The dystopia between a universal “Empire of meaning” and local contexts

- a study of humanity, UN dominance and the interaction process of sensemaking

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Abstract

There seems to be a gap between human rights theory and human rights practice. This gap disables rights to be applicable in practice in a meaningful manner. By theorizing this gap with Neil Thompson’s theory of “thinking” and “doing” while shedding light to this gap with a postmodern flashlight, the study shows that the concepts of human rights, human dignity, culture and ideology are in need to be addressed and added to this discourse and certainly to the overall discourse of human rights. A way of doing this is to make rights in the vernacular, as Sally Engle Merry suggests. What will be the consequences of vernacular rights? What is needed is thus to translate universal values into local contexts by acknowledging the cultural dimension of rights and to learning through experience.

Keywords: culture, gap, human dignity, human rights, ideology, theory, postmodernism, practice, Thompson, vernacularization, “thinking” and “doing”.
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1. Introduction

This year seventy years have passed since the end of the Second World War. This will also be the year when the United Nations (UN) celebrates its seventieth birth and the establishment of its foundational treaty of the Charter of the United Nations (1945), hereafter referred to as the Charter. It is an international organisation founded on the basis of inherent universal claims of human dignity. In another three years time the United Nations Universal Declaration of Human Rights (1948) will also celebrate its seventieth anniversary. The United Nations Universal Declaration of Human Rights (UDHR) is an advisory declaration based on the inherent aspect of human dignity that belongs to all of mankind and further forms a universal theory and practice for human rights. According to UN, the fact that all of the UN member states have ratified at least one of the nine core international human rights treaties gives an

“expression to the universality of the UDHR and international human rights. It represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights. Whatever our nationality, place of residence, gender, national or ethnic origin, colour, religion, language, or any other status the international community on December 10 1948 made a commitment to upholding dignity and justice for all of us.”¹

Sadly, even though a universal standard of rights and since almost a century has passed, we are everyday told by the media that the virtue of human dignity is violated. Why is this? Is the Universal declaration of Human Rights’ framework not strong or effective enough? Are rights not the necessary mechanisms for peace with justice guaranteed? Has the warrantee expired? Was it ever effective? Are states not willing or able to ensure a protection for its citizens? Does human dignity even exist? Why is there a gap between human rights theory and its practice?

Various historical and present issues and events could illustrate the gap between human rights theory and practice. People, both migrants and refugees, risking their lives crossing the Mediterranean Sea on overcrowded boats, leaving one humanitarian catastrophe for another,

are just one example, as they are literally drowning in the gap between theory and practice. People claiming justice in human rights’ courts, starving children around the globe, or the genocide in Rwanda, or elsewhere, are other examples of people’s dignity being flushed down the gap. But why does this gap exist? Why is it that practice is not performed as the theory implies?

The gap between theory and practice will in this thesis be examined through three questions: why is there a gap between theory and practice? How can the gap between human rights theory and practice be explained? How can we reduce the gap?
2. Purpose statement

The purpose of this thesis is to theorize a strategy by which the UN could learn from experience and establish a functional feedback system for practice to report back to theory.

2.1 Motivation
The gap between human rights theory and practice becomes problematic since rights are being violated (practice) even though international universal human rights’ frameworks (theory) exist. Therefore the gap needs to be understood, explained and possibly fixed in order for the rights’ framework to be implemented in a meaningful manner and not to be bound by an abstract theory.

2.2 Significance
When conducting a Master’s level thesis one can only dream on contributing something completely ground breaking, in fact even something “new”. My hopes have therefore been to provide a new combination of theories. I have examined human rights through the theoretical framework of “Thinking” and “Doing” with a postmodern methodology. Where I have addressed a way in which universal rights can be translated locally through the concept of vernacularization. This will have significance, as it will hopefully benefit future organizational studies of the UN.

2.3 Research questions
The gap between human rights’ theory and practice implies a symptom of something not being as it ought to. The UN system of human rights exists to protect human dignity. They therefore exist as a protection against violations as the later is what seems to threaten human dignity. These violations however differ, both in content, purpose and action. Out of the acknowledgement of the gap and the foundation for human rights being made up of human dignity I ask three questions:

Why is there a gap between theory and practice?
How can the gap between human rights theory and practice be explained?
How can we reduce the gap?
3. Methodology

This thesis has been a literature study performed through the methodologies of postmodernism. The philosopher Jean-François Lyotard characterized, through his book *La Condition Postmoderne* published in 1979, the era of postmodernism as “the end of grand narratives” by which no religious or metaphysical systems or ideologies longer are able to find common ground. The postmodern condition states there are only partial, subjective and individual truths. This means that the belief in the “project of Modernity” of man’s emancipation through the progress that has been accomplished within science, technology and rationality, is no longer of importance because it has been replaced by narrow subjective projects. Postmodernism is thus not about one true truth but instead of multiculturalism and eclecticism.

As I mentioned in the beginning of the introduction, postmodernism stands for the collapse of absolute standards of value and questions universal truths. According to the postmodern overall understanding, there is no real, no one true value in a text because the text does not have a value in itself. Instead, value is ascribed. John Storey asks “why only certain texts survive the test of time”, answering that

“a text will survive its moment of production if it is selected to meet the needs and desires of people with cultural power. Surviving its moment of production makes it available to meet the (usually different) desires and needs of other generations of people with cultural power.”

Within postmodern theory questions of power is essential. One should therefore ask “Who is doing the valuing, in what context(s) and with what effects of power?” Postmodernist theories are interested in value and how value is ascribed to certain texts where an aspect of this ascribed value is the notion that we believe that the text should also be of value to others. This

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notion forms a belief that one belongs to an ideal community, believing that others should consume the same cultural products and practices.\(^5\)

The hyperreal condition was coined by French sociologist Jean Baudrillard in the early 1980’s. Hyperreality is an inability of consciousness in distinguishes reality from simulation of reality. It is a state of confusion. It occurs when the real is too close to fiction that is described as the simulation of the real. They are so mixed that it is impossible to distinguish where one ends and the other begins.\(^6\) Baudrillard’s argument of this inability is not be interpreted in a literal sense, rather that the distinction between fiction and the real has become less important.\(^7\)

Simulation is not to be understood as a symbol that simply represents the real but, as Baudrillard argues, is actually representing something that does not exist. The world we live in has been replaced by a copy world where man endeavours stimuli and nothing else. This copy world may be illustrated with the example of a society whose cartographers draw that detailed of a map that it covers every little piece it was designed to represent. When the empire finally declines the map fades and what it was once supposed to represents is not longer visible. Neither representation nor the real is remaining – only the hyperreal.\(^8\)

Reasons to why the gap exists need to be addressed by scientific theories which can underpinned and benefit as to why and how to improve. It is of course easier to choose one that is against the statues rather than one that gives the effects of getting what one wants. The use of a theory is however beneficiary as it might help “insiders” to see what is seemingly hidden. A theorizing does not always have to express domination of someone who “knows better”, rather a helpful mechanism to open up the eyes to see what is unfolded.\(^9\) In other words, there is no harm in giving one a good advice.

