and morality for the sake of argument. This should not be taken as a substantial choice but a practical one. We will restate the difference between ethics and morality in the final chapter of the thesis.

### **3.1 Kantian understanding of ethics**

18<sup>th</sup> century Enlightenment thinker Immanuel Kant with regards to his

understanding of ethics may appear as a response to moral questions between frontiers. The stress on the universalizability of principles in Kant is manifested in its most concrete form in discourse of human rights. Understanding Kantian ethics would, therefore, also facilitate our discussion on universal human rights in Chapter 3. In this part, we will particularly discuss his ideas as expressed in his ‘Fundamental Principles of the Metaphysics of Morals’.

Thomas Donaldson names Kantian morality as deontological moralism. He explains deontology as follows: “On a deontological view, an action’s form frequently includes reference to a guiding principle held valid for relevantly similar acts under similar circumstances.”<sup>55</sup> Understanding this position is very important to place Kant in the discussion of morality.

Morality descends from universal reason. Kant shows himself in sharp contrast to consequentialist approaches like utilitarianism by distinguishing between *hypothetical* imperative and *categorical* imperative. In the former, the special conditions and effects of conduct are taken into consideration, while in the latter, absolute principles (moral principles) guide the action. Moral conduct, in short comes out of the sense of duty rather than any other inclination.<sup>56</sup> Kant puts the difference between hypothetical and categorical imperative as follows:

If now the action is good only as a *means* to something else, then the imperative is hypothetical; if it is conceived as good in *itself* and consequently as being necessarily the principle of a will which of itself conforms to reason, then it is categorical.<sup>57</sup>

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<sup>55</sup> Thomas Donaldson, ‘Kant’s Global Rationalism’, in Terry Nardin and David R. Mapel (eds.), 1996, *Traditions of International Ethics*, Cambridge University Press, Cambridge, p.137.

<sup>56</sup> I. Kant, 1988, *Fundamental Principles of The Metaphysics of Morals*, trans. by T. K. Abbott, Prometheus Books, Buffalo, New York, pp. 17-70.

<sup>57</sup> Kant, *Fundamental Principles of the Metaphysics of Morals*, p.42.



This deontological or metaphysical stance, in Kant, may be put as the detachment of morality from empirical world and as privileging it at a higher, commanding position. Accordingly, moral conceptions have their origins in pure practical reason, unrelated with empirical contingent knowledge and even particular nature of that or this human reason, but “we must derive them from the general concept of a rational being.”<sup>58</sup> Only this kind of superior source of conduct according to Kant makes it a moral conduct rather than a conduct for the satisfaction of particular desire, interest or inclination of the individual. On the other hand, Kant draws our attention to the problem in the practical applicability of this idea.

Only here we must never leave out of consideration that we cannot make out by any example, in other words empirically, whether there is such an imperative at all, but it is rather to be feared that all these which seem to be categorical may yet be at bottom hypothetical.<sup>59</sup>

Another problem in Kantian morality is that his refuge in universal principles as reflective of ‘pure morality/reason’ rather than contingent inclinations of particular individuals is quite vulnerable. He suggests that to be able to determine whether a particular imperative is a moral imperative or not, we need to universalize it and ask ourselves that ‘Could this principle, according to which we act, be a universal principle?’ One example of him may clarify our point. Accordingly, a man has a talent, and with some effort he can improve this talent. However, as he finds himself in favorable conditions, he prefers to indulge in pleasure. Kant asks at this point that: “if his maxim of neglect of his natural

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<sup>58</sup>Kant, *Fundamental Principles of the Metaphysics of Morals*, p. 39.

<sup>59</sup>Kant, *Fundamental Principles of the Metaphysics of Morals*, p.47.

gifts, agrees also with what is called duty”<sup>60</sup> His answer to this question needs to be given verbatim, in order to discuss his idea that moral principles should be universalizable:

...He cannot possibly will that this should be a universal law of nature, or be implanted in us as such by a natural instinct. For as a *rational being*, he necessarily wills that his faculties be developed...<sup>61</sup>

The use of adverb ‘necessarily’ in this statement constitutes a problem for us. It is highly contestable whether the ‘man’ mentioned in this phrase (with regards to his natural inclination to progress) represents the universal nature of humankind rather than that of the very particular, competitive, enterprising and progressive man of western liberal society. On the other hand, at this point to be fair to Kant, we should clarify one thing: The man in our example does not will that his faculties be developed in order to meet the requirements of the competitive society or in order to be happy, but because he acts according to the moral law. If he had acted in order to achieve a certain object; then he would have followed material principles rather than the formal practical principle of the pure reason<sup>62</sup>.

Another example Kant uses to show the universalizability principle is that a man is in need of money, and he also knows that he cannot pay back the money he borrows. However, he makes a false promise and borrows money. Then, in order to decide, whether his action is a rational and thus moral action or not, Kant suggests that we should impersonalise and generalize. Accordingly: “If R is valid

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<sup>60</sup> Kant, *Fundamental Principles of the Metaphysics of Morals*, p.51.

<sup>61</sup> Kant, *Fundamental Principles of the Metaphysics of Morals*, p.51.

<sup>62</sup> Mary Gregor (ed.), 1997, *Kant: Critique of Practical Reason*, Cambridge University Press, Cambridge, p.37.

for me to do action A, then it must be valid reason for *anyone* to do.”<sup>63</sup> Now, ‘Anyone’ as the foundation of moral conduct is a mythical foundation. Thus, the reference to ‘anyone’ is also problematic, in following terms; this ‘anyone’ is not a particular person but anyone. Therefore there is no possibility of knowing that whether ‘anyone’ would do this action or not. Everyone would refer to this *mythical* anyone in deciding to do something and consequently this anyone would control everyone in his/her actions.

On the other hand, it may be argued that Kant intends to decide the moral quality of a conduct that will be valid for everyone; that is an objective and unbiased guiding principle. In universalizing the maxim, which the agent uses to justify his/her actions, we can decide whether he/she acted in accordance with a moral principle. It is further argued that if it is a moral principle, we can observe a logical consistency, universalizing the principle. For instance, “making false promises in times of necessity” cannot be a universal moral maxim, because if this had been the case, there would not have been promises any longer. Thus, this is given as an inconsistency.

However one of the major criticisms against this logic as formulated by Hegel is that: The absence of promises constitutes an inconsistency or problem only in the presence of the moral belief that “promises should exist and be kept.” Therefore, according to R. Norman’s interpretation of Hegel, it is nothing to do with the universalizability or the abstract consistency of the principle in question. The principle ultimately depends upon the culture not upon any abstract

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<sup>63</sup> Richard Norman, 1998, *The Moral Philosophers*, Oxford University Press, New York, p.79. (Emphasis added).

‘reason’.<sup>64</sup> On the other hand, it is not an evident fact that the premise, “promises should exist and be kept” is born out of culture rather than the pure practical reason. In fact the statement that we keep promises only because we think that promises should be kept, is even supportive of Kant, as moral principle comes before the empirical realm and guides it.

Kant formulates the fundamental law of pure practical reason as follows: “So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law”<sup>65</sup>. With his reference to reason as a ground of the universal moral law Kant is taken as a foundationalist by some of his critiques. On the other hand, A. Reath in his introduction to the *Critique of Practical Reason* states that:

Kant adopts a coherentist or non-foundationalist approach to the justification of morality, holding that the authority of morality cannot be derived from theoretical reason, or from a conception of content –indeed that it cannot be based on anything outside of itself<sup>66</sup>

Kant refers to “pure practical reason” as the reason above the empirical realm but, by being practical, at the same time towards the empirical realm. From this point it follows that moral principles should be beyond and before the empirical realm, but they should guide the actions at that realm. In the *Critique of Practical Reason* Kant starts with the definition of practical laws.

Practical principles are propositions that contain a general determination of the will, having under it several practical rules. They are subjective, or *maxims*, when the condition is regarded by the subject as holding only for his will; but they are objective, or practical laws, when the conditions is cognized as objective, that is, as holding for the will of every rational being.<sup>67</sup>

By making a distinction between maxims and practical laws, Kant aims to reach moral principles that are *universalizable*. However, an important remark

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<sup>64</sup> Norman, *The Moral Philosophers*, p.82.

<sup>65</sup> Mary Gregor (ed.), 1997, *Kant: Critique of Practical Reason*, Cambridge University Press, Cambridge, p. 28.

<sup>66</sup> Gregor (ed.), *Critique of Practical Reason*, p. XXVII.

that should be given at this point (in order to further discuss Kant's representation in International Relations) should be that by universalizable principles Kant refers to the *form* of principles rather their *content*. He argues: "If a rational being is to think of his maxims as practical universal laws, he can think of them only as principles that contain the determining ground of the will not by their matter but only by their form"<sup>68</sup>.

Finally, while Kant takes moral principles beyond the empirical realm and above it, he does not take them as fetters on one's freedom. Quite the contrary Kant takes them as the condition of freedom in that:

It is... the moral law, of which we become immediately conscious (as soon as we draw up maxims of the will for ourselves), that first offers itself to us and, in as much as reason presents it as a determining ground not to be outweighed by any sensible conditions and indeed quite independent of them, leads directly to the concept of freedom.<sup>69</sup>

This is quite a different understanding of ethics and freedom as we found in the traditional narratives of International Politics. One of the oldest discussions regarding the place of morality at international politics in the discipline of IR, is that of Hans Morgenthau in "Politics Among Nations".

### **3.2 Morgenthau on Morality in International Politics**

Known as the father of political realism in IR, Hans Morgenthau is famous for his separation of politics and morality. Morgenthau underlines the tension between moral behavior and political behavior, defining the realm of politics as that of power struggles. Among the six principles of political realism, he states: "(4) Political realism is aware of the moral significance of political action. It is also aware of the tension between the moral command and the

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<sup>67</sup> Gregor (ed.), *Critique of Practical Reason*, p.17.

requirements of successful political action.”<sup>70</sup> Underlining this separation of politics and morality is his particular vision of politics and his particular vision of morality. On the other hand, Morgenthau also draws the reader’s attention to the power struggles within the *moral* domain. He argues in this sense that:

The normative order of society, whose purpose is to keep the power aspirations of its individual members within socially tolerable bounds is itself in a certain measure the result of social forces contending with each other for the domination of society through their influence, say on legislation or court decisions.<sup>71</sup>

This may seem in the first instance, as a Nietzschean conceptualization of morality, where morality is brought down to earth from morality above and become an effect of power. Some parallels are drawn between Morgenthau and Nietzsche,<sup>72</sup> with regards to Morgenthau’s broader conceptualization of power, something different from material power, and something that may be constitutive of norms in a society,

On the other hand, while acknowledging power struggles in the moral realm as well, Morgenthau still separates the moral and political domains. In the ‘Moral Blindness of Scientific Man’ for instance, he defines politics as a realm of evil, which treats people as means rather than as ends. He claims that purely moral conduct -treating people as ends- is not possible in this evil political

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<sup>68</sup> Gregor (ed.), *Critique of Practical Reason*, p.24.

<sup>69</sup> Gregor (ed.), *Critique of Practical Reason*, p.27.

<sup>70</sup> Morgenthau, 1973, *Politics Among Nations*, Fifth Edition, Alfred A Knopf Inc., New York, p.10.

<sup>71</sup> Morgenthau, *Politics Among Nations*, p.228.

<sup>72</sup> For a discussion on this issue, see, for instance, Ulrik Enemark Petersen, 1999, “Breathing Nietzsche’s Air: New Reflections on Morgenthau’s Concepts of Power and Human Nature”, in *Alternatives* 24, pp. 83-118.

realm.<sup>73</sup> Because of the *nature* of political realm, and because of the *nature* of ethical realm, Morgenthau separates them. Apart from this, he takes the absence of “morals laws that govern the universe” in the international realm –due to the contingent state interests- as an obstacle to moral behavior at international politics. Among the six principles, Morgenthau states: “(5) Political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe.”<sup>74</sup> So far so good! Do we need moral laws that govern the universe? Does universal ethics, necessarily, what we mean, when we discuss ethics at international politics?

In explaining his 4<sup>th</sup> principle, Morgenthau argues: “Ethics in abstract judges action by its conformity with the moral law...”<sup>75</sup>. It is this understanding of ethics in abstract that makes Morgenthau dispense with morality in international politics. Accordingly, contrary to Kantian ethics, which is beyond and before the empirical realm, when norms are contaminated with politics, they become part of the evil realm. For instance, when discussing legal norms, Morgenthau underlines the impact of sociological and contingent factors on abstract legal principles. He, therefore, deduces that international law cannot properly be called law, as it is contaminated with politics.<sup>76</sup> Morgenthau’s rejection of international law, combined with his skepticism towards morality at the international domain reveals an expectation of an indisputable normative realm, above the empirical realm.

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<sup>73</sup> Morgenthau, ‘Moral Blindness of Scientific Man’, in Robert J. Art, Robert Jervis (eds.), 1996, *International Politics: Enduring Concepts and Contemporary Issues*, Fourth edition, Harper Collins College Publishers, New York, pp.7-17.

<sup>74</sup> Morgenthau, *Politics Among Nations*, p.11.

<sup>75</sup> Morgenthau, *Politics Among Nations*, p.10.

Yet there may be a different understanding of ethics, which is contestable. In the last chapter we will spend more time on it. On the other hand, to be fair to Morgenthau, it is important to note that he makes a differentiation between absolute ethics and political ethics. He continues the above given statement: “Ethics in abstract judges action by its conformity with the moral law” with the statement that: “...political ethics judges action by its political consequences”<sup>77</sup>.

Consequently, conformity to a moral law that is above the empirical realm while preserving the objectivity can at the same time be a limited approach due to its exclusionary tendency. Establishing a kind of objectivity may be necessary to act in a just way in the presence of multiple value judgments. In this sense a separation of empirical realm from the ethical realm may be important. Yet at the same time, the skepticism of political realism against ethics in international politics can only be understandable through this particular description of ethical realm that is above the empirical realm. Accordingly, ethics should be absolute, universal and incontestable, whereas international realm is too “crowded” and “plural” for such incontestability.

### **3.3 Pluralism of Values**

The plurality of perspectives is given as an excuse for the skepticism towards moral questions at the international level. Gerard Elfstrom confidently states that: “ It should not be presumed that the right to work mentioned in the Declaration means the same thing in societies as diverse as the US, the USSR,

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<sup>76</sup> M. Koskenniemi, 1989, *From Apology To Utopia: The Structure of International Legal Argument*, Lakimiesliiton Kustannus, Helsinki, p.168.

<sup>77</sup> Morgenthau, 1973, *Politics Among Nations*, Fifth Edition, Alfred A Knopf Inc., New York, p.11.



Togo...”<sup>78</sup> Thus he concludes that an objective morality is not possible due to the plurality of interpretations (lack of truth) and international politics cannot be occupied by moral concerns, in the way domestic politics is. The pessimism of those who avoid studying moral issues, like human rights, can be attributable to their belief that those issues lack any foundations, so nothing can be built upon them, as they contain no truth. This is also a positivist argumentation: it reflects the belief that there are those objective and incontestable realms of truth.

G. Elfstrom is right in arguing that the “right to work” means different things for people in different cultures. But we also should pay attention to what he doesn’t say: this plurality of interpretations is not something peculiar to the international realm. It may mean different things for people even in the same society. Does the ‘right to work’ mean same thing for a beggar and an entrepreneur, or a migrant worker and a citizen in the US, for instance? Then should we also avoid studying moral questions with regards to domestic politics? The relativity, undecidability, and unpredictability should not be taken as obstacles to deal with ethics. L.J. Hatab argues that:

A main problem with traditional moral theories is that each has striven to provide a rule or a principle that can ground or govern the entire ethical life-world. But many moral situations are complex, variegated and constrained by contextual, temporal and cognitive limits.<sup>79</sup>

The identification of the international realm with difference and the domestic one with unity has also some political consequences. Realist rejections of universalism in support of pluralism at the international domain are held at the expense of pluralism at the domestic level. Because national interests that provide

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<sup>78</sup> Gerard Elfstrom, 1990, *Ethics For A Shrinking World*, St. Martin’s Press, New York, p.11.

<sup>79</sup> Lawrence J. Hatab, 2000, *Ethics and Finitude: Heideggerian contributions to moral philosophy*, Rowman and Littlefield Publishers, Lanham, p.62.

the pluralism at the international level, assumes unity and homogeneity at the domestic level. This is similar to what we have argued in the previous chapter while saying that the discourse of anarchy at the international realm comes with a discourse of harmony at the domestic sphere. From a different perspective “difference”, just like “similarity”, when taken as something innate, natural, ontological is suppressive. Walker draws our attention to totalizing consequences of ‘difference’:

...That part of the tradition, which is prepared to take seriously the diversity of peoples and aspirations in the world, is precisely that part that denies the very possibility of a community of humankind. ...In a less extreme form, it accounts for the rationality of nationalism in the modern world, a rationality which is simultaneously a form of collective idiocy.<sup>80</sup>

That is to say, the emphasis on difference at international politics reconstitutes the differentiation of ‘same’ and the ‘other’. And just like the representation of the similarity is oppressive for difference, the representation of difference as an essential quality obscures similarity in difference. So morality between states is rejected also because it is believed that there are immutable differences. Rawls seems to come up with a solution to this imbroglio. Although there is plurality of viewpoints regarding morality, and justice at the international, one among them, “justice as fairness”, becomes the overwhelming philosophy as Rawls argues.

