Human rights as status relations
A sociological approach to understanding human rights

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Introduction

The development of the notion of human rights and the creation of social institutions to articulate and defend such rights is one of the most striking developments since World War II. An enormous amount has been written about this development, especially in the fields of law, politics, and philosophy. Sociologists have certainly discussed and analyzed human rights from several perspectives, including collective memories (Levy and Sznaider 2006) and new institutionalism (Hafner-Burton and Tsutsui 2005), as a means to address social inequalities (Blau and Moncada 2006), and some have attempted to empirically test the strength and weakness of these various approaches (Cole 2005). According to Turner (2009) the existing literature has not, however, theorized human rights to the same degree that it has notions of citizenship. This chapter will attempt to make a contribution to better theorizing human rights by looking at it through the lens of one particular sociological theory – the theory of status relations. The theory attempts to explain the patterns of behavior that emerge when status is not due solely to economic or political power; why, for example, people behave the way they do in teenage cliques or in the presence of celebrities. The details of the theory will be elaborated below.

The theory has been used to analyze several other phenomena that at first appearance seem far removed from the analysis of human rights. These include the Indian caste system (Milner 1994a), patterns of religious behavior (Milner 1993, 1994b), American teenagers (Milner 2004), celebrities (Milner 2005), and the interaction between relatively universal status processes and particular cultural traditions (Milner, in press). There is no claim that this theoretical approach can adequately explain all or even most of the interesting questions surrounding the development of human rights, but only that it can throw new light on some aspects of this phenomenon.

As a preliminary statement, it can be said that human rights insure that all persons are endowed with a minimum level of social status that protects them against certain kinds of penalties and entitles them to certain kinds of resources. Often a distinction is made between negative or individual rights that protect the individual from oppression (e.g., arbitrary arrest, torture, and religious persecution), and positive or social rights that give the individual some entitlement (e.g., guaranteed employment, educational opportunity, and health insurance). Sometimes distinctions are drawn between civil liberties (e.g., a fair and open trial), civil rights (e.g., protection

against discrimination), and social rights (e.g., a minimum income). Although such distinctions can be useful, there is not a clear line between them. Implicit in the notion of minimal rights is that these are ascribed (i.e., they do not have to be earned by the individual), they are inalienable (i.e., they cannot legitimately be taken away from the individual), and they are universal (i.e., all people in all contexts should have these protections and entitlements). There are, of course, extensive disagreements about what protections and entitlements should be considered universal human rights.

Other types of minimal rights

For purposes of sociological analysis it is useful to keep in mind that there are other types of minimal levels of protections and privileges that are tied to the status of individuals and groups. In his poem "The Death of the Hired Man" Robert Frost writes:

> Home is the place where, when you have to go there,
> They have to take you in.
> I should have called it
> Something you somehow haven't to deserve.

In virtually all kinship systems members are entitled to at least minimum levels of assistance. Of course, sometimes such relationships break down, and whether one is considered a member or non-member can change, but these are exceptions and qualifications rather than the absence of such a principle.

Such minimal rights apply at other levels of social organization. In feudal societies freemen had certain minimal rights that were not available to slaves. In work organizations that have union contracts, workers are guaranteed minimum levels of pay, benefits, and job security. Nation-states offer citizens certain minimum rights that non-citizens are not automatically entitled to – starting with the right to live within the borders of the state.

The key analytical point is that human rights are the extension to a particular type of social arrangement that is quite old: the guarantee of some minimum level of protection and entitlement. But this is always contingent upon the individual having some minimum level of status and respect within the relevant social unit. It is also contingent on some third party to legitimate and defend the rights of the less powerful. Before spelling out the implications of the above points, the definition and nature of status needs to be clarified.

What is status?

Within the realm of sociological analysis the word "status" tends to have two related clusters of meaning. One focuses on difference and has such synonyms as position, category, class, "the other," and standing (e.g., legal standing). A key example of this usage is found in role theory. Such scholars as Ralph Linton (1936) and Robert K. Merton (1957) used status to refer to a social position: tinker, tailor, soldier, sailor … doctor, lawyer, and Indian chief. The other cluster of meaning focuses more on rank and gradations and includes such synonyms as prestige, grade, rank, and level. This emphasis is associated with such notions as honor, esteem, disgrace, and degradation. Max Weber's well-known discussion of status groups (1978) and numerous kinds of prestige scales (Warner 1963; Blau and Duncan 1967; Marmot 2004) are examples of this emphasis. Of course there is not a hard-and-fast line between these two meanings, and often the word "status" simultaneously implies both meanings; for example military ranks refer to

both a gradational hierarchy and to distinctive social positions that generally have different job responsibilities. The theory of status relations focuses primarily on the second meaning of status, though I will talk about how the gradational type of status is transformed into a more bounded social category.

Status in the gradational sense can be considered the accumulated expressions of approval and disapproval toward an actor, a group, or a cultural object (e.g., a picture, a piece of music, a religious doctrine, a law, a collective memory, etc.). Obviously, there can be disagreements between those expressing such opinions, but often there is a dominant consensus: doctors usually have a higher occupational status than garbage collectors; most people hold Rembrandt paintings in greater esteem than the art produced by amateurs.

