

Direitos Humanos: Significado Comum e Diferenças na Tomada de Posição

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RESUMO – Direitos humanos são definidos como representações sociais normativas envoltas por definições jurídico-institucionais. Dados de pesquisa mostram que os direitos humanos podem ser estudados como representações sociais normativas sustentadas por um conhecimento comum que atravessa as culturas e por diferenças organizadas intra e inter-culturas. Experiências de conflito social e injustiça, crenças sobre a eficiência de vários atores sociais para fazer respeitar os direitos humanos e atitudes de tipo liberal ou coletivista atuam como importantes fatores na modulação individual dos posicionamentos no campo dos direitos humanos. Por outro lado, um uso etnocêntrico dos direitos humanos tem sido documentado e experimentalmente estudado. Em geral, eles enfocam a defesa dos direitos humanos por cidadãos dos países ocidentais, a qual se torna muito mais incisiva quando países não-ocidentais estão envolvidos, mesmo quando violações desses direitos, em seus próprios países, não são freqüentemente condenadas de modo severo.

Palavras-chave: direitos humanos; representações sociais; cultura.

Human Rights: Common Meaning and Differences in Positioning

ABSTRACT – Human rights are defined as normative social representations embedded in institutional juridical definitions. Research findings show that human rights can be studied as normative social representations implying a degree of common understanding across cultures together with organized differences within and between cultures. Important factors in modulating individual positioning in the realm of human rights are experiences of social conflict and injustice, beliefs about the efficiency of various social actors to have rights enforced and attitudes of liberalism or collectivism. On the other hand, an ethnocentric use of human rights is well documented and has been experimentally studied. Generally, concerns about these rights expressed by citizens of Western countries become much stronger when non-Western countries are involved, whereas violations of these rights in their own country are often not severely condemned.

Key words: human rights; social representations; cultures.

Multiple relations interconnect members of the human species directly or indirectly. Between the different groups constituting mankind circulate not only genes, viruses, pollutants, epidemics, consumer goods or money, but also ideas and institutions. What inhabitants of one country practice affects at varying degrees the fate of people abroad, their way of farming land, their state of health, their access to all kinds of resources, the functioning of their institutions. It is difficult to imagine that a group of humans would not be affected to some extent by the way of life of other groups. In this sense, apartheid does not exist, but on the other hand, there is no perception, no definition nor exhaustive analysis of the numerous ties that bind humans together. Even if globalisation is a new term for naming that general interdependence, it does not mean that the phenomenon can be precisely described and fully understood. It is also true that general terms, like the one of globalisation, can be used to conceal the obvious reality of exploitation or of negative interdependence. Such realities, even though they are part of a larger relational field, exercise their own obnoxious effects in many ways.

Interaction and communication between humans initiate symbolic representations, social norms and contractual principles which remain often implicit. When we enter in

a relationship with other persons, we know that the fate of participants in such a relation will be affected by their interaction, in some measure, within certain limits, at a certain cost. Normative representations exist on what these effects should be. Multiple forms of interdependence exist, characterised by all sorts of differences in status, purpose, interdependency, and formality. Various models of acceptable relationships, prototypes of fair and just relationships, principles of contracts that govern these relationships exist. The criteria of evaluation they convey have been built in multiple interactions, they are culturally defined and their application can be guaranteed by institutions. Some of them are culturally specific, others are spread over different cultures.

Human rights (HR)² are such evaluative principles or normative social representations, that could allow, at least at the level of the intention, humans to evaluate and to organize their relations and interactions. For historical (i.e. economical, political, military, religious, and also scientific) reasons,

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² The Universal Declaration of Human Rights comprises six groups of articles. The first group of articles (1 and 2) enunciates the basic principles of equality, freedom, and dignity; the second group (3 to 11) focuses on rights of the individual, such as security of the person and equal protection by the law; the third (12 to 17) concerns rights relative to interindividual relations amongst which there are freedom of movement and the right to found a family; the fourth (18 to 21) involves civil rights such as freedom of expression or equal access to public service; the fifth group (22 to 27) deals with economic and social rights as, for instance, social security and the right to rest and leisure; and the sixth (28 to 30) covers societal rights relative to international law and order as well as to duties to the community.

Western societies organised relationships within national and cultural boundaries, as well as across them. Many encounters with foreign cultures were sources of conflict, and much irremediable harm has been inflicted in the frame of these contacts. Nevertheless, revolutionary ideas about universal HR that were initially formulated as reactions against the arbitrariness of established powers (at the occasion of the American Declaration of Independence in 1776 and of the French Declaration of the Rights of Man and Citizen in 1789) were thereafter progressively invested with new meanings. These meanings were elaborated by diverse and sometimes antagonistic militant movements in the realms of anti-slavery, anti-serfdom, anti-racism and anti-colonialism causes, by movements concerned about rights of workers, women, cultural minorities, aboriginal peoples, wounded soldiers, displaced persons and of many other social categories. History (Lauren, 1998) teaches us that often institutionalised definitions of HR initially were rights claimed by militants of social movements challenging established orders.

The visions of HR elaborated by these movements, and often forged at the expense of much effort and struggle became institutionalised in the Universal Declaration of 1948 which is to be considered according to its Preamble

“as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of the territories under their jurisdiction.”