\(^5\) ibid., p. 202
\(^6\) Baudrillard, Jean, *Simulations*, Semiotext(e), New York, 1983, p. 4
\(^7\) See Storey’s similar interpretation.
\(^8\) Storey, op.cit., p. 189
\(^9\) Baudrillard, op.cit., p. 1
The Charter, and other UN documents, are presumably universal and are for their judicial claims intentions portrayed as realistic as possible. But as the gap exists, the documents are not facilitated in their optimal and most desirable way. There is no guarantee for that they would, but it is certainly worth trying to find other understandings of why the gap exists, as to how theory is applied in practice.

This thesis is not a study that will reveal how and in what way UN documents are complied, neither to determine causes to why the documents fall short and therefore. This is rather a study of theorizing possible reasons to why the gap exists and for a future study to affirm, or decline. Nevertheless, it is not hard to find reasons to why this study of the gap is of relevance as the newsfeed keeps reporting on on-going issues of violations as results of theory not being complied. However, a hypothetical reason might include all the units by which theory as to be interpreted and put into practice. The practice itself includes multiple steps all in which the delicate essence of the theory are threaten by deviation in each step of the way.

I have chosen human rights and human dignity as two of this thesis’ key concepts as these are of central notion to why the UDHR and the Charter exist, as to all other UN documents and treaties. These concepts cannot just exist in theory and thus need to be applied in practice. As I will unfold within the chapter Findings, these concepts have several claims of what they mean and what to make out of them. This multiple differences prove that different interpretations exist which equals different outcomes in practice. A theory is thus of how meaning is created is needed. I have chosen culture and ideology as examples of aspects of how practice is preformed. These multiple performances are not always compatible with theory. What does the UN actually know about culture and ideology?

The UN notion of human rights make claims of being realistic, as other regulations and laws the sense of realism is important for the documents and provisions ensure credibility. How does one give perspectives to something realistic? I will do this by putting on postmodern glasses. Imagine how the UN is a cookie that is thrown up in the air and when it lands on the ground it breaks into a thousand pieces. These pieces are all part of the cookie, but are not the actual cookie. I am able to put the pieces back together, however forming a different shape to the cookie.
The UN strives towards the universal, but is it a reachable destination? Science strives towards the notion of truth, but as human beings, are we not driven by our sense? In the usage of my postmodern perspective I will describe the work and organizational structure of the UN in a different way than of rationality. In this, I will use human rights, human dignity, culture and ideology. This will of course, and inevitable, be conducted in a directed way, as I choose what to acknowledge, however in as an objective sense as possible. Yet, knowing that postmodernism abolishes all objective truths.  

I have chosen to use Neil Thompson’s “thinking” and “doing” as my theoretical framework. These are further explained in chapter Theoretical framework. I will put the cookie together by this theoretical framework by using my key concepts as glue. The key concepts’ purpose is to describe how theory is preformed in practice and to reflect upon a “new” way by which practice can be performed, thus I am creating an analysis of the gap between theory and practice. 

The field of human rights is a complex one, it is therefore impossible to shed light to all necessary dimensions to what the future of applying its theory into practice holds, inevitable leaving parts behind. Remember that the cookie broke into a thousand pieces. Unfortunately, I will not be able to examine and put all thousand of them back together, not within this scope. I choose, however, not to regard them as road-kills left behind unacknowledged, but as curious hitchhikers standing on the verge waiting for someone else to pick them up.

The findings of this thesis, that is the material upon which I have read, made reference to, and later put under analysis, includes the Charter and the UDHR. Furthermore literature that acknowledges, in one way or another, the gap between human rights theory and practice. These include elaborations by anthropologist Sally Engle Merry on how universal norms can and should be translated into local context. Linguists Östen Dahl and Steven Pinker have explained how language works, where Professor of Law Martha Minow has discussed what the language of human rights articulates. Cultural theorist John Storey thought on how postmodernism works has influenced my analysis of this material. Oscar Wilde has suggested that for change to come, we need to prepare us and engage in a full reconstruction of society. 

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10 Argyris, Chris, Overcoming organizational defenses: facilitating organizational learning, Allyn and Bacon, Boston, 1990, p. 16
We can no longer proceed with our exaggerated altruism. This action makes reference to in philosopher and cultural critic, Slavoj Žižek’s thoughts on cultural consumption.
4. Theoretical framework
- Thompson’s “thinking” and “doing”

Neil Thompson, Professor of Applied Social Studies, asks: “What does the process of relating theory to practice actually involve?” and “is it necessarily a good thing?” In his book Theory and practice in human service, Thompson offers to build bridges between theory and practice. The existence of a theory might offer credibility to whatever cause it is set to represent. This causes false pretences, Thompson argues, because there has to be more powerful reasons to why theory is to be seen as valuable, hence why theory ought to be used and we should apply theory in practice. Besides only answering why theory should be applied by saying that it has credibility, there are two general sets of factors that stands in the way of “the values of making use of theory in practice”, Thompson suggests. First of all, practitioners tend to reject theory, as they prefer to adopt what they themselves find as a “common sense” approach. Secondly, theory is often materialized in elitist and therefore inaccessible. Either as the material is written in ways a certain group of people understands or is not physically accessible or related to a broader group of people. This makes, in Thompson’s understanding, theory of little use to practitioners.\(^{11}\)

In order to make sense on why and how the process in which theory relates to practice a parallel can be drawn to with “thinking” and “doing”. We think and then we do, we do because we think. This parallel becomes apparent when one asks: “How do knowledge and thoughts influence or inform our actions?” When we use theory in practice we help to provide an environment in which “thinking” and “doing” “are in constant interaction.”\(^{12}\) The opportunities of doing enhancing thinking, and thinking enhancing doing, which are provided when theory is applied to practice and are not created within themselves, meaning that it is up to the practitioners to acknowledge ones responsibility “for converting those opportunities into enhanced level of practice.” Because it is all created through, and because of an active process in which the practitioner has to take “some degree of initiative and make[s] some


\(^{12}\) ibid., p. 7
commitment to taking the process forward.” The active process by which these opportunities arise is presented in the figure attached below.

![Diagram showing the relationship between Theory and Practice]

Figure 1 “Thinking” and “Doing”

Opportunities arise through learning. Learning is an active process that only becomes valuable through the aspirations of the practitioner who then needs to want to learn. The progress begins with one’s life experience, as this is where we draw our references from until we learn new ones as we receive further information. This new information is acquired through the learning process as it is reflected upon and thereafter applied into practice. We cannot just know and think we also have to do what we know.

Thompsons concludes that it is important to address the three concepts of power, ideology and values when relating theory to practice. Power is essential since “the production of knowledge is both influenced by and influential upon power interest.” For example, who pays for the research or the campaigns, and who are the real beneficiaries. Thompson further explains that theory (whatever it is a theory of) is developed on different power structures of class, race and gender and that theory “is predominantly generated by dominant groups in

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13 ibid.
14 ibid., p. 6
society” and that “practice involves the exercise of power.” Ideology is relevant since it challenges assumptions that state that understandings are objective, when they are in fact highly subjective. The relationship in which theory is related to practice is influenced by the values of the practitioner and thus an important concept to address since “our interactions with one another and with the world are not neutral or value-free.”

4.1 Key concepts

There are four concepts that I will use throughout this thesis. These are: human rights, human dignity, culture and ideology. These might at first glance not raise any eyebrows. They are all somewhat familiar, but when one is asked to give a definition one might have to think a bit, and the definitions between people would certainly differ. My intention is not to tell you what these concepts actually mean, but in a less normative way explain what the intended meanings are when used in this thesis. My intention is therefore rather descriptive, and also to remind the reader that, as philosopher Ludwig Wittgenstein once said, that the meaning of a word does not lie in the word itself, but in the way that it is used.