John Rawls is a 20<sup>th</sup> century modern contractarian. He is also in search of universal ethical principles to guide relations within and between boundaries. In Rawls, also, we can observe the reason as the foundation of justice and morality, just like in Kant.

Rawls's position needs to be assessed in discussing ethics in international politics, not only because he is among the contemporary philosophers who represents Kantian ethics in the 20<sup>th</sup> century, but also because he has an influential place in the discussions of human rights in international politics.

### **3.4 John Rawls –‘A Theory of Justice’**

The modern contractarian tradition represented by the 20<sup>th</sup> century American philosopher John Rawls is also among the influential doctrines on ethics in international politics. Here we will analyze his ideas with reference to his book published in 1971 titled “A Theory of Justice”. This book is not directly related with moral questions at the international domain, rather his later work “The Law of Peoples” particularly focuses on justice at this level. Therefore, this latter work may seem more relevant to our study. However, understanding the source of morality in Rawls requires us to focus on “A Theory of Justice”, because his latter study is generally based on the ideas that he presented in this book. We need to comprehend his ideas in “A Theory of Justice” in order to assess his relevance for moral questions in the international sphere.

To begin with, Rawls gives the conception of justice as fairness as the prerequisite of well-ordered societies. Rawls acknowledges that people may have contending conceptions of justice, thus at the initial stage, which he calls the ‘original position’, he privileges one conception of justice over others: Justice as fairness.

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<sup>80</sup> R. B. J. Walker, 1982, *World Politics and Western Reason: Universalism, Pluralism, Hegemony*, World Order Models Project, Working Paper Number 19, p.15.

People decide upon the principles of justice, in what Rawls calls the “original position”, behind a veil of ignorance where ‘no one knows his place in society, his class position, or social status, nor does anyone know his fortune in the distribution of natural assets and abilities’<sup>81</sup>(i.e. disregarding contingent conditions of social political and economic life). Two basic principles follow: (a) everyone will be equal; (b) the inequalities and burdens will be distributed in such a way that they will be to the greatest advantage to the least well off.<sup>82</sup> While arguing, “ Men are to decide in advance how to regulate their claims against one another, and what is to be the foundation charter of their society.”<sup>83</sup> He designs a moral order founded upon reason. He commands an understanding of rational and reasonable individual, as constitutive of this order. In *Political Liberalism*, Rawls explains “reasonable and rational” in an immanent and equal relation. He privileges none of the terms over the other, designing a sense of individual neither atomistic nor altruistic. He states in this sense that: “...reasonable society is neither a society of saints nor a society of self-centered.”<sup>84</sup> In order to reach this “well-ordered” society, Rawls rests upon the sense of justice as the transcendental condition. Behind the veil of ignorance (behind all contingency and difference) there is the capacity for a sense of justice and the capacity for a conception of good that enables people to come to the understanding of justice as fairness<sup>85</sup>.

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<sup>81</sup> John Rawls, 1971, *A Theory of Justice*, The Belknap Press of Harvard University Press, Cambridge, p.12.

<sup>82</sup> Rawls, *A Theory of Justice*, pp.11-12.

<sup>83</sup> Rawls, *A Theory of Justice*, p.11.

<sup>84</sup> John Rawls, 1993, *Political Liberalism*, Columbia University Press, New York, p.54.

<sup>85</sup> Rawls, *Political Liberalism*, p.34.

In the “The Law of Peoples”, Rawls extends his conception of justice to the international realm. He follows a similar procedure and starts from an original position where this time the representatives of peoples, disregarding particular assets of the societies they represent, such as territory, wealth...etc. decide upon the principles that will guide relations among societies.<sup>86</sup> Consequently, he once more constructs a sense of justice between states prior to the relations they took part in.

One of the criticisms directed against this second study of Rawls is that; this ‘Law of Peoples’ tends to leave out a very fundamental issue from the beginning: the question of what is ‘people’?<sup>87</sup> S. Hoffman compares Rawls approach to justice in domestic society with that for the international realm. He states that:

Here we already find one difference between ideal theory for domestic society and ideal theory for “peoples”: the former may provide guidance for the solution of political problems, while the latter tends to leave out some of the more fundamental issues from the beginning, e.g. what is a people and what is its relation to the state?<sup>88</sup>

This question leads us back to the issue of representation that we have partly discussed in the previous chapter. Another point that may be criticized in Rawls is his reliance on extra-contractarian assumptions like the “sense of justice”, in order to reach the concept of political justice. David Mapel argues that:

The most important external criticism of the [contractarian] tradition has always been that this reliance on extra-contractarian assumptions makes the contract itself as unnecessary shuffle: why not appeal directly to moral considerations that justify the contract.<sup>89</sup>

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<sup>86</sup> John Rawls, “The Law of Peoples”, in Stephen Shute and Susan Hurley (eds.), 1993, *On Human Rights; The Oxford Amnesty Lectures 1993*, HarperCollins, New York, p.54.

<sup>87</sup> Stanley Hoffman, 1995, ‘Dreams of a Just World’, in *New York Review*, November 2, p.53.

<sup>88</sup> Hoffman, ‘Dreams of a Just World’, p.53.

“A Theory of Justice” can be taken as a good response to extreme individualism of American society in the 20<sup>th</sup> century and its economic inequalities. Yet, taken as a general ethical position John Rawls stands not too far from the 18<sup>th</sup> century philosopher Immanuel Kant. Rawls himself, states in the introduction to “A Theory of Justice” that: “The theory that results is highly Kantian in nature.”<sup>90</sup> Therefore, Rawlsian “remedy”, for ethics in a realm of plural value systems, rests in the very end, on the Kantian principle: “treat others as ends rather than as means”.

Another barrier to moral considerations in international politics is given as the requirement of survival and security. We have discussed the endangering role of the security in the previous chapter. Now, we will problematize the opposition between security and morality. Traditionally security is prioritized over morality. Consequently, some would-be ‘immoral’ conducts in domestic politics are justified with reference to this imperative of survival in international politics. Our point is that this is not immorality or amorality but a particular morality excluding others.

### **3.5 Security vs. Morality**

A consequentialist approach in ethics is to argue that given the special circumstances of an entity, what can be depicted as an immoral behavior in private morality, may become moral given the requirements of prudence. This is the most common explanation behind political suppressions. We have already

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<sup>89</sup> David Mapel, “The Contractarian Tradition”, in Terry Nardin and David R. Mapel (eds.), 1996, *Traditions of International Ethics*, Cambridge University Press, Cambridge, p.197.

<sup>90</sup> John Rawls, 1971, *A Theory of Justice*, The Belknap Press of Harvard University Press, Cambridge, p.8.

discussed in the previous chapter that such references to security, domestic harmony, and integrity of state, merely cause the effect of ‘simulacrum’ in Boudrillard’s terms, with the truth effect of which one course of action is privileged over another course of action without a ground outside of its own representation.

Gerald Elfstrom argues in his book “Ethics for a shrinking world” that: “In the usual course, violent acts can only be justified to save human lives or restore the secure means of life.”<sup>91</sup> Elfstrom here takes the “restoration of secure means of life” as an unproblematic phrase, as if it is obvious to everyone. However, such general claims are usually subject to interpretation and my “secure means of life” could quite easily conflict with that of other people. Actually, violence is nothing but securing one’s way of life, at the expense of another’s.

Apart from a consequentialist approach, but complementary with it, Elfstrom puts another traditional assumption on the nature of morality, when he says “Since individuals [in a Hobbesian state of nature] are in permanent peril of life and limb, extreme measures are justified in the effort to seek security. None could expect to survive for long if burdened with moral scruples”<sup>92</sup> The question is what saves morality from being one of those “extreme measures to seek security”? We can contrast this depiction of morality with that of Nietzsche: “Morality is nothing other than obedience to customs, of whatever kind they may be, customs, however, are the traditional way of behaving and evaluating.”<sup>93</sup>

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<sup>91</sup> Gerard Elfstrom, 1990, *Ethics For A Shrinking World*, St. Martin’s Press, New York, p.45.

<sup>92</sup> Elfstrom, *Ethics For a Shrinking World*, p.12.

<sup>93</sup> F. Nietzsche, ‘Daybreak’, Book I, Section 9, in Keith Ansell-Pearson (ed.), 1994, *Nietzsche: On the Genealogy of Morality*, Cambridge University Press, Cambridge, p.142.

Elaborating this idea, Keith Ansell-Pearson, at the Preface of “On the Genealogy of Morality” argues that: “ ‘Conscience’ is to be understood not simply as the superior moral faculty which makes each one of us uniquely human but as an interiorized form of social control, the disciplined product of the civilizing process of ancient morality”.<sup>94</sup> In this sense morality appears not distinct from societal order but as a center that holds this order. Morality<sup>95</sup> constitutes societal order and security. Morality is security, as it is “an internalized form of social control” in Nietzschean sense. That’s why Der Derian, in one of his articles states that: “In Nietzschean terms, norms, values, designs of good life are all products of positive will to power.”<sup>96</sup> Also Mervyn Frost, in his book “Ethics in International Relations” sees morality as a necessary tool for society to maintain security. He argues: “Moralities are answers to predicaments which any society faces.”<sup>97</sup> On these grounds morality vs. security opposition becomes problematical. Accordingly, the choice of security over morality is no less a moral choice. The choice of national security is a moral choice.

Therefore, it can be argued that rather than taking an amoral position, political realism favors one morality over others. Yet whilst separating politics and ethics in discourse, it pretends to command an objective explanation of international politics not contaminated with value judgments. Separation of “is” and “should” is the basic assumption of positivism. For values the reference point of verification is taken to be conventions, and similar arbitrary social structures.

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<sup>94</sup> Ansell-Pearson (ed.), *Nietzsche: On the Genealogy of Morality*, p.16.

<sup>95</sup> Nietzsche defines this morality in modernity as ‘slave morality’, which rests upon a separation of good and the evil. (Keith Ansell-Pearson (ed.), *Nietzsche: On the Genealogy of Morality*, 1994)

<sup>96</sup> James Der Derian, ‘The value of security: Hobbes, Marx, Nietzsche and Boudrillard’, in Campbell, Dillon, 1993, *The Political Subject of Violence*, Manchester University Press, Manchester, p.102.



Therefore, it is believed that “...there is nothing beyond the conventions which can be referred to as final proof of the matter to somebody who rejects the conventions”<sup>98</sup> Whereas for facts describing rather than prescribing the order of things in international relations, there supposed to be an ultimate reference point, objectively valid for everyone. This is the world-out-there. This bias is blind to a myriad of values, norms and subjective elements that provide the foundation upon which we are able to talk about this world out there. This immanency of ‘is’ and ‘ought’ also determines the character of international law. Martti Koskenniemi argues in this sense that: “...[legal] doctrine is forced to maintain itself in constant movement from emphasizing concreteness [i.e. the practice, ‘what is’] to emphasizing normativity [the prescription, ‘what should’] and vice versa without being able establish itself permanently in either position.”<sup>99</sup>

So far, we have tried to examine the assumptions that support the idea that international politics is not a suitable ground for ethics. We tried to do this from ethics side, as we did it from international relations side in the previous chapter. To sum up some of the arguments we have come up so far: in the contingency and plurality of the international realm, there is no way to achieve universal ethics. When ethics is not universalizable, it becomes a part of evil power struggles. In a state of nature, security needs may be prioritized before moral concerns. As a response to these assumptions, we tried to counter argue that even if we accept the narrative of international politics as an endless struggle between states (for the sake of argument), morality needs not to be categorical or universal

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<sup>97</sup> Mervyn Frost, 1996, *Ethics in International Relations: A Constitutive Theory*, Cambridge University Press, Cambridge, p.51.

<sup>98</sup> Frost, *Ethics in International Relations*, p.19.

or at the expense of plurality. Before concluding this chapter, there is one more assumption that needs to be examined.

One of the arguments that can be come up across in the literature of international ethics is that the international morality is *sui generis* because agents of actions at the international domain are different from human beings as agents of moral conduct at the domestic realm.<sup>100</sup> A critical reading of this statement will expose western understanding and privileging of individual as the center of moral behavior.

### **3.6 The Moral Individual vs. ‘Being-ethical-in the world’**

Primary agents of moral conduct are taken to be individuals, rather than institutions, companies, or states. Again, Elfstrom argues that just like computerized robots cannot be held responsible of their conducts, institutions are similarly *programmed* through their charters and legal guidelines.<sup>101</sup> Therefore, they cannot similarly be held responsible. Similarly, the impersonalization of states may save them from moral responsibility. However, by itself, this would not have been a very plausible idea, since this impersonalization would also indicate the futility of expecting rational behavior from states. If states’ policies at the international arena can be evaluated as to their ‘rationality’ and ‘prudence’, they can well be evaluated as to their ‘morality’. A more central issue for us here is the place of individual as a moral agent and the idea of responsibility.

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<sup>99</sup> Martti Koskenniemi, 1989, *From Apology To Utopia: The Structure of International Legal Argument*, Lakimiesliiton Kustannus, Helsinki, p. 46.

<sup>100</sup> G. Elfstrom, 1990, *Ethics For A Shrinking World*, St. Martin’s Press, New York, p.9.

<sup>101</sup> Elfstrom, *Ethics For A Shrinking World*

From a Nietzschean point of view, idea of responsibility in one's behavior, rests on the separation of subject and the action (or the verb). It is built upon the idea that there is a "free-will" behind man's conduct. In explaining this reference to free-will or subject as the source of action, Richard Norman refers to Nietzsche, and argues that our knowledge is conditioned by our interests, then he continues that: "A fundamental interest is to impose order on the flux of experience by positing stable and unchanging entities behind the change."<sup>102</sup> The subject -as the responsible agent- separated from his/her action plays the role of stabilizer. Yet we need to simplify complex events by showing them as manifestations of particular intentions. We have no foundation to measure those intentions apart from their particular manifestations. Nevertheless we assume that they exist. Thus intentions or subjects, apart from actions, are nothing but narratives. Norman further clarifies this point as: "We suppose that behind each human action there is a free and responsible agent who is the author of the deed."<sup>103</sup> The search for separate intentions behind actions may be another manifestation of the search of a 'Being' behind actions.

Individual is seen as the source of the moral conduct based upon his/her potential of being a responsible agent. But one should not underestimate the point that perhaps as a prelude to this sovereignty of free will in one's conduct and as a prelude to its moral accountability, 'individual' is taken as a moral category by itself. Daniel Shanahan discusses the place of individual in modernity and argues that rather than signifying the uniqueness and peculiarity of human beings, 'individual' "provides the very fiber of our moral character", and he continues

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<sup>102</sup> Richard Norman, 1998, *The Moral Philosophers*, Oxford University Press, New York, p.144.

<sup>103</sup> Norman, *The Moral Philosophers*, p.144.

that: “when we say we are all individuals, we generally mean as well that, as individuals, each of us is capable of a moral existence.”<sup>104</sup>

This way of thinking finds its most explicit form in Kantian ethics, as we have already discussed above. At the premise of “Treating people as ends rather than as means to one’s ends.” we can observe the idea of human dignity. Accordingly, central to Kant, every being has a value, and can be replaced with one another, or can be compensated. Whereas, the individual, as the source of value, is not something that can be compensated with someone else, it is irreplaceable, therefore has *dignity*, not value.<sup>105</sup>

Thus, by being human, ‘individual’ is essentially given a moral value in itself. This centrality of individual or the importance given to human being can be presented as a result of particular western understanding. This depends in its turn on the separation subject and object, or ego and non-ego. Rob Walker contrasts this egocentric western philosophy with Chinese thought quoting from Chinese philosopher Fung-Yu Lan who argues that:

In Chinese thought, however, there has been no clear consciousness by the ego of itself, and so there has been equally little attention paid to the division between the ego and the non-ego...<sup>106</sup>

The belief in the intrinsic moral quality of individual, at first sight, may seem as a remedy to the untamed *individualism*<sup>107</sup>. It can be argued that only

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<sup>104</sup> D. Shanahan, 1992, *Towards a Genealogy of Individualism*, The University of Massachusetts Press, Amherst, p.20.

<sup>105</sup> Richard Norman, 1998, *The Moral Philosophers*, Oxford University Press, New York, p.89.

<sup>106</sup> Fung Yu- Lan, *A History of Chinese Philosophy*, Derk Bodde, trans. (London; George Allen and Unwin, 2<sup>nd</sup> ed., 1952), vol. 1, p.3. in R. B. J. Walker, 1982, *World Politics and Western Reason: Universalism, Pluralism, Hegemony*, Working Paper Number:19, World Order models Project, New York, p.26.

through an assurance of human dignity moral conduct can be possible. Otherwise, people would treat others as means to their ends and will not care for others. This kind of argumentation developed around the antinomy of self and the other is as foundationalist as the discourse of human dignity. Self is taken as the basis or the foundation for the treatment of the other. In the sense that a separation between self and the other is taken for granted. Only after this ontological separation, morality is attached to the self as a concern for the other. It may be resembled to the separation of fellow citizen (same/self) and the foreigner (other) at international politics. So the inside/outside separation is also maintained in traditional accounts of ethics.