HR are clearly normative social representations, even if they are also important political and judicial realities.

It is now generally accepted that in interactions with others, independently from their origin, the principles adopted in the Universal Declaration compel to respect corporal integrity of these others, their liberty and their dignity, their access to resources necessary for living free from want and their integration in a societal order guaranteeing protection against arbitrary decisions. Logically, in order to respect commitments taken by public authorities, citizens of many countries should only take up relationships in which they respect these principles. However, numerous problems arise, like economic conditions imposed to Third World countries, like unemployment and sometimes inaccessibility to health care in Western countries.

Here, a huge field of research opens. If HR are indeed normative social representations, social psychologists - at least those involved in social representation studies - have theoretical and methodological tools at their disposal to study them.

Studies on common understanding

Social representations are defined as organising principles of symbolic relationships between individuals and groups. A first assumption on which this definition is

grounded is that various members of a population under study share common views about a given social issue. Social representations are generated in systems of communication that necessitate common frames of reference for individuals and groups participating in these communications. Hence, studying HR in social representations terms always implies a search for common reference systems and for their organisation. To what extent does the Universal Declaration offer references that are common to different populations under study? Mainly, three studies will be reported here as they deal with representations of HR in a transcultural setting. Two of them are extensively described in a recent monograph (Doise, 2002).

The first study derived from an interdisciplinary interview study about representations of violations. In a questionnaire study, pupils and students aged 13 to 20 years and living in four countries (Costa Rica, France, Italy and Switzerland) were invited to answer 21 items presenting various situations involving violations or limitations of individual rights. Some of these situations (for instance, racial discrimination, imprisonment without trial or legal assistance, starvation) can easily be referred to classical definitions contained in the Universal Declaration. Other situations, dealing with the rights of children or with family affairs are less explicitly related to the Declaration. Some situations dealing with economic inequality or health matters (e.g., prohibition of smoking or hospitalisation in case of contagious illness) are not covered by official definitions of rights.

The results were clear for the various situations, the order of frequencies of relating them to HR violations is highly similar across countries. These findings have since been confirmed by research in the USA and in Rumania.

In a second transcultural study, the complete text of the Declaration was presented to students of 35 countries. Respondents (university students in psychology, law, science, social work and various other fields from the five continents) were asked to answer questions about personal involvement, agreement and efficacy as well as governmental efficacy for each of the 30 Articles of the Declaration. A hierarchical cluster analysis designed to accentuate intraclass homogeneity was run on indices of the Euclidean distances between articles based on the sums of responses to the eight scales for each article. This analysis resulted in the division of the articles into two main classes which, in turn, divided into two subclasses. These subclasses showed an almost complete correspondence with the categories of the Universal Declaration described above.

The first main cluster opposes the whole of the more social rights (classes 5, 4 and 3) and basic individual rights of the second class (protection from torture and slavery and right to life) to a cluster of judicial individual rights (remaining articles of class 2), principles (class 1) and the three articles concerning societal order (class 6). In each national group, respondents show greater adherence to the basic and social rights than to the rest of the rights. These results clearly support the idea of a common organisation of responses in various countries. Such a common organisation was also observed by Spini (1997) in a follow-up study with other samples of respondents from 16 countries belonging to five different socio-geographical areas.

A third study was carried out by Herrera and Doise (submitted) in the province of Quebec. Unlike the previous studies, the questionnaire used in this study started with open-ended questions about the rights that respondents considered to be HR. Participants in this study were French-speaking and English-speaking Quebecois, and members of the aboriginal Innu nation (Montagnais). Analysis of answers for the three groups shows that most of the rights that were evocated as examples of HR could indeed be related to the Universal Declaration of Human Rights. There was also a high convergence between the rights most often mentioned by the three groups. This was not the case for their evocations of collective rights, i.e. rights of the Quebecois or of the aboriginals also investigated in this study. Even if most of the rights mentioned as collective rights could be related to both the Universal Declaration of Human Rights and the Draft Declaration of Rights of Indigenous People (Aboriginal and Torres Strait Islander Commission, 1996), the rights more often mentioned by respondents of the three groups were not the same. Findings of this study, once more, showed to what extent ideas about HR are shared across group boundaries, although collective rights are interpreted in a more diverse way.

Individual variations

Social representation theory does not imply that individuals sharing common references hold the same positions. It is therefore important to investigate differences in individual positioning. I report here on a study done in Geneva (Doise & Herrera, 1994). The population under study was composed of 96 inhabitants (TV journalists, TV employees, students) of Geneva who were asked to list HR known to them.

Two coding processes were applied to the answers of participants. First, each answer was compared with the articles of the Universal Declaration. Monica Herrera and I independently processed this coding. In cases of disagreement, we mutually agreed on a final coding. The objective of the other coding was to prepare the answers for being submitted to a factorial analysis of correspondence. They were reduced to a list of thematic units to be used in a factorial analysis of textual data.

In order to highlight once more the importance of the Declaration in accounting for the answers of the whole sample, I shall first report on the frequencies with which the coders related evoked rights to different articles.