4.1.1 Human rights: four schools of thought

Since human rights are central to this thesis, it seems only fair to begin to explain different ways of how the concept of rights is perceived. There are different dimension to human rights. One might see them as the paragraphs in different treaties. I am here more interested in the conceptualizing of rights, where do they come from and how, why and what are they perceived like? There are numerous understandings of what human rights are, what they do and how they do what they do, or why they do what they do. They certainly seem to do something. What here will follow is an outline of four ways of understanding human rights in order to come to terms with different approaches and to where this thesis finds ground.

Marie-Bénédicte Dembour, Professor of Law and Anthropology, has identified these four different approaches, which she classifies as “four schools of thought”. I have taken Dembour’s line of thought as presented in her book *Who believes in Human Rights?*:

\[\text{[15 ibid., pp 14-16]}\]
reflections on the European Convention\textsuperscript{16} as well as in chapter What are human rights?, published in the anthology Handbook of Human Rights. These four identified schools are to be understood as ideal types in the Weberian sense\textsuperscript{17} and are presented as a conceptual field of human rights and are together a way of conceptualising our understanding of human rights and are not to be understood as fixed categories\textsuperscript{18}. The aim is descriptive, rather than normative, where Dembour wishes to provide an understanding of how human rights as an expression is being used rather than imposing how it should be understood\textsuperscript{19}.

The four thoughts are identified as the natural school, deliberative school, protest school, and discourse school. If labelled in religious terms, or metaphors, Dembour suggests that the natural school would be called orthodox, the deliberative as atheist, the protest as ascetic or evangelical, and the discourse as nihilist\textsuperscript{20}. Put together as quarters of a circle the four schools of thought may be combined with one another. Combining top or bottom, or left half respectively right half. Dembour explains:

“[…] the top half of the field corresponds to an orientation that tends to ground human rights transcendentally and the bottom half to an orientation that tends to see human rights as a society/language-based reality; the left-hand side of the field corresponds to a liberal and individualistic orientation and the right-hand side to a more collective orientation of social justice.”\textsuperscript{21}

\textsuperscript{16} Despite partly being entitled “reflections on the European Convention”, the idealtypes of human rights which are here presented by Dembour do not only reflect human rights as they are understood in the context of the European Convention. The are presented by Dembour as applicable on the overall field of human rights.

\textsuperscript{17} Dembour refers to Max Weber’s ideal type, which is a way of creating models of concepts or analysis as a helpful tool to understand the world around you. It is highly hypothetical, as ideal types do not exist in reality. Weberian ideal types are rather reference points useful to put chaos in order. “Ideal” does not represent something perfect or something worth striving for, rather something “pure” of its existence. This means that scholars who identify themselves belonging to either school of thought do not necessarily fit the type.


\textsuperscript{20} ibid., p. 255

\textsuperscript{21} Dembour, Marie-Bénédicte. What are Human rights?, op.cit., p. 139
Above is a figure I have made out of Dembour’s original, which was attached in What are human rights? Dembour’s figure was an illustration of a circle with four equal parts, where the four different schools inhabited each of those parts. My alterations add more information to this circle, however all of which is taken from Dembour’s overall description of the four schools of thought. The figure is meant as a helpful tool for understanding, in the context of this chapter, of the thesis as a whole, and for other uses within the field of human rights to establish arguments, categorizations, or for tracking origins of thoughts.

The *natural school* finds inspiration from Immanuel Kant and defines human rights as given. Rights exists as inherent and are something one possesses simply by being a human being. Human rights are part of our moral universe and consist of entitlements and ought to be embodied in law. The *deliberative school* does not undertake the natural school’s understanding of rights as “existing” by nature but does acknowledge them as they provide good principles. The deliberative school finds inspiration in Jürgen Habermas’ theories and wants human rights to be universal and argues for rights to be legally and politically accepted...
as a universal standard. Human rights are agreed upon and consist in principles and ought to be embodied in law as they came to life through the rule of law. The protest school main issue is injustice and rights are therefore seen as claims and aspirations against oppression. Human rights are thus fought for and are able to guide human conduct in the fight against injustice and oppression. They draw inspiration from Emmanuel Levinas. Highly influenced by postmodernism, the discourse school finds inspiration in the philosophy of Jacques Derrida and believe that human rights are language based. Human rights are not something that is by nature given; rather they only exist because we talk about them. Whether rights can be embodied in law or not the discourse school simply acknowledge that they are but it put weight to the question of to what implications embodied rights have. Human rights’ moral statement is here open to question where human rights are not necessarily valued as “good”. Here lies the thesis’ primarily use of the concept.

As a human rights nihilist, Dembour does not believe that human rights exist outside of the social recognition of time. Undertaking the discourse school of thought, Dembour believes that human rights only exist because they are talked about. Therefore it would be impossible to discuss the real or the idealized nature of human rights, as it simply does not exist. Dembour is thus interested in the practice of human rights as in how people use the concept and what human rights means to them.  

4.1.2 Human dignity
In his paper Human Dignity – Functions and Meanings written for the Global Jurist Topics, Doron Schultzinger, associate Professor of Politics and Communications, concludes that there is no one true meaning of human dignity because it is “culturally determined in each society”. These different meanings are “socially constructed in accordance with particular cultural and historical contexts.” As human dignity has become widespread, Schultzinger suggests that its “meanings have become ambiguous and blurred.” Furthermore, that as human dignity is eclectic it “cannot be precisely defined.” However, he suggests that “by outlining and mapping the main linguistic functions of human dignity” will help to clarify the ambiguity and the usage of the term.

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23 ibid., p. 10
Schultzinger identifies five functions and normative meanings ascribed to human dignity as a concept. First function is the use of human dignity as justifications for various rights and duties in legal instruments. That is how human dignity is used in the Charter as well as in the UDHR. Another is in a thick sense where human dignity is used as a worldview, in where we find a third and a forth use, namely rights and duties, and honor. In a thin, and fifth use of meaning, human dignity refers to a degrading attitude or humiliation of human worth.

4.1.3 Culture

According to Sally Engle Merry, Professor of Anthropology and Law, culture and rights are not two opposites as she explains that violations of rights are often explained as embedded in culture where rights push against culture and as rights progress culture gives way. As culture is explained of what not do and what the opposite is, rights and what is the “right” thing to do. The framework of human rights is the dominant approach towards social justice. Human rights in practice are what are referred to as the language of human rights. In order for human rights ideas (theory) to be effected they need to be “translated into local terms and situated within local contexts of power and meaning”.24 “Culture in this sense does not serve as barrier to human rights mobilization but as a context that defines relationships and meanings and constructs the possibilities of action.”25

Merry also describes how culture often forms the basis of national, ethnic, or religious identities. Some people romanticized it as the opposite of globalization, as a distinct form that does not exist in the modern world. Culture is often referred to rural villages where life is understood as fixed on traditions.26

Merry has observed how culture is spoken of as something occurring “out there”, outside of the UN conference room, rather than “in here” as she has conducted research on how the UN reflects upon gender violence. As an anthropologist, Merry makes reference to the anthropological understanding of culture since it has been theorized during the past century and explored how the concept has changed.