Legitimacy as status: the role of third parties

The very notion of rights implies conflict or disagreement. If there is no contention there is no need to declare something a right. When there is conflict the parties can either fight it out themselves or they can appeal to third parties for support. This can take the form of seeking allies to continue and hopefully win the conflict. It can also take the form of asking a third party to serve as a mediator or arbitrator. In simple societies this role is often exercised by a group of elders or chieftains. An antagonist may or may not accept the legitimacy of the arbitrator's decision, but the crucial issue is whether most other third parties do. That is, do those who make up the social context of the antagonists think that the arbitrator's decision is more or less just? The antagonist who goes against such third-party judgments becomes the illegitimate deviant, the outsider, the criminal.

More generally for norms to be enforced effectively the role of third parties is crucial. The number of the third parties involved can vary considerably. For the tyrant the crucial third parties are his henchman; as long as they obey him and are strong enough to enforce his commands, his power is effective – even if he is hated and considered a despot. The ruler's position is much stronger, however, if the promulgation and enforcement of laws is seen as legitimate. Instead of arbitrary orders, he issues laws and commands generally considered to be reasonable. Instead of brutal henchmen, he needs a police force that is at least to a minimal degree even-handed and effective enforcing rules and laws.

But what is legitimacy? In large measure it means that a particular social pattern is widely approved of by those whom it affects. Widely expressed approval is the definition of high status. So stated in other terms, a rule or an order is legitimate if it has relatively high status. This does not mean that everyone necessarily abides by the rules or orders they consider legitimate. Most drivers have broken the speed limit; this does not mean they think there should be no speed limits – at least on the streets in front of their children's school or their home. In sum, the more third parties who approve an order, rule, or law, the more legitimate it is and the more likely it is to be effectively enforced.

The legitimacy of human rights – expanding the network of third parties

Another way to think about the problem of human rights is to ask how the relevant norms can be made more legitimate. That is, how can we raise the status of the norms that protect human rights and expand the network of third parties that will express disapproval of anyone who violates such norms? The focus here is not on changing the status of the relevant actors, but on changing the status of the relevant norms. To give an example of this difference, it is clear that the status of several of the Ten Commandments has declined. "You shall not make wrongful use

of the name of your God" and "Remember the Sabbath and keep it holy" are routinely ignored by the majority of people in Western societies. This has occurred without a decline in the status of humans, and perhaps without a decline in the status of God. Rather, few people express approval of such norms and even fewer are willing to sanction others who violate them. On the other hand, more and more people condemn human rights violations. Even countries that routinely violate human rights try to keep such behaviors secret. No contemporary nation tortures people in public, though lynch mobs sometimes commit such atrocities with the collusion of officials, and a few regimes have publicly used brutal forms of punishment such as floggings and cutting off of limbs (Fathi 2008).

Sacredness as status

Just as it can be useful to see legitimacy as a form of status, it is useful to consider sacredness as a form of status – in some respects the ultimate form of status. Here the focus tends to be more on actors and objects rather than the norms, though these are usually correlated. One of the things that happen when beings, groups, or objects gain a very high status is that they take on an aura; they are held in awe; they may become "idols." This is true of all kinds of celebrities including movie stars, rock singers, popular politicians, and Nobel Prize winners. Often people want to see or be with them, but, at the same time, they fear being rejected or dismissed. The celebrity may take on an air of otherness and even holiness. Stated in other terms, social and cultural boundaries tend to emerge around very high status entities, and they develop a kind of sacredness; they are not just celebrities and "idols," but "gods." In the terms used above, status shifts from a gradational notion to a categorical notion; from variations in degree to a distinction between the sacred and the profane. Accordingly, great deference should be shown when approaching that which is sacred. Raucous, crude, and mundane behavior is considered inappropriate. Respectful attitudes and behavior are expected in most forms of religious worship. Even when forms of religious behavior involve expressions of emotion and enthusiasm, these are deferential toward the sacred deity. Parallel behaviors are used when approaching people of very high status, whether they are presidents, popes, or prima donnas. We see a similar pattern in museum exhibits: famous pictures are protected by guards and should never be touched; boisterous behavior can result in you being asked to leave. The same is true when visiting cemeteries and war memorials. Stated in other terms unwanted intrusion and intimacy are *verboten* and at least minimum levels of respect and decorum are expected. As with the case of legitimacy, sacredness is most significant when it involves networks of third parties. This is the reason that Durkheim (1995, pp. 41–43) emphasized the importance of there being a "church," i.e., a community of devotees who reinforce one another's expressions of approval and disapproval.

Human rights and sacredness

One thread running through much of human rights discourse is that all humans have a special kind of sacredness, and hence they have certain rights that should not be violated. A key motivation for attributing sacredness to humans is to give them a status that is rooted in something more than either the rules or whims of the political regime to which they are subject or the opinions of their immediate peers. The intent is to give them a minimum level of status that no one has the right to violate. Stated in other terms, human rights are supposedly rooted in something "higher than" the positive law of the immediate historical context or the opinions of

neighbors. According to Hans Joas (2008) neither Beccaria's classic Enlightenment account, which sees the reform of prisons and the abolition of torture as a way of making punishment more rational and humane, nor Foucault's account, which sees these changes as due to the creation of more effective and insidious forms of social discipline, are adequate ways of understanding the emergence of human rights. Rather the abolition of torture and the development of human rights are seen to be, following Emile Durkheim's ideas, the result of the greater sacralization of humans.