Heidegger, in “Being and Time”, puts the inseparability of self and the other in following terms: “Everyone is the other and no one is himself”<sup>108</sup>. Later, further challenging the distancing of self and the other, Heidegger argues that: “...one’s way of Being is that of inauthenticity and failure to stand by one’s self”.<sup>109</sup> According to this idea of “Being-with-others”, the identification of an authentic self before its relation with the others and the world is an ontic account that takes individual prior to the relations in which s/he is involved. Just like Kantian ethics attribute an absolute moral value to the individual, the distancing of self and the other attributes an absolute immunity to the self. Indeed, it may be further argued that the acceptance of the ‘human dignity’, in Kantian ethics, as an absolute moral value, maintains this separation between the self and the other.

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<sup>107</sup> Individualism is taken as atomism, which “refers to the theory of society as constituted by individuals, whose goal is to fulfill private ends, largely through relationships seen as instrumental, and whose principal characteristic is the possession of individual rights that have priority over societal needs.” (J. Crittenden, 1992, *Beyond Individualism, Reconstituting the Liberal Self*, Oxford University Press, Oxford, New York, p.3.)

Respect for the ‘other’ by the ‘self’ can only be maintained through the establishment of a bond between self and the other. ‘Humanity’, as a universal moral category, makes up this bond. Yet this respect for the other does not, at its core, terminate the separation of self and the other. We respect the other as she/he is a *human*. This category sets new boundaries that we will question in the following chapter.

Shanahan’s above stated argument, which situates morality in the ‘individual’, rests on the fact that self is separated from the other, because he defines morality in foundational terms rather than in relational terms with ‘others’ (selves). Moreover, a challenge to this understanding of absolute morality is taken as an invitation for brutal clash of interests between self-centered individuals. Morality, according to this view, is achieved only with reference to essence of the ‘human’ so that it becomes incontestable.

Unconstrained by a universal morality, individuals are believed to be ‘unethical’ towards each other. Lawrence Hatab applies Heideggerian philosophy to his understanding of ethics and comes with the conclusion that: “As Being before reflecting upon beings is a Being-in the world, also Being before reflecting upon ethics is Being-ethical-in the world.”<sup>110</sup> As we have already discussed it is not possible to objectively decide moral principles because before thinking about “what should be done”, we have already been inscribed with “what should be

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<sup>108</sup> Heidegger, 1962, *Being and Time*, J. Macquarrie, E. Robinson (trans.), HarperSanFrancisco, San Francisco, p.165.

<sup>109</sup> Heidegger, *Being and Time*, p.166.

<sup>110</sup> Lawrence J. Hatab, 2000, *Ethics and Finitude: Heideggerian contributions to moral philosophy*, Lanham, Rowman and Littlefield Publishers, p.58.

done”. Again in Heidegger’s terms: “Any inquiry, as an inquiry about something, has that which is asked about.”<sup>111</sup>

Consequently, the determination of the agent of moral conduct based upon its essential quality is a positivist tendency to separate subjects and actions, as well as subjects and objects. Taken from a Heideggerian point of view, there is nothing *intrinsic* in the ‘individual’ to make it the essential concern of studies on morality or ethics. Therefore, there is nothing in “state” to make it “unethical”. Also the problematization of the self-other antinomy challenges the arguments in international politics that favor morality towards one’s citizens rather than foreigners.

In this chapter, we have mostly focused on Kantian ethics. As it is believed to be the most influential understanding of ethics in the field of International Relations. In this chapter, we have discussed the ideas of philosophers like Kant, Rawls, Heidegger and Nietzsche to a limited extent. Rather than presenting a detailed discussion on each of these philosophers or thinkers, we tried to benefit from their arguments in assessing the question of morality in the international politics. To sum up some of the main points of the discussion, we can put Kant and Rawls to one side, and Nietzsche and Heidegger to the other side. The former believe in universal ethical principles. The latter, on the other hand, reject foundational ethics that rest upon a separation of ego from non-ego, or subject and object. According to Nietzsche, there is not a serious contrast between morality and security. Therefore, it is not the case that: concerns for security would override concerns for morality. This idea can be used to

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<sup>111</sup>Heidegger, 1962, *Being and Time*, J. Macquarrie, E. Robinson (trans.), HarperSanFrancisco, San Francisco, p.24.

challenge the arguments like survival needs prevent moral considerations. Heidegger's objection to positivist ontology, on the other hand, challenges, further, the foundationalist ethics that take for granted the separation of the self and the other. However, as is argued at the introduction of this chapter, this is not an exhaustive study on either philosophy of ethics, or morality at international domain.

Having, to some extent, problematized mainstream discourses of international politics, ethics and ethics at international politics, we can now move on to discuss human rights, as an ethico-political question in 'international' politics. As can be deduced from the first two chapters, we will criticize both the universalization of human rights as a result of our skepticism towards essentialist ethics and the denial of human rights with reference to the absence of a universal foundation. Ethics need not to be incontestable in order to be called ethics. It is not that either there are universal moral values or no morality at all for international politics.



## **CHAPTER IV: “HUMAN” RIGHTS VS. DOCILE BODIES**

In the first chapter, we have questioned the assumption that states are taken to prior to be relations in which they are involved at international politics. We have, therefore, problematized the ontological acceptance of states as sovereign units. We have argued that such narratives justify the violence perpetuated in the name of national security. We have also claimed that national security doctrines are generally behind human rights violations.

On the other hand, we are against presenting a one sided view of violence. Violence can be perpetuated in the name of humanity as well as national security, in fact there is no difference between them. Just as “state”, when taken as the natural unit has some consequences, “human” also when taken as a category, may end up being another disciplinary tool. In this chapter, human rights at international politics will be assessed with reference to the question of foundations and -in line with the general approach of the thesis- with reference to the discursive power of human rights.

The 18<sup>th</sup> century declarations on rights of man are taken as the initial expressions of modern discourse on rights. The myriad of international documents protecting human rights can be taken as projections of the discourse in those early declarations. On the other hand, the 20<sup>th</sup> century has a peculiar standing with regards to the internationalization of human rights, not because the idea emerged in this century, but because the international human rights law, in a systemic way, largely emerged after the 2<sup>nd</sup> World War. We will not particularly dwell on the legal aspects of human rights in international politics, which means that we will not question the enforceability of human rights norms, nor are we to

examine global and regional legal bodies for the enforcement of human rights in detail. On the other hand, these bodies such as the European Court of Human Rights will concern us to the extent of their relevance to our major concern, i.e. the power of human rights discourse. Universal or international application of human rights norms can be defended or opposed. Regardless of whether or not such a defense or criticism is agreeable, there is at least an empirical validity with regards to application. However, it is something different to argue that there are universal human rights based upon an objective ground. States may be selective in their application/ defense of human rights norms. Or they may use norms to constitute and strengthen their identities. But such a discussion may be a matter for constructivist approaches in IR for instance. On the other hand, the examination and deconstruction of the language of rights is something totally different. Before problematising the discourse of universal human rights, it may be necessary to problematize a mainstream approach to international human rights as exemplified by Paul Lauren.

Traditionally, the idea of international human rights is traced to ancient times. Early religious texts are presented as initial guidelines to man's ethical relations with others. Paul Gordon Lauren, for instance, starts his examination of international human rights with a quotation from the Genesis: "Am I my brother's keeper?"<sup>112</sup> He tries to situate early ethical questions on man's responsibility towards the other within the discourse on modern human rights. Though it meets the requirements of academic elegance, such an attitude could end up with an historical fallacy of exporting today's mentality to yesterday. It would be too

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<sup>112</sup> Paul Gordon Lauren, 1998, *The Evolution of International Human Rights: visions seen*, Philadelphia: University of Pennsylvania Press, p.4.

general and vague to associate the modern language of human rights with the ethical callings of various doctrines and religions around the world. Taken in its most concrete form the modern discourse of human rights is a product of a particular epoch and a particular geography. Human rights is not, in other words, any form of moral responsiveness to others.

On the other hand, once the internationalization, universalization and exportation of human rights became an issue for academic as well as political circles, justificatory grounds are searched not only in terms of establishing universal foundations for rights, but also in terms of creating a historical narrative. Disregarding whether or not Indians of Buddhist calling meant the same thing with the French in the 18<sup>th</sup> century or Woodrow Wilson in the 20<sup>th</sup> century, it's comforting to establish linkages between different teachings to point to a universal direction in the development of human rights discourse. Lauren claims that "early ideas about general human rights" are not unique to western liberal societies, "but were shared by many cultures throughout the world."<sup>113</sup> It may be too harsh criticism to argue that those moral doctrines like Hinduism, Buddhism, Judaism or Confucianism are nothing to do with western liberal formulations of human rights. On the other hand, it would be too naïve to reduce the whole idea of human rights to a premise like "...first and foremost ethical principles of Hinduism is non-injury to others."<sup>114</sup>

The impact of the Enlightenment project was not the collection and organization and perhaps positivisation (legalization) of already existing visions on the rights of man. When Thomas Paine in 18<sup>th</sup> century Britain coined the term

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<sup>113</sup> Lauren, *The Evolution of International Human Rights*, p.11.

<sup>114</sup> Lauren, *The Evolution of International Human Rights*, p.5.

“human rights” for the first time, he was not just writing to fight for the rights which are intrinsic and therefore natural to the man. But at the same time with the modern discourse around rights a very specific, rational man is constituted. “Man did not enter into society to become worse than he was before nor to have fewer rights than he had before...but to have those rights better secured.”<sup>115</sup>

This conceptualization of “man” who is not in connection with others but as an atomic entity with moral capabilities and natural rights was the outcome of a particular narrative of Western tradition in the 18<sup>th</sup> century. Thus, it should not be mistaken that when discussing human rights in international politics, we will be able to command a universal language of the subject. Even though there is the chance of influence across cultures and intellectual borrowing, modern human rights is a western project.

Thomas Kuhn discusses how, in the field of physical sciences, textbooks function for the invisibility of scientific revolutions, by presenting science as a cumulative enterprise. He argues that:

From the beginning of scientific enterprise, a textbook presentation implies, scientists have striven for the particular objectives that are embodied in today’s paradigms. One, by one, in a process often compared to the addition of bricks to a building, scientists have added another fact, concept, law or theory to the body of information supplied in the contemporary science text.<sup>116</sup>

This linear presentation of science, argues Kuhn, helps the scientists not to be lost but to find their place in the history of science.<sup>117</sup> In a similar vein, literature of human rights, giving due regards to different sources of authority (like divine, nature, tradition, custom, reason) presents the idea of the universality

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<sup>115</sup> Lauren, *The Evolution of International Human Rights*, p.20.

<sup>116</sup> Thomas Kuhn, 1970, *The Structure of Scientific Revolutions*, Chicago: University of Chicago Press, p.140.

<sup>117</sup> Kuhn, *The Structure of Scientific Revolutions*, p.138.

of human rights as an ongoing concern and theme of political history. Moral understanding of the 18<sup>th</sup> century is backed up with that of the middle ages and then universalized to solidify, justify, and dignify the internationalization of human rights in the 20<sup>th</sup> century. Internationalization of human rights is almost presented as an inevitable outcome of the flow of history. This generalization of what indeed reflects the mentality of a particular epoch and geography, incites debates on the universality or relativity of human rights. We can turn to these debates.

#### **4.1 Universality vs. Cultural Relativity**

Universalism vs. cultural relativism debate commands a central place in the literature of human rights. Human rights in international politics can be analyzed from many different perspectives. If the examination of historical development of human rights norms with different fashions<sup>118</sup> is one path to be followed, problematization of enforcement mechanisms at international scale is another. Different international organizations and NGOs as well as states may be examined as to their records on human rights. “Sovereignty” may be clashed with “humanitarian intervention”. The status of individuals in international law may be brought to the stage and so on. Whatever the different standpoints of researchers, they either pay lip service to the universalism-relativism debate by allocating at least a chapter to this issue in their studies, or exemplify one of those approaches with their main arguments. An enthusiastic activist who tells the gradual progress

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<sup>118</sup> This is an expression used by Margherita Rendel , referring to three generations of human rights; civil and political, economic, social and cultural , and finally group and solidarity rights. (Rendel M. 1997, *Whose Human Rights?*, Staffordshire: Trentham Books, p.39)

of humanity in realizing human rights norms finds his/her philosophical bedrock in universalism. The strong emphasis on the “westernness” of human rights norms might point to the authors’ sympathy with cultural relativism.

Discussing the universalism or relativism of rights with reference to fixed grounds, constitutes the metaphysical aspects of this narrative. Whatever the different arguments of universalists and relativists, perhaps it should be put straightforward from the beginning that the very phrase “human rights” reflects a universalist ideology. Vincent argues that addition of “human” to rights, which are most often defined as entitlements, “justifiable claims, legal or moral grounds to have or obtain something or to act in a certain way”<sup>119</sup>, means that: “The subjects of human rights are not members of this or that society, but of the community of humankind.”<sup>120</sup> Also Maurice Cranston puts forward the idea of universality in human rights as follows:

A human right by definition is a universal moral right, something which all men, everywhere, at all times ought to have, something which no one may be without a grave affront to justice, something which is *owing to every human being simply because he is human*.<sup>121</sup>

Formulated in these terms the “relativity” of human rights may constitute a paradox. As the very term “human” implies a categorical definition of rights, categorical ethics may be an inevitable outcome of talking about the rights of “human beings”. Criticizing the universality of human rights may, from this

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<sup>119</sup> Alison Dundes Renteln, 1990, *International Human Rights: Universalism versus Relativism*, London: Sage Publications, New York park, p.40.

<sup>120</sup> R. J. Vincent, 1986, *Human Rights and International Relations*, London: Cambridge University Press, p.9.

<sup>121</sup> Cranston, M. 1973, *What are Human Rights?*, (2<sup>nd</sup> Edition), London: Bodley Head, p.36 in Alison Dundes Renteln, 1990, *International Human Rights: Universalism versus Relativism*, London: Sage Publications, New York park, p.47.

perspective, be identical with devaluation of *human* rights.<sup>122</sup> One can argue that the degree or the source of universality or the meaning of universality can be discussed. However, if we reject a (universal) ground for human rights we indeed reject *human* rights evacuating a space for tyrants, oppressors and the powerful. To what extent human rights is the language of the weak or to what extent it is an emancipatory ideal will be the subject of the next section. We purport to show that rejection of universal grounds may re-politicize the discourse of human rights, bringing in its political power against despotic regimes, in this and the next chapter. Moreover, we neither aim to bridge a gap between universalism and cultural relativism, nor do we aim to choose one of them. In classifying the proximity of these two positions, we indeed aim to criticize both.

Universalism-Relativism debates, in the mainstream literature of international human rights, for so long, have been centered on individual versus collective rights, Eastern versus Western values and concerns of North versus South. These are also literally defined as three generations of rights: Civil and Political Rights; Economic, Social and Cultural Rights; and finally Collective Rights. Circumscribed by Cold War politics, the universalism-relativism debate constituted, generally, a debate over daily politics rather than a discussion over methodology. Definitions of cultural relativism are followed by discussions covering how western individual based rights differed from their eastern counterparts. For instance, a Malaysian activist, Chandra Muzaffar, argues: “The equation of human rights with individual civil and political rights is a product of

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<sup>122</sup> Jack Donnely, 1998, *International Human Rights*, Colorado: Westview Press, p.22.

the European Enlightenment...”<sup>123</sup> In these debates, western “human nature and dignity” is almost compared with eastern or southern “community” “society” and “culture”. Scholars from the “cultured” East and South criticized their Western colleagues for being neo-colonialist preachers, while the West associated “cultural relativists” with local warlords and oppressors. Blind to their own positions, both parties accused the other side of being essentialist. Universalists were essentialists because they were presenting an essential and universal human nature as the justification of rights that are held irrespective of one’s race, sex, and color. Cultural relativists were essentialists because they were presenting culture as the sole source of all values as the womb of human rights norms. Ken Booth, for instance sees cultural relativism as cultural essentialism that suppresses internal criticism. He argues that culture is as contestable as race is and even it can be stated that culture is the blackbox of anthropologist just like state is that of the IR theorists<sup>124</sup>. If state is the blackbox of (classical) IR theorists and if culture is the blackbox of anthropologist, why should “human” not be the blackbox of the universalist philosopher?

In order to facilitate the comparative analysis of universalists and cultural relativists, let’s now focus on definitions of universalism and cultural relativism as provided by various scholars. Jack Donnelly, who identifies himself as a weak relativist, presents different degrees of relativisms (universalisms). Accordingly;

1. radical universalism: “all values, including human rights are entirely universal, in no way subject to modification in light of cultural or historical differences”

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<sup>123</sup> Chandra Muzaffar, “From human rights to human dignity”, in Peter Van Ness (ed.), 1999, *Debating Human Rights: Critical Essays from the United States and Asia*, London: Routledge, p.25.

<sup>124</sup> Ken Booth, “Three Tyrannies”, in Dunne and Wheeler (eds.), 1999, *Human Rights in Global Politics*, New York, Cambridge: Cambridge University Press, pp.49-50.



