
Human Rights, Culture, and the Singapore Example

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Culture haunts the search for a system of human rights that can truly be universal. Today, when we value cultural diversity, religious and regional factors have increasingly emerged as reasons for differences in human rights. In Asia, the main proponents for this cultural argument are governments representing polyglot, largely multi-ethnic, modern capitalist societies. Singaporean representatives, dubbed "the Singapore school", have been prominent among them. These proponents say that Asian views and practices of human rights necessarily differ from those in the West because Asian culture differs.

A closer look at the Singapore example demonstrates the reasons for which these characterizations may be rejected. The roots of Singaporean society are not originally and wholly "Asian". Rather, they are a hybrid of colonial influences, including laws relating to fundamental civil and political liberties. The Singapore example shows that culture is plastic, moulded by politics. There is, as such, no pure or original Asian culture that precedes and predetermines human rights. The Asian emphasis on cultural difference is, instead, a will to differ. Accordingly, culture should not assert a priority over other human rights.

Cultural difference may still, however, enter the human-rights equation. As Asia develops, Asians do not want to be homogenized with the West nor to give into the dominant, predominantly Western interpretation of human rights. This Asian will to differ can be welcome insofar as it adds to the cultural richness and true universality of human rights.

But how can this claim to culture be mediated with other human rights? Beyond the rhetoric of the Singapore school, a survey of Singapore's actual record shows no gross human-rights transgressions. Instead, there has been a reinforcing cycle between socio-economic and civil and political rights to create a core of human rights. The Singapore example may stand as a minimum standard for other developing nations.

La recherche d'un système des droits de la personne réellement universel ne peut faire abstraction de la culture. Aujourd'hui, alors qu'est valorisé la diversité culturelle, des facteurs religieux et régionaux apparaissent plus fréquemment pour créer des différences en droit de la personne. En Asie, les partisans principaux de cet argument culturel sont des gouvernements qui représentent des sociétés polyglottes, largement multi-ethniques, modernes et capitalistes. Parmi celles-ci, les représentants de Singapour, surnommés «l'École de Singapour» jouent un rôle important. Ces partisans estiment que la notion et le respect des droits de la personne en Asie diffèrent nécessairement de l'occident car la culture asiatique est différente.

Une étude plus approfondie de l'exemple de Singapour démontre les raisons pour lesquelles ces caractérisations peuvent être rejetées. Les racines de la société singapourienne ne sont pas, à l'origine, entièrement asiatiques. Elles sont plus exactement un hybride d'influences coloniales, y compris des lois concernant les libertés civiles et politiques. L'exemple de Singapour démontre que la culture est plastique, moulée par la politique. Il n'y a donc pas de culture asiatique pure ou originelle qui précède et prédétermine les droits de la personne. L'emphase asiatique sur la différence culturelle n'est, en fait, qu'une volonté de se différencier. Par conséquent, la culture ne devrait pas avoir priorité sur les droits de la personne.

Toutefois, les différences culturelles peuvent encore s'insérer dans le problème des droits de la personne. Face au développement de l'Asie, les asiatiques refusent d'être homogénéisés avec l'occident ainsi que céder à l'interprétation dominante et en grande partie occidentale des droits de la personne. La volonté de se distinguer des asiatiques est positive dans la mesure où elle contribue à la richesse culturelle et à l'universalité réelle des droits de la personne.

Toutefois, comment cette revendication culturelle peut-elle se concilier avec d'autres droits de la personne ? Au-delà de la rhétorique de l'École singapourienne, il n'y a eu aucune violation flagrante des droits de la personne à Singapour. Au contraire, un cycle entre les droits socio-économiques et les droits civils et politiques a servi à créer un noyau de droits de la personne. L'exemple de Singapour pourrait représenter un critère minimal pour d'autres pays en développement.

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Introduction: The Significance of Singapore's Example

Singapore disturbs many who believe in the universal application of human rights and democracy. The small island-nation is economically rich.¹ It is largely open to foreign influence through trade, media, and visitors. Many in the West have theorized that wealth and openness would be sufficient for liberal democracy,² and that this in turn would be best for the promotion of human rights.³ Yet Singapore seems intent on going its own way.

The nation has recently faced Western critics over issues such as the caning of a youth from the United States,⁴ judicial proceedings for contempt of court against a foreign academic and an international newspaper,⁵ and social controls such as a ban on chewing gum.⁶ In these confrontations, Singapore's representatives have not been apologetic but have, instead, sought to justify their actions by reference to another way of life, an Asian culture. What they say, moreover, does not seem meant wholly for internal consumption: Singapore may serve as an example for other Asian governments, that want economic development but which wish to avoid the increased political freedoms and rights called for by Western democracies. The Singapore example — whether labelled soft authoritarianism,⁷ “Asian de-

¹ In 1994, Singapore's *per capita* G.D.P. was 20,415 US dollars. This is the second highest in Asia, after Japan, and close to Switzerland's mark of 21,307 US dollars in 1984 (adjusted to 1994 dollars) (see C. George, “Beyond Vision 1999” *The [Singapore] Sunday Times* (6 August 1995) 1).

² See: S. Huntington, *The Third Wave: Democratization in the Late 20th Century* (Norman, Okla.: University of Oklahoma Press, 1991); R. Scalapino, “Democratizing Dragons: South Korea & Taiwan” (1993) 4 *J. Democracy* 70. Scalapino argues that “socio-economic transformation” will bring democratic change.

³ See R.E. Howard & J. Donnelly, “Human Dignity, Human Rights, and Political Regimes” (1986) 80 *Am. Pol. Sci. Rev.* 801, who conclude that Western liberal democracy is the political regime that is consonant with human rights.

⁴ The punishment of caning, in particular, has received attention in the United States following the sentencing of a U.S. citizen, Michael Fay (see: “A Flogging in Singapore” *The New York Times* (2 April 1994) 18; “Condemn Singapore's Brutality” *The New York Times* (10 April 1994) 18; A.M. Rosenthal, “On My Mind: Flog Asians Only” *The New York Times* (15 April 1994) A14).

⁵ This was the incident involving Christopher Lingle and the *International Herald Tribune* (“I.H.T.”) (see “Lingle fined \$10,000 as he had shown no contrition” *The Straits Times* (8 February 1995) 19). The I.H.T. has also been the subject of recent proceedings for defamation against Singapore's government leaders (see Chua Mui Hoong, “IHT libel case: PM's lawyer asks court for \$500,000 damages” *The Straits Times* (22 July 1995) 1). For a more general description of media and other human-rights related events in the late 1980s, see B.S. Frank *et al.*, *The Decline in the Rule of Law in Singapore and Malaysia* (New York: Association of the Bar of the City of New York, 1991) at 73-76. Note, however, that a U.S. State Department report in 1992, admitted that many uncensored international magazines and newspapers could be purchased (see *Country Reports on Human Rights Practices* (Washington: D.C.: Department of State, 1992) at 643 [hereinafter *Country Reports*]).

⁶ For a description of such social controls as, for example, the prohibition against the sale of chewing gum, or 1000 dollar fines for littering, see S. Stesser, *The Lands of Charm and Cruelty: Travels in Southeast Asia* (New York: Knopf, 1993).

⁷ See generally F. Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

mocracy”⁸ or “the Singapore school”⁹ — is significant insofar as it is meant for export.¹⁰ Some contend that the nation has “cast itself as Asia’s ideological champion.”¹¹

The argument from Singapore and some other Asian governments is that, while many human rights are now accepted as universal aspirations, their form, priority and scope of applicability will vary. Asian societies, it is said, place the community in priority to the individual and proceed by “consensus”, not conflict.¹² The authority and dominance of state leaders are not suspect and limited, but trusted and enhanced. Asian approaches to human rights, it is argued, emphasize economic and social rights and are legitimized by the continued enjoyment of stability and good economic progress, which is what Asians value.¹³ This “Asian” view of human rights has come into greater prominence since the run-up to the World Convention on Human Rights, when Asian government representatives came together to issue the *Final Declaration of the Regional Meeting for Asia of the World Conference for Human Rights*.¹⁴ The argument highlights culture — whether explicitly or implicitly.