The arguments used to justify the sacralization of humans vary considerably. The traditional religious argument is that humans are children of God created in her/his own image. Accordingly, all human beings, who are "little lower than the angels" (Psalm 8:6), should be honored by one another. This places limits on what people can legitimately do to one another. Michael J. Perry (1998) has argued that there is no meaningful notion of sacredness that is not derived from some kind of religious commitment. Others argue that there are adequate non-religious foundations for human rights. Ronald Dworkin (1994) observes that humans are self-creating and claims that this is a sufficient reason for them to be considered sacred. Ari Kohen (2006) suggests that a notion of the sacredness of human beings is not required, but that human rights can be rooted in a notion of human dignity. Bryan Turner (2001) argues that a basis for of human rights is the universality of the human body's frailty and vulnerability; all humans experience pain, illness, and death. Milner (2001), however, has argued that this is an inadequate foundation for human rights; the vulnerability of the body is recognized by all human societies. Since frailty is a constant, it cannot explain or provide a sufficient foundation for human rights, which are present in some societies and historical periods and not in others. My concern here is not to enter into the debate about the degree to which notions of sacredness are necessarily religious, but rather to point out that many advocates of human rights recognize the importance of having a foundation for human rights that is seen as more transcendent than the immediate social consensus. If the sacredness of human beings is an important foundation for human rights, then how do we make humans more sacred; in the terms of the theory of status relations how do we raise the status of all human beings?

In summary, social status, legitimacy, and sacredness are all essentially the same phenomenon: the accumulated expressions of approval (and/or disapproval), especially of networks of third parties. They all involve humans engaging in evaluative judgments and expressing these. The ways social status, legitimacy, and sacredness vary is in the intensity of the expressions of approval (and disapproval) and in the nature of the actor or object being evaluated.

If systems of status, legitimacy, and sacredness are in many respects the same phenomena, and if the establishment of human rights involves creating a social context in which elements of all of these are melded together, then a theory about how such systems operate should throw some light on the issues surrounding human rights. Hence, the next step is to outline the theory of status relations.

A strategy for explanation: the theory of status relations

The theory attempts to explain and understand the key features of social relationships when status is a central resource and is significantly insulated from, and hence not reducible to, economic and political power. This conditional assumption is important both analytically and substantively. If status is solely determined by how much money or political power you have, then no theory of status relations is needed; a theory explaining the sources of wealth or political power will explain who has status. Substantively the assumption is important because unless status is in some respects independent of wealth and political power, the poor and the powerless

will have no status, and hence will be subject to the abuse of those who have wealth and political clout. One way to think of the expansion of human rights is to say that it involves insulating certain types of status from wealth and politics. In nearly all societies there are forms of status that are independent of wealth and politics, hence a theory of status relations should be of use in understanding some aspects of human rights.

The theory has four parts or elements and an addendum concerning pluralism. The first two elements focus on how status is different from other kinds of resources with respect to its inalienability and inexpansibility. The other two elements identify the sources of status as conformity to the group's norms and social associations (i.e., who and what one associates with). We will take up each of these elements in order, first dealing with how each affects status systems in general and then considering the implications for human rights.

Inalienability

Status is relatively inalienable. It is "located" primarily in other people's minds. Hence, in contrast to wealth or political position it cannot be simply appropriated. Robbers can take your property and usurpers may remove you from office. To change your status, however, they have to change the opinions of other people. This relative inalienability makes status a desirable resource. Those with new wealth or political power nearly always attempt to convert some of these into status to gain greater security and legitimacy. Conversely, even when people lose their political or economic standing, they often retain much of their status. Ex-governors and the not-so-rich children of old-money families retain some of their ancestor's status. Respected officials who are executed during a coup often come to be seen as heroic martyrs. Consequently, once status systems become institutionalized rankings are relatively stable. In the traditional Indian caste system individuals could not change their caste; American teenagers repeatedly report the difficulty of changing their status once it is established; those with a criminal record find it difficult to regain respect and employment. The ranking of social categories is also relatively stable; judges are not at the top of the occupational hierarchy one year only to be replaced by fireman or beauticians the next year.

Inalienable human rights

One of the reasons that it is useful and important to consider humans rights as a status relationship is because a well-established status is relatively inalienable; it is located in the minds of numerous third parties. The more that status is separated from economic and political power, the more status is inalienable; the war hero who has little money or political power is still a war hero; the admired religious or political leader who is imprisoned by a repressive regime often gains in status – and, at least in the modern period, is less likely to be tortured or executed than his unknown lieutenants. Some examples are Sheikh Mujibur Rahman of Bangladesh during their war for independence, Aung San Suu Kyi of Burma, Manuel Zelaya of Honduras, and Alexander Dubček of Czechoslovakia. This was also the case for the leaders of the Iranian opposition to the regime of Mahmoud Ahmadinejad in 2009; prominent figures such as Mir Hussein Moussavi, Mehdi Karroubi, and Mohammad Khatami were not arrested, but many of their assistants and followers were beaten, jailed, executed, and persecuted in various ways.