2. radical relativism: “culture is the source of all values”
3. strong relativism (universalism): universality checks culturally specific values.
4. Weak relativism (universalism): universal principles are molded into cultural particularities through interpretation and implementation.<sup>125</sup>

John Tilley defines universalism as follows: “universalism is the view that some moral judgements are universally valid” (not necessarily applied).<sup>126</sup> Baehr, on the other hand, associates universality with the practice and presence of common values. He attributes the absence of regional human rights organization in Asia-Pacific comparable with those of Africa, the US or Europe, to the absence of shared values in a terrain of plural cultures.<sup>127</sup> Vincent suggests reaching universal principles by distilling from multiplicity of cultures some core values; he names this approach as the “lowest common denominator”<sup>128</sup>. Similarly, Alison Renteln, from an anthropologist’s point of view, opts for a cross-cultural analysis to reach a universal account of human rights. She argues that: “Demonstration of the existence of a universally embraced moral principle would provide a much needed foundation for certain human rights.”<sup>129</sup>

In addition to these definitions of universalism, we can have a look at foundationalist arguments for universal rights. That is to say it might be better to look at some arguments as to the source of this universality, rather than, tautologically stating that universalism is the universal application/validity/presence of a norm. Though Tilley argues that universalism

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<sup>125</sup> Jack Donnelly, 1998, *International Human Rights*, Colorado: Westview Press, p.33.

<sup>126</sup> John J. Tilley, “Cultural Relativism, Universalism and the Burden of Proof” in *Millennium: Journal of International Studies*, 1998, vol.27., no.2 p.290.

<sup>127</sup> Peter R. Baehr, 1996, *The Role of Human Rights in Foreign Policy*, London: Macmillan Press, p.21.

<sup>128</sup> R. J. Vincent, 1986, *Human Rights and International Relations*, London: Cambridge University Press, p.49.

<sup>129</sup> Alison Dundes Renteln, 1990, *International Human Rights: Universalism versus Relativism*, London: Sage Publications, New York park, p.15.

should not be identified with foundationalism,<sup>130</sup> most of the proponents of universal human rights present human nature, reason or the “simple fact” of being human, or some derivative instruments, like contracts, as the foundation of universal human rights. In differentiating human rights from other types of rights such as constitutional rights, Donnelly states that: “The term human indicates both their nature and their source: they are the rights one has simply because one is human”<sup>131</sup>. In this sense, foundationalism is more to do with naturalization, neutralization, and depolitization of rights by linking them to essential traits of human or the idea of human rather than defining them as absolute and certain norms as Tilley claims<sup>132</sup>. A distinction is made between “human” and the “idea of human”, because some scholars like Ken Booth and Jack Donnelly (in his latter arguments) make a trick to present their arguments as anti-foundationalist . Booth argues that: “we should have human rights not because we are human, but to make us human”<sup>133</sup>. Similarly, Donnelly argues that: “If the rights specified by the underlying theory of human nature are implemented and enforced, they should help to bring into being the envisioned type of person, one who is worthy of such a life.”<sup>134</sup> Reference to an ideal type may be a critical weapon at the hands of human rights fighters in their struggle against the status quo. In this sense, both Booth’s and Donnelly’s reference to potential and ideal human beings (if not the actual ones) as the justification and ground of rights may constitute an emancipatory project. But it may well constitute a disciplinary project on which

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<sup>130</sup> Tilley, “Cultural Relativism, Universalism and the Burden of Proof” in *Millennium: Journal of International Studies*, 1998, vol.27., no.2.

<sup>131</sup> Jack Donnelly, 1998, *International Human Rights*, Colorado: Westview Press, p.18.

<sup>132</sup> Tilley, “Cultural Relativism, Universalism and the Burden of Proof” in *Millennium: Journal of International Studies*, 1998, vol.27., no.2. p.291.

we will focus in the following section. For our purposes here, on the other hand, we need to draw attention to the hollowness of the concept of “human”. Ian Hunter’s following expression is worthy of quoting at length:

The problem lies in the notions of complete person and essential humanness themselves. Achievement of complete person is susceptible to particular demands of society. A warrior nation would cultivate its members in terms of knights, while for a religious society, essential humanness would lie in the priestly behavior. Then, there is no condition of universal humanness.<sup>135</sup>

The French conservative Joseph de Maistre’s attack on the French *Déclaration des Droits de l’Homme et du Citoyen* is well known: “ I have met Italians, Russians, Spaniards, Englishmen, Frenchmen, but I do not know man in general”<sup>136</sup>. We can extend this idea that there may be soldiers, nurses, knights, priests, doctors, academicians, insane and guardians but not human in general. Then, one way or another, the discourse of universal human rights rests upon a foundational account of rights. They are justified on various but ultimately reductionist forms.

One of the widest sources of rights is, as stated above, our essential quality as being humans. This can be formulated as Kantian ethics. As we can remember from the previous chapter, Kant makes a distinction between “categorical, rigid, moral obligation” and “flexible, empirical determinable self-interest”<sup>137</sup>. A similar differentiation is also put forward by Vlastos between human merits (generosity, honesty, intelligence, courage...etc) and human worth

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<sup>133</sup> Ken Booth, “Three Tyrannies”, in Dunne and Wheeler (eds.), 1999, *Human Rights in Global Politics*, New York, Cambridge: Cambridge University Press, p.52.

<sup>134</sup> Jack Donnelly, 1998, *International Human Rights*, Colorado: Westview Press, p.21.

<sup>135</sup> Ian Hunter, “Personality as a vocation: The political rationality of the humanities” in Mike Gane, Terry Johnson (eds.), 1993, *Foucault’s New Domains*, London: Routledge, p.164.

<sup>136</sup> Claude Lefort, 1986, *The Political Forms of Modern Society*, Cambridge: Polity, p.257, in Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.99.

(worth of being human). He strengthens his position with the question that: “Why we help someone if we see him/her drowning?”<sup>138</sup> Vlastos takes for granted the answer that: Because he/she is a human being. Thus, he situates inalienable rights on our humanness. However, this seemingly self-evident justification of universality is even subject to many empirical and historical challenges. If the moral category of “humanness” is such a natural and universal one, one that is out of political considerations, how can we explain the exclusion of particular groups through some sign boards stating that: “Dogs and Chinese”<sup>139</sup>, “Jews and Dogs”, “...and Dogs” are not admitted”. Also “humanness” may not be the best trench after all to fight for the universality of rights given, for instance, that: “The Serbs take themselves to be acting in the interests of true humanity by purifying the world of psuedo-humanity”<sup>140</sup>. In short, given the atrocities committed in the name of humanity, “human dignity” may not be such a stable ground to defend the universality of rights.

John Rawls is another philosopher whose position on ethics we have already discussed. Rawls establishes the universality of rights on the ground of reason. He claims that: “rights are [those] that should be enjoyed by all citizens in all modern states and the principles of justice are constituted by the people behind

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<sup>137</sup> Richard Rorty, “Human Rights, Rationality, and Sentimentality” in Stephen Shute and Susan Hurley (eds.), 1993, *On Human Rights: The Oxford Amnesty Lectures 1993*, New York: HarperCollins, p.123.

<sup>138</sup> Peter Jones, 1994, *Rights: Issues in Political Theory*, Macmillan, Houndmills, p.98.

<sup>139</sup> In 1885, a signboard at the entrance of a park in French concession set up in China, this has remained there until 1928. (Information Office of State Council, November 1991, Beijing, China, “Human Rights in China” in *Beijing Review*, Beijing No: 44/ November 4-10. 1991. p.10 in Harro von Senger, “From Limited to Universal Concept of Human Rights: Two Periods of Human Rights”, in Wolfgang Schmale (ed.), 1993, *Human Rights and Cultural Diversity*, Golbach: Keip Publishing, p.51)

<sup>140</sup> Richard Rorty, “Human Rights, Rationality, and Sentimentality” in Stephen Shute and Susan Hurley (eds.), 1993, *On Human Rights: The Oxford Amnesty Lectures 1993*, New York: HarperCollins, p.112.

the veil of ignorance”<sup>141</sup>. Behind the veil of ignorance, stands the person. Rawls’s position rests on the belief that people, from even various cultures, act similarly if guided by nothing but the dictates of reason. Susan Mendus categorizes Rawls under a different heading from that of metaphysical and foundationalist approaches. She claims that: “By expounding his theory in this way [rationality based], Rawls aim to avoid the charge of metaphysical extravagance often leveled at rights theories.”<sup>142</sup> Mendus’s understanding of metaphysics is not understandable. One of the definitions of metaphysics is: “me ta physica or beyond nature, a way of thinking about what lies beyond the sensible and immediate experience of things”.<sup>143</sup> At this point, reason becomes another arche that lies beyond “sensible and immediate experience of things”. That is Rawls, for us presents an equally metaphysical perspective. Supporting this point, MacIntyre emphasizes the limits of Rawls’s universality. He argues that:

Rawls’s conception of rationality is no more nor less than an account of what we in modern Western liberal democracies deem rational and that therefore while Rawls’s account may appeal to people like us it can and should carry no weight with people who inhabit entirely different kinds of community<sup>144</sup>

Apart from the categorical approach of Kant and the similar foundation of Rawls for rights, some others ground the universality of rights on the universality of psychobiological *needs*. Christian Bay ranks those needs in the order of importance as follows: “Physical survival needs”, “social belongingness needs”

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<sup>141</sup> Peter Jones, 1994, *Rights: Issues in Political Theory*, Macmillan, Houndmills, p.100.

<sup>142</sup> Susan Mendus, “Human Rights in Political Theory” in David Beetham (ed.), 1995, *Politics and Human Rights*, Oxford: Blackwell Publishers, p.14.

<sup>143</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.202.

<sup>144</sup> Susan Mendus, “Human Rights in Political Theory” in David Beetham (ed.), 1995, *Politics and Human Rights*, Oxford: Blackwell Publishers, p.15.

and “individual subjectivity needs”<sup>145</sup>. Rights are universal because they are universal responses to basic needs of man. Accordingly, one has to be alive first in order to demand for other rights. Yet, the act of ranking rights with reference to their urgency is contestable. As for instance, it is an equally valid argument that one has to be educated (indoctrinated)<sup>146</sup> that there are rights in order to claim them, thus being alive is not a sufficient condition. In this sense, the universality of rights based upon psychobiological needs is not an incontestable justification or foundation either. It is *not* needs per se, but the idea that they are seen as *rights* that gives rise to a discourse of rights. Is it, after all, the biological requirement that human beings should be fed to survive, that leads to the formulation of a relevant right to food? Is it man’s desire to be the center, his self-concern, or his *right to be fed* that led to the development of psychobiological sciences? Because, formulated in this latter sense the foundation becomes the construct. Our needs that support our rights may in turn need to be supported by our rights in order to be accepted as needs.

Whatever the different reasons articulated, the universality of rights has been exposed to criticisms from its inception. Jeremy Bentham attacks the Declaration of Rights of Man and the Citizen with following words:

In a play or a novel, an improper word is but a word and the impropriety, whether noticed or not, is attended with no consequences. In a body of laws –especially of laws given as constitutional and fundamental ones- an improper word may be a natural calamity: and civil war may be the consequence of it. Out of one foolish word may start a thousand daggers.<sup>147</sup>

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<sup>145</sup> Christian Bay, 1979, “A Human Rights approach to Transnational Politics”, *Universal Human Rights*, vol.1 no.1, pp.29-40, in R. J. Vincent, 1986, *Human Rights and International Relations*, London: Cambridge University Press, p.14.

<sup>146</sup> This equation is drawn by Margherita Rendel, in Rendel M. 1997, *Whose Human Rights?*, Staffordshire: Trentham Books, p.36.

<sup>147</sup> Jeremy Bentham, “Anarchical Fallacies: being an examination of the Declaration of Rights issued during the French Revolution” in Jeremy Waldron (ed.), 1987, *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man*, London: Methuen, p.49.

As a British conservative Bentham opposes the universalization of rights out of their specific cultural contexts. He defends tradition against reason.

We have, to some extent, examined how defenders of universal human rights formulate their argumentations. Also we have tried to show the fissures in those arguments. To sum up the universalist arguments we have examined so far; it is argued that human rights should be universal because they rest upon foundations that are universal and incontestable. Either because we are all human beings, or because we are governed by the dictates of universal reason, we share a dignity with the others: the foreigners, outsiders, and of different ethnic, cultural, historical origin. Notwithstanding our differences, our being *human*, in the end, unites us all and constitutes the grounds for human rights. As a response to these kind of universalist positions, we have argued that given the atrocities committed in the name of humanity, the criteria of being human, may be an exclusionary ground as well. As we have argued, the search for a fixed identity behind change and difference is a metaphysical search. But universalism is not the only foundational position; cultural relativism may well be another one. Let's now dwell upon arguments in favor of and against cultural relativism.

Cultural relativism, as explained before, takes culture as the source of all values and norms including human rights. Tilley summarizes cultural relativism as follows: "Although for every culture some moral judgements are valid, no moral judgement is universally valid, meaning valid for all cultures. Instead every moral judgement is culturally relative."<sup>148</sup> Cultural relativism is usually

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<sup>148</sup> Tilley, "Cultural Relativism, Universalism and the Burden of Proof" in *Millennium: Journal of International Studies*, 1998, vol.27., no.2. p.275.

associated with anthropologists' point of view; we have already stated how Ken Booth defines the concept as the blackbox of the anthropologist. Renteln, in her book, focusing on anthropological perspectives to human rights, presents an argument in favor of cultural relativism:

It is aimed at getting people to admit that although it may seem to them that their moral principles are self-evidently true, and hence seem to be grounds for passing judgment on other peoples, in fact, the self-evidence of these principles is a kind of illusion.<sup>149</sup>

Renteln stresses the importance of culture in shaping people's value judgments. She also states that being honest to the source of criticism is better than pretending to be universal.<sup>150</sup> She opposes to the view that cultural relativism locks its proponents to their contingent traditions asserting that:

There is nothing inherent in the treaty of relativism, which prevents relativists from criticizing activities and beliefs in other cultures. But relativists will acknowledge that the criticism is based on their own ethno-centric standards and realize also the condemnation may be a form of cultural imperialism.<sup>151</sup>

The opponents of cultural relativism, on the other hand, associate the idea with the rhetoric of repressive regimes. Rhoda Howard, a Canadian political scientist- argues that: "[cultural relativism is] an ideological tool to serve the interests of powerful emergent groups."<sup>152</sup> Ken Booth, having identified cultural relativism with cultural essentialism, poses the critical question that: "Why is the eradication of difference in the face of (local) communitarian power less worth struggling for than any eradication of difference as a result of external

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<sup>149</sup> Renteln, *International Human Rights*, p.65.

<sup>150</sup> Renteln, *International Human Rights*, p.77.

<sup>151</sup> Renteln, *International Human Rights*, p.77.

<sup>152</sup> Rhoda E. Howard, 1986, *Human Rights in Commonwealth Africa*, Totowa, NJ:Rowman & Littlefield, p.17, Peter R. Baehr, 1996, *The Role of Human Rights in Foreign Policy*, London: Macmillan Press, p.14.



imperialism?”<sup>153</sup> According to this idea, local political authorities that utilize the rhetoric of cultural relativism at the face of external intervention, in fact, do not recognize the difference within. Cultural relativism, in the name of plurality of values, is seen as an intervention to eradicate the difference within from the perspective of victims. With a poetic expression Douzinas states well the position of the victim:

From the position of the victim, the bullet and the smart bomb kill equally, even if the former travels a few yards only from the gun of the ethnically proud soldier, while the latter covers a huge distance from the plane of the humanitarian bomber.<sup>154</sup>

On the other hand, it's not fair to associate cultural relativism with only the violators of rights, and universalism with human rights activists or victims. Nikhil Aziz, an Indian researcher, states while relativistic defenses are used by Asian and other governments to cover up human rights violations. Scholars and activists, who are victims of human rights violations, also may adopt “positions different from Western standards.”<sup>155</sup> It is not the case that if one defends human rights she/he should be a proponent of universal values, and a cultural relativist should be a potential oppressor or a moral nihilist. John Tilley, for instance, associates cultural relativism with moral nihilism. He explains relativist's rejection of universalism as: “It rests on the assumption that we must reject any thesis for which we have no decisive proof. To my knowledge, no one has decisively proven this assumption so the assumption refutes itself.”<sup>156</sup> Accordingly, as there is no Archimedean point of view, from where we can

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<sup>153</sup> Ken Booth, “Three Tyrannies”, in Dunne and Wheeler (eds.), 1999, *Human Rights in Global Politics*, New York, Cambridge: Cambridge University Press, p.56.

<sup>154</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.139.

<sup>155</sup> Nikhil Aziz, “The human rights debate in an era of globalization: hegemony of discourse” in, Peter Van Ness (ed.), 1999, *Debating Human Rights: Critical Essays from the United States and Asia*, London :Routledge, p.40.

objectively measure a universal human nature as the basis of the inalienable rights of man, we can dismiss any claim of rights. This approach can be defined as metaphysical as moral absolutism. If we cannot judge the presence of moral values outside of particular contexts, how can we judge their absence? There is a line between absolute morality and none morality, we are trying to balance on this line, as we did in the previous chapter.

Ironically, cultural relativism can as much be a barrier to difference as universalism. It can be argued that creating identities of “difference” may be another totalizing, reductionist black boxing. Culture, when takes the throne occupied previously by human nature becomes another tyrant. Costas Douzinas, in his critical appraisal of human rights discourse, problematizes also the absoluteness of culture or culture as the foundation. He opposes ontological description of culture (context) and argues that: “context is malleable, always under construction rather than given and unchanging.”<sup>157</sup> He calls ethic of universalism at local level to the campaigns or policies that rest upon “absolute essences and define the meaning and value of culture without remainder or exception” and adds that these approaches “can find everything that resists them expendable.”<sup>158</sup> We can conclude this section that: universality also includes the assumption of essential differences<sup>159</sup>, in this sense, universalism includes cultural relativism, and cultural relativism implies universalism at a local level. Taken from this point, there may not be much difference between universalism and cultural relativism. Just as Douzinas argues: “As they are both determined to

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<sup>156</sup> Tilley, “Cultural Relativism, Universalism and the Burden of Proof” in *Millennium: Journal of International Studies*, 1998, vol.27., no.2. p.294.