The classification shows that the highest frequencies are to be found for articles connected with public liberties and political rights, fundamental principles, individual rights, socio-economic and cultural rights, relational rights. For each of these classes, at least 40% of respondents invoke rights that were connected with at least one article of the class. Much lower frequencies were noted for articles belonging to the grouping of judicial status articles and to the group of rights related to societal and international order.

Generally, respondents privilege references to public liberties. Most of them mention freedom of opinion, of thought, of conscience and of religion (articles 18 and 19) as well as fundamental rights (articles 1 and 2). They seem less concerned about socio-economic rights like those bearing on

education, work and health. With still lesser frequency, they evoke legal rights, democratic rights, rights to nationality, free association. The least mentioned are rights to asylum, rights to cultural life, duties to community, but not a single mention was made of judicial recognition, right to rest and leisure and to general international order.

Notwithstanding its descriptive nature, analysis of frequencies appears already interesting. More than forty years after the proclamation of the articles, the underlying principles still seemed to inspire large numbers of answers although there exist big differences between the relative saliency of different classes of articles. The population studied seems to privilege a HR vision that tends to neglect purely formal and judicial aspects.

A factorial analysis of correspondence for textual data (SPAD-T) was applied in order to evidence organizing principles of the representational field. Six factors were drawn from the analysis.

Factor 1 bears on an opposition between Material Well-Being and Freedom of Beliefs. Along this factor are grouped the greatest number of themes. Yet, its interpretation is obvious: the factor is based on an opposition between what can be named rights to material well-being (work, health) linked to sufficient educational level and rights to freedom of beliefs (religious, ideological, political).

Factor 2 opposes Individual Liberties to Religion and Politics. Poles of the factor oppose individual liberties (settling, marriage) and belonging to religious or political movements. Evocation of collective causes would, as it were, hinder evocation of more individual liberties, and vice versa.

Factor 3 presents on one pole Freedom of Movement and on the other pole Defence of Acquired Rights. Freedom of movement between countries, associated to access to work and resources, are in opposition with equalitarian principles, freedom of opinion and religion, access to education and to health care, sex. The opposition underlying the factor suggests that values conveyed by the latter notions could be endangered by too wide an opening of frontiers to those seeking employment and access to resources.

Factor 4 deals with Freedom as opposed to Indiscriminate Equality. On this factor freedom, linked to access to education, care, work and resources, is contrasted to demands for equality, associated with an evocation of sex. The general meaning of this opposition, even if more restricted, appears to be of the same nature as the one organising the previous factor.

Factor 5 places Freedom of Beliefs against Equality of Rights and Other Liberties. One pole is strongly saturated with notions connected to freedom of opinion and of expression, linked to education, whereas the opposed pole contains egalitarian themes but also freedom of worship, of movement, of marriage and of access to work and to care. Here again, civil liberties are seen in opposition with egalitarian concerns applied to several realms of social life.

Factor 6 disposes of Work and Subsistence in opposition with Equality and Other Rights. Rights to work, to subsistence and to consumption are opposed to concerns about equality, education, health and freedom to move and to marry. This factor may connote a defence of acquired prosperity as opposed to more egalitarian attitudes claiming access to the same privileges for others.

This study of positioning as revealed by the poles of the six factors highlights the persisting saliency of traditional stakes as those opposing material and spiritual goods, individual liberties and social constraints, freedom and equality. Furthermore, contemporary controversies, like those about immigration, are probably reflected in oppositions between evocations of themes related to freedom of movement or defence of acquired rights, and between those who stress right to work rather than other social rights. Social representations of HR are quite alive, and they are far from being confined in homogeneous and consensual opinions even if the Universal Declaration functions as a common reference frame.

In the Quebec study, we asked participants to list the HR they know and also to list collective rights. Some HR were mentioned as collective rights and *vice versa*. A factor analysis shows that answers to both questions are interrelated in various ways but that individual scores on the factors are again related to the way respondents perceive the actual and possible contribution of different social actors in having human and collective rights respected as well as to their experience of discrimination and rights violations.

A non hierarchical cluster analysis portions out respondents in three groups. The position of members of a first group can be called one of Liberalism. Tenants of this position are observed to adhere above all to the basic principles of HR and to public freedom rights. The position shared by members of a second group corresponds to the cause of Sovereignty that privileges mainly cultural and linguistic rights, but that position implies also an awareness about self-government issues and about problems related to socioeconomic rights compatible with HR principles. These two profiles were more characteristic of non-aboriginal respondents, since French-speaking as well as English-speaking participants seemed equally aware that in their socio-cultural context important issues in defining HR and collective rights are those of Liberalism and Sovereignty. Self-determination, especially in matters concerning the use of land and resources and self-government characterizes the position of a third group of respondents. As could be expected, the latter profile was characteristic of the aboriginal sample.

Voices from the United States

Different positioning in HR issues characterise also institutional practices. Without doubt this could be shown for current practices of the European Court of HR especially in matters of alleged discrimination (Article 14 of the Convention). However, in this realm decisions of the US Supreme Court cover a much longer historical time span.