24 Merry, Sally Engle, Human rights and gender violence: translating international law into local justice, The University of Chicago Press, Chicago, 2006, p. 1
25 ibid., p. 9
26 ibid., p. 10
“This framework defines culture as historically produced in particular locations under the influence of local, national, and global forces and events. Cultures consist of repertoires of ideas and practices that are not homogenous but continually changing because of contradictions among them or because new ideas and institutions are adopted by members. They typically incorporate contested values and practices. Cultures are not contained within stable boarders but are open to new ideas and permeable to influences from other cultural systems, although not all boarders are equally porous. Cultural discourse legitimate or challenge authority and justify relations of power.”

Merry’s idea of culture can further be explained by cultural theorist Raymond Williams by his three general categories of culture for cultural analysis. Williams does not suggest that the one should pick one of these, or only one, rather that each one of these purposes of culture could together contribute to an overall understanding within the cultural analysis. The first category of culture is the “ideal”. It is a state or a process where human perfection is articulated in terms of absolute or universal values. The second category is called “documentary” and is in which intellectual and imaginative work details human thought and experience. John Storey, Professor of Cultural Studies has further explained this category as “the surviving texts and practices of culture” and that “culture here means the texts and practices whose principal function is to signify, to produce or to be occasion for the productions of meaning.”

“a text will survive its moment of production if it is selected to meet the needs and desires of people with cultural power. Surviving its moment of production makes it available to meet the (usually different) desires and needs of other generations of people with cultural power.”

Third, and last, is the category Williams refers to as the “social” and entails a particular way of life. The vision within the category is to understand what a culture is expressing. I have constructed the below figure of Williams’ categories.

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27 ibid., p. 11
29 ibid., p. 58
30 Storey, op.cit., p. 44
31 ibid., p. 2
32 ibid., p. 201
4.1.4 Ideology

Storey explains that there are similarity between the two concepts of culture and ideology as they are both covering the same conceptual landscape. The overall difference between the two is however that ideology includes a political dimension to its explanations. But alike culture, there are different ways of using or understanding the concept of ideology. These are the five different definitions Storey gives.

First, ideology can be seen as the “systematic body of ideas articulated by a particular group of people.” For example, the ideology of a profession or of a political party explained in words of political, economic and social ideas. Second, in a Marxist understanding, ideology indicates how texts and practices are used to distort images of reality as they create a “false consciousness”. Texts are therefore “reflections or expressions on the power relations of the economic base of society.” The ideology precedes what “type of culture that society produces

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33 Storey, op.cit., p. 5
34 ibid., p. 2
or makes possible.”35 A third definition is exemplified by what Storey refers to as “ideological forms”. This definition depends on society as a conflicting rather than consensual and built upon inequality, exploitation and oppression. Storey further suggests that within this definition, texts, consciously or unconsciously takes sides as they “always present a particular image of the world.”36 Influenced by the work of cultural theorist Roland Barthes, the forth definition functions at the level of connotations where the ideological message neglects the cultural dependency, as texts attempts to make universal and legitimate claims without acknowledging cultural practice.37 The fifth, and last, definition is quite similar to the first definition, but broadens the understanding, as “ideology is not simply a body of ideas, but as material practice.” It explains that practices of everyday life including certain rituals and customs, binds us to a social order by which is “marked by enormous inequalities of wealth, status and power. Within this definition ideology “works to reproduce the social conditions and social relations necessary for the economic conditions and economic relations of capitalism to continue.”38

35 ibid., p. 3
36 Storey, op.cit., p. 4
37 ibid., p. 4
38 ibid., p. 5
5. Findings

I will here present the findings of my literature study. These notes are as of now simply descriptive form and what I will later base my analysis and discussion upon presented in the following chapter, in where you will find my own contribution.

Human dignity is universal in the sense of its claims, as the concepts states that it belongs to all of mankind and that everyone has the right to enjoy ones rights. In the preamble of the Charter it is stated that

“We the peoples of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small […]”

Which is reconfirmed in the very first sentence of the preamble of the UDHR in where is also it is further explained that the recognition of the inherent human dignity will form a foundation for worldwide freedom, justice and peace for all, since everyone belongs to the “human family”.

“Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.”

Human dignity is also expressed in Article 1 where, ”All human beings are born free and equal in dignity and rights”, and in article 23, ”Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity”.

Merry suggests that law can be seen as ideology in which understanding law “contributes to a social construction of the world as fair and just and at the same time provides a language and forums for resisting that order.”39 An on going debate within the field of human rights and

law is the universal claims of the notion of human dignity and how rights per se has circled around a contradiction between universalism and relativism. The first one suggests that there are certain norms that are to be the same to all, whereas the later believes in no such thing and says that it is all relevant and depends on each context in which is further depend on aspects of time and space. The struggle between universalism and relativism is fixed on the premise of an abstract conception of both rights and culture. Where rights suggest the relative merits of adopting a universal system of rights and culture wants is all about protecting cultural diversity. In comparison, the debate between universalism and relativism becomes one about rights and culture in which the nature of both appear uncontested and self-evident.

But, both concepts are fluid and changing theoretically as well as empirically. In posing the choices in “such a dichotomous way ignores the extent to which activists, local people and scholars have negotiated these contradictions and redefined both meanings of rights and the meanings of culture.” Rights are understood as a uniquely Western idea for individuals only as they have emerged from Enlightenment conceptions of the Rights of Man, Merry claims. While culture is understood as a homogenous, integrated system of beliefs and values attached to a relatively small and isolated group of people. But understanding culture as fixed, uniform and unchanging ignores the impact of globalization in the present and historical transfers of cultural beliefs and practices in the past. Instead of considering culture as fixed one should think of cultures as ever changing and related to one another.

Values within societies and groups are negotiated and acted via cultural practices and cultural products. Even law, despite being considered by some as something totally objective, is in fact a cultural practice. The way of how the law works claims of what is just and fair, documents covering these claims and values, as well as the aspect of the protection for individual against the state. These are all aspects of culture and are embedded in a cultural system. Rights, as in human rights, are therefore to be seen as cultural products. Hence, not be excluded or opposite to culture but as culture. As an example of rights as a cultural product Merry suggests male circumcision versus female circumcision, asking why male circumcision is not seen as a violation against human rights. She considers aspects of what would make

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41 ibid., p. 43
male circumcision a violation; matter of choice, level of harm as well as health consequences? As male circumcision are most often performed on infants the level of choice would be out of question, as well of level of harm and potential health issues. There are in fact a lot of objects and practices surrounding society and everyday life that we tend not to think of as culture or cultural practices, not acknowledging that they in fact are. Stopping for a red light, grocery shopping or reading a book are all cultural practices involving cultural products. We tend to think of culture as something going on “over there” as if it was not part of civilization in which we are. Culture is used in a ways of describing the lives of “others” in rural areas and in urban poor. In this way, culture is not something going on in the UN or other transnational elites but as Merry argues, only among those who live in what is referred to as traditional society. Costume, as in cultural practice, is something that belongs in the past and must be changed or withdrawn in order to promote modernity and equality.  

Merry explains that as politicians, officials, activists and NGO’s meet in the UN buildings in New York or Geneva they are all apart of this cultural community and in their work within the process of transnational consensus building they produce the regime of human rights. Both New York and Geneva are

“places defined by a transnational culture of modernity. This is an English-speaking, largely secular, universalistic, law-governed culture, organized around the formal equality of nations and their economic and political inequality. Participants in this transnational society live in two local places at the same time, navigating endlessly between them.”