⁸ The term has been preferred by some Asian commentators. In Singapore, see H.C. Chan, “Democracy: Evolution and Implementation — An Asian Perspective” in R. Bartley *et al.*, eds., *Democracy and Capitalism: Asian and American Perspectives* (Singapore: Institute of Southeast Asian Studies, 1993) 1 [hereinafter “Evolution and Implementation”]. In Indonesia, see J. Wanandi, “Sociopolitical Development and Institution Building in Indonesia” in R. Scalapino *et al.*, eds., *Asian Political Institutionalization* (Berkeley: University of California, 1986) 181.

⁹ E. Jones, “Asia’s Fate: A Response to the Singapore School” [1994] *National Interest* 18. Looking at Singapore and other Asian societies, commentators also have resorted to labels such as “democracy”, “soft authoritarianism” or “pluralist authoritarianism” (see *e.g.* K. Hewison, R. Robison & G. Rodan, eds., *Southeast Asia in the 1990s: Authoritarianism, Democracy and Capitalism* (New South Wales: Allen & Unwin, 1993)). See also: Tu Wei-Ming who applies the term, “soft authoritarianism” to the emerging situation in China (see T. Wei-Ming, “Intellectual Effervescence in China” (1992) 121 *Daedalus* 251). See also Scalapino, *supra* note 2, who describes South Korea and Taiwan as systems of “authoritarian pluralism.”

¹⁰ See Jones, *ibid.* at 18, 21.

¹¹ E. Mortimer, “New world order, but struggles will not end” *The Straits Times* (10 January 1994) 26.

¹² This and other generalizations about Asian culture in comparison to that of the West can be found in most writings by the Singapore school. For further discussion of such characterizations, see Parts I.B, I.C, below. See *e.g.* B. Kausikan, “Asia’s Different Standard” (1993) 92 *Foreign Pol’y* 24:

Values and institutions are important determinants of development. But what institutions and which values? The individualistic ethos of the West or the communitarian traditions of Asia? The consensus-seeking approach of East and South-East Asia or the adversarial institutions of the West? (Kausikan, *ibid.* at 35).

¹³ For example, Kausikan writes:

What may have struck a chord with the peasants was not “democracy,” but complaints against inflation, corruption, and nepotism ... [P]opular pressures against East and Southeast Asian governments may not be so much for “human rights” or “democracy” but for good government: effective, efficient, and honest administrations able to provide security and basic needs with good opportunities ... (Kausikan, *ibid.* at 37).

¹⁴ See *Bangkok Declaration*, 2 April 1993, republished in (1993) 14 *H.R.L.J.* 370. See also United Nations, *World Conference on Human Rights* (New York: UN Department of Public Information,

Human rights and democracy in Asia differ, these representatives say, because its culture differs.

This cultural argument is problematic. Critics will say the Asian view tends to generalizations and stereotypes of what is "Asian". It underestimates both the historical ruptures of colonization and the present forces of global interaction. It privileges culture and leaves us in a quandary if there are elements in that culture that we find unacceptable on more universal grounds. Moreover, while some may respect these emerging concepts as signalling a growing self-awareness and self-confidence in Asia, others suspect that the cultural argument is a pretext to excuse continuing transgressions by repressive governments.¹⁵ Certainly, there are different views of human rights voiced in Asia, by opposition politicians, scholars, and non-government organizations.¹⁶ Most prominent among these, perhaps, are the views expressed in the *Bangkok Non-Governmental Organizations Declaration* of March 27, 1993.¹⁷ The *N.G.O. Declaration* differs significantly both from the *Bangkok Declaration* by governments and what this essay has, for convenience, termed the "Asian view".¹⁸ The *N.G.O. Declaration* places a stronger emphasis on civil and political rights than does the Declaration by government representatives. It calls for democracy to be "fostered and guaranteed in all countries"¹⁹ and for Asian governments to "lift constraints on political rights ... by repealing repressive laws ... and liberalising the political system."²⁰ Like the *Bangkok Declaration* by the Asian governments, it calls for cultural rights to be recognized on the basis that "[t]here is emerging a new understanding of universalism encompassing the richness and wisdom of Asia-Pacific cultures".²¹ The *N.G.O. Declaration* explicitly stipulates, however, that "cultural practices which derogate from universally accepted human rights ... must not be tolerated."²²

1993) [hereinafter Vienna Conference], Declaration of June 25, republished in (1993) 14 H.R.L.J. 352.

¹⁵ See A. Neier, "Asia's Unacceptable Standard" (1993) 92 Foreign Pol'y 42, which responds to Kausikan, *supra* note 12. Neier says that in discussing Asian human rights, "Kausikan's main concern, in sum, is to delegitimize international efforts to address the abuses that particularly characterize his own government and its regional allies ..." (Neier, *ibid.* at 51). See also Jones: "They rely on persuading us that the greatest good of the greatest number in Asia absolutely requires the use of repressive political methods" (Jones, *supra* note 9 at 18).

¹⁶ See e.g. Y. Ghai, "Asian Perspectives on Human Rights" (1993) 23 Hong Kong L.J. 342, for a critique of the viewpoints put forward by Asian governments. Ghai's article is re-published in slightly amended form in J.T.H. Tang, ed., *Human Rights and International Relations in the Asia-Pacific Region* (London: Pinter Press, 1995) 54.

¹⁷ Re-published in various journals and books, including Tang, ed., *ibid.* at App. II [hereinafter *N.G.O. Declaration* — Summary].

¹⁸ See Jones, *supra* note 9.

¹⁹ *N.G.O. Declaration* — Summary, *supra* note 17 at 209.

²⁰ *The Bangkok NGO Declaration on Human Rights* (27 March 1993) at General Recommendation 5 [on file with the author; hereinafter *N.G.O. Declaration*].

²¹ *N.G.O. Declaration* — Summary, *supra* note 17 at 208.

²² *N.G.O. Declaration*, *supra* note 20 at para. 1.

While important, the differences between Asian viewpoints are not the focus of this essay and will not be examined. This essay attempts, instead, to address the specifics of the government arguments that represent the Asian view and of the culture that is said to justify that view. In what ways would human rights specifically differ if this Asian view were permitted? How valid is this cultural argument? Is Asian culture a preserved heritage from the past that must have priority over present human-rights claims, or is it something that is simply moulded by present day politics? How is Asian culture discussed and transmitted? It is against this background that we look at the question of culture and human rights in the example of Singapore.

This essay will first present an overview of how the Asian view of human rights, as articulated by Singaporean representatives, differs from the Western view, specifically identifying particular rights that are doubted or denied. It will not, however, dwell at the general level of geo-politics, culture, and theories of democratization, where much of the debate has tended to remain. Instead, the essay will consider the cultural basis for the Asian argument in the specific situation of Singapore. This will include examining the discourse and process of culture that aims to create an Asian identity, amidst the heterogeneous character caused by the nation's mainly immigrant population and its founding as part of the British empire, which presented a constitution with fundamental liberties that parallel civil and political rights.²³ This essay argues that, in the Singapore example, culture is plastic, moulded by politics. Asia's differences in its approach to human rights are maintained not by "natural" culture but by a will to differ. The paper therefore questions why we should privilege culture, as the Asian view suggests, over a system of universal human rights.

We will then look to Singapore's human-rights record to suggest what the Asian view might truly mean for other countries. This is not intended to be a full assessment; rather, it is a survey which serves to emphasize the inherently hybrid nature of Singapore's legal, social, and political heritage and, accordingly, highlights some important features that the city-state shares — despite all the protestations of Asian cultural difference — with liberal democracies. In this vein, we consider whether what some see as Asian culture has indeed been placed before civil and political rights and, if so, to what extent. We also examine, in the Singaporean context, what is sometimes called the "trade-off" or "Lee Kuan Yew hypothesis" of rights and development — that is, that human rights must necessarily be traded-off for economic prosperity.

²³ The rights that are common between the *Constitution of the Republic of Singapore*, reproduced in A.P. Blaustein & G.H. Flanz, eds., *Constitutions of the Countries of the World*, vol. 17 (New York: Oceana, 1996) [hereinafter *Singapore Constitution*] and the *Universal Declaration of Human Rights*, GA Res. 217 (III), UN GAOR, 3rd Sess., Supp. No. 13, UN Doc. A/810 (1948) 71 [hereinafter *Universal Declaration*] include: freedom of speech, assembly and association; freedom of religion; rights against slavery and torture; and freedom against discrimination.