Status can be associated with ascribed social traits. For example, in Islam descendents of the Prophet (Sayyids, Syeds, Sharifs, etc.) receive a kind deference that other Muslims do not; the same tends to be true for Brahmins in Hinduism, as well as the descendents of Thomas Jefferson, the Rockefellers, the Kennedys, etc. This tends to be true even if these individuals have little

wealth or political influence. Basic levels of status are not restricted to those from illustrious backgrounds. Respect and deference given old people is one example; "women and children first" is another; ascetics and mendicants are a third case. This is not to say that it is easy to institutionalize minimum levels of status for those without wealth or power, but there are a number of historical precedents.

The ascription of minimum levels of status was a characteristic of the two most famous modern revolutions. Following the French Revolution everyone was to be addressed as "citizen," and following the Russian Revolution "comrade" became the appropriate honorific form of address. People were "citizens" and "comrades" without regard for their wealth and political power. As Lynn Hunt notes in his historical account of the emergence of human rights following the French Revolution, "The convict was now a citizen, not a subject; therefore he or she … could not be made to endure torture, unnecessary cruel punishment, or excessively dishonoring penalties" (Hunt 2007, p. 141). Of course, in fact new forms of inequality quickly emerged and many "citizens" and "comrades" were persecuted. This was usually after being stripped of these forms of address and relabeled "counter revolutionaries," or "enemies of the people." In theoretical terms two points are relevant. First, their status had to be redefined to justify abusive treatment. Second, these status systems had not become sufficiently institutionalized and hence statuses were not yet inalienable. In contrast, in most modern nations individuals cannot be stripped of their citizenship, except in highly exceptional circumstances. Robbers, murders, rapists, and child molesters are still citizens and due the minimum rights held by all citizens, such as due process of law and immunity from torture and "cruel and unusual punishment." The aim of the human rights movement is to provide all people everywhere with a similar inalienable status that is seen as legitimate in the eyes of most other people, the governments of most nations, and the emerging international enforcement organizations, such as the International Criminal Court (ICC), International Criminal Tribunal for the former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone.

Redeeming reification

As already noted, many think that such rights need to be defined not only as legitimate, but should be given the highest form of status, that is, become sacred and inviolate. One way to think about the sacralization of humans, and hence their right to certain basic protections and entitlements, is by means of the concept of reification. The dictionary definition of reification is, "The making of something abstract into something more concrete or real; the action of regarding or treating an idea, concept, etc., as if having material existence" (online *Oxford English Dictionary*, 2 August 2010). Generally the notion has had negative connotations suggesting "misplaced concreteness." Probably the best-known use of the concept comes out of Marx's discussions of alienation. Feuerbach, Marx, and others thought that treating gods as real, concrete actors with whom humans can interact is an illusory reification. The term was elaborately discussed by Georg Lukács in his essay, "Reification and the Consciousness of the Proletariat" (Lukács 1971). To simplify, what Lukács critiques is the ubiquity of the concept of commodity, which is taken to be an independent, real thing rather than a set of underlying social relationships. Supposedly, this false consciousness prevents the proletariat from seeing how they are being exploited and mobilizing to rectify this. Berger and Luckmann use the notion of objectivation to refer to "the products of human activity that are available both to their producers and to other men as elements of a common world" (1966, p. 34). According to them reification is when people "forget" that something they have produced is a human creation and attribute it to nature, the gods, or whatever (1966, p. 89).

I want to suggest that humans frequently engage in reifications to simplify their social lives; otherwise they would be overwhelmed with complexity. Some of these simplifications are certainly mystifications that disguise exploitation. It does not follow, however, that all forms of reification are socially harmful. Human rights are such a case. It is not difficult to deconstruct the notion and show that such ideals as natural rights and human rights were created by humans in particular historical contexts. A detailed knowledge of such a history is not only unnecessary for it to be a useful notion, but is probably detrimental to its effectiveness. Most people find it easier to become emotionally attached to a concrete entity than to an abstraction, to "my mother" rather than motherhood, to "our native soil" rather than nationhood, to Jesus, Krishna, or Allah rather than to divinity, to "our sacred rights" rather than the history of the human creation of rights. None of this is to deny the legitimacy of critique and deconstruction, nor is it a plea for ignorance. It is to suggest, however, that to "get through the day" most of us most of the time have to simplify the reality around us and that this often involves various forms of useful reification.

A caveat is required. I use the term "redeeming" because it implies both the recovery of something, but also that this rescue has a cost attached. Something has to be sacrificed for something else to be redeemed. Certainly, attempting to redeem the notion of reification creates dangers, risks, and costs, but I would argue that the failure to do so is both more costly and less honest.

In sum, political, economic, and legal safeguards are not enough; certain forms of status relations are also required. If poor people and political dissidents receive at least minimum levels of inalienable respect, this is much more likely to happen if aspects of their status are sacralized and reified. This is not to deny that those with political or economic power may be able to unjustly persecute people, but they cannot do so without risking the disapproval of numerous third parties.

