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Q2(c)

Can there be universal conception of human rights? Give your arguments

UPSC Civil Services Mains 2021 · PSIR GS 1 · 15 marks · Rights

Rights: Meaning and theories; different kinds of rights; concept of Human Rights.

Core demand of the question

- Can there be a universal conception of human rights? Give your arguments. (15 marks)

Revision summary

Universality of human rights is a claim about persons as persons, stated in the UDHR.

A core against torture, slavery, and caste humiliation can be universal; a thick cultural code cannot.

Relativism and **Marx** contest a single bourgeois list; they do not erase a floor.

Vienna 1993 joined universality of claim to diversity of form.

Habermas locates universality in free deliberation, **Rawls** in a thinner law of peoples.

Introduction

A universal conception of human rights claims that some entitlements belong to persons as persons, not as members of one culture or one state. The claim is possible as a moral and legal floor. It is not a finished identical list in every society.

Body

The case for universality

- The 1948 Universal Declaration speaks of inherent dignity. **Kant**'s person as an end is a philosophical ancestor; **Locke**'s natural rights are another.
- **John Rawls** later offered a law of peoples with human-rights limits on decent societies, a thinner universalism than a full liberal list.
- Without some universal floor, **MacKinnon**'s point on sexual violence and **Ambedkar**'s point on untouchability become "local custom".
- Indian **Articles 14, 17**, and 21, and **Kesavananda**'s dignity strand, treat some rights as not merely majoritarian gifts.

The case against a single thick list

- Cultural relativism after **Boas** and **Herskovits** warned that a Western civil-political catalogue can be empire by other means.
- **Marx** called bourgeois rights the rights of the egoistic man of civil society, incomplete without social emancipation.
- Asian-values and security-state arguments invoke order and development against civil liberty.

- **The 1993 Vienna Conference split the difference:** universality of claim, diversity of implementation.

Argument, not a draw

- There can be a universal conception of basic rights against torture, slavery, caste humiliation, and arbitrary killing. **Henry Shue**'s security, subsistence, and liberty are that floor.
- There cannot honestly be a universal identical code of family, blasphemy, and property down to every clause.
- **Habermas** would say the universality is procedural: free and fair deliberation among those affected, not a tablet from one civilisation.
- So the answer is yes to a universal core, no to a universal encyclopedia, and always yes to argument rather than to silence in the name of culture.

Flow diagram

Universal core -> Dignity security subsistence
Universal core -> Arts 14 17 21
Relativism Marx -> Thick list contested
Habermas -> Procedural universality

Conclusion

A universal conception of human rights is defensible as a floor of dignity and basic security, which **Ambedkar** and MacKinnon need against custom. It is not defensible as one thick Western statute for all peoples. Vienna's formula, **Shue**'s basics, and Habermas's public reason are the workable yes.

Facts & figures

UDHR, 1948

Non-binding but canonical statement of inherent rights.

Vienna, 1993

Affirmed that human rights are universal, indivisible, and to be implemented with national particularity of form.

Article 17

Abolition of untouchability: a universalist right against a local social order.

Shue

Basic Rights treats security, subsistence, and liberty as the floor of any serious list.