By considering such questions, this essay, while focusing on a limited set of issues facing one people and one nation, hopes to address broader concerns of many other Asian or Western nations that seek a system of universal human rights. Singapore has spoken often and influentially on whether cultural differences should affect the content of human rights. What is found in the Singapore example, both in its arguments and actual practice, may have wider resonance.

I. The Asian View of Human Rights

A. Culture and the Dominant View

Culture haunts the search for a system of human rights that can truly be universal. Ever since F. de Vitoria's first consideration of the native-American Indians in "the New World", we have wondered if those who are not like us should be given rights and treated as human.²⁴ In the modern development of human rights, cultural relativism was an early obstacle put forward by anthropologists:²⁵ relativists argued that values were specific to a particular society and its culture and could not be said to be "universal" to all people. Thereafter, Western democracies and Socialist countries disputed first and second "generations" of rights as matters of political and cultural preferences.²⁶ Today, when we increasingly value cultural diversity, many recent works have considered human-rights perspectives in Islam, Hinduism, Confucianism, and other systems of religion and belief.²⁷

Yet the recurring question of culture has neither silenced nor reduced to doubt the advocates of human rights. Despite the question of culture, the post-World War era has witnessed a growing articulation of human rights: first, with the 1948 *Universal Declaration* and, then, in 1966, with the two international covenants on civil and political rights²⁸ and economic, social, and cultural rights.²⁹ The body of human rights has grown to such an extent that many argue that at least some rights — such as the prohibitions against genocide and torture and the right to self-determination — have become norms of customary international law.

²⁴ F. de Vitoria, "On the American Indians" in A. Pagden & J. Lawrance, eds., *Political Writings* (Cambridge: Cambridge University Press, 1991) 231. For a brief study of Vitoria, see M. van Gelderen, "Vitoria, Grotius and Human Rights" in W. Schmale, ed., *Human Rights and Cultural Diversity* (Goldbach, Germany: Keip, 1993) 215.

²⁵ See American Anthropological Association, "Statement on Human Rights Submitted to the Commission on Human Rights" (1947) 49 *Am. Anthropology* 539.

²⁶ For a summary of socialist and Western perspectives, see A. Cassese, *Human Rights in a Changing World* (Philadelphia: Temple University Press, 1990).

²⁷ See A.A. An-Na'im, ed., *Human Rights in Cross-Cultural Perspective: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992).

²⁸ See *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171, Can. T.S. 1976 No. 47 [hereinafter I.C.C.P.R.].

²⁹ *International Covenant on Economic, Social and Cultural Rights*, 19 December 1966, 993 U.N.T.S. 3, Can. T.S. 1976 No. 46.

Arguably, human rights bind even those nations, like Singapore, that have not acceded to the major human-rights treaties or that were not nations when the *Universal Declaration* was made.³⁰ Commentators suggest we are in the age of rights, that consensus exists on an "irreducible core of integrity and dignity" in which "human rights is the essential idea".³¹ This is despite the comparative youth of human-rights discourse in the history of international law and humankind and transgressions by many nations.³² A nation's conduct as regards its citizens is no longer purely a matter of its internal laws; it is the legitimate subject of international concern.

In this progress, a dominant view of human rights has arisen. This view associates human rights primarily with civil and political rights, and places less emphasis on social, economic, cultural, and other emergent, "third generation", rights.³³ This is evident in the reports and actions of international human-rights organizations,³⁴ who ignore the latter set of rights. It is also marked in the United Nations ("U.N.") system, in which economic and social matters come under development agencies, wholly separate from human-rights organs.³⁵ The dominant view may, with some justification, be associated with liberal Western perspectives.³⁶ This certainly seems to be the perception among Asian governments.³⁷

³⁰ See O. Schachter, *International Law in Theory and Practice* (Dordrecht, The Netherlands: Nijhoff, 1991) at 330-42.

³¹ L. Henkin, *The Age of Rights* (New York: Columbia University Press, 1990) at 193.

³² See H.J. Steiner's review of Henkin, *ibid.*, H.J. Steiner, "The Youth of Rights" (1991) 104 Harv. L. Rev. 917. Steiner agrees with Henkin on the force and promise of the human-rights movement but suggests that "today's world reveals ... the youth of rights in an age of continuing and massive wrongs" (Steiner, *ibid.* at 935).

³³ This tendency has manifested itself since the two international covenants were drawn up. See V. Pechota, "The Development of the Covenant on Civil and Political Rights" in L. Henkin, ed., *The International Bill of Rights* (New York: Columbia University Press, 1981) 32, for a description of the negotiating and drafting process. See also V.A. Leary, "The Effect of Western Perspectives on International Human Rights" in A.A. An-Na'im & F.M. Deng, eds., *Human Rights in Africa: Cross-Cultural Perspectives* (Washington, D.C.: Brookings Institution, 1990) 15.

³⁴ See, for example, the annual report series by Amnesty International and Human Rights Watch. These reports set out detailed allegations of transgressions of civil and political rights and do not seek to evaluate social or economic rights.

³⁵ See P. Alston, "The Right to Development" in *Human Rights Yearbook*, vol. 1 (New York: Hutchinson, 1988) 1. Looking at the U.N. and its Center for Human Rights, Alston comments that "one of the principal failings of existing intergovernmental institutional approaches to human rights ... is the rigid separation of the human rights organs and that of the development and financial agencies" (Alston, *ibid.* at 15).

³⁶ See e.g. Howard & Donnelly, *supra* note 3. See also Leary, *supra* note 33.

³⁷ This perception became apparent in the run-up to the 1993 Vienna Conference (see *supra* note 14). In preparation for the Vienna Conference, Asian governments gathered for a regional discussion and issued the *Bangkok Declaration*, *supra* note 14. The preamble to that Declaration, *inter alia*, reiterated "the interdependence and indivisibility of economic, social, cultural, civil and political rights", and while noting that progress had been made in the codification of international human-rights instruments, it expressed "concern that these mechanisms relate mainly to one category of rights" (*ibid.*

The question of culture continues to speak against that dominant view. The question of culture, however, no longer comes from indigenous peoples, anthropologists, socialists, or insular religious or ethnic minorities; rather, it comes increasingly from governments representing polyglot, largely multi-ethnic, and increasingly modern and capitalist societies in Asia.

The Asian view of human rights came into greater prominence with the *Bangkok Declaration*. In Bangkok, Asian government representatives railed against the imposition of "incompatible values" in the name of human rights.³⁸ Yet, they did not wholly reject universal human rights, as others might argue.³⁹ In fact, the Asian representatives reaffirmed "their commitment to principles contained in ... the Universal Declaration of Human Rights".⁴⁰ Moreover, the Asian approach argues that while human rights are universal norms, there must be allowance for national and regional differences in priorities, emphases, and specific forms of practice in recognizing them.⁴¹ To the extent that norms are accepted, the approach may be characterized as a form of "weak" cultural relativism.⁴² Where cultural practices differ from what the dominant view of human rights might otherwise require, however, the Asian view privileges culture. In this sense, the cultural relativism of the Asian view is strong — near absolute — at the level of practice.⁴³

This approach may be associated with the views of some that "culture is the supreme ethical value, more important than any other. Human rights, in particular,

at 370) (*i.e.* political rights). This was amplified in statements by governments at the Vienna Conference. Perhaps the clearest of these was made by the Minister of Foreign Affairs for Myanmar (Burma): "[W]e must not fail to address the whole spectrum of rights ... In recent years while civil and political rights have been highlighted the right to development has not been given the attention it deserves" (reproduced in "Statements by Representatives of Asian Governments at the Vienna World Conference on Human Rights" in Tang, ed., *supra* note 16, App. III, 213 at 224).

³⁸ See the preamble to the *Bangkok Declaration*, which recognizes that "the promotion of human rights should be encouraged by cooperation and consensus, and not through confrontation and the imposition of incompatible values" (*ibid.* at 370).

³⁹ For a total rejection of universality, see R. Panikkar, "Is the Notion of Human Rights a Western Concept?" (1982) 120 *Diogenes* 75. Panikkar answers the question: "Is the Concept of Human Rights a Universal Concept? The answer is a plain *no* ..." (*ibid.* at 84).