I was therefore very intrigued when I discovered the existence of a book by Amsterdam and Bruner (2000) *Minding the Law*, which in fact analyzes a series of decisions by the Supreme Court related to racial discrimination and the Equal Protection Clause of the Fourteenth Amendment. Non-specialists should know that Jerome Bruner is one of the most influential contemporary psychologists. His contributions to the psychology of child development, cognition, education, language are widely acknowledged by specialists in the field.

Analyzing relevant documents and opinions of the Supreme Court in terms of category processes, narratives,

rhetorics (conceived as social influence devices) and cultural dynamics, the authors show how important variations occur over time. The cases they comment more extensively deal with the rendition of a runaway slave (*Prigg versus Pennsylvania*, 1842), racial segregation in railroad transports (*Plessy versus Ferguson*, 1896), racial desegregation in public schools (*Brown versus Board of Education*, 1954), death sentence of an African-American (*McCleskey versus Kemp*, 1987) and restrictions on desegregation in public schools (*Freeman versus Pitts*, 1992 and *Missouri versus Jenkins*, 1995).

It is not in my range of competence to comment on this study from a judicial point of view; but without doubt the study evidences the relevance of social psychological tools for analyzing judicial processes in the context of societal changes.

The main conclusion of the study on historical variations reflected in the decisions by the Supreme Court is framed by the authors in the following terms:

This trail can be seen as marking the fall, the rise, and the fall again of a brightly egalitarian and progressive American Creed – or as marking the rise, the fall, and the rise again of an equally potent, darkly suspicious American Caution. (Amsterdam & Bruner, 2000, p. 16).

And the following quote sheds some light on today's events:

*America's optimistic idealism and egalitarianism and faith in progress do not simply wax and wane. They are coupled at some deep level with a wary, selfish, sometimes pitiless Caution that may be the price to pay for our sanguine, optimistic Creed. We fight a "war to save democracy" and then refuse to enter the League of Nations with those we helped save. Our Supreme Court gives us *Brown* and then backs off.* (Amsterdam & Bruner, 2000, p. 280).

It should be mentioned that in the book the concept of HR is absent and that all analyses refer to the Constitutional law of the US. There is no mention at all of a possible role that could be attributed to international institutions for maintaining the balance between Creed and Caution.

Variations in attitudes related to HR are of course also observed in opinions of non-expert Americans. In their 1994 study, Diaz-Veizades, Widaman, Little and Gibbs shared some of our concerns as they also used the Universal Declaration of HR in order to study what we call organisation of individual positioning as well as anchoring of this positioning. However, they realised important adaptations of the original document, reformulating the 30 articles of the Declaration in 116 more concrete items such as: "If a person does not make enough money to support his or her family adequately, the family should be aided by the government", "There are times when people should be kept from expressing their opinion", "Men and women should have equal right in a marriage" or "A person's home is his or her 'castle' and should not be interfered with by others".

For each item their respondents (mainly North American college students) expressed their degree of agreement on a 7-point scale. But the authors report that many items "had

very low variance because of high rates of endorsement, so they could not correlate highly with other items. After these low-loading items were deleted, 38 items were re-analysed using an iterated principle factor analysis”.

Clearly, we are confronted here with a logic different from the one adopted in SR theory. Diaz-Veizades and colleagues favoured the study of systematic interindividual variations while neglecting completely their common meaning aspect. When eliminating the most consensual items of their questionnaire, they could retain four factors for the remaining items that represented only one third of all items presented to respondents. A first factor, called Social Security factor, concerned access or entitlement to an adequate standard of living (e.g., food, housing, medical care). A second factor, labelled Civilian Constraint, dealt with the acceptability of limiting individual civil and political rights. The theme tying items together for the third factor was that of Equality, evidenced most clearly by items dealing with equal access to basic rights for all individuals regardless of race, gender, or beliefs. Finally, items with highest loading on the fourth factor involved Privacy issues.

Diaz-Veizades and colleagues analysed anchoring patterns of HR positioning in showing, for instance, that respondents adhering more to a Civilian Constraint conception of HR were also those who obtained higher scores on a Nationalism scale and lower ones on Internationalism and Civil Liberties scales, whereas their political preferences were more likely to favour Republicans over Democrats as opposed to the preferences of adherents to a Social Security conception who favoured Democrats and had higher scores on Internationalism.

On the restricted enforcement of human rights according to an interview study

Among the markers of HR, the European Convention occupies a significant place because it permitted the creation of an institution “to say the right.” In fact, rulings of the European Court precisely interested an interdisciplinary group that was formed in Paris two years before the Bicentennial of the Declaration of the Rights of Man and Citizen.

The goal of the group was to launch a study on current lay conceptions in the field of HR. We quickly agreed on a process, the basic idea of which was to confront various people with a summary of rulings taken by the European Court. The law experts of our group chose four rulings on the basis of characteristic legal problems that they raised (Doise, 2002). Political scientists, a social psychologist and a sociologist collaborated in the drafting of brief accounts of the cases decided upon in these rulings. These accounts (each one about two pages) would allow people without legal training to express their opinions on the cases and to come to a conclusion about the cogency of the rulings of the Court. The instructions were very general in nature and the interviews were administered by experienced professionals as well as by advanced students in Law or Psychology, who did not have any prior experience of this type of interview. We thus obtained 40 interviews, including 12 group interviews of two to five persons. Each interviewee or group was presented

with only one account and, as far as possible, the countries concerned by each ruling were not specified.