<sup>157</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.137.

<sup>158</sup> Douzinas, *The End of Human Rights*, p.136.

see man and community as immanent, the difference between universalism premised on the essence of man and a relativism premised on the essence of community is small.”<sup>160</sup>

Both universalism and cultural relativism may be foundationalist approaches to human rights. Foundations may be stepping stones for emancipatory movements. Vincent argues that we need justification for social acceptance and finally for the effective enforcement of our rights.<sup>161</sup> But foundations may also be invisible clothes that make the dressed invisible also. They may, in other words, discipline and create docile bodies by concealing the political nature of rights via their representation as natural essential values. In this form, human rights norms can be the representation of representations. Douzinas, refers to American Declaration of Independence and French Declaration of Rights of Man and Citizen, in stating that: “The essence of “man” lies in this act of proclamation in which he linguistically asserts and politically legislates without any ground or authority other than himself.”<sup>162</sup>

Then the referred human essence or human nature become representations of not corresponding facts but representations, and these representations have some political consequences. Just like the discourse of national security leads to violence and insecurity, the discourse of universal human rights constitute an obstacle for a political discourse of rights. Naturalization of rights has consequences to those consequences we will now focus on.

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<sup>159</sup> Because it underlines the (essential) sameness within (essential) difference.

<sup>160</sup> Douzinas, *The End of Human Rights*, p.138.

<sup>161</sup> R. J. Vincent, 1986, *Human Rights and International Relations*, London: Cambridge University Press, p.9.

## 4.2 Rights as Emancipatory/ Disciplinary Tools

In an attempt to justify rights, Alan Gewirth takes them as conditions that generate successful action.<sup>163</sup> In order to act successfully, human beings should have freedom, and well being. Former, for “controlling the action” latter for “having purposes”, since agents not only act but act with purpose.<sup>164</sup> As being purposive agents or prospective purposive agents, human beings are recognized rights to fulfill their actual or prospective functions in the society. Such a justification of rights may end up in capsulation of individuals into docile bodies that are obedient and socially acceptable. The discussion of “rights” as to their disciplinary and identity-constitutive power will be our present focus. This can be done through a Foucaultian perspective.

First of all, parallel to our previous discussions on the ‘universality’ of human rights, we will try to dwell upon how the discourse of rights play in creating docile bodies. In the literature of human rights rights-duties dichotomy is a well-known one. The reciprocal relation between these two concepts may imply how rights function to soften the control of state on its citizens, by linking the provision of rights, in some way, with the satisfaction of duties. Johan Galtung, in his structural analysis of human rights points to this problematical nature of rights-duties duality stating: “Total rights in principle entitle the state to demand total duties in return.”<sup>165</sup> Right to education may imply duty to pay your taxes.

Rights may be given as disciplinary norms in this sense, but this is another approach. From Foucaultian point of view, state is only the “codification of

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<sup>162</sup> Douzinas, *The End of Human Rights*, p.93.

<sup>163</sup> Alan Gewirth, “Why there are human rights?”, in Morton E. Winston (ed.), 1989, *The Philosophy of Human Rights*, California: Wadsworth, p.248.

<sup>164</sup> Peter Jones, 1994, *Rights: Issues in Political Theory*, Macmillan, Houndmills, pp.99-100.

power relations” which are already present at the societal level.<sup>166</sup> It would be an oversimplification to claim that state imposes its power on its citizens via the provision and protection of rights, just because it maintains the power to limit them or just because it’s entailed to demand duties. There is much behind. It is not only an give and take issue. In order to understand what lies beneath, we need to problematize this discourse of rights.

Foucault argues that along with the social contract theories that highlighted fundamental rights and freedoms, there was also a dream of the military society (increase economic utility and political obedience) with docile bodies or “meticulously subordinated cogs of a machine.”<sup>167</sup>

One of the main arguments raised in “Discipline and Punish” is that towards the end of the 18<sup>th</sup> century, institutions of normalization such as prisons and asylums or schools and army- through the construction of docile bodies-, standardized subjects, decreased the costs of coercion. So that traditional violent forms of political power of the 16<sup>th</sup> and 17<sup>th</sup> centuries is replaced with more subtle techniques of normalization.

The normal is established as a principle of coercion in teaching with the introduction of a standardized education and the establishment of the “écoles normales”; it is established in the effort to organize a national medical profession and a hospital system capable of operating general norms of health... it is established in the standardization of industrial processes and products.<sup>168</sup>

Normalization and standardization techniques are manifested through the exercise of power that objectifies those who are to be normalized. Knowledge became the whip at the guardian in the dress of medical personnel,

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<sup>165</sup>Johan Galtung, 1994, *Human Rights in Another Key*, Cambridge: Polity Press, p.10.

<sup>166</sup>Paul Rabinow (ed.), 1984, *The Foucault Reader*, New York :Pantheon Books, p.64.

<sup>167</sup> Rabinow, *The Foucault Reader*, p.186.

instructor...etc. Regimes of truth, in a circular fashion, both introduced and are introduced by these institutions of normalization. Discipline, consequently, is formalized in such a way that it is to arise the least possible resistance. Discipline is made invisible.<sup>169</sup>

In this general picture of affairs, the discourse of universal human rights strengthen the representation of a universal human nature, or a true human nature. Stated as the source of rights, this human nature, like the nature of state, help to differentiate normal from abnormal. It becomes a criterion to enjoy rights. Brent Pickett addresses Foucault's critique of liberal rights and states that: "Traditional rights, in Foucault's view, were the pan of the problem because of their reliance on a view of people as having a true nature, because this reinforces the process of normalization."<sup>170</sup> Then, discipline is the representation of the "human nature" as the source of universal rights.

The naturalization and stabilization of rights based upon a universal human nature depoliticizes the discourse of human rights. Though they are quite political, in character, rights are protected from the influence of politics by being ahistoricised and naturalized as if they are "self evidently inscribed in nature"<sup>171</sup>

Wearing Foucaultian spectacles it can be argued that while universal human rights are presented as norms that protect and frame inherent values of human nature; they are indeed -through diffused systems of micro power-inscribed into our bodies. In other words:

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<sup>168</sup> Rabinow, *The Foucault Reader*, p.196.

<sup>169</sup> Rabinow, *The Foucault Reader*, p.207.

<sup>170</sup> Brent L. Pickett, "Foucaultian Rights?", in *Social Science Journal*, 2000, Vol.37, Issue 3, pp.403, 419.

<sup>171</sup> Kenneth Baynes, "Rights As Critique And The Critique of Rights: Karl Marx, Wendy Brown, and the Social Function of Rights", in *Political Theory*, Vol. 28, No 4, August 2000, p.457.

The general juridical form that guaranteed a system of rights that were egalitarian in principle was supported by...tiny, everyday physical mechanisms, by all these systems of micropower that are essentially nonegalitarian and asymmetrical which we call the disciplines.<sup>172</sup>

Then it can further be argued that by naturalizing which are indeed products of certain mechanisms, the discourse of universal human rights strengthens the invisibility and invincibility of disciplines. For instance, Article 3 of the UN Declaration of Human Rights, one of the often-referred documents of universal human rights, reads as follows: “Everyone has the right to life, liberty and security of person.”

We can work on this right, to clarify how it works as a disciplinary tool. In the “History of Sexuality” Foucault discusses biopolitics. Accordingly, improvements in agriculture, industry, science and medicine enabled the conquest of the contingencies of life, i.e. the thin line between life and death. This shift of attention from death to life, paved the way for the development of a discourse around the acceptable forms of life. Power is manifested more in taking charge of life, rather than on the threat of death.<sup>173</sup>

This is not to say that capital and corporal punishment was then abolished. But to argue that life has become a concern. Through Biopolitics, control of the life and population became new domains of investment. In this sense, “a normalizing society is the historical outcome of a technology of power centered on life.”<sup>174</sup> It is first and foremost the objectification of life that is forming a body of knowledge of life that prepared the ground for normalizing/ disciplining society.

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<sup>172</sup> Paul Rabinow (ed.), 1984, *The Foucault Reader*, New York :Pantheon Books, p.211.

<sup>173</sup> Rabinow, *The Foucault Reader*, p.265.

<sup>174</sup> Rabinow, *The Foucault Reader*, p.266.

Coming back to the function of the above mentioned right in this normalized society, it could be argued that in presenting the political as the essential, it reinforces and naturalizes authoritative discourse. At this point Foucault argues that the reference, by resisters, to the “right to life, to one’s body, to health...to satisfaction of needs” was compatible with rather than a challenge to the power mechanisms that organize the regimes of life.<sup>175</sup>

“Right to life” is the normative fulcrum of a society, which normalizes, standardizes and disciplines by differentiating acceptable forms of life from unacceptable ones. This does not mean that unacceptable life forms are condemned to death, but means that they are “encouraged” to be acceptable “for their own health and security”. Right to life, liberty and security apart from exalting atomized individualism, also makes human beings as subjects of Life. Such a right both emancipates individuals from subjecthood, but at the same time constitutes new subjects of law. Yet, given the “progress” achieved, one can take this disciplinary role as a minor one. As once the control of life was to such an extent that suicide was a crime as it was believed to be a usurpation of the power of lord below or the Lord above.”<sup>176</sup>

Relevant also to this constitution and normalization of subjects, Toby Miller in “The Well-Tempered Self” draws the reader’s attention to the constitutive power of the discourse of citizenship.<sup>177</sup> Miller quotes Nietzsche’s expression that: “Snare of language...present[s] all activity as conditioned by an

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<sup>175</sup> Rabinow, *The Foucault Reader*, p.267.

<sup>176</sup> Rabinow, *The Foucault Reader*, p.261.

<sup>177</sup> Toby Miller, 1993, *The Well-Tempered Self: Citizenship, Culture and the Postmodern Subject*, Baltimore: The Johns Hopkins University Press, p.26.



agent –the subject [when in reality] there is no being behind doing, acting, becoming”<sup>178</sup>

Such metaphysical representations of individuals as the possessor of rights can be criticized as totalizing commitments. In this sense, it may be argued that, the discourse shaped around the inalienable rights of “man”, “woman”, “children” plays a role in the production of subjectivities /selves/ identities with inalienable and immutable essences. One of the drawbacks of associating rights with abstract individualism can be the marginalization of some groups “who may differ from the dominant norm”.<sup>179</sup> Indeed most of the criticisms directed against the liberal and abstract notion of human rights by feminist circles, for instance, underline the narrow reach of rights given the plurality of experiences. It has been argued that: “The dominance of a norm is so powerful that it obscures the startling fact that most people lie outside its boundaries.”<sup>180</sup> Just like interests of many, lie outside the boundaries of national interest.

The truism of these criticisms aside, our major concern is not rights of these or those groups but the language of any group of rights as founded upon essential principles. Liberal rights (of man) may be balanced by rights of woman. But group rights or gender-specific rights as long as they are formulated on universal or reductionist terms in one way or another would risk the early and simplistic closure at the face of complexities and contingencies. We will elaborate more on this issue in the next chapter.

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<sup>178</sup> Nietzsche, 1956, *The Genealogy of Morals*, trans. Francis Golffing, N.Y, Doubleday Anchor, pp.178-179, in Toby Miller, 1993, *The Well-Tempered Self: Citizenship, Culture and the Postmodern Subject*, Baltimore: The Johns Hopkins University Press, p.26.

<sup>179</sup> A. Phillips, 1993, *Democracy and Difference*, Oxford: Polity Press, p.95.

<sup>180</sup> Phillips, *Democracy and Difference*, p.95.

Therefore, if the foundational subject<sup>181</sup>, natural, unprocessed subject, is done away with, discourses on this subject, including the discourses of universal human rights, need to be evaluated as to their constitutive forces. One of those forces can be given as the “domestication” of subjectivities in the sense that discourse of rights both empowers and silences.<sup>182</sup> On functional basis through liberal rights and freedoms, a community identity has been inscribed on citizens. As, for instance, the civil right to relative freedom of personal conduct is conditioned upon the recognition of the same right for others.<sup>183</sup>

The incessant dialogue between rights and their limitations reflects the emancipatory and disciplinary function of rights. Rights are not only trumps at the hands of citizens vis a vis their states, as mainstream approaches argue, but they are also trumps in the hands of states in disciplining their populations. Nietzsche in the *Daybreak* develops an alternative explanation to the right-duty hierarchy, where duty bearers have a say on right holders. Accordingly, he doesn't take duty classically as the response of the duty bearer to the right holder. But takes duty itself as *a right* to impinge upon the power of others. Duty becomes a right, in other words. Protection comes out of domination. Nietzsche expresses this view as follows:

It's ...our pride which bids us do our duty- when we do something for others, in return for something they have done for us, what we are doing is restoring our self-regard, for in doing something for us, these other have impinged upon our sphere of power, and would have

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<sup>181</sup> This expression is used by Toby Miller, in Toby Miller, 1993, *The Well-Tempered Self: Citizenship, Culture and the Postmodern Subject*, Baltimore: The Johns Hopkins University Press, p.33.

<sup>182</sup> Miller, *The Well-Tempered Self*, p.38.

<sup>183</sup> Miller, *The Well-Tempered Self*, p.25.

continued to have a hand in it, if we did not with the performance of our duty practice a requital, that is to say impinge upon their power<sup>184</sup>.

Adopting a Nietzschean perspective, then, states perform duties for their citizens, in order to exercise power upon them. It is a will to power, in other words. The enjoyment of rights becomes identical with playing properly the role of subjects of those rights. States both empower by recognizing rights of their citizens and enslave. Right-holders wear the straitjacket of right-subjects. In order to enjoy rights you have to be eligible for them, and this is domestication.

Moreover, international organizations which are represented as protectors of universal human rights play in this game of empowerment-enslavement along with individual states, and even they magnify the degree of this process by internationalizing/ universalizing the human rights norms. Baehr argues that: “Regional organizations are meant to particularize or sharpen universally valid standards...”<sup>185</sup> Thus, let’s focus on a regional organization for the implementation of “universal” human rights norms.

The European Convention on Human Rights and Fundamental Freedoms, which entered into force in 1953, and its control organ European Court of Human Rights that has permanently been established by Protocol 11 in November 1998 are represented among the most efficient mechanisms to protect human rights at international level. Both because of this, and because it provides us a more concrete basis to discuss human rights in international politics, let’s now focus on Court practice. To make our discussion concrete, we can focus on the implementation of a particular article of the Convention. The European

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<sup>184</sup> Nietzsche, Daybreak II, p.112, in Keith Ansell-Pearson, (ed.), 1994, *Nietzsche, On the Genealogy of Morality*, Cambridge: Cambridge University Press, p. 151.

Convention on Human Rights of 1950, by its Article 10 aims to protect the freedom of expression stating that:

(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

As in most of the articles of the convention, first paragraph of the Article gives a definition of this freedom, while the second paragraph sets the limitations for the exercise of this right. Here, we will try to interpret these paragraphs based on a case law and conduct of the Court.

The freedom of expression is presented by the Court as “...one of the basic conditions of the progress of society and for each individuals self fulfillment.”<sup>185</sup> Therefore restrictions upon the enjoyment of this right should be as the Article 10 (2) implies (a) prescribed by law; (b) necessary in a democratic society for the protection of some values and interests which are enumerated in the second paragraph. As the first condition that is “prescribed by law” is a relevantly clear one, we will spend much time on the second condition. By focusing upon the phrase “necessary in a democratic society” and its interpretation by the Court, we will try to problematize the distinction between violation and limitation. The *Handyside vs. UK* is a significant case to clarify this problem. So let’s now focus on the merits of this case.

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<sup>185</sup> Peter R. Baehr, 1996, *The Role of Human Rights in Foreign Policy*, London: Macmillan Press, p.21.

Mr. Richard Handyside is the owner of the publishing firm Stage 1, opened in 1968. The subject of the case is the original edition of the book titled “The Little Red Schoolbook” that was published in 1 April, in the UK.<sup>187</sup> The book was first published in Denmark in 1969, then in various European and non-European countries and finally on 1 April 1971, in the UK having been translated into English. Book is 208 pages, 30 pence a copy and is distributed through ordinary booksellers<sup>188</sup>, which indicate that a wide circulation and easy access were aimed at. On the other hand, the book was also intended to be made available to schoolchildren of the age of twelve and upward. Book contains chapters like: Education, Learning, Teachers, Pupils and the system. In the chapter pupils, there is a twenty-six-page section concerning sex, with subsections like: “masturbation, intercourse, petting, contraceptives, wet dreams...etc.” And in the introductory part of the book it has been stated that: “This book is meant to be a reference book”<sup>189</sup> that is not to be read from cover to cover but to be read for only the things one is interested in, choosing the titles from the list of contents.

In the UK, the book has been found to be violating Obscene Publications Acts of 1959 and 1964, which reads as follows:

Obscene is something, ..., if taken as a whole [was] such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it...<sup>190</sup>

British courts decide the forfeiture of the book, claiming that:

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<sup>186</sup> M.Janis et.al.,1996, *European Human Rights Law Text and Materials* Oxford: Clarendon, p.159.