Inexpansibility

Status is relatively inexpansible. Some societies have a per capita income that is a hundred times greater than other societies. In contrast, status is basically a relative ranking. If a thousand Nobel Prizes were awarded each year, they would be much less prestigious. Inexpansibility means that when someone moves up, someone moves down. Consequently, where status is the central resource, mobility tends to be highly regulated and restricted, as in the Indian caste system, the Jim Crow South, the Social Register, the National Academies of Science, and teenage cliques. Conversely, one way of staying on top or moving up is by pushing others down. This is apparent in the putdowns and gossip of teenagers, racism, negative campaigning, and intellectual critique.

Inexpansibility and human rights

What are some of the implications of the inexpansibility of status for human rights? If all are to have a minimum level of respect, this is more likely to occur when there are limits to how exalted and entrenched the ruler or elite can be. It is not accidental that the emergence of the rights of citizenship was accompanied not only by the abolition of torture, but by a decline in the significance of honor as a special characteristic of elites and by reductions in the public humiliation of criminals (Hunt 2007, pp. 142–143). Inexpansibility is also one of the reasons that well-established democracies, which limit the power of elites, have better records with respect to individual rights – though not necessarily social and economic rights. An absence of kings (much less god-kings), aristocrats, presidents-for-life, and one-party political systems means that there is less social distance between elites and non-elites. Moreover, if there is forced

downward mobility of elites by such means as regular elections, term limits, progressive income and inheritance taxes, and mandatory retirement, then non-elites are likely to receive more respect.

One of the implications of these observations is that human rights are likely to be most secure when there are limits on most, if not all, forms of inequality. The classic pattern in liberal capitalist regimes is that individual or negative rights are in principle usually secure, but are in fact frequently compromised because of the lack of economic resources to defend the rights of the poor – in contrast to the substantial resources that are available to the rich to defend their rights. The classic pattern in communist societies is that minimum social or positive rights are relatively secure, but the highly unequal distribution of political power means that individual rights are frequently attenuated and violated.

A second important factor is the relative status of individuals versus collectivities. For example, in most military organizations the value and success of the collectivity is paramount; the success of the unit against enemy units is the primary value; the injury and death of some individuals is expected. This is in contrast to most voluntary organizations; if individual interests are regularly and openly sacrificed to those of the collectivity, membership usually declines rapidly. In very collectivist societies such as Sparta, Nazi Germany, Fascist Italy, Stalin's USSR, Mao's China, and Communist North Korea, individual rights are usually limited. The same is true of smaller kinds of collectivities such as warrior clans, kibbutzim, and communitarian religious sects. Where kinship and clan groups are especially strong, honor killings (e.g., the killing of women who have been seduced or raped) are not uncommon; the honor of the group is seen as more important than the rights of the individual. On the other hand, in societies that are highly individualistic, social and economic rights are usually weak. Of course, it is hard to separate the effects of collectivism from authoritarianism since many collectivist social units are also authoritarian, but it seems likely that each of these factors has an independent effect.

This is not to argue that high levels of individualism are necessarily good or bad, but to point out that individual human rights are more likely to be respected if the status of individuals and collectivities are relatively balanced. Of course, the relatively higher status of individuals and the demotion of collectivities occurred as a historical process. People developed a new sense of both the autonomy of the self and new forms of empathy with others and new ways of building solidarity (see Hunt 2007, pp. 26–34). This process could be reversed, especially if people perceive that the status and value of collective life need to be reinvigorated. This is one of the themes of communitarian thought. A crucial issue facing contemporary societies is how to best balance the status of individuals and collectivities – when status is an inherently limited and relatively inexpansible resource.

A third implication has to do with the status of third parties. The lower the status of third parties, the less effective are their expressions of disapproval in limiting governments or other powerful parties, such as vigilantes. At the institutional level a crucial third party is an independent judiciary that is not simply the tool of the executive or legislative branches. If the judiciary is structurally independent and has the respect of the general populace, it can be effective in limiting the violation of human rights. Analytically this is a matter of each branch of government having substantial levels of status, which make their authority effective in placing limits on the power of the other branches. On a broader level it can involve other institutional forms. Despotic kings were often kept in check by religious institutions that had an independent status. In contemporary societies there is often an emphasis on the importance of the civil society, that is, an array of voluntary organizations that are not primarily economic or political. The more developed and the higher the status of this sector, the more likely they are to serve as an effective third party in the protection of human rights.

At the individual level, the most important third party is a substantial middle class. This means that there are large numbers of people of at least moderate status who have the education and the means to resist violations of people's basic rights.

The key point is that because status is inherently limited, how it is distributed among institutions and individuals is likely to have a significant impact on whether there are meaningful human rights. Distributive justice and human rights are often closely linked.

Conformity

Conformity to the norms of the group is a key source of status within that group. This is an obvious point, but the consequences are somewhat less obvious: those with a valued status tend to elaborate and complicate the group's norms and rituals in order to make it easy to distinguish insiders and outsiders. Accent, demeanor, body language, and notions of taste and style are hard for outsiders to copy. Such elaboration is not limited to those with high status. Sometimes those with power elaborate the stigmas attached to those of low status; examples include branding slaves, making Jews wear a Star of David, forbidding Dalits to enter temples, and forcing women to cover their faces. Low-status groups may create their own insider norms, symbols, and rituals. This can result in counter or alternative subcultures. If there is little hope of conforming to the norms of upper strata, lowers create norms they can conform to. Sometimes these reverse old values and norms: "black is beautiful"; "blessed are the meek and poor"; "green is good." Lowers may create norms and rituals to hide behaviors that uppers see as deviant. Argots are often created to prevent superiors from understanding conversations.