⁴⁰ *Bangkok Declaration*, *supra* note 14, "Preamble" at 370.

⁴¹ The *Bangkok Declaration*, *ibid.*, stresses "the universality, objectivity and non-selectivity of all human rights" (*ibid.* at art. 7) and recognizes "the significance of national and regional particularities and various historical, cultural and religious backgrounds," (*ibid.* at art. 8) as well as the right of countries "to determine their political systems ... and free pursue their economic, social and cultural development" (*ibid.* at art. 6).

⁴² This follows the typology between strong and weak forms of cultural relativism set out by J. Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca, N.Y.: Cornell University Press, 1989) at 109-10.

⁴³ R.E. Howard, "Cultural Absolutism and the Nostalgia for Community" (1993) 15 *Hum. Rts. Q.* 315. Howard suggests: "Cultural absolutism is a philosophical position that declares a society's culture to be of supreme ethical value ... It thus posits particularist cultures as of more ethical value than any universal principle of justice" (*ibid.* at 315).

should not be promoted if their implementation may result in a change in a particular culture."⁴⁴ Other cultural relativists take exception to such strong views. They allow that human-rights abuses may be criticized, even if it must be acknowledged to be from another culture's standpoint.⁴⁵ Relativists disagree with each other when confronted by concrete practices. Acceptance of human rights as universal principles may unwittingly veil difference and disagreement at various levels of substance, interpretation, and form of human rights.⁴⁶

As such, the practical application of human rights is telling. Only in the specific content and interpretation of rights can actual meaning — and the international understanding that legitimates it — be found. Abstracted universal norms are insufficient for human beings in a real world.⁴⁷ What are the specifics of the Asian view of human rights? Do we mean the same thing when we agree, say, that there is a right against torture? What is the difference of degree when we differ? Relativism — which the Asian view calls for on one hand — and universality — which it accepts on the other — are in tension. It is therefore useful, before proceeding, to briefly set out some specifics of the Asian view, where it agrees with and differs from the dominant view of human rights.

B. *Specifics of the Asian View*

The Asian view tends toward general statements of difference, perhaps because it is an emerging argument. An outline may still be suggested, however, by reference to the *Bangkok Declaration* and to speeches and writings of representatives of the Singapore school, particularly those of Senior Minister Lee Kuan Yew.⁴⁸ These sources may reveal a core of civil and political rights that are acceptable: rights to due process and to equality;⁴⁹ prohibitions against slavery;⁵⁰ prohibitions against

⁴⁴ FR. Tesón, "International Human Rights and Cultural Relativism" (1985) 25 Va. J. Int'l L. 869 at 870.

⁴⁵ See A.D. Renteln, *International Human Rights: Universalism Versus Relativism* (Newbury Park, Cal.: SAGE, 1990) at 69.

⁴⁶ The typology between hierarchical levels of variation, between substance, interpretation and forms, is developed by Donnelly, *supra* note 42 at 109-24.

⁴⁷ This question of specifics can also be asked skeptically. As acknowledged, the Asian argument for cultural context may be, instead, a pretext for repression. Because of this concern, Asian non-governmental organizations working in human rights have doubted the efficacy of instituting a regional or sub-regional human-rights convention. In a change of position, the *N.G.O. Declaration*, *supra* note 20, accepted the need for a regional human-rights mechanism. Yet, this support was subject to, *inter alia*, safeguards against governmental influence (see *ibid.* at Recommendation 1(ix)).

⁴⁸ This essay will draw primarily on the following statements of Singaporean leaders: Senior Minister Lee Kuan Yew, "Democracy, human rights, and the realities" (Speech to The Create 21 Asahi Forum, Tokyo, 10 November 1992), reproduced in *Speeches*, vol. 16:6 (Singapore: Ministry of Information and the Arts, 1992) 20; Kausikan, *supra* note 12.

⁴⁹ See: Lee Kuan Yew, *ibid.* at 30 who refers to the "rule of law"; *Bangkok Declaration*, *supra* note 14 at arts. 14, 26.

⁵⁰ See: Kausikan, *supra* note 12 at 39; *Bangkok Declaration*, *ibid.* at art. 8.

murder and genocide;⁵¹ prohibitions against torture;⁵² rights to self-determination;⁵³ prohibitions against racial discrimination;⁵⁴ equal rights between the sexes;⁵⁵ and rights of ethnic, religious, and linguistic minorities to their culture, religion, or use of their language.⁵⁶

Despite acceptance of these norms, some differences from the dominant view remain in their interpretation and practice. In its interpretation of "cruel and degrading treatment", for example, the Singapore school would not likely accept the standard established by the European Court of Human Rights, which has ruled against the "five techniques" of interrogation.⁵⁷ These techniques were: wall-standing; hooding; subjection to noise; deprivation of sleep; and deprivation of food and drink. In the European case, the British government classified these techniques as "interrogation in depth", but the Court found that the combined use of the five techniques constituted a practice of inhuman treatment and of torture. Asian governments may not take the same view as the court to prohibit such techniques. Another difference in the Asian view is that it circumscribes the right of self-determination within existing territorial boundaries. This is similar to the position of United Nations resolutions but falls short of newer views of self-determination voiced by non-government organizations and others in cases such as East Timor and Tibet.⁵⁸

There are other human rights with which the Asian approach expressly does not agree.⁵⁹ These, and the corresponding articles in the I.C.C.P.R., are: prohibitions against detention without trial;⁶⁰ the right to freedoms of speech and of the press;⁶¹

⁵¹ See: Kausikan, *ibid.*; *Bangkok Declaration, ibid.* at art. 6.

⁵² See: Kausikan, *ibid.*; *Bangkok Declaration, ibid.* at art. 7.

⁵³ See: Kausikan, *ibid.*; *Bangkok Declaration, ibid.* at arts. 1, 12. Note, however, that the support for self-determination does not extend to the idea of changing existing state borders and supporting, say, independence in East Timor or Tibet (see Kausikan, *ibid.* at 40).

⁵⁴ See Kausikan, *ibid.* Note that the I.C.C.P.R., *supra* note 28, does not expressly prohibit racial discrimination; however, it seems to be an underlying premise since article 2 states all rights should be ensured to all individuals "without distinction of any kind, such as race ...". The leading international law document on racial discrimination is the *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, Can. T.S. 1970 No. 28, 5 I.L.M. 350 (in force 4 January 1969).

⁵⁵ See *Bangkok Declaration, supra* note 14 at arts. 3, 22.

⁵⁶ See *Bangkok Declaration, ibid.* at arts. 11, 27.

⁵⁷ See *Republic of Ireland v. United Kingdom* (1978), Eur. Ct. H.R. Ser. A., No. 25 at 26. The Asian view is also likely to rely on the U.N.'s exception of pain arising from punishment made with legal sanction (see *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 9 March 1984, Can. T.S. 1987 No. 36, 23 I.L.M. 1027, and its exception of "pain and suffering arising only from ... lawful sanctions" (*ibid.* at art. 1)).

⁵⁸ See Kausikan, who directly addresses this difference: "[T]he West can legitimately object to the torture or murder of Tibetans ... But to demand independence ... is an entirely different matter. It is a fantasy" (*supra* note 12 at 40).

⁵⁹ See Kausikan, *ibid.*

⁶⁰ See I.C.C.P.R., *supra* note 28 at art. 9.

and prohibitions against capital punishment.⁶² Not to accept these rights absolutely does not mean that they are rejected out of hand. In reality, for example, there are limited freedoms of speech, while legal proceedings and protections may also exist against capital punishment and the misuse of detention without trial. What the Asian view rejects is the dominant view of the meaning and scope of these rights. Similarly, other civil and political rights that Asian governments have neither expressly accepted nor rejected⁶³ are substantially recognized and enjoyed in Singapore and other Asian countries. It is the form and scope of these rights in practice that are in question, not their very existence as norms.