The first account, concerning a mentally ill patient (case of Winterwerp *versus* The Netherlands, October 24, 1979), is in substance as follows: Winterwerp (W.) is rushed to a psychiatric hospital, following behaviours considered abnormal. His wife then asks the judge to keep her husband confined, and her request is supported by an advice provided by a general practitioner. The judge accepts this request without consulting other experts. This decision is valid for one year, without any possibility of recourse. The situation goes on for three years, with reports of the consulting psychiatrist. W. then asks the hospital administration for release. The judge, after having heard W., rejects his application. The three following appeals for release are refused by the General Attorney, without having been submitted to a judge. W. is conceded several trial releases, but is re-confined each time. Finally, W. sends a complaint to the European Commission, stating that he is arbitrarily deprived from his freedom and that he has neither had a court hearing, nor had received information about various decisions prolonging his confinement, nor had been provided with adequate medical treatment. He also protests that he has lost all right to administer his personal assets.

The second account relates to the case of Campbell and Fell *versus* United Kingdom, of June 28, 1984. Events occur in jail. Two prisoners, C. and F., with four other inmates, stage a sit-in in a corridor and refuse to move from the spot as a protest against the treatment inflicted on another prisoner by the guards. A brawl breaks out as the guards come to dislodge them, and thereafter C. is judged by the disciplinary commission of the prison and sentenced, amongst other sanctions, to 91 days of cellular confinement, which deprives him of any possibility of an anticipated reduction of his sentence. C. and F. issue several requests to see their lawyer, but these are either refused or delayed. When F. is authorised to see his lawyer, he can at first only meet with him in presence of a guard who follows the interview. Moreover, a letter sent to C. by his lawyer is intercepted and F. is refused the right to correspond with an acquaintance. Finally, C. and F., after a certain number of internal attempts at recourse against these decisions, appeal to the European Commission.

The third account exploits the theme of terrorism (case of Eire *versus* United Kingdom, January 18, 1978). Two communities have been opposing each other for a long time in the setting of a struggle for independence. Conflicts are violent, terrorism is used by both sides, but especially by members of the minority, who have set up a clandestine paramilitary organisation. These events led the country (in fact, the United Kingdom) which has jurisdiction over the region (Northern Ireland) to take a series of exceptional and drastic measures. Another country (Eire), supporting the minority, applied to the European Commission to denounce these measures, in particular, imprisonment without prior trial and ill-treatment suffered by detainees: general brutality, kicks and punches and, for some of them, prolonged standing upright against a wall, covering and blinding with a hood, prolonged exposure to noise, deprivation of sleep and food. The appealing country considers these treatments as degrading and as torture.

Lastly, the fourth account relates to the *Bozano versus France* ruling of December 18, 1986. The interviewees are presented the story of a foreigner who, sentenced to life imprisonment *in absentia* for manslaughter in his country of origin (in fact, Italy), illegally enters a neighbouring country (in fact, France) that does not have a legal agreement with the first country allowing extradition in this case. Arrested during a routine control, he is then expelled, without being able to defend himself, to a third country (Switzerland) that has an extradition agreement with the first country and whose authorities effectively extradite the refugee there. The prisoner appeals to the European Commission of Human Rights, denouncing the illegal procedure used by the police officers of the country of refuge. Instead of expelling him, as their country's law allowed them to do, these policemen in fact effected a disguised extradition.

At the end of each interview, a summary of the Court's decision regarding the case was given to the interviewees and they were asked to react to these judgments, still without being informed about the precise national context.

There seems to be a consensus amongst interviewees that in the frame of institutional functioning, HR must be respected. That should even be the very reason for institutions of our democratic societies to exist. Prison itself should become a training school for acquainting people with these rights. However, as soon as concrete examples are given, the functioning of institutions is supposed to impose boundary conditions and everything becomes a matter of measure and degree.

Hence, institutions are considered to be the sources and the limits of HR. And when rights are being threatened, yet another institution is often invoked in order to guarantee respect of rights through procedure of appeal against decisions of an institution. Anyone should be able to benefit from it, at least under certain conditions: foreigners, terrorists, mentally ill individuals and prisoners. Using this right, considered obvious, nonetheless has its own limits. Minor sanctions inflicted to prisoners should not necessarily offer an opportunity to start an appeal to court, mentally ill people should not have the right to request a new neutral expertise each week, one should beware of collusion between lawyers and prisoners, and when the number of foreigners in a country is growing, often, individual appeals no longer appear acceptable. The institution is thus provided with quite a broad range of power within individual liberties. However, if authorities seem to depart at times from the respect of fundamental rights, it remains true that a possibility should exist for the matter to be brought before a neutral, and eventually international, instance.

The role played by such instances is sometimes described as symbolic: "It is especially used as a deterrent! And the symbolic reprimand is important!". In last resort, their principal effect may well be the corroboration of an ideal adhered to by the participants: "This has been judged by the European Court of Human Rights, hence by men considered to be quite democratic, therefore the result must coincide more or less with ideas that we share".