Conformity and human rights

One of the key points of institutionalizing human rights is to give people an ascribed status that limits what can be done to them, even when they do not conform to laws and conventions. In the case of nation-states the ascribed status is citizenship; for those urging the international community to recognize and enforce human rights the relevant ascribed status is simply being a human. If punishments were supposed to fit the crime, some horrific crimes would seem to deserve the most gruesome of punishments. The logic of human rights denies this and notes that the only conformity required is that one be a member of the human species. All this is rather obvious.

What may be somewhat less obvious is that a key means of insuring such an ascribed status is the elaboration of the norms that are required to curtail such rights. This is the reverse of elites elaborating norms to exclude those of lower status; this is a matter of elaborating norms that exclude those with power from exercising it arbitrarily. Most commonly this involves elaborating the procedural rules of the due process of law. Such procedural due process laws require that a person charged with a crime or violation is entitled to be notified of such a charge and given sufficient time and resources to defend him or herself, that they be entitled to a hearing on such charges, and that the merits of the charges be decided by a neutral judge who has authority and privileges that are not dependent upon those who bring the charges. This is not to say that all procedural elaborations work to the benefit of the average person – for often they increase the cost of litigation. Elaboration is not limited to legal processes. As noted earlier, changes in modes of address were an important feature in the French and Russian revolutions. We see similar elaborations with respect to gender and racial inequality; women are addressed as Ms., not Mrs.; calling African-Americans "nigger" or "boy" is not just unacceptable, but highly deviant. These changes are not usually legal, but they do safeguard the levels of status and respect everyday people receive, which in turn tends to protect their human rights.

These are examples of rules and rituals being elaborated to protect the core rights and values and secure the status of members of the group. In this case, however, it is used to protect the dignity of all rather than the status and prestige of an elite or subgroup. Rules of procedural due process and forms of address are secondary norms and rituals that are used to insure and protect more primary norms and values. What is occurring in the contemporary globalized world is a long series of negotiations between nation-states about what the appropriate procedural rules are and who is empowered to enforce them. At the same time, a more informal process is elaborating rituals and norms of personal respect between those of different cultures. Both are crucial to the extension of human rights.

Another form of elaboration that occurs is the expansion of the content of human rights. In his classic discussion of citizenship T. H. Marshall (1950) argues that in Britain civil rights were first established, then political rights, and finally social rights. In formerly Communist societies the process seems to be occurring in a different order; the establishment of social rights came first; the establishment of political democracies came next; the elaboration and specification of civil rights is still underway. Of course, this pattern is by no means exactly the same in all these countries. Moreover, many of the social rights of earlier regimes are being eroded as individual rights are expanded.

The key theoretical point is that in most status systems the norms and rituals tend to be gradually elaborated to both expand and protect fundamental concerns. Just as traditional status groups elaborate norms to reduce competition and intrusion from outsiders, human rights tend to be elaborated to thicken the boundaries around such rights. Those without political rights are less likely to be able to protect their civil and social rights. Those without minimal levels of economic security are unlikely to be able to participate in politics to protect their civil liberties. Those without civil liberties are more economically and politically vulnerable.

Associations

If you associate with those of higher status, it improves your status, and if you associate with those of lower status, it decreases your status. This is especially so if the relationship is expressive and intimate rather than instrumental and impersonal. Intimate, expressive relationships that are consensual imply mutual approval. Sex and eating are the classic symbols of intimacy. Traditionally most Hindus would not marry or eat with those who were from a lower-status caste. American teenagers tend to be very concerned about who is going with whom, and who eats with whom in the lunchroom. But, as the theory would suggest, upper castes can supervise lower castes in the field, and students are much more relaxed about whom they associate with in the classroom because these activities involve instrumental activity. Outside the classroom, however, the same people who were friendly in class may ignore one another. When associations are non-consensual and unwanted they are more demeaning when they are intimate. Working with a colleague you do not like, but who is very good at her job, is much less demeaning than having to work with an incompetent colleague who sexually harasses you. In other words intimacy intensifies the effect of associations on status for both wanted and unwanted associations.

Associations and human rights

Since associations are one source of status, the more closely someone is associated with you, the more likely they will be treated as you are treated – both by yourself and others. Conversely, the less other people are thought of as associates, the more likely different norms are applied to them. In most societies at least some animals can be slaughtered for food; they are other than

humans. When animals are kept primarily for expressive rather than instrumental reasons, they are pets, and much less likely to be considered appropriate food or abused in other ways.

Humans are most likely to mistreat and abuse others when they are seen as different, unlike, and dissimilar. This is especially the case where the other is thought to be associated with lesser status beings; where they are seen as "animals," "brutes," "hordes," "savages," "apes," that is, as less than fully human. This is one of the reasons that racism and ethnicity are so often a source of atrocities. Conversely, where the other is associated with a high status being (or beings) this improves their status. If all people are "children of God," they are our brothers and sisters. If, however, they are associated with the "wrong" god, they are not only "other" – heathens, infidels, kaffirs, gentiles, idolaters – but they also lower our status by dishonoring the "true" god who is a source of our status. So deities can be a great source of the solidarity needed for human rights and the fanaticism that violates such rights.