C. Culture as the Difference

To what extent are differences of form and scope of human-rights recognition predicated on culture? Culture is referred to in the *Bangkok Declaration*, first, insofar as Asian governments are called upon to recognize “the contribution that can be made ... with their diverse rich cultures and traditions”⁶⁴ and, second, insofar as human-rights norms must account for “the significance of national and regional particularities and various historical, cultural and religious backgrounds”.⁶⁵

There is much else in the *Bangkok Declaration* that does not seem strictly cultural but, rather, geo-political. For instance, there is the over-arching concern with “conditionality”, using human rights as a precondition for aid.⁶⁶ At other fora, the concern of many who put forward the Asian view is that Western countries selectively apply human rights to slow Asia’s growth and assert leadership, despite dwindling economic power and influence.⁶⁷ These geo-political concerns may have some validity but their presence shows that the Asian view of human rights is very much a governmental construct.⁶⁸ Asian governments are no longer taking a purely

⁶¹ See *ibid.* at art. 19 granting the right to freedom of opinion and expression as well as the “right to seek, receive and impart information and ideas ... through any media” but not, explicitly, freedom of the press.

⁶² See *ibid.* at art. 6, which establishes some limits to the use of capital punishment. No article in the Covenant, however, states an express prohibition, although an optional protocol to the I.C.C.P.R. allows states to accept this position (see *Optional Protocol to the International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 302, Can. T.S. 1976 No. 47). A number of human-rights organizations take the position that capital punishment constitutes cruel and inhuman punishment and, therefore, violates human rights.

⁶³ By elimination, these would include: due process (see *Universal Declaration*, *supra* note 23 at art. 10), liberty of movement and freedom of residence (*ibid.* at art. 13), freedom of thought, conscience and religion (*ibid.* at art. 18); rights of peaceful assembly and of association (*ibid.* at art. 20); and rights of political participation (*ibid.* at art. 21).

⁶⁴ *Bangkok Declaration*, *supra* note 14 at “Preamble”.

⁶⁵ *Ibid.* at principle 8.

⁶⁶ See *ibid.* at principle 4, which calls for a rejection of linking human rights and aid.

⁶⁷ See Kausikan, *supra* note 12 at 24, 27.

⁶⁸ The *Bangkok Declaration* was signed by approximately 40 Asian countries. Some nations expressed reservation but signed in an effort not to be seen as “un-Asian”. The Declaration does not

defensive stance when Western countries place democracy and human rights on the international agenda. They are, instead, explaining their differences.⁶⁹

The Asian view also acknowledges that many Asian countries are in the midst of development. "Development" is, of course, a complex term, with an evolving literature unto itself.⁷⁰ Where once it signified mainly macro-economic policy and mega-projects in the vain search for the promised "take-off" in Rostow's theory,⁷¹ "development" has increasingly come to include environmental and human factors or what has been called human and sustainable development.⁷² To a considerable degree, the Asian view elicits support for its human-rights arguments from the need for and right to development. These arguments advance the idea that developing countries require government to take on a more central and powerful role than many Western countries imagine. Where, as in Singapore's case, the government succeeds in encouraging economic development and in building a sense of nationhood, its role becomes different from that of Western governments in liberal democracies. Rather than distrusting and limiting it as the United States and liberal theorists do,⁷³ the strong state is largely trusted in Asia.⁷⁴ Consequently, the govern-

necessarily represent the sentiments of the people of Asia and regional non-governmental organizations. For a critique of the *Bangkok Declaration*, see Ghai, *supra* note 16.

⁶⁹ See K. Mahbubani, "New Areas of Asean Reaction: Environment, Human Rights and Democracy" (Paper delivered to the First Asean Congress, October 1992), excerpted in K. Mahbubani, "Best for Asean to follow Asian wisdom and walk the middle path" *The Straits Times* (15 October 1992) 28.

⁷⁰ For an analysis of the development discourse and the different meanings and significance attached to this term, see A. Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton: Princeton University Press, 1995). For a brief survey of the use of development in human rights, see K. Tomasevski, *Development Aid and Human Rights Revisited* (London: Pinter, 1993) c. 1.

⁷¹ See: W.W. Rostow, *The Process of Economic Growth* (Oxford: Oxford University Press, 1960); W.W. Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960).

⁷² See: the Report of the World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), which brought the phrase "sustainable development" into wider recognition; *World Development Report 1992: Development and the Environment* (Oxford: Oxford University Press, 1992); the United Nations Development Project series of Human Development Reports from the 1990s (see United Nations Development Programme, *Human Development Report 1991* (Oxford: Oxford University Press, 1991) and subsequent years' reports). These reports have, together with other publications and with international fora, intertwined development with human and environmental concerns.

⁷³ For a view of American constitutional law and the distrust of powerful government, see J.H. Ely, *Democracy and Distrust* (Cambridge, Mass.: Harvard University Press, 1980).

⁷⁴ While these arguments may be valid, it is also clear that the historical exigencies and needs of nation-building are receding. The success in creating a more developed, richer, and sophisticated society may well require a different form of governance in the future. There is also a question of how the dominant party attempts to retain its dominance — are its means legitimate or a transgression of norms?

ment and party who led the nation's independence movement and subsequent development has tended to be dominant.⁷⁵

Another developmental basis for the Asian view is suggested by speakers from the Singapore school. The argument is that Asia, first, requires the accumulation of wealth and the formation of a civic society before it can fully address human-rights issues. This has been criticized for being ahistorical.⁷⁶ The argument also seems unclear as to whether Asia is truly on a different trajectory from Western nations or is only in a transient stage. If Asia's situation is transitory, the developmental argument is, at best, an explanation for the present differences; it does not argue against future convergence. We may, therefore, look forward to a future in which Asia and the West have evolved to human-rights views that are more similar, if not identical. Asia's plea to differ, in such a scenario, only represents a passing phase. Accordingly, the question is: When? At what stage of development will economic rights in Asia be sufficiently met so that other rights — including civil and political rights — will come increasingly into focus?

But, while developmental and geo-political factors do feature, the heart of the Asian view seems to be that cultural factors should not take precedence over a universal conception of human rights. That is the recurring and perhaps predominant theme of its proponents, most notably Senior Minister Lee Kuan Yew.⁷⁷ In critically discussing the Singapore school, Eric Jones sees that “the core of the position seems to be that values are learned differently in West and East with one's mother's milk.”⁷⁸

Accordingly, while development is central to the fulfilment of human rights, this essay focuses on the cultural basis of the Asian view. This specific focus will allow us to consider more fully what factors might explain why the Asian conception of human rights differs from its Western counterparts even after developmental need — economic and social rights — have largely been met.

⁷⁵ This pattern is seen not only in Singapore, but also in Malaysia, Taiwan, India (except for a brief interruption), and until recently, Japan. There is more to such party dominance than winning in consecutive elections. The dominant party can shape ideological context in the political system and establish itself as a centrist, “catch-all”, party (see T.J. Pempel, *Uncommon Democracies: The One-Party Dominant Regimes* (Ithaca, N.Y.: Cornell University Press, 1990) at 351-52).

⁷⁶ See Neier, *supra* note 15 at 44.

⁷⁷ See especially, F. Zakaria, “Culture is Destiny: A Conversation with Lee Kuan Yew” (1994) 73 *Foreign Affairs* 109. The interviewer concludes: “The dominant theme throughout our conversation was culture” (*ibid.* at 125).

⁷⁸ Jones, *supra* note 9 at 19. The Asian view of human rights has a developmental basis. It argues, for example, that basic social and economic needs of education, food and shelter come before political rights. In this respect, it is similar to the view expressed in well-rehearsed arguments by the former Socialist countries and other developing countries, especially Africa. The Asian view may be distinguished, however, by its recognition of culture as the main reason for its difference.

The Asian argument views culture as the factor that makes Asian people and societies, in contrast to their Western counterparts, more “consensus-seeking”, “communitarian”, and “accepting of authority”.⁷⁹ The state and the citizen, the majority and the minority: these are not necessarily in conflict, contrary to what Western democratic theorists suppose when they warn of the Leviathan or the “tyranny of the majority”. They can be brought into harmony. This belief is evident in Confucian thought, which emphasizes proper conduct, or *li*, so as to bring “consensus”.⁸⁰ The emphasis is not on individual rights, which are Western constructs; rather, it is on duties. Duties, once fulfilled, create and earn rights for the individual. In this way, conceptions of “rights” in Asian society differ from their Western concepts that see rights as self-evident, not earned.⁸¹

These are some of the generalizations put forward by Asian governments about how culture requires human rights (and democracy) to differ in Asia. This cultural argument is problematic. While it is beyond the scope of this essay to fully discuss prevailing theories of culture, a brief overview may be necessary, insofar as these form the backdrop to the problems of the Asian view and, in particular, its application to Singapore.