In this sense, lay theories reflect the opinion of experts who see in democratic functioning the ultimate referent of the HR conception. We must then recall that the European

Convention only acknowledges very few rights that should benefit from utmost protection without any restrictions. The Convention and the additional protocols are clear. Most rights granted, like the right to life, do not enjoy absolute protection; for example, when national unity is at stake. Rights that are the object of absolute protection are very few, but they entail the right not to be tortured, the right not to be subjected to mass deportation.

Persons interviewed are not in favour of an absolute protection of all fundamental rights, certainly not what entails mass deportation, or even torture in certain cases. We are provided here with an important lesson from the history of HR institutions. The lesson still not fully accepted by public opinion is: killing somebody in extreme circumstances may be envisaged, but to deprive a person of his dignity through torture or degrading treatment can never be accepted.

Demand for universality is not altogether missing in the interviews: either when interviewees forcibly proclaim inviolability of some rights, or when they consider that HR are a matter of an ideal never entirely realized but an ideal that must be relentlessly pursued. And a majority agrees on one of the means to reach that ideal: a possibility for any individual to appeal to a neutral arbitration authority.

Acknowledgment of the right to legal defence appears to be an important milestone in common sense thinking on HR. However it remains thwarted by what can be called a feeling of justice that mainly consists in a strong concern that crime should always be punished independently of the legality of procedures (for instance, also by extraditing suspects even when no agreement between countries exists).

The opposition between individual rights and institutional dynamics reminds us of the debate that took place during the preparation of the 1789 Declaration whose subject was the opportunity to define rights and duties of man and citizen in the same text. That dual definition was refused by the majority, even though it was introduced in later declarations. The concept of the Declaration of Rights of Man and Citizen was really meant to refuse any subordination of rights to obligations. Rights were invested with their own legitimacy which precedes and founds legitimacy of duties, the main function of which was to better protect rights. For several interviewees, that priority does not seem natural (this issue see also Finkel & Moghaddam, in press).

Yet it clearly stands out from these interviews that, for the participants, HR are no fiction. The fact that procedures are required – for this is largely accepted – anchors the rights strongly in the reality of social relations and makes these relations evolve. The vision of HR as expressed in the interviews often challenges established order as well as ideologies justifying that order. Institutions remain significant generators of all kinds of rationalizations aiming to ensure their reproduction by opposing collective and private interest. But they have necessarily to compose with demands conveyed by those normative social representations that are in fact HR.

More lessons of caution

Half a century after its adoption, it is more than evident that enforcement of the rights stipulated in the Declaration

is far from being guaranteed in many countries all over the world. Reasons for this lack of respect are numerous and of diverse nature: political, economical, cultural, institutional, but also psychological.

Psychological dispositions, without doubt influence the way individuals take into consideration the rights of others. In order to study such influences, one could borrow a lot of useful suggestions from studies on prosocial behaviour (Bierhoff, 2002). In the present context, I consider that HR enforcement is not only a matter of individuals respecting other individuals, but more so, of institutions warranting rights of individuals. Institutions are composed by individuals as far as they participate in specific relationships. Therefore, I privilege here social psychological analyses rather than analyses in terms of individual differences.

Lessons of social psychology in relation with HR are often lessons in scepticism. Research, like that reported by Stanley Milgram in 1974 or a series of critical replications published by Meeus and Raaijmakers in 1987, shows how, in the name of authority, a large number of individuals can be led to violate fundamental rights of others, like the right to physical integrity or the right to work.

Two specific findings of this body of research on obedience to authority seem especially relevant in relation to ideas developed in this paper. A first finding is reported by Milgram himself. When he asked people how many participants in his experiments would accept delivering electric shocks to somebody who was already unconscious, they generally responded that no participants would comply with such a requirement. In fact, the frequencies of such compliance in his basic experimental conditions was higher than 60 percent. A next section of this paper will present findings about a similar discrepancy: people who very strongly adhere to HR principles nonetheless hesitate to apply these principles in evaluating concrete situations.

The second finding was reported by Meeus and Raaijmakers (1984) and showed that the mere evocation of a kind of civil liability drastically reduced compliance with the experimenter. Upon having signed a document exonerating university authorities from all responsibility in the situation, very few participants in the experiments accepted following the injunctions of an experimenter that would prevent an unemployed person from being hired. When they did not have to sign such a document, again 70 to 80 percent of experimental subjects complied with the repeated injunctions of the experimenter. These results clearly echo some statements by participants in the interview study described in the previous section according to whom the arbitrariness of decisions by authorities of some institutions can only be eliminated by the intervention of other institutions.

In order to uphold a basic belief in a just world, many people denigrate and chastise other people for the simple reason that they suffer. According to Melvin Lerner (1980), the just world belief, seemingly very widespread in Western societies, would imply that remuneration and punishment, positive sanctions and negative sanctions are not distributed randomly in this world. If one suffers, there should be a reason that can be attributed to him or her, and therefore people who suffer are often denigrated and considered responsible of their own fate. Literature on victimisation (see Janoff-Bulman

& Hanson Frieze, 1983) is based on a similar hypothesis. This trend of research can be illustrated by a concrete example: witnesses of a scene of rape, and even the victim of such an aggression, often tend to blame the victim for having an important part of responsibility in the aggression.