The nature of associations has been changing. Hunt (2007) argues that literacy and novels played an important role in both increasing the respect for the individual and in encouraging empathy with people one did not know personally. In more recent years many new forms of media have expanded people's associations beyond face-to-face interactions. People are much more familiar with others who are geographically distant from them. Movies, TV, phones, e-mail, and the World Wide Web have expanded exponentially. Often these include pictures of starving children or innocent civilians who have been killed or persecuted. In addition to the media, business and tourist travel have increased dramatically. Whereas pseudoscience was used to justify social differences, contemporary science has made clear that there are only minor biological differences in peoples of different races and ethnicities. None of this is to suggest that humans are one big happy family, but people from distant places in the world are no longer the strange barbarians and savages that they once were. All of this produces an important increase in social associations. This, in turn, has contributed to the tendency toward equalization of the status of people around the world. It is, of course, a set of limited and fragile associations, but it is nonetheless one of the bases of the human rights movement.

Another phenomenon the theory helps to understand is why nearly all nation-states, however much they might disagree on other matters, have officially rejected the legitimacy of torture – no matter how brutally they may in fact treat prisoners. Why is there such universal assent to this particular human right? Of course, it is in part because all humans have experienced pain and have the capacity to empathize with others. Humans' fear of pain is not a sufficient explanation, however, because there are situations in which pain is seen to be in the interest of the party undergoing it. This ranges from undergoing painful medical procedures to the "no pain, no gain" mantra of dedicated athletes. The near universal condemnation of torture is because it involves forced, unwanted, and deliberately prolonged intimacy. Shooting a non-combatant in the head is reprehensible, but it is not prolonged. Torture not only prolongs pain, but it deliberately demeans and humiliates. So although harsh regimes may shoot and beat people in public, in the modern context torture is always hidden. When torture is visible, the perpetrator, not the victim, is dishonored. In 2004 when reports and pictures made public the abuse and torture of Iraqi prisoners at the Abu Ghraib US military prison, the reaction was very negative; eleven soldiers were dishonorably discharged, two were sent to prison, the commanding officer was demoted, and American prestige around the world plummeted. Another quite different implication of associations is that status groups develop among nation-states, differentiating those who respect human rights and those who do not. Three cases illustrate this point. The first is the United Nations Commission on Human Rights and its successor the United Nations Human Rights Council. The former was frequently criticized because so many member states of the Commission had poor human rights records themselves. Eventually the Commission was

dissolved and the new UN Council on Human Rights was created – supposedly made of representatives from nations truly committed to human rights. Several states, however, including the USA, initially refused to participate because they did not believe the criteria were rigorous enough in excluding human rights violators. In theoretical terms the issue that has been playing out is what nations should be allowed to join and participate in this particular status group. How high should your status as a human rights defender have to be to become a legitimate member of this status group? What norms does this elite status group affirm and attempt to enforce? To the degree that nations who violate human rights are admitted to the new Commission, both the status of the Commission itself and of the other member states will be degraded. A second case is Turkey's attempt to join the European Union. Many complicated issues are being negotiated, but some of the most visible matters have to do with Turkey's continuing denial of the Armenian genocide during World War I, the issue of Cyprus, the conflict with and treatment of Kurd separatists, the treatment of women, and more generally, respect for human rights. The point I am raising is not who is correct about the actual facts surrounding these issues, but that one of the key impediments to Turkey's admission is its status with respect to human rights broadly conceived. A third case is the considerable loss of prestige that the United States faced during the George W. Bush administration when it became known that as a matter of policy it engaged in waterboarding and other "enhanced interrogation techniques" that most people would define as torture. The US status was damaged even more when it became public that the administration had attempted to articulate a legal justification for their behavior. The key point is that within the community of nation-states status systems and status groups emerge. One important status system, and the groupings that occur from this, is based upon adherence to the norms of human rights. Nations vary in how concerned they are about their human rights reputation, but virtually none of them are completely indifferent to their standing in this status system.

Status systems and pluralism

There is a tendency for status systems to become pluralistic as they become larger. For example, when a professional association has a few hundred members it is relatively easy to have articles accepted by the association's premier journal. A high proportion of well-respected members will become association officers. When the same association expands to thousands, only a small percentage of the members can publish articles in the main journal, and an even smaller percentage can become association officers. Usually this leads to the development of subdisciplines with their own journals, officers, and status systems. The same tendencies occur in other status systems. As high schools grow in size, fewer and fewer students have any hope of becoming part of the "popular crowd" or even having any association with them. They are less inclined to copy their "superiors" in order to be accepted by them. Instead the excluded create alternative subcultures: brains, jocks, rappers, punks, skaters, etc. – each with their own norms, rituals, and symbols. The tendencies toward pluralism are further accentuated when the increase in the size of a group is accompanied by a greater diversity of cultural backgrounds. In high schools this often involves ethnic or class diversity. For a professional association greater methodological, theoretical, and political diversity has a similar effect. In sum, increases in size and cultural diversity tend to lead to more pluralistic status systems.