D. Problems of Cultural Argument

The characterizations and arguments for the Asian view, as briefly described, stress the idea of traditional Asian cultures. Taking such an approach, the culture of, say, China, is to be located in books about ancient Confucian philosophy, rather than in the May 4th movement or the modern discos and stock exchange of Shanghai and Guangzhou. Similarly, discussion of Iran and human rights tends to centre around fundamentalist views of Islam and gives little credit to either secular views held by some citizens or to the interpretation of the political statements of Islamic leaders.⁸² A few of the many objections to this traditional, historical emphasis in mapping out the present-day interaction between culture and human rights will be briefly considered.

⁷⁹ It is unclear what, precisely, is meant by these terms other than what is conveyed by their use by Asian government spokesmen to differentiate Asians from Westerners who are said in contrast to be, “confrontational”, “individualistic”, and “anarchic”.

⁸⁰ See A.H. Chen, *An Introduction to the Legal System of the People's Republic of China* (Singapore: Butterworths, 1992) c. 2. According to Chen, Confucianism claims, for example, that were people governed by the *li* (rites, custom, and rules governing proper conduct), then “disputes and conflicts would be easily resolved” (*ibid.* at 9). See also: H. Rosemont, “Why Take Rights Seriously? A Confucian Critique” in L.S. Rouser, ed., *Human Rights and the World's Religions* (Notre Dame, Ind.: University of Notre Dame Press, 1988) 167; R.P. Peerenboom, “What's Wrong with Chinese Rights?: Toward a Theory of Rights with Chinese Characteristics” (1993) 6 *Harv. Hum. Rts. J.* 29.

⁸¹ See references listed *ibid.* See also B.I. Schwartz, *The World of Thought in Ancient China* (Cambridge, Mass.: Belknap Press, 1985), who doubts a “rights” concept in Chinese tradition.

⁸² For such a contrary view of Islam, see R. Afshari, “An Essay on Islamic Cultural Relativism in the Discourse of Human Rights” (1994) 16 *Hum. Rts. Q.* 235.

The first and most direct objection to these characterizations of Asian culture is in respect of content. Other commentators find more liberal and universal strands in the vast body of Asian culture⁸³ and within classical Confucian thought.⁸⁴ For example, some would argue that the Confucian system is not wholly authoritarian, but based on morality, compassion, and mutual respect between the rulers and the ruled, all of which are consistent with democratic values.⁸⁵ Similar values of natural law and human rights have been located by commentators in other religions and philosophies practised in Asia, such as Islam.⁸⁶

At a second level, the problem with talking about an "Asian" culture is that the discourse tends to generalizations and stereotypes of what is "Asian" and the essentialist arguments of what Edward Said has termed "orientalism".⁸⁷ Orientalism in colonial times was a tool of control imposed by the West for "dominating, structuring and having authority over the Orient".⁸⁸ Asia, in this sense, is not a natural geographical entity, but an idea created by an expanding Europe seeking to define what it was and was not; Asia was invented as the "Other" in this dialectic.

Today, we witness a neo-orientalism re-drawing lines between East and West. The difference is that this idea of Asia is no longer weak and despotic — as Europeans once constructed it — but, rather, harmonious and vital; it is the West that is now disorganized and decadent. Western intellectuals engage in this discourse of differences between Asia and the West, hoping to suggest ways to revitalize what they believe needs repair in their own culture.⁸⁹ Moreover, Asian élites have begun to wear culture as a badge of difference and pride on the new-sewn suit of eco-

⁸³ Writings about Buddhism, for example, have emphasized the dignity it gives to the individual, a dignity that would provide a basis for human rights (see P. de Silva, "The Concept of Equality in Theravada Buddhist Tradition" in R. Siriwardena, ed., *Equality and the Religious Traditions of Asia* (London: Pinter, 1987)).

⁸⁴ See e.g.: W.T. de Bary, *The Liberal Tradition in China* (New York: Columbia University Press, 1983); Tu Wei Ming, "When Confucianism grapples with democracy" *The Straits Times* (27 November 1988) 26.

⁸⁵ Wejen Chang suggests that classical Confucianism does not support the idea of authoritarianism but, rather, has democratic attributes (see W. Chang, "Traditional Chinese Attitudes towards Authority" (Paper presented to the East Asian Legal Studies Department, Harvard University Law School, 18 April 1994) [unpublished]).

⁸⁶ See A.A. An-Na'im, "Islam, Islamic Law and the Dilemma of Cultural Legitimacy for Universal Human Rights" in C.E. Welch & V.A. Leary, eds., *Asian Perspectives on Human Rights* (Boulder, Colo.: Westview Press, 1990) 31.

⁸⁷ See E.W. Said, *Orientalism* (New York: Vintage Books, 1978).

⁸⁸ *Ibid.* at 3.

⁸⁹ See e.g. E.F. Vogel, *Japan as Number One: Lessons for America* (Cambridge, Mass.: Harvard University Press, 1979). A Singaporean minister, B.G. George Yeo, has spoken of the process of Occidentalism — the process by which Asia will identify and selectively adopt the best of the West (see S. Goh, "Asia has much to offer the West — BG Yeo" *The Straits Times* (13 August 1991) 1).

conomic success, warding off the human rights and democracy that the West urges. As Said put it, "the modern Orient ... participates in its own Orientalizing."⁹⁰

The methods of characterizing the content of Asia's culture are what have been called "interpretive studies."⁹¹ This methodology may be criticized for using only selected examples, deploying ill-defined terms, and for tending toward the use of tautological statements.⁹² When done effectively, it may render a good sketch of a broad picture. But when done badly, it is caricature.

As an example of the latter form of characterization, one writer suggests that

for most Asians the acceptance of authority is not inherently bad but rather is an acceptable key to finding personal security. For most Asians the happiest times in their lives are inevitably their childhood years, when they are most dependent, whereas autonomy and self-identity usually bring loneliness and the sadness of independence ... Most Asians respect authority too much to share the Western distrust of authority and power.⁹³

How do such writers know what "most Asians" accept, respect, or find happiest? How are the lives or childhood years of Asians today different from what those in the West experience? Given the great diversity found in Asia, to talk about "Asia's" culture, as if there were just one, risks over-generalization.⁹⁴ It seems a re-creation of the stereotype of "oriental" despotism, replete with such assertions as the idea that "Oriental" authoritarianism arises from the very character of the Asian or the need for massive irrigation projects.

The third, and connected, flaw in the cultural argument is that culture is seen as a static and reified artifact, rather than something that is transmitted from one generation to another. A static view of Asian culture does not recognize the fractures of colonial rule, the experience of independence and on-going modernization in the

⁹⁰ Said, *supra* note 87 at 325.

⁹¹ This term is used by L.W. Pye, *The Mandarin and the Cadre: China's Political Cultures* (Ann Arbor, Mich.: University of Michigan Press, 1988) at 8.

⁹² See A.J. Nathan & T. Shi, "Cultural Requisites for Democracy in China: Findings from a Survey" (1993) 122 *Daedalus* 95 at 96. Their own approach to considering the democratic culture was based on survey findings about the attitude of the Chinese. The survey provides more concrete evidence that comes to no such easy conclusions about culture and democracy. It confirms that present Chinese culture does not have the strong civic tradition that marks the United States or the United Kingdom. Less expectedly, China out-scored Italy and Mexico in some measurements, such as the expectation of equal treatment. The survey concludes that there is no absolute bar in Chinese culture to the growth of democracy.

⁹³ L.W. Pye, *Asian Power and Politics: The Cultural Dimensions of Authority* (Cambridge, Mass.: Belknap Press, 1985) at x [hereinafter *Asian Power*].

⁹⁴ Kausikan, *supra* note 12 at 26, admits as much. Neier, *supra* note 15, correctly points out that Kausikan "paints with too broad a brush" (*ibid.* at 42).

globalization process.⁹⁵ Even if pre-industrial Asian societies did place community above the individual, it is a leap in logic to assume that Asian societies can simply return to that historical culture. If Asian nations claim to be different from the West, the third problem with the cultural argument leads us to consider how those differences are maintained or, indeed, created — that is, how culture is transmitted.