<sup>187</sup> Janis, *European Human Rights Law Text and Materials*, p.160-161.

<sup>188</sup> Janis, *European Human Rights Law Text and Materials*, p.161.

<sup>189</sup> Janis, *European Human Rights Law Text and Materials*, p.161.

Having regard to;

- (a) Probable audience of the book, those children at a critical age
- (b) Style of the book, mixing one-sided opinion with the facts and its being contrary to societal values
- (c) The fact that the book is meant to be a reference book, then it should be more inclusive in chapters; not only psychological but also legal part of the issue should be given.

The book is found detrimental to public morals.<sup>191</sup> Following the decision to seize and forfeit the book, Mr. Handyside brought the case before the European Court of Human Rights, alleging that this constituted the breach of his freedom of expression as articulated in Article 10. As to the matters of “prescription by law” and “legitimate aim pursued” the Court found no difficulty in establishing their validity. As it was prescribed by Obscene Publications Acts and the legitimate aim was the protection of public morals in the society.

Yet the phrase “necessary in a democratic society” caused most of the trouble. The controversy aroused out of the authority and right of the Court to decide upon the necessity of the limitation. The majority of the Court argued that the only thing Court could do is to “ensure that the English courts acted reasonably in good faith and within the limits of *margin of appreciation* left to the contracting states by Article 10 (2).”<sup>192</sup> This expression of “margin of appreciation” is fundamental to understand Court’s general inclination in the protection of “societal interests”. On the other hand, a minority in the Court

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<sup>190</sup> Janis, *European Human Rights Law Text and Materials*, p. 161. (At this point it needs to be emphasized that, according to these Acts, something is not obscene per se, but having regard to intended readers, which is a narrow interpretation of restriction.)

<sup>191</sup> Janis, *European Human Rights Law Text and Materials*, p.161.

<sup>192</sup> Janis, *European Human Rights Law Text and Materials*, p.161.

stated that “the Court should examine the schoolbook, directly in the light of the Convention and nothing but of Convention.”<sup>193</sup>

Those who defend the first argument argued that: “the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights” because “it is not possible to find in the domestic law of the various contracting states a uniform [conception of legitimate aims].”<sup>194</sup> Therefore, state authorities are given better situation to assess the proportionality of limitations and freedoms. Though the Court is ultimately given a supervisory function over states. Judge Spielman’s dissenting opinion with regards to the utilization of margin of appreciation after another case (Muller and others vs. Switzerland) merits quotation:

The Court’s approach to states superior ability to judge the protection of morals could make it impossible for an international court to find any violation of Article 10, as the second paragraph of that Article could always apply.<sup>195</sup>

Restrictions to the enjoyment of rights put the empowered individuals in order. As each society is in a better position to assess their own conditions. Either in the form of cultural relativism or in the form of national security eradication of difference restarts.

The subsidiary function of the Court vis a vis states can be interpreted on various grounds. It can be, from a realist outlook, argued that as (like all international organizations) the European Court of Human Rights is an international body composed of state representatives, it’s natural that interests of

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<sup>193</sup> Janis, *European Human Rights Law Text and Materials*, p.161.

<sup>194</sup> Janis, *European Human Rights Law Text and Materials* .p.164.

<sup>195</sup> Janis, *European Human Rights Law Text and Materials*, p.178.

states would overrule all other considerations. On the other hand, if we don't want to be so much apologetic, it can be argued that we need to strike a balance between the interests of individuals and societies and states, Court ultimately carries out this function. Of course there are many occasions when the Court decides contrary to the will of the states. Yet when examined more in detail, it becomes apparent that the procedural power of the Court above states is much more than its substantial power. When it comes to the delicate issue of establishing which act is more acceptable and reasonable in a democratic society and consequently establishing which restriction is "necessary in a democratic society", the Court acts as a shadow of the states. In short, the Court interprets "necessary in a democratic society" in such a way that enjoyment of rights require that subjects be always docile, they should be qualified to be right-holders.

Being one of the most efficient regional organizations in safeguarding universal human rights; European Court of Human Rights also safeguards the disciplinary power of states. Again, this may be attributable not to a particular deficiency of the Court, but to the modern discourse of human rights. In other words, it is not to argue that states and international organizations could not protect and provide human rights, sufficiently well; but to argue that human rights discourse is as disciplinary as is emancipatory. In this sense, Toby Miller's following expression finds its place: "Liberties and disciplines are the dual inheritance of the Enlightenment, whereby the subjection of "force and bodies" must accompany guarantees of sovereignty."<sup>196</sup> Similarly, Douzinas draws our

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<sup>196</sup> Toby Miller, 1993, *The Well-Tempered Self: Citizenship, Culture and the Postmodern Subject*, Baltimore: The Johns Hopkins University Press, p.38.



attention to the Janus-like character of rights in dominating as well as emancipating human beings as making them both *subjectus* (subjected) and *subjectum* (agent of morality; the author of law).<sup>197</sup> If we take rights as empowerments from another side we need also to acknowledge that they define the boundaries of proper subject. Right to freedom of expression requires meeting the expectations of society. Also, if this right is justified with reference to universal nature, it may become an oppressive and exclusionary criterion. This issue will be discussed in detail, in the following chapter. In this chapter, on the other hand, we have tried to problematize foundations of various human rights discourses” universalist and relativist. In doing so, we aimed to show the metaphysical aspect of such formulations. Also we have tried to problematize the separation between empowerment and enslavement, through introducing Foucault’s perspective to this study.

Some like Christian Reus-Smit, resists the depiction of state sovereignty and rights in oppositional terms based on arguments like in contemporary politics states’ recognition depends upon their satisfaction of various normative criteria like human rights.<sup>198</sup> So they emphasize the power of norms in the constitution of identities and units of international politics. This may be one way of pronouncing rights and sovereignty not in oppositional terms but in a homologous and symbiotic relation. Yet, in this section we tried to focus on this issue from another perspective, namely the disciplinary power of rights. Taken as such, human rights norms cease to be a challenge to the sovereignty of states and rather they become

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<sup>197</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.175-216.

<sup>198</sup> Christian Reus- Smit, “Human Rights and the Social Construction of Sovereignty”, in *Review of International Studies*, 2001, 27, pp. 519-538.

the norms neutralizing, de-politicizing and consequently rendering untouchable this sovereignty.

This, of course, concerns the metaphysical narratives of rights and thus has direct links with our discussion on universality vs. cultural relativism as two foundations for rights. When the internationalization of human rights stands upon these foundations, and especially universalism (by way of reference to a universal human nature at international treaties on human rights for instance), it ends up de-politicizing rights internationally. The definition of humanness in advance, as the ground for rights (whatever the particular ideology behind this definition; liberalism, socialism...etc.), according to Douzinas, leads to the dogmatic exclusion of other possibilities.<sup>199</sup> In explaining this argument Douzinas refers to Heidegger, we will turn to Heideggerian understanding of ethics and alternative approaches to human rights at international politics that avoids a dogmatic exclusion in the following chapter.

For the purposes of this chapter though, it is enough to recapitulate that a discourse of human rights based upon foundational accounts of humanness, which is the dominant one at the contemporary international politics, is bound to be hostile to different possibilities of “humanness”. Such an account of human rights cannot be remedy but cause of man-made disasters. To paraphrase Jeremy Bentham, in the name of humanity “may start a thousand daggers.”

In the light of the discussions of this chapter, regarding the place of human rights at international politics, it can be argued that they are not necessarily in opposition with state security and state interests. Also it is

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<sup>199</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford: Hart Publishing, p.212.

important to keep in mind that, norms as long as they are not open to political negotiation, maintain the boundary between “us” and “them”. Foundationalist approaches not only limits possibilities for international politics or ethics, but also for politics of human rights. Thus, we will conclude our discussion on international politics, ethics and human rights, with the examination of alternative approaches to ethics and human rights in the next chapter.

## CHAPTER V: INCLUDING THE OTHER / BEYOND FOUNDATIONS...

We have so far had an idea about foundationalist ethics. Chapter 2 presented the philosophical bedrock of this understanding, while Chapter 3 focused on its discursive power in the narratives of universal human rights. We have already discussed the constraining and constitutive power of ethics with universal foundations. In this last chapter we will continue with our critical approach to modern ethics and try to offer alternative approaches. It is important to bear in mind that ‘alternative’ here does not mean a brand new narrative or design of ethics that will substitute the previous ones. Rather, it is an alternative way of approaching morality founded upon the Enlightenment mentality and an alternative way of bringing in these possibilities that are left out of this mentality.

Zygmunt Bauman, whose works we will often refer to in this chapter, makes a distinction between ethics and morality and associates ethics with a code of law “that sets apart good from evil once for all and everybody”.<sup>200</sup> He then argues that morality without ethics would be a morality freed from the stiff cage with potentials to embrace “inter-human togetherness”.<sup>201</sup>

Rather than an ontological separation of “self” and the “other”, inclusion of the “other” or in Levinasian terms accepting the “disposition towards alterity within the subject”<sup>202</sup> is presented as the gist of this inter-human togetherness. In the following pages we will return back to this, what may be termed as,

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<sup>200</sup> Zygmunt Bauman, 1993, *Life in Fragments: Essays in Postmodern Morality*, Blackwell, Cambridge, p.11.

<sup>201</sup> Bauman, *Life in Fragments*, pp. 36-37.

<sup>202</sup> Simon Critchley, “The Original Traumatism: Levinas and Psychoanalysis” in Richard Kearney and Mark Pooley, 1999, *Questioning Ethics: Contemporary Debates in Philosophy*, London: Routledge, p. 230.

existential questions of ethics. However, our focus on them will be limited and based more on the readings of secondary literature of Levinas.

Instead of a moral decision arising out of the unexpected and mysterious encounter with the other, an ethics structured upon premises and precepts, argues Bauman, is not moral but procedural:

Pointing my finger at the rules, representing my bond with the other as an item in the set of similar bonds, a specimen of a category, a case of a general rule. I avoid all responsibility except a procedural one.<sup>203</sup>

But this is not the all. Ethics without foundations or morality without ethics is not preferred just because the foundational ethics is procedural but also it is violent, exclusionary and “immoral”. This thought can be compared with Heidegger’s similar opposition to “humanism” as: “...this opposition does not mean that such thinking aligns itself against the humane and advocates the inhuman, that it promotes the inhuman and deprecates the dignity of man. Humanism is opposed because it does not set the humanitas of man high enough”.<sup>204</sup>

Here the point is universal ethics and “humanistic” appeals refer back to a design of society, of man, of the self. On the other hand, this design is not an actual, but an imagined one, a signifier without a signified. Consequently, the realization of this design is not a smooth and natural one. As a response to principles established on the nature of human beings<sup>205</sup>, Bauman argues: “...true nature of humans was not what they were, tangibly and concretely, but precisely

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<sup>203</sup> Zygmunt Bauman, 1993, *Life in Fragments: Essays in Postmodern Morality*, Blackwell, Cambridge, p. 63.

<sup>204</sup> Martin Heidegger, “Letter on Humanism” in David F. Kroll (ed), *Basic Writings: Martin Heidegger*, London, Routledge, p.225, in David Cappel “Why Fight: Humanitarianism, Principles, and Post-structuralism” in *Millenium: Journal of International Studies*, 1998, Vol. 27, No. 3, p.505.

what they were not and could not without *push and pull*, the true nature was unfulfilled, still waiting to be let out”<sup>206</sup>. From this perspective foundations cease to be foundations as they are still to be, still the future perfect. On the other hand, in the previous chapter we have also argued that potentials, not the actual, are the driving motive behind ethics that works not for the status quo, but for the ideals, in other words future perfect, reference to human potentials is the progressive force.

In fact, this is the very point where violence starts, where ‘moralization’ of the ‘immoral’ is nothing but a small step in the huge project of perfection: Perfection means the eradication of imperfect. Bauman assigns a chapter on tracing the idea behind extermination camps of Nazi Germany back to the Enlightenment discourse on progress. It is important to see what outcomes progressivist ideas might cause; therefore Bauman’s following statement needs to be given at length:

People were to be educated into a new, orderly world: some of them, who were diagnosed incapable of absorbing such patterns of conduct, as their education was to install, were classified as pathological cases and had to be cured if possible; some others were visibly unwilling to surrender to such patterns and – as devils or criminals – had to be reformed by severe punishments; finally those immune to treatment and chastening had to be separated from the “healthy” and the “normal” and incarcerated or otherwise ‘eliminated’.<sup>207</sup>

Therefore the root cause of extermination camps was not the irrational dreams of a mad man called Hitler, but two centuries old anxiety for healthy perfection and hygiene<sup>208</sup>. Then, how come people in the 20<sup>th</sup> century without

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<sup>205</sup> Here, nature should not be limited with biological nature but should be extended to moral nature as well.

<sup>206</sup> Zygmunt Bauman, 1993, *Life in Fragments: Essays in Postmodern Morality*, Blackwell, Cambridge, p.166. (emphasis added).

<sup>207</sup> Bauman, *Life in Fragments*, p.167.

<sup>208</sup> Bauman, *Life in Fragments*, p.172.

condemning Enlightenment thought on progress and perfection became able to condemn Holocaust? Bauman offers a very short and direct answer: “because they (Nazis) were defeated”<sup>209</sup>. Now, this is not a self-explanatory statement and needs further elaboration. My interpretation of ‘defeat’ here is not military defeat. Because people can condemn atrocities everywhere, like recently in Middle East, without waiting the conclusion of the conflicts and without identifying those defeated and those who become victorious. Also only from a very narrow perspective, that of state-centric, we can command a definition of defeat and victory.

An alternative reading of ‘defeat’ may be the establishment of sympathy with the victim. Once those exterminated are started to be seen not as diseases to the society but as part of that society, ‘extermination’ can be condemned. That is why sympathy preponderates abstract and moral maxims from Brennan’s perspective. Eileen Brennan argues that: “...the fundamental virtues of the ability to sympathize that defines a measure more original than the maxims, rules, imperatives and standards of deontological morals”.<sup>210</sup> Once the victims of Holocaust are started to be sympathized, this indicates the defeat of Nazi Germany. On the other hand, if these victims were seen, still, as threats to societal health, then the reverse might have become the case.

Turning back to our original issue, the question of progressivism may be the menace rather than a remedy for man-made suffering. The transcendence of limits becomes such an ambitious project that “means precede

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<sup>209</sup> Bauman, *Life in Fragments*, p.182.

<sup>210</sup> Eileen Brennan, “Ethics and Lifeworlds”, trans. Jean Greisch, in Richard Kearney and Mark Pooley (eds.), 1999, *Questioning Ethics: Contemporary Debates in Philosophy*, London: Routledge, p. 52.

the goals, it is the availability of means that triggers the ferocious search for ends.”<sup>211</sup> We imagine a perfect society, then we make a plan to realize this ideal, and we always concentrate on how better we can improve our means to it, as if there were only one perfect society.

Biological knowledge can be used in medicine to cure, but it can also be used in detainment centers to torture. And it is further from that torture can be the ‘treatment’, ‘cure’ of the undesired, dangerous part and vice versa. Then we may need to replace the question “what can we do?” with “what do we aim to do?” The answer to the latter question is not and will not be settled once for all; but will be reddecided on and on, in every confrontation with the other, the mysterious, the unknown. That is why the means-ends discussion above *is not* a ‘welcome back to Kantian ethics’.

Jacques Derrida’s concept of ‘undecidability’ with reference to ethics may be helpful in clarifying the above raised argument. Accordingly, if I knew what to do a priori, if I apply a maxim to an action, it would not amount to ethics or politics, but would be application of a rule. Ethics starts with undecidability. Derrida argues in this sense: “... there would be no decision, in the strong sense of the word, in ethics, in politics, no decision and thus no responsibility, without the experience of some undecidability”<sup>212</sup>.

Ethics starts with undecidability, because ethics starts with the face-to-face relation with the mysterious other. In Bauman’s terms: “moral collectivity is

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<sup>211</sup> Zygmunt Bauman, 1993, *Life in Fragments: Essays in Postmodern Morality*, Blackwell, Cambridge, pp.165-166.

<sup>212</sup> Richard Kearney and Mark Pooley, “Hospitality, Justice and Responsibility: A Dialogue with J. Derrida” in Richard Kearney and Mark Pooley (eds.), 1999, *Questioning Ethics: Contemporary Debates in Philosophy*, London: Routledge, p. 66.



*‘le face-à-face sans intermédiaire’*”<sup>213</sup>. We cannot know beforehand, because we cannot know the other. Other becomes self’s limit and possibility.

Now, understanding this ‘other’ is very much important to understand alternative approaches to ethics not structured upon the separation of self and the other. This is a huge debate on its own, and it cannot be covered in full in this chapter. Therefore, we will try to present the general idea cursorily.

Levinas starts his deliberation on ethics with questioning ‘consciousness’ and ‘existence’, but not the existence of this or that object, as did Descartes, but existence itself. Following Husserlian phenomenology, Levinas concludes that consciousness depends upon an internal relation between the subject and the object; none of them precedes the other<sup>214</sup>. It may be argued that it is not only ‘I think, therefore I am’, but also vice versa and this goes infinitely. In this sense, unity, not the separation, of subject/self and object/other becomes the condition of existence/consciousness. Levinas takes ‘death’ as the greatest other of life, the greatest unknowable.