Lerner himself puts forward the idea that the fundamental need for justice could easily turn to discriminatory practices. In order to satisfy his own needs as well as those of his next kin in an appropriate manner, and to extend equality and equity between fellow men, it would be necessary to keep one's distance from of a large part of humanity that cannot satisfy its hunger and that lives in inequality and injustice. To interact with "such" people outside strictly regulated or even discriminatory terms, is looked upon as risky behaviour endangering the progress of justice at home. It would precisely be those people who subscribe most to the concept of a just world who would best accept institutionalised patterns of discrimination.

Let us keep in mind, however, that the principle of a just world can also be put forward to explain altruistic behaviour. It would thus account for feelings of indignation felt when witnessing some blatant injustices, and could even occasionally be at the base of "heroic" attempts made to redress these torts.

Research on submission to authority, as well as on the perverse effects of a belief in a just world, are only examples of the various trends of research that justify an attitude of scepticism about the often optimistic vision maintained by HR supporters. Another important touch to be added to this rather grim picture is the diffusion of responsibility described by Latané and Darley in 1970. Their studies aim to explain why individuals often do not intervene when confronted with an emergency, for instance when somebody is attacked by another individual or falls in a state of unconsciousness on the street. A robust finding is that the presence of other bystanders reduces to an important extent the willingness of individuals to intervene in such a situation. Apparently, people feel less concerned in intervening when others can also intervene in an emergency. Theoretically, one can suppose that this is often the case in situations of HR violations and that therefore a reaction of "it is not my responsibility to intervene" is very likely to be manifested. Taking the rationale further, individuals confronted with massive and institutionalised HR violations may consider that their own role in redressing these violations is utterly insignificant.

On the ethnocentric use of human rights

Research reported above supports the idea that HR can be interpreted in a more or less similar way across national boundaries. However, this does not prevent an ethnocentric use of HR from occurring as was experimentally evidenced by Moghaddam and Vuksanovic in 1990. In a first study, they asked undergraduate students in Montreal to answer a questionnaire about HR issues. The questionnaire is identical in three conditions, except for the fact that in a first condition, the context referred to was Canada, in a second condition the Soviet Union and in a third condition the Third World. Typical items, for instance, were: "All forms of censorship should be done away with in (Canada/Soviet Union/ Third

World societies)” or “Everyone in (...) should have access to free health care”. Overall support for HR was stronger in the Soviet Union and Third World contexts than in the Canadian context. In a second study, three scenarios were used concerning a television news anchor woman who was fired from her job, a tortured member of a terrorist group and a female shoplifter, again presented in three different contexts. As in the first study, support for HR was stronger in the conditions Soviet Union and Third World than in the condition Canada. Such results tend to confirm the opinion of critics who consider HR as a Western export article, considered useful for others but less so for Westerners themselves.

All the above suggests that the HR issue is indeed a highly normative one. Individual stances are embedded in value choices and orient our judgements about social reality also in the realm of international relations. In one’s own environment, strong convictions about values are not necessarily applied in a consistent way. Clémence and Staerklé (reported in Doise, 2002) explored this issue. When comparing judgements on violations reported in the realm of rights to privacy, to free education or to life, they found that in Geneva participants in their study generally very strongly adhered to the relevant HR principles, giving average scores of above 6 on a 7-point scale. However, scores were far less extreme, when it was a matter of indicating their degree of acceptance (1: acceptable, 7: unacceptable) of violations of these rights in cases of a search without a warrant of a home by a police officer, refusal of free primary schooling to handicapped children or the death penalty for youngsters. Furthermore, when these limitations of individual rights were merely reported as newspaper items (“faits divers”) their degree of rejection was on average 4.94, whereas when they were explicitly reported as extracts of HR reports, the average degree of unacceptability decreased by almost a point on the scale: it was 4.01. It seems as if references to HR for events in Western countries were less pertinent and prevented subjects from going into a more detailed analysis of the situation. Paradoxically, the absence of an explicit invocation of HR would imply that individuals pay greater attention to reprehensible aspects of acts occurring in their own environment and, as a consequence, find them less acceptable.

The fact that HR are to be considered normative social representations invests them with very strong value connotations. As a consequence, in some situations violations of rights are considered less important when they happen in one’s country, whereas HR violations far abroad are strongly condemned.

On contextualisation of rights

Research findings on social representations of HR show that respondents manifest consistent attitudes when they are confronted with general principles or articles of the Declaration. Such strong coherence is no longer found when they react to contextualised presentations of HR issues. In such cases institutional and normative representations of rights do not seem to be applied directly in different realms of social reality. In more spontaneous evocations moreover, choices are made between different families of rights. Hence, in many situations links with a comprehensive normative vision dis-

solve and the play of inter-individual and inter-group regulations and of retributive justice beliefs often undermine the indivisibility and inviolability of fundamental rights. Even though attitudes towards HR remain highly favourable, their violations may be tolerated when potential victims are considered themselves to be violators of rights or when they occupy marginal or problematic positions in relation with social norms and laws. For instance, many people in democratic countries would not hesitate in refusing free primary education to children of clandestine immigrants.