It is against these criticisms of the cultural argument, particularly the second problem of discourse and the third issue of cultural transmission, that we look at the example of Singapore.

II. Singapore as Asian

*To maintain and transmit a value system, human beings are punched, bullied, sent to jail, ... cajoled, bribed, made into heroes ... To speak of cultural inertia is to overlook the concrete interests and privileges that are served by indoctrination, education, and the entire complicated process of transmitting culture from one generation to the next.*⁹⁶

B. Moore

Singapore is located in Asia and is populated by citizens of different Asian races. It therefore may seem incontrovertibly, naturally, "Asian". Accordingly, observers have applied ideas of an Asian culture to Singapore's political development; because the majority of Singaporeans are Chinese, it is specifically Confucian culture that is deemed relevant.⁹⁷ Some Singaporean political scientists believe that a rule that is "both authoritarian and paternalistic seems to respond to the notions of good government".⁹⁸ Such approaches, as we have seen earlier, emphasize the traditional aspects of culture. Therefore, in defining Singapore's culture with its mix of peoples of Chinese, Indian, and Malay descent, we might look at evidence of their respective traditions. In this way, the Chinese may be associated with Confucianism, the Malays identified with Islam, and the Indians with, say, Hinduism. Singapore's cultural difference in human rights would then be the accumulation of these traditions and their respectively different conceptions of human rights.

⁹⁵ See G. Evans, ed., *Asia's Cultural Mosaic: An Anthropological Introduction* (Singapore: Prentice Hall, 1993).

⁹⁶ B. Moore, *Social Origins of Dictatorship and Democracy* (Boston: Beacon Press, 1966) at 486.

⁹⁷ See e.g. *Asian Power*, *supra* note 93. Pye assumes that Confucian tradition applies to Singapore and that, with Japan and other newly industrialized economies, this shows "Confucian tradition does indeed present no barriers to modernization" (*ibid.* at 55). A Singaporean sociologist, E. Kuo, examines different aspects of Confucianism and suggests that a "folk Confucian" tradition exists in Singapore but distinguishes this from the form of Confucianism promoted by the government (see E. Kuo, *The Triadic Chord: Confucian Ethics, Industrial East Asia and Max Weber*, ed. by Wei-Ming Tu (Singapore: N.U.S., Institute of East Asian Philosophies, 1991) at 310).

⁹⁸ H.C. Chan, *The Dynamics of One Party Dominance: The PAP at the Grass-Roots* (Singapore: Singapore University Press, 1976) at 230.

Yet the question of culture in relation to human rights today goes beyond tradition, geography, and demography. In the Asian view of human rights, there must be something in "Asianness" that affects what common men and women make of human rights and that causes it to differ from the dominant view. In this sense, being Asian is a state of mind. There is nothing natural or fixed about it. What does it mean to be "Asian"? And how does one become or remain "Asian"?

Talking about culture and relativism tends to move the debate about human rights away from government policies or practices and laws and toward more abstract moral and philosophical concerns. Yet looking closely at the Singapore example demonstrates how the process of defining and ensuring Asianness is tied in with government policies, laws and politics. This is primarily because the nation has, perhaps more than most others in Asia, a strong current of Western influence, both historical and on-going. It also lacks a single, homogeneous Asian reference point.

A. *Western Influence*

Western influence in Singapore begins at its very founding, as a port in the British empire. Without embarrassment, Singaporeans will point to an Englishman, Sir Stamford Raffles, as the city-state's founder. While Malays and some Chinese were already present in Singapore before the coming of Raffles, the forebears of the vast majority of present-day Singaporeans emigrated to the island while it was under British control. Many, indeed, came as a direct result of colonial policies that encouraged trade in Singapore as well as tin-mining and other economic activities in the Malayan peninsula.

Although political independence was achieved by political means, it was not marked by a prolonged and heroic struggle that would have delineated a fuller closure with the colonial past.⁹⁹ Thus, for instance, Singapore did not take up the common symbolic practice of converting colonial names of places and buildings to indigenous titles. Moreover, Western influence continues today in economic development that is encouraged by (mainly Western) multi-national companies. The nation has always invited foreign companies and capital, rather than taking up the practices of expropriation, closed markets, and import substitution, which were advocated in the 1960s and 70s. Singapore is very much interconnected with the international world through industry, trade, media, and the movement of peoples.¹⁰⁰ The vast majority of Singaporeans speak English and are open to the influence of the Western world through an increasingly pervasive media. Isolation is not only

⁹⁹ The history of neighbouring Indonesia is a study in contrast on this issue.

¹⁰⁰ The country receives over five million foreign visitors per year. Conversely, a very high percentage of Singaporeans have travelled, studied or lived abroad. A quarter of Singaporeans who pursue post-secondary education will do so overseas in North America, Australia, the United Kingdom, and New Zealand.

impossible, but also undesirable. This is the first problem of viewing Singapore as wholly, originally Asian.

B. Multi-racialism, Multi-culturalism

Singapore's assertion of a homogeneous Asian culture is also complicated by the fact that it is multi-racial, multi-cultural, multi-religious and multi-lingual. Singaporeans have disparate origins. The Malay Muslim, the Indian Hindu and the Chinese who believes in a form of animistic Taoism: these may be median types in Singapore. But other lines of difference exist: between Tamils and those from other parts of the Indian sub-continent; between Malays and Arabs; between Indians who are Muslim and those who are Hindu; between dialect- and Mandarin-speaking Chinese; and between Chinese-speaking and English-speaking Singaporeans. Eurasians, Jews, and others who may have been on the island for several generations can also be acknowledged, as should Christians, who are many and increasing in number. Amidst these differences of religion, race, and language, it may be difficult to meaningfully identify a particularly Asian culture — especially when non-Asian elements of Christianity and the English language are mixed in and, arguably, ascendant.

Singapore has no mythic, pre-colonial civilization on which to base a unique Asian identity. This is problematic, given the presumption that the nation-state would be more legitimate if its people were racially homogeneous. If the nation is an imagined community, as Anderson has suggested,¹⁰¹ the basis of the Singaporean imagination of nationhood must depend on things other than a deep connection with the territory or the people's ancient and common ancestry.

The Singaporean approach has not been to admit that their culture is hybrid. The inherent diversity remains a problem in constructing a single Asian identity,¹⁰² but a policy of multi-racialism aims at keeping harmony between the different races.¹⁰³ Government policies have been threefold: first, to contain the very diverse associations of race, language and religion within the main, official administrative categories of Chinese-Malay-Indian; second, to maintain and even re-invent a separation between these main cultures,¹⁰⁴ representing them through their traditional forms and with a very limited synthesis;¹⁰⁵ and, third, to create an Asian identity that encompasses the separate cultures, but does not mix them to create a cultural hybrid.

¹⁰¹ See B. Anderson, *Imagined Communities* (London: Verso, 1983).

¹⁰² In contrast, Malaysia with a similar mix of races lays claim to an indigenous origin as a Malay state.

¹⁰³ There may be sound reasons for this separation between races, given the history of ethnic tension between, mainly, the Malays and Chinese. This led to riots in Singapore in 1965.

¹⁰⁴ See I. Ang & J. Stratton, "The Singapore Way of Multiculturalism: Western Concepts/Asian Cultures" (1995) 10 *Sojourn* 65 at 75.

¹⁰⁵ See *ibid.* at 79-81.

The first two policies — which together advocate collapsing differences to three main categories, while at the same time maintaining these three separately — can be seen in a number of different practices. In the issuance of identity cards and the conduct of official surveys, for example, a Singaporean must choose from a limited set of race affiliations; those born of mixed parentage are deemed to follow the race of their father. Similarly, the government policy of encouraging a “mother tongue” both coalesces and separates. A person’s language is not identified as a question of fact of what language his or her mother actually speaks, but presumed on the basis of fixed race. For many Chinese in Singapore, this has meant that different Chinese dialects are de-emphasized in favour of Mandarin; this coalesces those categorized as Chinese¹⁰⁶ and separates Chinese from other ethnic groups. The mother tongue policy also helps protect Asian elements against the intrusion of the English language, which cannot — by definition — be a mother tongue. It should be restricted to administrative and technical use, important for technology and trade but not for culture. This policy persists despite the fact that almost all Singaporeans speak English, and increasing numbers use it at home. The mother tongue policy is thus a “formalist and essentialist definition ... which ... highlights the synthetic, artificial nature of Singaporean Asianness”.¹⁰⁷ Such practices suggest that questions of race and language are not “natural” in any sense of self-identification with race, language, and culture. They are more part of a government policy of categorization for administration.