They produce the regime of human rights by negotiating wordings that will later be printed in the documents in which forms the grammar of the language of human rights. After observing meetings where women’s documents were to be negotiated, Merry wondered why the wording mattered so much. She later came to the conclusion that the struggles of wording were about producing documents “that could be adopted by consensus despite significant political differences”. As well as realizing that, “instead, the strategy of finding phrases that are vague and convoluted was a way to reach consensus”. UN decisions are more effective if they are reached by consensus since this enables documents to articulate global sets of ideas,

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42 Merry, Human rights and gender violence: translating international law into local justice, op.cit., p. 130
43 ibid., p. 37
however often in an opaque manner.\(^{44}\) It is therefore important to focus on the people who make these translations when documents are being appropriated into social situations, and how situations are being translated into human rights violation. To examine the practice of human rights means to ask how human rights work and what do they do? This further means, “examining the channels of communication and institutional structures that mediate between global ideas and local situations.”

Merry introduces a very different way of understanding the relationship between culture and rights using the concept of vernacularization. She uses the term vernacular\(^{45}\) as it explained by political scientist Benedict Anderson in his book *Imagined communities*. The concept of vernacularization was, according to Benedict, developed to explain the nineteenth century process by which national languages in Europe separated, moving away from the medieval transnational use of Latin and creating a new and more differentiated sense of nationhood in Europe.\(^{46}\)

Merry believes that rights are cultural practice that can be explained in terms of cultural products. She also believes that a cosmopolitan cultural sphere makes up the international system. These are cultural products are produced over time through cultural social movements where meanings of activity changes depending on what the social movement cares about as well as the where they receive their funding from. Funding is essential for the activist’s organisations, but could also be seen as a struggle of power since money are often given for certain projects while other, perhaps more in need of struggle in the moment, is left dry. Culture and power are therefore an important part of the practice of the vernacular translation. Rights as culture, as it has previously been explained, are the premise of which Merry grounds her theory of making rights in the vernacular on. Merry has observed a contradiction between “the desire to maintain cultural diversity and the effort to promote equality and rights universally”. This contradiction forms a fundamental tension within human rights practice as universal categories are to be applied within local situations. To further illustrate this contradiction she has identified five paradoxes of the implementation of human rights, which

\(^{44}\) *ibid.*, pp. 46-47

\(^{45}\) The linguistic usage of vernacular would in the Swedish be referred to as ”folkspråk”.

I will examine before moving on to a description on how making rights in the vernacular actually works as these paradoxes gives a better understanding of why the vernacular translation is needed.

The first paradox of implementation illustrates how local conditions are often not relevant to global debates since “human rights law is committed to setting universal standards using legal rationality, yet, this stance impedes adapting those standards of local contexts.” Second, for human rights ideal to be adapted easily they ought to be “packaged in familiar terms, but they are more transformative if they challenge assumptions about power and relationships.” The paradox is found in, what Merry refers to, the persuasiveness of presentation in local cultural terms, but for rights to be effective they “must challenge existing relationships of power”. Third, further reflecting on previous paradoxes, “to have local impact human rights ideas need to be framed in terms of local values and images but in order to receive funding, a wider audience, and international legitimacy, they have to be framed in terms of transnational rights principles.” Forth, if there is not a great amount of rights consciousness, “there will be less pressure on institutions to take rights seriously.” This becomes problematic since institutions “have to implement rights effectively” in order “to promote individual rights and consciousness.” Are rights needed when there is no demand for them? But do people feel the need to think in terms of rights when if they do not believe in them, or do not know that a rights consciousness could exist. Furthermore, why should people bother? Fifth, human rights systems ought to “challenge states’ authority over their citizens” but at the same time the systems reinforces states’ power since states’ sovereignty is fundamental in international law.47

These paradoxes are what could be seen as reasons for the gap between theory and practice since human rights “as a legal system, human rights law endeavours too apply universal principles to all situations uniformly.” As local conditions are ignored in this process, in to some extent needs to be ignored for the universal order to flow, the gap is inevitable. The gap consists of the struggle between global visions of justice and specific visions in contexts as these contradictions leads to the above mentioned paradoxes, or dilemmas.48

47 Merry, Human rights and gender violence: translating international law into local justice, op.cit., p. 5
48 ibid., p. 103
“How do transnational human rights ideas become part of local social movements and local legal consciousness?” Merry asks. As Merry later explains, transplantation is both global and local at the same time as “The programs are tailored to local contexts but arrive through paths of global circulation.”

The practice of transplanting human rights institutions and programs involves, as Merry suggests, appropriation and translation. Where appropriation is explained as “taking the programs, interventions, and ideas developed by activists in one setting and replicating them in another setting.” And translation is “the process of adjusting the rhetoric and structure of these programs or interventions to local circumstances.” Merry concludes:

“However, even though programs are translated into new contexts and framed in culturally specific ways, they are never fully indigenized. They retain their underlying emphasis on individual rights to protection of the body along with autonomy, choice, and equality, ideas embedded in the legal codes of the human rights system.”

Martha Minow, Professor of Law agrees with the linguistics reference and suggests that rights could be understood as a language, which “reconfirms the different commitment to life together even as it enables the expression of conflicts and struggles.” The language of human rights is useful for people as it helps to “articulate standards for judging conduct without pretending to have found the ultimate and unalterable truth”. Minow further explains that rights as a language-based concept are used for expressing meaning that persists even beyond their use within legal institutions. The linguistic framework of rights could be understood in reference to philosopher Jean-Paul Sartre whose conception of language is rather a “mode of human action and creative self-expression” than rule-bound meanings. As language is created in its usage, it is highly intersubjective. Meaning might therefore easily change or even be lost. In Minow’s understanding, rights ought to be established in legal institutions to receive its full meaning. Where the concept of having one’s right is used spontaneously without acknowledgement from a formal legal apparatus.

50 ibid., p. 266
51 ibid., p. 266
“People use rights and claims to particular freedoms or entitlements to refer to what they perceive as their due, […] People often speak spontaneously of rights, far from legal institutions. For example, they may make assertions of entitlement, need, and interest when they collide that the bus stop or on the playground. Children no less than adults can participate in the legal conversation that uses rights to gain the community's attention.”

Östen Dahl, Professor in General Linguistics, has given a thorough explanation to what linguistic are and how the language-system works. Language has three combined parts: sounds, the dictionary and grammar. By the dictionary Dahl refers to words. Words are highly interesting in linguistics because they do not mean anything per se but their meanings have been formed by different conventions. These conventions are also per se interesting, Dahl says, as convention refers to something that is agreed upon when not all speakers of a certain language has “agreed upon” why cow refers to an animal. But Dahl explains that every time one use the word cow in reference to the animal cow it is considered as acknowledged.

Dahl believes that spoken communication is more essential no human over written communication. There are numerous differences between spoken and written information. The most significant difference is that written information leaves a physical trace. Dahl further explains that written information is less fixed on time and space since the receiver is able to read the message elsewhere, physically and in another hour. Written communication allows more preparation and thought, however the writer do not get the benefits of instant feedback, which the speaker usually does.

Dahl actually uses the UDHR’s article 1 as an example of written communication because it has been translated into 270 different languages and the content is, what he refers to as, edifying. He then uses article 1 as it is translated into different languages as examples when referring to different languages. The article’s content, purpose or use, are not given an account of. This is not necessarily a critique of Dahl, but rather an observation that the UDHR

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54 ibid., p. 14

55 ibid., p. 16
as a text seems to be readily adapted without much thought to its content since it is supposedly edifying, hence of good cause. I will later address this example in chapter 10.