Death is impossibility of having a project. This approach of death indicates that we are in relation with something that is absolutely other, something bearing alterity not as a provisional determination we can assimilate through enjoyment, but as something whose very existence is made of alterity<sup>215</sup>.

He then formulates other not as other of the self in a Kantian sense (another of me, like me, in whose shoes I can put myself), but takes self as the other. At this point the connotation of death with the mysterious should be highlighted. Death is something incontrollable and it is the very limit of

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<sup>213</sup> Zygmunt Bauman, 1993, *Postmodern Ethics*, Oxford: Blackwell, p. 53.

<sup>214</sup> Sean Hand (ed.), 1989, *The Levinas Reader*, Cambridge: Blackwell, pp.11-88.

<sup>215</sup> Levinas, “Time and the Other”, in Sean Hand (ed.), 1989, *The Levinas Reader*, Cambridge: Blackwell, p. 43.

consciousness (existence). Bauman argues: “death is taken as the biggest challenge to human potentials, and as one can do nothing about it, when taken in its totality, it is decomposed into multitude of diseases and abnormalities and pathological mutations, and consequently those fragments of death are targeted at”<sup>216</sup>. Levinas, in the image of death, takes self as the other. Therefore no such separation is made between self as the subject of moral action and other as the object of moral action. Jim George opens up this ‘self as the other’ with reference to ethical questions as follows: “ we are all others somewhere to someone, so identity is not detachment from the other, but the responsibility towards the other. My identity, my self means my responsibility towards the other, an ethical postulate. So in this sense, ethics becomes the first philosophy”<sup>217</sup>.

Nevertheless the statement “we are all others” should not be mistaken as “others are all like us”. Levinas does not in this sense draw a similarity between the self and the other. Quite the contrary, the other stands as the mysterious, the unknowable:

The relationship with the other is not an idyllic and harmonious relationship of communion, or a sympathy, through which we put ourselves in the other’s place, we recognize the other as resembling to us but exterior to us, the relationship with the other is a relationship with the mystery.<sup>218</sup>

The propensity in the self towards the other is the propensity towards the mystery. On another occasion Levinas argues that: “My being-in-the-world is the

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<sup>216</sup> Zygmunt Bauman, 1993, *Life in Fragments: Essays in Postmodern Morality*, Blackwell, Cambridge, p.168.

<sup>217</sup> Jim George, “Realist Ethics, International Relations and Post-modernism: Thinking Beyond the Egoism-Anarchy Thematic”, in *Millenium: Journal of International Studies*, 1995, Vol. 24, No. 2., p. 210.

<sup>218</sup> Emmanuel Levinas, “Time and the Other” in Sean Hand (ed.), 1989, *The Levinas Reader*, Cambridge: Blackwell, p. 43.

usurpation of the spaces belonging to other man whom I have already oppressed... driven out...”<sup>219</sup>. So the moral concern is not something that we acquire as a consequence of our moral reasoning but it is something that we feel. We respond morally to the other not *even though* we do not know it, but precisely *because* we do not know it. This is the ethical side of the story. “One has to respond to one’s right to be, not by referring to some abstract and anonymous law or judicial entity, but because of one’s fear for the other”<sup>220</sup>.

This is why, in our interpretation, ethics starts with undecidability. Also Heidegger’s differentiation between subject and self may be important at this point. Rejecting the association of Dasein (I) with ‘it’ and underlying the *closure* of the subject, Heidegger argues:

For the ontological concept of the subject characterizes not the selfhood of the “I” qua self, but the selfsameness and steadiness of something that is always present at hand. To define the “I” ontologically as ‘subject’ means to regard it as something always present at hand.<sup>221</sup>

These ontological descriptions of the subject limit the possibilities to an otherwise political flexible and malleable self. We have already raised similar points in the first chapter, referring to Cynthia Weber’s criticism of ontological statehood. Likewise, essentialist accounts are taken as limitations or restrictions on wide range of possibilities in the ethical encounter with the other.

For instance, Jim George criticizes essentialist accounts of evil human nature or anarchical international system as they *prima facie* omit any possibility of morality. He depicts Cold War mentality as an example of these essentialist

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<sup>219</sup> Emmanuel Levinas, “Ethics as First Philosophy”, in Sean Hand (ed.), 1989, *The Levinas Reader*, Cambridge: Blackwell, p. 82.

<sup>220</sup> Levinas, “Ethics as First Philosophy”, p.82.

<sup>221</sup> François Raffoul, 1998, *Heidegger And The Subject*, trans. David Pettigrew and Gregory Recco, New Jersey: Humanities Press, p.39.

narratives<sup>222</sup>. Rather than only targeting Realism, George claims that a postmodern reforming of ethics should start from targeting modernist discourse to which Realism owes its premises. He, then, defines modernist discourse as “a discourse characterized by a universal homogenized and natural order of things, built upon unquestionable premises and on an acontextual, atemporal, and certain foundation”<sup>223</sup>.

Returning back to Levinas, those narratives of fixed selves lead to reducing everything into these accounts of selves and their derivatives according to Jim George. George refers to Levinas in explaining this idea:

Traditional ethics, for Levinas, has taken place within the boundaries of self-other opposition, but always in a logocentric manner that seeks to reduce the identity of the latter to the identity of the former in order, ultimately to privilege and justify the value realm of the former<sup>224</sup>.

One of the basic principles of Kantian ethics, which we have already discussed in chapter 2, ‘treat others in such a way that this could be universalizable’ rule, i.e. ‘treat them in the way you want to be treated’ can be given as an example of this traditional understanding of ethics. ‘I’ become the measure of ethical behavior not the ‘other’. ‘Other’ is either a derivation of the self, or if it is something totally uncanny, it needs to be targeted at.

This reductionism of everything to something ‘known’ and the anxiety to establish some sort of relevance with the self lies at the background of traditional ethics. Central to our moral relation with others and central to the establishment of normative structures stands a claim to know. We owe certain duties towards

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<sup>222</sup> Jim George, “Realist Ethics, International Relations and Post-modernism: Thinking Beyond the Egoism-Anarchy Thematic”, in *Millenium: Journal of International Studies*, 1995, Vol. 24, No. 2., p200.

<sup>223</sup> George, “Realist Ethics, International Relations and Post-modernism”, p.207.

<sup>224</sup> George, “Realist Ethics, International Relations and Post-modernism”, p.209.

others who are different from us not because they are different but because in some hidden way they are also similar to us. For instance, discussing the mushrooming of the new acts of rights in the late 20<sup>th</sup> century, such as women's rights, Douzinas argues that here emphasis on the difference of women could well result in the justification of male domination. As being different entities women may be deemed improper subjects of rights. On the other hand, he continues, along with discourse of difference, a discourse on similarity (women also desire equality, because they have equal dignity with men) strengthened their struggle to be counted as new subjects of human rights<sup>225</sup>. In opposition to undecidability, those traditional perspectives rest upon a belief in predictability, calculability and thus decidability.

Among the new generation rights, environmental rights can be given. Within some academic circles those rights are also defined as duties we owe to future generations<sup>226</sup>. If we are discussing the undecidability with regards to ethical questions in our immediate presence, it will further be the case with regards to morality towards generations that are yet to come.

D'amato in one of his articles where he discusses our duties to future generations to protect global environment, questions the possibility of particular duties to people or generations that are not yet born<sup>227</sup>. D'amato, in this article, presents a theorem developed by Derek Parfit in 1976, also known as Parfit's Paradox. Accordingly, any action that we take now will have effects on the fate of future generations in abstract, to the extent that their existence or inexistence

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<sup>225</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford, Hart Publishing, p. 257.

<sup>226</sup> E.B. Weiss, 1989, *In Fairness to Future Generation: International Law, Common Patrimony, and Intergenerational Equity*, Tokyo: The United Nations University Press.

will be affected by our actions done today. But in a concrete manner we cannot calculate the effects of our actions on concrete people of tomorrow, because whenever we decide upon to act in a certain manner our addressees cease to be those before we have decided to act. As a famous quotation from Parfit's Paradox:

Our intervention in the environment will make a sufficient impact to assure that different sperm cells will probably fertilize egg cells in all procreations that take place subsequent to our environmental intervention. Different people will be born from those who would have been born if we had not intervened in the environment.<sup>228</sup>

So regardless of having or not having duties towards future generations we cannot decide in their place as the very moment of decision is effective upon their existence or inexistence. We cannot rationally design and calculate not because we cannot command our fate, but because our decisions introduce new possibilities that are unknown to us beforehand.

This discussion above does not have to be interpreted as we cannot know therefore we cannot act or should not act, but it can also be interpreted as the justifications for our actions may have other fulcra than a claim to know. It can likewise be interpreted, as what makes us responsible is the pain of undecidability, not the comfort of normative principles.

Consequently, modern ethics that is founded upon universal principles and guidelines transform 'responsibility' into mere 'conformity' with laws and norms. Also it represents the self as the original and neutral (sovereign) entity. "Ontology as the first principle" as opposed to "ethics as the first philosophy"

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<sup>227</sup> A. D'Amato, "Do We Owe a Duty To Future Generations To Preserve The Global Environment?" in *American Journal of International Law*, 1990, Vol. 84, pp.191-198.

implies that we have a metaphysical understanding of being. Also that, from an ethical point of view, we take for granted the separation of self and other and only then we try to reunite them. We try to establish a kind of moral responsibility towards the other artificially with the help of abstract moral principles.

Moreover the celebration of alterity is exception rather than the rule from this perspective. As the other by definition is other to the self; that is, evil to the good. It is abnormal, inferior and dangerous. If a moral relation with the other is to be established, this requires first drawing a similarity between the self and the other. Kate Manzo explains this with reference to Derrida's concept of 'logocentrism': "Logocentrism treats the familiar as natural and differences as self-evident, often saturating both categories of dichotomy with moral judgments about good and evil".<sup>229</sup>

On the other hand, when identity is founded in relationship with others (intersubjectively), others/alterity become part of the identity. Then ethics or responsibility towards the other becomes the rule rather than exception. Ethics becomes the first philosophy in Levinasian terms<sup>230</sup>. But this becomes the case not because of a universal first principle like "treat others in such a way that you want to be treated", but because alterity becomes the condition of self. A representation of self is founded upon a narrative of alterity, which is not iterable (repeatable). Necati Polat, in his article "Poststructuralism, Absence, Mimesis" discusses poststructuralism in IR with reference to Wittgenstein and Derrida. Taking Wittgenstein's concept of 'private language' as his point of departure,

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<sup>228</sup> D'Amato, "Do we owe a duty to future generations?" p.191.

<sup>229</sup> Kate Manzo, "Critical Humanism: Postcolonialism and Postmodern Ethics", in *Alternatives* 22, 1997, p. 387.

<sup>230</sup> Manzo, "Critical Humanism", p. 384.

Polat discusses how the iterability requires the transgression of fixity and private language. He argues that: “A private language – a language which would consist of words with fixed referents – would not succeed in becoming a language”<sup>231</sup>. He takes the example of ‘pain’ and argues that the distinction between pain (as individual experience) and pain as the representation (mimesis and signifier) is important for communication (language)<sup>232</sup>. On the other hand, Polat takes such a differentiation between pain as signified and pain as signifier as a metaphysical one as the former pain (individual experience) cannot be known by any other person than who suffers. However, with reference to Wittgenstein Polat argues: “a language that is not mimetic, or reproducible, would be a language incommunicable and unacquireable”<sup>233</sup>. Consequently, language or discourse is built upon this alterity –communication of the incommunicable. And ‘the self’ becomes an effect of discourse. Finally, alterity becomes the condition of self: “No prior moral postulate is the ontological prerequisite of the self, is a function of alterity”<sup>234</sup>. This can be read as follows: from a poststructural point of view ethics need not stand upon premises and norms, because self is alterity. So there is no need to make peace with alterity with the help of norms.

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<sup>231</sup> Necati Polat, “Poststructuralism, Absence, Mimesis: Making Difference, Reproducing Sovereignty”, in *European Journal of International Relations*, 1998, Vol. 4 (4), p. 451.

<sup>232</sup> Polat, “Poststructuralism, Absence, Mimesis”, p.451.

<sup>233</sup> Polat, “Poststructuralism, Absence, Mimesis”, p.451.



## 5.1 Human Rights Of Multiple Identities

If we are to recapitulate what we have said so far: problematising the responsible agent, i.e. self, and reconstructing it in relational terms with the other lies at the basis of anti-foundationalist ethics. As a result of this problematization, ethics cease to be mere norms, values and prescriptions to be followed; but it becomes political, undecidable, always to be reformulated in our daily encounters. It is implicated in life not detached from it. Ethics becomes a position always open to new subjects. As a result of this, also subjects of human rights cease to be fixed, what is generally defined as male, white, and protestant subject of the West. Costas Douzinas criticizes this abstract legal subjection. In existential terms, Douzinas argues: “the subject of legal and contractual rights and agreements stands at the center of universe and asks the law to enforce his entitlements without great concern for ethical consideration and without empathy for the other”<sup>235</sup>. As such, it is possible to argue that discourse of universal human rights dehumanizes its subjects turning them into abstract entities. Moreover, Douzinas writes critically of rights founded upon meta-principles and unnegotiable norms as they put conflicts into intractable position. Because, he argues, such abstract rights “... removes the fight from the terrain of warring interests into that of allegedly absolute truths and uncompromising entitlements”<sup>236</sup>.

Finally, Douzinas offers the liberation of rights from their straitjackets and expansion of them to include new subjects. He argues that already the history

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<sup>234</sup> Polat, “Poststructuralism, Absence, Mimesis”, p. 455.

<sup>235</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford, Hart Publishing, p. 238.

<sup>236</sup> Douzinas, *The End of Human Rights*, p. 251.

of rights discourse is amenable to expansion, if one considers how rights developed from civil and political to economic, social, and cultural and then to group rights. Thus Douzinas argues that rights should not be limited with what is 'essential' in human nature as there is no such essence, rather they should always be open to new possibilities of identity<sup>237</sup>.

Brent Pickett, whose study we have referred before, examines Foucault's critique of rights. Accordingly, Foucault suggests that fixed and a final list of rights should be done away with. Instead, the goal should be to increase the space for individual difference.<sup>238</sup>

However, this approach (right to difference) may be found problematical from several points. To begin with, bearing in mind our discussion in the previous chapter regarding the disciplinary function of rights discourse, expansion of rights would also mean expansion of discipline through various (micro/macro) levels in a society. Also, as we have discussed, stabilization of difference would render many forms of oppression invisible. In the sense that gay and lesbian rights while empowering their holders also fix their identities to a limited representation. Jane Flax, a postmodern feminist, in the "End of Innocence" criticizes the language of women's rights as exclusionary and limited in the representation of women. She argues that: "the unity of categories such as 'women' or 'gender' was found to depend upon the exclusion of many of the experiences of women of color..."<sup>239</sup>. Yet there is always the possibility that rights of "women of color" would exclude rights of "lesbian women of color" and

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<sup>237</sup> Douzinas, *The End of Human Rights*, pp. 254-255.

<sup>238</sup> Brent L. Pickett, "Foucaultian Rights?" in *Social Science Journal*, 2000, Vol. 37, Issue 3, pp. 403-422.

this may go infinitely. Bearing this remark in mind, Flax can be interpreted as representations of difference tend to dominate micro differences within. Sometimes Poststructuralism is seen as identical with relativism. In our discussion of relativism versus universalism in human rights, we tried to show how criticism of both positions is possible. While a foundational defense of difference may end up with mere localization of heteronomy and suppression, an anti-foundational defense of difference may be a remedy for the suppression of alterity. By anti-foundational defense of difference, I mean, a defense or discourse that is not founded upon strict premises but one that can always be reformulated depending on the situation we found ourselves in. It is to side with the marginal without having a definition of marginal a priori. Polat discusses the position of Poststructuralism towards localization of heteronomy, accordingly: “... deconstruction treats the homogenized practices of provincial associations as equally suspect, in turn support[s] alterity within those associations”<sup>240</sup>.

Another point that needs to be addressed in the modern discourse of human rights is the state-citizen relation. The association of rights with territorial boundaries is also among the factors that turn rights into disciplinary tools at the discretion of states to such an extent that enjoyment or limitations of rights come along with the accomplishment of citizenship duties. Membership to a political community provides rights for the included, but excludes those who remain outside from the enjoyments of rights. Moreover, those who are outside do not have to be geographically outside. For instance, Charlotte Hooper argues in her

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<sup>239</sup> Jane Flax, 1993, *Disputed subjects: essays on psychoanalysis, politics and philosophy*, New York: Routledge, p. 459.

<sup>240</sup> Necati Polat, “Poststructuralism, Absence, Mimesis: Making Difference, Reproducing Sovereignty”, in *European Journal of International Relations*, 1998, Vol. 4 (4), p. 459.

article that enjoyment of rights for some Western societies is conditioned upon service to the state to such an extent that “[f]ull citizenship rights are often denied to men who do not participate in defending the state”<sup>241</sup>. These can be conscientious objectors as well as homosexuals and many others who do not fall in ‘men’ concept of the state.

Taking into consideration the late 20<sup>th</sup> century expansion of rights from citizens to migrants, refugees and non-citizens, one can argue that provision of rights are no longer limited with citizenship. Just like the emergence of citizens’ rights can be taken as a revolt against the pre-modern forms of political organization, the enlargement of rights to subjects beyond citizens may be taken as a revolt against modern forms of politics (the nation-state).