Notwithstanding the fact that universality of HR is always contextualised, general principles of rights may be invoked by different parties involved in a decision. Hence the need, strongly felt by participants in the initial interview study, to create adequate institutions that should decide to what extent fundamental rights are respected in a given situation. The principal characteristic of a normative social representation will certainly remain its insufficient realisation in most social contexts. Otherwise, it would no longer have reason to exist. It is precisely the violations of rights that often make people aware that these rights should be enforced, that they have to become part of social reality.

Many systematic variations between individual opinions exist in relation with important aspects of matters of HR enforcement. Differences in positioning related to the enforcement of HR exist within national contexts, and their study is as important as the study of differences between national and cultural groups.

Although I did not study the gap between strength of adherence to right principles and relative tolerance of violations of the same right in different countries, there is no reason to doubt that such discrepancies would appear in many situations all over the world. This discrepancy is perhaps the most universal characteristic of normative social representations of HR. What we do know is that research findings, especially those reported by Spini (1997), show that in several countries, where respondents adhere to the principles of HR, an important difference exists between what social actors are expected to do and what they are perceived to do. Social psychologists, informed about dissonance research initiated by Leon Festinger (1957) and about Lerner’s (1977) just world belief paradigm, also know that there are practically no limits in individuals’ capacity to rationalise and justify inconsistencies between principles and facts, especially when their own responsibility is involved (see Beauvois & Joulé, 1996).

Broadening perspectives

In a chapter of his book *La démocratie contre elle-même*, Gauchet (2002) develops the idea of “egalitarian ethnocentrism”. According to him, the egalitarian principle underlying the HR ideology would prevent us from taking into account real differences within and between societies, and from defining issues at stake in societal and inter-societal relations. Conflicting stands, corresponding to real social stakes, are merely considered to be manifestations of a kind of pluralistic diversity. In some sense social differences are trivialised by adherents to egalitarian HR principles.

As a social psychologist I would add that objective differences are often psychologised and diverted into

prejudices and stereotypes. Amsterdam and Bruner have important things to say on this dynamics of prejudice and stereotypes:

But We (sic) cannot accept everybody. For even in times of the most abundant prosperity, there are commodities like esteem and superiority that need to be rationed ... So the preservation of the American Creed requires that We create a category of people who are essentially and immutably different and inadmissible. They are the inferior races, virtually non-people. We construct them and maintain them as inferior by rituals of racialisation and renewal designed to keep them in their place. (2000, p. 264)

The specific tragedy of the judicial rituals described by Amsterdam and Bruner is that their function is (was?) to inferiorise categories of inhabitants of the States, established there for centuries: Native Americans and African Americans. Hence, what I wrote above about “To interact with ‘such’ people outside strictly regulated or even discriminatory terms, is looked upon as risky behaviour endangering the progress of justice at home” is applied here to members of the same nation.

In the international realm, distancing mechanisms are accompanied and supported with stereotypes. Staerkle (1999) stresses that such stereotypes are not constructed in an arbitrary way. They generally attribute characteristics related to the so-called Protestant Ethics to democratic and HR respecting countries; less favourable psychological characteristics are attributed to habitants of undemocratic countries who therefore are considered to be endowed with the government they deserve.

Relations of relative power are reflected in these stereotypes shared across nations. For instance, Phalet e Poppe (1997) study stereotypes of secondary school pupils in six East-European countries (Russia, Byelorussia, Bulgaria, Hungary, Poland and the Czech Republic). The stereotypes that were investigated concern nationals of these six countries as well as the English, Germans and Italians and ethnic minority groups in some countries. Stereotypes are strongly organised according to a morality factor (honest, tolerant and modest *versus* aggressive, selfish and rude) and a competence factor (efficient, competitive, self-confident and intelligent *versus* slow and clumsy). There is strong consensus that the English are the most moral and competent group and almost as strong a consensus that the Russians are the less moral and less competent national group, although Turks in Bulgaria and Gypsies in Hungary are still considered more negative on both dimensions. Most hetero-stereotypes of Eastern countries combine higher ratings on morality and lower ones on competence, whereas Germans generally are seen as high on competence and low on morality. Overall high competence ratings are strongly related to the perceived power of the nations and morality ratings are negatively related (but less strongly) to involvement in conflicts.

Such findings on stereotypes are not to be considered mere anecdotes. They evidence the strength of established grids in the minds of people when they evaluate the international environment. There is no doubt that Western democracies today occupy dominant positions in the fields

of economics, politics, science, military power (Galtung, 1998) and therefore they would certainly be rated very high on a competence dimension by nationals of many countries. Westerners may in addition consider themselves also highly moral, especially in the realm of HR. However, their involvement in conflicting relations of various natures (economic, political, military) may have as a consequence that they are considered by many others as a threat. As a consequence, even an authentic message about HR from their part may become interpreted and distorted as a central part of a Machiavellian strategy to reinforce domination over others. In the matrix of stereotypes they consider themselves as moral and competent, by others they are perceived as immoral and powerful.

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Recebido em 24.07.2003

Aceito em 05.11.2003 ■

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