Experimental psychologist Steven Pinker, Professor of Psychology, explains language as a window into human nature. He does not however agree with linguistic thought of language being something agreed upon as language is something inherent and is profoundly a part of our brains like any other instinct. “Language is not a cultural artefact that we learn the way we learn to tell time or how the federal government works. Instead, it is a distinct piece of the biological makeup of our brains.” For Pinker language is a complex skill, which “developed in the child spontaneously […]” 56

Even tough Pinker’s premise of language differs from the discourse school of thought way a thinking I do believe that his thought on what language does. In his book *The Stuff of Thought* he further explains how language has to do two things. First, it has got to convey content, for example a proposition. Secondly, it has got to negotiate a relationship type. There are mainly three different types of relationships using language at different levels. For example, using the literal form, which can be thought of as the easiest way to signal the safest relationship type to the listener who is required to read in between the lines. As Pinker suggests, politeness at the dinner table is an example of reading in between the lines. When you ask somebody to pass the salt you need to do it in a way that gets the intended content through without the dominance of the imperative.

In reference to the anthropologists Alan Page Fiske, Pinker draws upon three major human relationship types; Communal Sharing, Authority ranking, and Equality Matching. Each relationship type prescribes a distinct way of distributing resources, each has its own distinct evolutionary basis and each applies most naturally to certain people, possibly extended through negotiation to others.

The first relationship type, Communal Sharing, goes by the logic of “What’s mine is thine; what’s thine is mine.” The relationship type arises most natural among blood relatives, Pinker argues. Kinship metaphors are often used as a technique to signal this communality within

clubs, political parties and social movements, for example brotherhood or sisterhood to establish a common foundation.\textsuperscript{57} In the UDHR the Communal Sharing relationship type is found in article 1, where brotherhood is used to signal common ground, that we are all connected, or at least people defining themselves as brothers. It states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

The second relationship type, Authority ranking, refers to power, status, autonomy, and dominance and goes by the logic of “Don’t mess with me.” This relationship type is strictly built upon linear hierarchy. Authority ranking is not essentially signalled through words but rather through the Kantian categories of space, time, substance, and force. “Hundred of metaphors express this equivalence, like first among equals (time), strongman (force), big shot (size), and top dog (position in space).”\textsuperscript{58} The third relationship type, Equality Matching, are perhaps more familiar as reciprocity, exchange, and fairness. Pinker suggests that the logic within this type is “If you scratch my back, I’ll scratch yours”, and “its evolutionary basis is reciprocal altruism.”\textsuperscript{59} The last relationship type is like the first one also applicable in UDHR where it is described in article 29(1). We do have rights but we also have duties towards society and the community we live is which calls upon the reciprocity of Equality Matching. “Everyone has duties to the community in which alone the free and full development of his personality is possible.”

According to discourse analysis, communication is not possible without “shared knowledge and assumptions between speakers and hearers”\textsuperscript{60}. Language and situation is therefore inseparable. Pinker asks why freedom of assembly is defined as fundamental in a democracy as well as why political revolutions are triggered when a crowd gathers in a public square. It is because they are products refined out of the creation of mutual knowledge. Pinker argues that the answer to these two questions is found in explicit language, as it is an excellent way in creating mutual knowledge. In individual knowledge A loathes the dictator and B loathes the dictator but A does not know that B also loathes the dictator and vice versa. In mutual

\textsuperscript{57} Pinker, Steven, \textit{The stuff of thought: language as window into human nature}, Viking, New York, 2007, p. 402
\textsuperscript{58} ibid., p. 404-405
\textsuperscript{59} ibid., p. 408
knowledge A loathes the dictator and B loathes the dictator, where A knows that B also loathes the dictator and vice versa followed by the knowledge that the A knows that B knows that A knows that B knows, ad infinitum. The mutual knowledge is created when A, B, C, D, and so on all gathers at the public square for the demonstration where they will find a collective power to challenge the authority of the dictator. Another example of how mutual knowledge is created draws upon the emperor’s new clothes. Pinker argues that the boy who says that the emperor is naked does not tell the crowd anything that they did not already knew, but instead, he was changing the state of their knowledge using explicit language\textsuperscript{61}. Therefore forming mutual knowledge.

What are the words within the language of human rights telling us? Merry has suggested that words to not mean the same to everyone since we all act within different systems in which value is produced. We all have different agendas for using the language of human rights. For some it is more important to win over being right and words are juggled. For others the words being used do not have any value per se, it is rather more important how they are being used. For some it is important to stick to one’s word, while others are rather interested in the result and not how these are accomplished.

If human rights framework is understood as language based, a suggestion to why the gap exists is that not all member states, despite have signed the documents, speak the language of human rights as fluently as others. Some might not intentionally even speak it very well at all as they are desperately trying to understand but do not seem to get a grip of the vocabulary or the grammar. The concept of “human dignity” will therefore be received without meaning, just like any other word like justice, right or responsibility.

Sociologist Pertti Alasuutari refers to linguist and semiotician Ferdinand de Saussure who suggests that words only “exist to us through the way in which language and culture divides nature into meaningful parts, which are given their own names.” Within the linguistic and the semiotic school of Saussure these criteria are “determined by cultural conventions that people adopt through the medium of language as they are socialized as members of a culture.” What we perceive around us are “series of continua that the language system divides into meaningful parts and relationships between the terms used in identifying these parts.” The

\textsuperscript{61} Pinker, \textit{The stuff of thought: language as window into human nature}, op.cit., p. 419
concepts and conceptual distinctions we use through language do not have a “referent in the reality that is independent of language and concepts.” Meanings of words consist “of all the determinants and definitions that are given to each term.” There is no “actual content or real essence of the concept; rather, that imagined essence is an ‘empty centre’ surrounded by all the attempts at a definition.”  

Saussure developed the theory of structuralism that believes that human culture is not to be excluded from the system or structure in which it functions. Because of this inclusion of combinations and relationships structuralists are not interested in truth or the actual content. Structuralisms further believe that “language organizes and constructs our sense of reality – different languages in effect produce different mappings of the real.”  

Signs and symbols forms language and are given their function as parts of certain systems or structures in which their meanings are determined. Post-structuralists rejected the structuralist idea that meaning is found in underlying systems because in their postmodern belief, meaning is always in process with no predetermined structure. The only one who can bring meaning to a text is the reader, who is only able to do this temporarily since meaning is always in a flowing process. Meaning always derives out of relations of power.

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63 Storey, op.cit., p. 112
64 ibid., pp. 126-127
6. Analysis and discussion

“A map of the world that does not include Utopia is not worth even glancing at, for it leaves out the one country at which Humanity is always landing. And when Humanity lands there, it looks out, and, seeing a better country, sets sail. Progress is the realisation of Utopias.”

- Oscar Wilde, *The Soul of Man under Socialism (1895)*

In his late nineteenth century essay, author and poet Oscar Wilde wished to reclaim the true sense of Individualism (Wilde’s capitalization). In its true sense, Wilde argues, Individualism should encourage individual’s differences without ever constraining one over the other. All kinds of constraints would therefore prevent the individual from being free. These constraints become problematic since freedom is essential to man as it enables the true sense of Individualism to root and grow freely.