Simon Chesterman claims that human rights are not limited with citizens’ rights otherwise identity would be limited with the boundaries of statehood. Rather, history of human rights, Chesterman continues, also empowers self to transcend limitations of historico-political structure<sup>242</sup>. It is not, yet, clear that state ceases to be a modal point for organizing identities, as membership or non-membership is determined still with reference to the state. But the important point is that the enjoyment of rights does not always require one to be a loyal citizen of its state, if not loyal subject of a particular norm.

Both the possession of universal of human nature and membership to a particular community when taken as eligibility criteria for the enjoyment of rights limits political imagination. Both of them take sovereignty as a necessary ground

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<sup>241</sup> Charlotte Hooper, “Masculinities, IR and the ‘gender variable’: a cost-benefit analysis for (sympathetic) gender sceptics” in *Review of International Studies*, 1999, Vol. 25, p. 481.

<sup>242</sup> Simon Chesterman, “Human Rights as Subjectivity: The Age of Rights and the Politics of Culture”, in *Millenium: Journal of International Studies*, 1998, Vol.27, No.1, pp. 116-117.

for the enjoyment of rights. Sovereignty in the sense of presence, essence or nature<sup>243</sup>. Either the nature of man or the nature of particular community determines the rights to be enjoyed. Likewise when human rights become a subject of International Relations discipline either it needs to be justified with reference to cosmopolitan principles or with reference to membership to a particular community. The idea that we have rights because we are human beings (and there can be nothing further from this); or because as being members of a particular community we have privileges vis a vis those who are not. Vivienne Jabri draws the picture that normative approaches in International Relation either center around a Kantian, deontological perspective where the autonomous individual is taken as the primary moral agent or center around a “Hegelian notion of ethical personhood which comes into being within a situated political community”<sup>244</sup>.

As an alternative to this mentality Dillon offers an understanding of justice parallel to that of Derrida or Levinas, as we have discussed before.

The stranger and the native discovered themselves as human being in the encounter with one another, the call to justice cannot derive from rights sovereignly acknowledged or denied. It issues out of something more original than the claim of rights that sovereignties (dis)empower – the very absence of any such thing as sovereignty at all.<sup>245</sup>

Implicated in the ethical relation with the other is the politics of other rather than its essence. As most of the time, violence is committed against its representation. For example, woman’s representation as a reproductive body renders her particularly vulnerable to certain types of violence. It is not possible

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<sup>243</sup> Necati Polat, “Poststructuralism, Absence, Mimesis: Making Difference, Reproducing Sovereignty”, in *European Journal of International Relations*, 1998, Vol. 4 (4), p. 453.

<sup>244</sup> Vivienne Jabri, “Restyling the Subject of Responsibility in International Relations”, in *Millennium: Journal of International Studies*, 1998, Vol. 27, No.3, p. 593.

to address their suffering without addressing their representation. But we may end up in an intractable position, as the formulation of women's rights may result in reification of their identities, even constitute their identities. On the other hand, it is obvious that a discipline indifferent to sexuality, or a discipline whose mainstream discourse is built upon ontological essentialism will be limited in targeting rape as a war machine. As Pettman argues: "The comfort woman used by the Japanese military and the systemic rape of Bosnian Muslim women as a part of a Great Serbian project are disruptions to an international relations discourse that does not address issues of sexuality and sexualized violence."<sup>246</sup>

Turning back to Dillon's above given argument, our reaction to rape of Bosnian women is indeed our reaction to representation of women as (essential) reproductive bodies that are penetratable. The call to justice issues from the absence of a woman nature, whereas the call to violence in the judgement of the rapist may issue from its presence: namely, women as penetratable bodies.

In the absence of sovereignty we are responsible to the one who encounters us. Finally, it is this ethical relation with the other, and this sense of responsibility that precedes enunciation of rights. In Douzinas words: "Ethical responsibility precedes rights, gives them their force and legitimacy and becomes the judge of their and of state action."<sup>247</sup> As to the source of this responsibility Douzinas gives neither Kantian universal reason nor the spirit of community, but

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<sup>245</sup> Michael Dillon, "The Sovereign and Stranger", in Jane Edkins, Persram, and Pin-Fat (eds), 1999, *Sovereignty and Subjectivity*, Lynne Rienner Publishers, London, p.122.

<sup>246</sup> Jan Jindy Pettman, "Border Crossings / Shifting Identities: Minorities, Gender, and the State in International Perspective", in Michael J. Shapiro and Hayward R. Alker (eds), 1996 *Challenging Boundaries*, Minneapolis: University of Minnesota Press, p. 276.

<sup>247</sup> Costas Douzinas, 2000, *The End of Human Rights*, Oxford, Hart Publishing, p. 353.

the proximity to the other and the propensity to the uncanny in the self. And he continues:

If there is something through the universal in the discourse of human rights, if a metaphysical trait survives their deconstruction, this could perhaps be the recognition of the absolute uniqueness of the other person and my moral duty to save and to protect her.<sup>248</sup>

To conclude what we have said so far ‘emancipating’ the discourse of human rights from the state-centric frame of international relations would open us new perspectives. First, human rights would empower subjects to such an extent that they could transcend beyond their identities, so far structured by territorial boundaries. Second, rights will be expandable, therefore never fixed and ahistorical. As critical tools human rights retain a distance and stretch beyond the boundaries of positive law.<sup>249</sup> Finally, outside the strict formalities and procedural requirements of impersonal structures, rights will be amenable to change, open to the suffering of the victim. Human rights, in short, would cease to be trump cards at the hands of the hostile individuals. They will be understood as manifestations of our indebtedness to the other as the condition of our possibility.

The understanding and treatment of the other is important not only for the ethical questions in general but also for the treatment of ethics in IR in particular. In the first chapter of this study, we have started with a quotation from Richard Devetak. Then we have discussed how the distinction between inside and outside leads to at worst a territorialization of ethics inside the boundaries of states or at best prioritization of our responsibility towards fellow citizens over responsibility towards outsiders. In all these discussions it is important to see that the existence

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<sup>248</sup> Douzinas, *The End of Human Rights*, p. 348.

of the other depends upon neutralization/stabilization or finally sovereignty of the self. This self can be the “I” of interpersonal relations, the dominant ethnic group of the ethnic conflicts or it can be the domestic society situated in so-called anarchical structure of international relations. In all of these narratives, contingency, alterity, and difference are taken as the attributes of the outside, the other, while the self is presented as a homogenous and sovereign entity. This presentation of self leads to violence (selection and destruction of difference within), and it also leads to the externalization of the other.

On the other hand, in this chapter, we tried to argue that we need to reconsider the relation between self and the other not based on some ontological representations of the self and the other; but based on a Levinasian understanding of the self as the other. It is to celebrate the difference within and it is to recognize the integrity of inside and outside.

Human rights in international politics as long as they remain within the traditional discourse of ‘inside and outside’ are bound to be “unethical”. As we have tried to show, with reference to Derrida, ethics is something undecidable. If we are only complying with international conventions and treaties, then we may be identified as praiseworthy subjects of international law. We may know and apply procedures and norms but this does not make us responsible or just. That is not say that laws are unjust, but as Patricia Molloy says: “Law is... always an interpretive act.”<sup>250</sup>. Law, authority, and sovereignty are always deconstructible. Justice lies in not accepting them as they are but problematising, deconstructing

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<sup>249</sup> Douzinas, *The End of Human Rights*, 344.

<sup>250</sup> Patricia Molloy, “Face to Face with the Dead Man: Ethical Responsibility, State-Sanctioned Killing, and Empathetic Impossibility”, in *Alternatives* 22, 1997, p. 483.



them. That is why Derrida famously argues: “Justice is deconstruction”.<sup>251</sup> With such a perspective of justice Molloy argues: “The Idea of justice is infinite because it is irreducible –and it is irreducible because it is owed to the other, before any contract and without any recognition or gratitude”<sup>252</sup>

Consequently, responsibility is not reducible to the “UN Convention on Human Rights”, or the “European Convention on Rights and Fundamental Freedoms”. Also the source of all these treaties, regulations is not a universal human nature. In fact these texts are the founding moments of this ‘human nature’, as we have already discussed in Chapter 3. The source is the feeling of ethical responsibility towards the unknown other.

We have tried to show how structures limit our imagination and how they constitute the violence in this study. One of the well-founded criticisms against post-structural approaches is that they constitute their own structures. If Kantian ‘rational self’ is a foundation for ethics, Levinasian ‘self as other’ is another foundation. Honi Fern Haber argues, as a reply, that we cannot do without structures:

Without some kind of structuring, thought would not even be possible. This is simply the logic of thought. This does not, however mean that structure must be understood as being out there. On the contrary structures are created and always open to new creative interpretations.<sup>253</sup>

This is what we tried to show in this study. Poststructuralism should not be confused with radical relativism or moral nihilism. “We cannot know” does not mean that we should not act. But it means that we should carry the

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<sup>251</sup> Jacques Derrida, “Force of Law: The Mystical Foundation of Authority”, in Drucilla Cornell et al. (eds.) 1992, *Deconstruction and the Possibility of Justice*, New York, Routledge, 1992, p.12, in Molloy, “Face to Face with the Dead Man: Ethical Responsibility, State-Sanctioned Killing, and Emphatic Impossibility”, in *Alternatives* 22, 1997, p. 483.

<sup>252</sup> Derrida, “Force of Law”, in Molloy, “Face to Face with the Dead Man”, p.483.

responsibility of our actions. Also that, it is the uncanny other who invites us to be ethical, not some abstract principles.

Haber argues that there is a “bad side of Poststructuralism” that it has its own universal principle:

There is a human condition [in postmodernity]; the human condition is that the human condition can never be fully articulated; there is no single description of human condition ranging over all of its possibilities<sup>254</sup>

That is true; Poststructuralism has a universal principle of its own: that there is not a universal human nature. But this does not mean that difference, not similarity, is the only universal condition. We have already discussed how postmodernism also “treats the homogenized practices of provincial associations, equally suspect.”<sup>255</sup> Narratives of essential difference, the belief that things can never be similar, is as foundational as the opposite, i.e. narratives of essential sameness.

In a similar fashion, rejection of moral action pointing to the absence of universal values, i.e. absence of some sort of a sovereignty is as positivist in mentality as celebration of moral action with reference to universal values. Denial as well as acceptance are both positivist attitudes based on correspondence.

On the other hand, when Poststructuralism becomes a critical way of addressing simplistic closures, be they human nature or sovereign state; it may invite us to action, pointing that there are always alternatives. It is in this sense meaningful to conclude this chapter and this study with the following words of Haber: “All unities necessarily have a remainder. It is in fact this remainder that

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<sup>253</sup> Honi Fern Haber, 1994, *Beyond Postmodern Politics: Lyotard, Rorty, Foucault*, New York: Routledge, p. 116.

<sup>254</sup> Haber, *Beyond Postmodern Politics*, p.123.

encourages the hope that the future can always be different from, and perhaps even better than, the past”.<sup>256</sup>

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<sup>255</sup> Necati Polat, “Poststructuralism, Absence, Mimesis: Making Difference, Reproducing Sovereignty”, in *European Journal of International Relations*, 1998, Vol. 4 (4), p. 459.

<sup>256</sup> Honi Fern Haber, 1994, *Beyond Postmodern Politics: Lyotard, Rorty, Foucault*, New York: Routledge, p. 129.

## **CHAPTER VI: CONCLUSION**

In this study, we have discussed ethics and human rights in international politics. Taken as a whole this is quite a broad subject. However, we have tried to narrow it down to the problematization of some mainstream understandings regarding the issue at hand. This problematization rested upon the critical and postmodern perspectives. Yet, it is important to keep in mind that, it is very seldom that those thinkers and authors whose ideas found place in this thesis define themselves as “postmodern”. It is basically the name given to those who criticize modernity. For some of them this problematization or deconstruction plays the function of unsettling power mechanisms behind the dominant discourses. Foucault, for instance, brings the relation between discourse and power into light in his studies. He uncovers diffused systems of micro power at society level. He examines normalization institutions, such as prisons, schools and asylums, and discusses the constitution of docile bodies. The hierarchy between sane and insane; normal and abnormal comes with the naturalization of the former and the defamation of the latter. Furthermore, all types of discourses that reinforce the presence of an essence for the being, like a human nature or the nature of the state, render invisible the violence behind. Naturalization of the boundaries ends up with the naturalization of violence, as the boundaries do not exist as such but constituted, shaped, and changed by everyday practices. War is a way to divide inside from the outside; celebration of national occasions is another way. Military service is a path to produce docile bodies, and holocaust was another path. The elimination of the sick part of the body is not considered to be an atrocity or savageness as long as it is seen as a treatment to save the whole

body. Only when the meaning of health and sickness is determined, we become able to draw the line between treatment and infliction of harm. Then the moment of defining health and sickness becomes quite vital with regards to further stages.

The point with regards to social sciences, sometimes natural sciences as well, the separation of healthy from sick is not a natural but a political one, so is the separation of treatment from harm infliction, security from the insecurity in the classical jargon of the IR, emancipation from the enslavement in the rhetoric of human rights. It was not our aim to replace state security with human security or actors as “states” with actors as “human beings”. Rather we tried to replace an ontic account of actors (be they states or human beings) with a political one in the first instance and to leave the space and possibility for change.

We have built our study upon the criticism of some sort of structuring behind the narratives of international politics as well as human rights. It is without doubt that we came up with our new structures. The antinomy of self-other is criticized with reference to Levinasian understanding of the self as a proximity to the other from the moment of existence. This understanding can well be criticized as being a metaphysical one, even different from the metaphysics of Kant. Yet, it is equally important to keep in mind that there may not be a complete aversion from some sort of structuring. However, as Haber argues: “this does not ... mean that structure must be understood as being out there. On the contrary structures are created and always open to new creative interpretations”<sup>257</sup>

Just like the suppression of micro difference within the islands of difference is subject to criticism, the narratives that are based upon the absence of

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<sup>257</sup> Honi Fern Haber, 1994, *Beyond Postmodern Politics: Lyotard, Rorty, Foucault*, New York: Routledge, p.116.

truth or absence of any kind of ground to take action are equally suspect. Therefore, we have always tried to balance between presence and absence; sovereignty and alterity in this thesis. Yet, the emphasis was on the former. A continuation of this study can be built upon the criticism of nihilistic approaches, or the problematization of some postmodern narratives.

This study is mainly constituted by theoretical discussions rather than exemplification through concrete examples. We have tried to situate the practice of European Court of Human Rights in the framework we have drawn. However, the analysis remained somewhat restrictive. A further study on this subject should, therefore, expand the ideas developed in this thesis, by focusing more on the practice that govern the politics of international human rights. Not only international organizations in the field of human rights can be discussed with regards to the violence they remain part of, but also the whole discourse of human rights can further be deconstructed discussing the concepts like emancipation versus enslavement.

Although the chapters of the thesis are tried to be organized within a particular frame and remained limited in content, they can each be expanded. Each chapter can be a subject of separate study. We tried to benefit from the arguments developed by thinkers like Heidegger, Nietzsche, Levinas, and Foucault, in order to address the issues we have raised in this study. Nevertheless, it is not an extensive study focusing on this authors. Those who are, for the sake of this thesis, put under the umbrella concept of “postmodern approaches” contain considerable differences. Elaboration of these differences may also be subject of another study.

Some may argue that problematization of “human rights” should start from the problematization of the very concept of “human”. We have tried to do this in a very limited sense as well. Because the subject matter of this study was not only “human rights”, as should be clear by now. On the other hand, a study that focused the discourse of human rights in a more restricted manner, should address not only historical development of the concept but also the bio-psychological narratives behind it.

We have tried to problematize naked concepts of “state”, “human” and “morality”, outside of their political contexts in a very simple sense of the word. There are many more naked concepts falling under these general categories like “rouge states”; “developed states”; “refugees”; “minorities”...etc.; each can be a subject matter of a similar problematization.

In the antinomy of the self and the other, we have tried to argue against the objectification of the other. We have tried to provide, in turn, an understanding of ethics that is developed at the face of the victim. An understanding of ethics is not based on abstract universal principles but on the suffering of the victim. Nothing can be more concrete than the story behind the Pulitzer price-winning photograph of Kevin Carter. Carter committed suicide a little more than a year after he shot this photograph of the little girl and the vulture.



The image of the starving child and the violent patience of the vulture behind, paved the way for the Pulitzer price for Carter<sup>258</sup>. From the other side of the issue it was more than the image. It was a never ending conflict between the scene, as the object, and the photographer as the subject. It was this debate that carried Carter to death. What about the relation between us, as the onlookers to this photograph, and the little girl? Standing at a symmetrical distance from the vulture, what is our responsibility towards the victim?

It turns out to be, in the end, the distance between the subject and the object that lies beneath the attempts to suppress, tame and destroy one which is foreign to us. It is the proximity between these two, on the other hand, that makes up our sense of responsibility. Problematising the boundaries, in one way, we tried to highlight this proximity between the inside and outside; self and the other; citizen and the foreigner. Only establishing this proximity, rather than

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<sup>258</sup> For a detailed discussion of this photograph see Susan D. Moeller, "Dangerous Exposures" in Media Studies Center, *Journalists in Peril*, *Media Studies Journal*, vol.10, no.4, Fall 1996, pp.55-87.



distance, we become able to develop an alternative perspective to the question of ethics and human rights in international politics.

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