Pluralism and universalism

One way of conceiving of universal human rights is to think of it as the expansion of the network of third parties who see human rights norms as legitimate to the point of being sacred, that

is, as having an extremely high status. The broader this legitimacy/sacredness/status network, the more universal the norms. But there is a paradox or dilemma associated with increasing universalism. The larger the status system and the more diverse the social and cultural backgrounds of the members, the more likely pluralism will emerge. That is, alternative and counter subcultures tend to develop. This was apparent in the debates between Communist and capitalist liberal democracies during the Cold War. Communist regimes pointed to their relatively egalitarian distribution of economic resources and their nearly universal access to health care and education. Liberal regimes emphasized freedom of speech, press, and due process of law, but did not always provide guaranteed levels of economic security. Such pluralism can also be seen in the debates in the 1990s over whether there is a distinctive set of "Asian Values," which supposedly draw on Confucian notions of hard work and loyalty to the family and the nation and which place less of an emphasis on personal freedom. Such values were especially advocated by the relatively authoritarian regimes in Southeast Asia. As the theory would predict, such regimes rated rather poorly with respect to traditional Western notions of human rights, but they were doing quite well economically. Their advocates attributed this to the lack of political conflict and the well-disciplined workforce, which in turn was seen as one of the benefits of their relatively authoritarian political system. That is, they emphasized norms and values that made them look relatively good. Other examples include the United States' refusal to join the International Court of Criminal Justice and the Bush administration's attempt to redefine torture as "enhanced interrogation techniques," so that they would not technically be violating human rights. The advocates of Asian Values, the leaders of Communist regimes, and the officials of liberal democracies, including the USA, all affirmed the notion of human rights. Failing to do so would have eroded their status and legitimacy as a modern nation-state. In this sense they were all part of an increasingly expanded status system. But as the scope of this network expanded in size and included societies of diverse cultural and political backgrounds, alternative definitions and measures of human rights emerged.

In part, some of this was simply cynical, deceptive propaganda used to justify brutality and self-interest. The matter is, however, more complicated than this. There were and are some genuine disagreements about what is important and legitimate. The person who is being subjected to torture is not primarily distressed because he is being made to miss lunch; he has a more immediate concern. But the person whose children have to miss meals may care about this much more than freedom of the press – or that someone she does not know is being tortured. The person who has a reasonable level of food security may be more concerned that his children have access to schools and hospitals than with the finer points of due process of law. All of this is to say that people in different situations do vary in what they see as their most urgent needs and rights. Hence, the precise content and emphasis they will give to human rights is likely to vary according to their historical and cultural context. Even those who share the same cultural background and socio-economic conditions may disagree about priorities. This is especially so when some are more willing or able to conform to the proposed norms than others. Stated another way, in status systems there is a built-in dialectic that tends to create alternative and counter subcultures. To recognize the structural sources of pluralism is not to dismiss the notion that there are some universal values. Much less is it to defend brutality and cruelty. It is to point out that the scope of the moral and political consensus may be rather limited.

Drawing on imagery that has been used in philosophical discourse in recent years, the moral, political, and metaphysical consensus may be "thin" rather than "thick" (Walzer 1994). At the same time it is likely that because of increased economic integration and cultural interchange, moral commonalities are increasing, that is, the global culture is thickening. The Helsinki Accords of 1975, the Kyoto Protocol of 1997, and the Copenhagen Climate Change Conference

of 2009 are examples of expanding status systems – few nations wanted to be left out, and "thin" agreements about what constituted good and bad global citizenship emerged. The very process of expanding these systems, however, produced pressures for more pluralistic criteria of good and bad. This was so whether it had to do with the inviolability of political boundaries, the content of minimum civil liberties, the extent of global warming, or how to measure levels of pollution.

None of this means that the consensus cannot be thickened. Nor does is deny that many actors in varying degrees engage in the Machiavellian pursuit of self-interest. It does suggest, however, that beyond the cultural relativism rooted in different histories and traditions, the very process of expanding the scope of a value system produces structural sources of disagreement; reaching working agreements is seldom aided by ignoring this.

There are two implications of this for how we should proceed to deal with violations of human rights. On the one hand, it is probably useful to criminally prosecute the most egregious cases of human rights violations. This may give others pause about engaging in such activities as ethnic cleansing, genocide, and torture. Probably more important, it reaffirms human rights norms themselves and the international community's commitment to these norms. According to Emile Durkheim (1984, esp. chap. 2), it restores the collective conscience (i.e., the collective consensus and solidarity needed to enforce violations of the consensus). Another way of stating Durkheim's argument is that it reaffirms the low status of those who violate the norms of human rights. The second implication is that procedures that focus only on rigorously drawing the lines between conforming and deviant individuals, groups, societies, cultures, and governments are less likely to be successful in the long run; in virtually all status systems significant levels of inequality and segregation of those who conform and those who deviate produce multiple and often hostile subcultures. Instead, for many if not most cases of violations such mechanisms as truth commissions and efforts at healing will be more effective in the long run (see Cobban 2007 for examples of each approach). In sum, the theory suggests that both justice and reconciliations are needed – and that such a twofold approach will enhance the status and sacredness of international human rights norms.

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