Wilde stresses how capitalism and private property have contributed in destroying our true Individualism and replaced it with the false notion of it. The falsity have spoiled man with unhealthy and exaggerated altruism without realizing that the problems are in fact caused by what is thought of as the solution. Even though the intent may noble, the exaggerated altruism is applying the root of the problem as medicine, prolonging the disease by bringing further spin to the vicious circle of poverty. Instead, Wilde insists that the proper aim is to try to reconstruct society on such a basis that poverty will be impossible. In this manner man would enlarge the perspective of the problem and provide a both morally and just solution.

In reference to Merry’s thoughts on the contradiction between “the desire to maintain cultural diversity and the effort to promote equality and rights universally” we ought to prepare to let go of wanting to have it all. If we want right theory to work we need to enable it in practice, hence realizing that “we” are as much part of the problem as “them”.

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Man is willing to offer a small sum of his private property in his misleading assumption that this will help. However, he is not as willing in giving it all away, or even degrading his social and economic position, to contribute to a reconstruction of society. Therefore Wilde calls it an exaggerated altruism. According to Wilde, man is more likely to feel compassion over sympathy. Our feelings arise easier than our intellect; this contributes to this misdirected and misleading ambition. We believe that we have discovered the cure when we are in fact part of the sickness, without even realizing it. It is however not up to man to solve the institutions necessary for this reconstruction because that is of the responsibility of the State to provide and manufacture whatever all necessary commodities, and for “the Individual is to make what is beautiful.”

A contemporary example of the meaning of Wilde’s concept of the exaggerated altruism is found in philosopher and cultural critic Slavoj Žižek’s thoughts on Starbucks’ ad campaign “It’s not just what you’re buying. It’s what you’re buying into.” In Žižek’s passage of the “New Spirit” of Capitalism the Starbucks advertisement is referred to as “cultural capitalism” which means a level of consumption where

“we primarily buy commodities neither on account of their utility nor as status symbols; we buy them to get the experience provided by them, we consume them in order to render our lives pleasurable and meaningful.”

The advertisement was featured in USA Today in May 4 2009 and is here quoted as Žižek cited it.

“But, when you buy Starbucks, whether you realize it or not, you’re buying into something bigger than a cup of coffee. You’re buying into a coffee ethic. Through our Starbucks Shared Planet program, we purchase more Fair Trade coffee than any company in the world, ensuring that the farmers who grow the beans receive a fair price for their hard work. And, we invest in and improve coffee-growing practices and communities around the globe. It’s good coffee karma…. Oh, and a little bit of the price of a cup of Starbucks coffee helps furnish the place with comfy chairs, good music, and the right atmosphere to dream, work and chat in. We all need places like that these days…. When you choose Starbucks, you are buying a cup of coffee from a company that cares. No wonder it tastes so good.”

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66 ibid., p. 20
67 Žižek, Slavoj, First as tragedy, then as farce, Verso Books, London, 2009, p. 52
Žižek explains:

“[…] the price is higher than elsewhere since what you are really buying is the “coffee ethic” which includes care for the environment, social responsibility towards the producers, plus a place where you yourself can participate in communal life (from the very beginning, Starbucks presented its coffee shops as an ersatz community).”

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The exaggerated altruism can also be found within our belief in human rights theory. Even though we believe into of good cause it becomes problematic since the theory is not being carried through in practice. If we on believe in a dysfunctional system we will not help, we will only prolong the violations.

Wilde asks why the poor should be grateful for crumbs falling off the rich man’s table when they should in fact be seated at the same table, eating the same meal. As disobedience is man’s original virtue more and more people are starting to realize this, Wilde argues. This passage draws, in my opinion, reference to Aristotle’s thoughts in Politics on how to provide for good human conduct, as presented by Martha Nussbaum, Professor of Law and Ethics. Water and fresh air are fundamental for good human conduct and it is the ruling power’s obligation to provide these resources for all men. The act of participating in communal meals is an important aspect of social life. Because of unregulated and unspecified forms of private property, some men are denied participating and are therefore neglected an important part of commonality, Nussbaum writes.69

Wilde was not a philosopher, nor was he a politician. He was an author and his works should therefore both be read and interpreted in that perspective. With or without an ideological intent, the over one hundred year old social criticism is highly applicable on the current discourse of universal human rights where solutions are driven from here to there instead of from within. As well as where universal norms seem to have problems being implicated in local spheres solutions are seldom drawn upon how “we” ought to change, it is almost always

68 ibid., p. 53

“them” who bares the blame and are in need of change. Thus, neglecting Wilde’s reconstruction. 70

So, how do we draw a map in which Utopia is included? Firstly, cartography faces a few problems. One of them is concerning the map’s agenda, what is the map suppose to cover? Some of these traits are not always physicals, as a road, a building, or a mountain, but could also be toponyms or political boundaries and how are we suppose illustrate these? Aspects of generalization may also cause problems. The complexity of the map needs to be reduced, where objects that are not relevant to the map’s agenda might not be portrayed, and therefore reducing a part of reality. When these obstacles are dealt with, the cartographer needs to draw a map that is as conveying as possible. As of now, the gap between theory and practice has not been illustrated. Maybe it is because it does not fit our view of Utopia and is therefore to be excluded on behalf of our imagination. Maybe we think we have drawn a map in which Utopia is included by signing universal agreements like the UDHR. However, this map is clearly either out of date or not portraying what it should.

There are a few different dimensions to how a map in which Utopia is included might cause confusion leading to a gap between theory and practice. Because of my postmodern glasses, all I see on the map are different locations which does not give me a direct hint on what this map is covering, nor where I am “standing” according to the map, like that often red dot on maps to locate where the map is in reference to the covered are. I am also aware of the fact that other people viewing this map will probably not see the same thing as me. They will firstly perhaps have other references to where they are located within this map. We might not agree that the map covers what it should as one might suggest other borders or another scale. By drawing a map in which Utopia is included, where Utopia problematizes this as it will not acknowledge these multiple forms of opinions.

Furthermore, my postmodern glasses also acknowledges the question of who has drawn this map and why, to what cost and who paid the bill? What paper and pen were used, in other words what systems of power and what ideology, or ideologies, made this map possible? The one who wins also writes the history. Thus, also decides what traits the map should cover and

70 Wilde, Oscar, Människans själ under socialismen, Ellerström, Lund, 2000, p. 17
what traits not to. If this is the only map given, one who perceives the terrain differently will not find his or her way, nor will he or she be able to read the map.

According to Thompson’s theory, we need to think before we do and do what we think. If the map-readers just do and not think they will most certainly to reach their destination. If the cartographer did not think before they drew, the knowledge or thought done by the map-reader is of no use since the map would not portray reality.

The left one is theory and “thinking” and the right one is practice and “doing”. Underneath there is an arrow going out of the circle of theory and into practice. Above is an arrow going from practice. The arrow from underneath represents how opportunities arise when theory is applied to practice and the above arrow represents the opportunities that will come by learning from experience. This, here, imaginative model is put as a figure in Thompson’s book. I will however now modify it to fit my analysis, so these further imaginative instructions are based on my analysis and is not portrayed in Thompson’s model. If any dimension or stage of this process is not fulfilled as they ought to, the arrow will be crooked and thus damaging the entire system. The crookedness is where we find the gap. If we choose not to learn from experience, where is the use in theory? If theory is not applicable on practice there will be no use for it either, not in its literal sense. There might however still benefits for power relations as the theory might still be drafted upon their behalf and thus continue their dominance.

The arrows are vessels transporting input and output. When this is applied to the organisation of the UN one aspect of why the two arrow crook might perhaps be of the fact there are only two arrows in which this information are to be transported from the circle of theory in which the officials are located to the circle of practice where all the local contexts are, and vice versa. This does not enable Merry’s vernacular solution. For the vernacularization to work more vessels are needed for different interpretations to become part of the flow. We need vessels that will work for all cultures. As of now there is only one vessel that is said to be universal. To be able to function this vessel you have to speak the language of human rights and package your messages in human dignity. These vessels of culture and vernacularization are needed to reduce the gap and straighten the arrows. For the arrows to stick to the circle you also need to know how to work the bow. In other words, Thompson’s words, you need to want to learn how to properly shot arrows with the bow. As of now, the only way to work the
bow is to speak the language of human rights and you need to believe in human dignity. This is applicable on Thompsons figure of “thinking” and “doing”. I have modified the figure to illustrate how I have used it to fit the gap between human rights theory and practice, and thus applying the gap to it.

Ideology can be seen as the lines that form each circle because it is what has shaped the contexts in which each function. It furthermore implicates the power structures within these circles but also the structure in which they interact. This interaction, or relationship is marked by the dominance of the UN who creates human rights theory, while the local contexts are the subordinated one. Here is where the violations happen. A crooked arrow between the two means that the UN will not get the opportunity to learn from experience. Which further leads to losing the opportunity to use experience to enhance practice.
In the Greek myth of Orpheus and Eurydice, Orpheus could not bear not ever again seeing his wife Eurydice. She had passed away and was therefore kept by Hades in the underworld amongst other dead souls. Orpheus travelled down to the underworld to bring back his wife. By playing heart-breaking tunes he managed to convince Hades to release Eurydice from the dead. Hades had one condition, though; Orpheus was not allowed to look at his wife until they had fully returned to the upper world. As the lovers had almost reached the upper world, Orpheus could not wait any longer and turned around to look at Eurydice. In a blink of an (his) eye she got dragged back into the underworld and vanished from his sight, forever.

There are different interpretations of the myth, on what it is symbolically representing and what moral content it brings, if any. Some might say it is about looking into the future instead of the past or that it is a tragic love story. I think that one interpretation could be that Orpheus saw himself as a hero rescuing a victim, here played by Eurydice. But does Eurydice need Orpheus? Is she even a victim? Did Eurydice want to be saved? Was she in need of help? For its purpose of existence a hero needs a victim, hence, Orpheus needs Eurydice. Orpheus is in a sense blinded by his own imagination to recognize other people’s demands, wishes, emotions and life paths. Did the blindness of universal human dignity cause practice to be dragged down back to Hades? Do we need to be rescued by human rights?

In his book review of historian Samuel Moyn’s *The Last Utopia*,71 human rights lecturer Adam Etinson replies to Moyn and writes about how our visions of utopia are overwhelmed by human rights aspirations. Instead, Etinson argues, that a utopia needs to be more than just rights. As we let human rights be a vital standard of politics we also let it fully embody what utopia ought to be, not making room for other types of standards. Human rights have become the dominant ideology of our time contributing to our lost sight of other important ways of striving towards cultivating human virtues in all its forms not just dignity, where Etinson lists athletic, intellectual, moral, artistic dimensions of virtue.

This lost sight of the whole have minimized what we now expect of politics when we could demand other claims of life and thus provide for a dangerous form of complacency “because it shrinks our sense of what we can imagine and strive for [...] We can and should expect

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more than just guarantees of rights from society, from politicians, and from others.” Etinson concludes his article with suggesting that the concern is not how to “preserve the utopian status of human rights into the future” but rather “how to rescue utopia from the clutches of human rights.” The answer to this lies in a sober attachment, Etinson says. As human rights have become the dominant ideology of our time, hence making us lose sight of what is really important, we have been blinded by ideological clichés. What we according to Etinson need to do is to lose the clichés and let human rights remain as rights and not as utopia. 

7. Conclusions

I will conclude the main point of my analysis by once again answer the research questions. Why is there a gap between theory and practice? This thesis has shown that reasons underpinning a gap between theory and practice are different but all of which relates to an overall misconception of how theory and practice relates to one another. Thompson suggested that to be able to answer this question one should first ask what it means to apply theory to practice, in where he suggested that interpreting theory as thinking and practice as doing is a first step. These two are linked to how we learn knowledge. Learning differs from the materialized knowledge that is acquired since for the learning (thinking) process to follow through one must also perform this in practice (doing).

How can the gap between human rights theory and practice be explained? The gap consists of, as Merry suggests, disconnected global visions and specific visions in local contexts. There is a gap between human rights theory and practice because the first one is not applicable in the later as meaning is not predetermined but is under continuing process. As the dominant cultural group found within the UN have subordinated member states, all of which do not have the same cultural references as applied within the boardrooms of the UN offices in New York or Geneva, they do not always speak at same level language of human rights. Due to this a gap is created because that the practice is not able to meet theory. The dominance and elitism in UN also contributes to elitist based claims that are not accessible to all. The gap is also a result of misleading assumptions that rights are opposite to culture when there are in fact the same.

The gap between human rights theory and practice is not found in lose of literal translation. As Dahl mentioned, the 270 translations of the UDHR are probably made professionally with words carefully chosen. However, translating a text from one language to another does not mean that a theory is likely to be accomplished, on a basic level it just means that people can in the language of their choice read what has been written in another language.
I have come to the conclusions that the language of human rights expresses the universal value of human dignity. Further that the claim of universality is however critiqued by the postmodernism, as it does not believe in absolute truths. Most importantly, I have found that culture is an import concept to acknowledge and apply when talking about human rights. This is especially crucial since there is a gap between human rights theory and practice, a gap in which violations occurs, often with horrible outcomes of death. As these outcomes are not compatible with human rights theory as everyone has the right to life, prohibitions against torture and so forth, we ought to as Wilde suggested a century ago, reconstruct our rights-society to that these violations are not possible. We can therefore no longer exclude culture not ideology to the discourse of human rights since the two concepts are part of the solution.

7.1 Suggestions for future research
These suggestions would both work as individual ideas for further research in reference to vernacularization and human rights as culture, as they would works as linked chapters continuing this thesis. The overall suggestion for future research is acknowledging rights as culture, however more precise are as followed.

In reference to Saussure thoughts on language his concepts of “langue” and “parole” future research could explore how these terms helps to articulate the distinctions between human rights theory (langue) and practice (parole), and if difference is still found this classification system might be of assistance.

Cultural appropriation is a concept used for explaining how a member of a culture imitates something that is usually found within a different culture and thus in a sense places this item or practice as hostage.73 This might become problematic when the hostage taker belongs to what is seen as a dominant culture and the item or practice originated within a subordinate. Cultural appropriation would in this sense further compliment Bourdieu’s concept of culture as the struggle between the dominant and the subordinate. However, I would find it interesting to observe this in a reverse sense. This would then be applicable on the

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appropriation, which Merry’s explains happens within the process of vernacularization when rights are transplanted to fit the local context and therefore not appropriating the “whole deal”. What happens with the rights when certain rights are being extracted from the universal cultural of rights and applied as hostage in the culture where it does not really exist?
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