The third government policy — of creating and transmitting comprehensive Asian culture — is also in evidence. For example, the Singapore government has articulated a set of “national values”, it promotes the teaching of Confucianism in schools, and it still condones the practice of caning as a form of legal sanction. This third policy merits fuller treatment.

C. Asian Values

In the late 1980s, Singapore government leaders began a process of identifying the nation’s shared or national values in order to locate “the characteristic ethos and spirit of a people” which “distinguish them from other peoples and countries”.¹⁰⁸ National values became the subject of a parliamentary white paper and political debate. From this process, the following core values were identified: (1) nation before community, and society over self; (2) upholding the family as the basic unit of society; (3) regard and community support for the individual; (4) resolving issues

¹⁰⁶ For example, there is an official “Speak Mandarin” campaign. One slogan was, “If You’re Chinese, Make a Statement — In Mandarin”.

¹⁰⁷ Ang & Stratton, *supra* note 104 at 81.

¹⁰⁸ This idea was put forward by Minister for Trade and Industry and Second Minister for Defence (Services), Brigadier-General Lee Hsien Loong (see Lee Hsien Loong, “The National Identity — a direction and identity for Singapore” in *Speeches*, vol. 13:1 (Singapore: Ministry of Information and the Arts, 1989) 26 at 30).

through consensus instead of contention; and (5) racial and religious tolerance and harmony.¹⁰⁹

We may or may not have regard for such values.¹¹⁰ But the point to note, for this essay, is that they are prescribed for cultural purpose: "If we are not to lose our bearings, we should preserve the cultural heritage of each of our communities, and uphold certain common values which capture the essence of being a Singaporean."¹¹¹ The values stress that establishing a unique "Asian" tradition is the only true course for Singapore. The implication is that not to share these values is to be less than "Asian", to have lost one's bearings and to become "Westernized". The contrast to the West is persistent. In the value of "consensus instead of contention", for example, there is little doubt that the West is portrayed as holding the reverse view. Similarly, it is said: "Western societies place more weight on the individual, while Oriental societies tend to place more weight on the group."¹¹²

The difference is not mere semantics. By formulating these values as "national", other values may be reviled and dismissed, not on their merits, but for simply being outside the defined national values: un-Asian. The value that advocates consensus may be used to justify the limitation of free speech; for example, a street demonstration may be viewed as being in conflict with national values, as representing a position of "conflict" rather than one of "consensus".¹¹³ The creation of shared, Asian values shows both the political significance of and the political processes behind being Asian.

Another example of the government's implementation of an Asian values policy is found in the way Confucianism was taught in schools in the mid 1980s. Although this policy has since been abandoned, it was notable for revealing three peculiarities about the official conception of Asian culture in Singapore. First, the government could not assume that this aspect of culture was imbibed with mother's

¹⁰⁹ The five values as stated here were formulated after discussion by the present Prime Minister, Goh Chok Tong (see "Five Shared Values" *The Straits Times* (6 January 1991) 16-17). Four values were first proposed by Lee Hsien Loong, *ibid.* at 31.

¹¹⁰ See: Republic of Singapore, Parliament, "Shared Values" Cmnd. 1 (1991), 2 January 1991; J.S.J. Quah, ed., *In Search of Singapore's National Values* (Singapore: Times Academic Press, 1990). For a critical analysis of "Shared Values", see J. Clammer, "Deconstructing Values: the Establishment of a National Ideology and Its Implications for Singapore's Political Future" in G. Rodan, ed., *Singapore Changes Guard* (New York: Longman Cheshire, 1993).

¹¹¹ "Shared Values", *ibid.* at 1. This was repeated in the Presidential address to Parliament in January 1989 (see Singapore, *Parliamentary Debates*, vol. 52:1, col. 12 at col. 14 (9 January 1989)).

¹¹² Lee Hsien Loong, *supra* note 108 at 33.

¹¹³ This was the experience of the student movements in the mid 1970s, during which several leaders were detained and the union was reorganized. A student leader, Tan Wah Piow, is still in the United Kingdom as he is wanted under criminal charges in Singapore (see W.P. Tan, *Let the People Judge: Confessions of the Most Wanted Person in Singapore* (Selangor, Malaysia: INSAN, 1987)). For a discussion of informal restrictions on speech and other fundamental liberties in Singapore, see S.S.C. Tay, *Imagining Freedom in Imagining Singapore*, 2d ed. by Ban Kah Choon (Singapore: Times Academic Press [forthcoming]).

milk or transmitted through the mother tongue. Instead, Singapore government policies expressly set out to create an Asian culture and to transmit it to the youth, thus, suggesting that culture can be created or manipulated by political will. Second, the effort was an attempt to inculcate Asian ethics and religious knowledge as an antidote to a decadence that is associated with Westernization. This policy, which is also used as protection against Western influence, is echoed in the promotion of the mother tongue, discussed above,¹¹⁴ where the mother language is deemed to carry the mother culture. Third, the teaching of Confucianism revealed the ironic and inescapable hybrid nature of this apparently Asian initiative; many of the instructors, although of Asian descent, had studied or taught Confucian philosophy in the West.¹¹⁵

The practice of caning, administered under judicial sanction for some crimes, is another example of this hybrid element. The punishment was recently defended when meted out to a U.S. citizen in Singapore found guilty of vandalism. The defence rested, in part, on the basis that caning was part of Asian culture, and that it was part of Asia's self-defence mechanism against corruption and waywardness in society. It may well be true that the majority of Singaporeans support caning as punishment. This should not obscure the fact, however, that caning in Singapore has its origins in British colonial practice, a practice continued as part of the United Kingdom's judicial system until this century.¹¹⁶ The difference with respect to caning in Asian Singapore has been that it is extended to new offences, like vandalism.

D. *Legal and Constitutional Development*

Legal concepts of justice and human rights in Singapore also seem to be rooted in the Western tradition. The *Singapore Constitution*¹¹⁷ was drafted by the departing British. It sets out the legal structure for democracy, or the Westminster style of government.¹¹⁸ The *Singapore Constitution* promises fundamental liberties which

¹¹⁴ See text accompanying notes 106-107.

¹¹⁵ For example, Professor Tu Wei-Ming of Harvard College's Department of East Asian Civilizations.

¹¹⁶ The practice of caning continued in the Isle of Man, just a few miles off the coast of England, until the 1970s (see *Tryer v. United Kingdom* (1978), Eur. Ct. H.R. Ser. A, No. 26).

¹¹⁷ *Supra* note 23.

¹¹⁸ A representative, multi-party democracy was created, with a unicameral Parliament and a "first-past-the-post" electoral system. With universal suffrage and compulsory voting, the citizenry vote in free and regular elections for Members of Parliament ("M.P.'s). From these M.P.s, the Prime Minister is chosen (see D.S. De Smith, "Westminster's Export Models: The Legal Framework of Responsible Government" (1961-63) 1 J. Commonwealth & Pol. Stud. 2, excerpted in B. Tan, L. Yeo & F. Lee, eds., *The Constitutional Development of Malaysia and Singapore* (Singapore: Malaysia Law Journal, 1991)). De Smith warns: "The Westminster model will never be a legal term of art" (*ibid.* at 40). He then proceeds to list its characteristic features:

[T]he limitation of parliamentary sovereignty, guarantees of fundamental human rights, judicial review of the constitutionality of legislation, ... the responsibility for terminating a superior judge's tenure of office from a legislative to a judicial forum, and the

parallel Western civil and political rights, such as¹¹⁹ the rights of freedom of speech, assembly and association,¹²⁰ freedom from discrimination,¹²¹ the protection of life and liberty¹²² and freedom of religion.¹²³ Within this framework, elections have been held without interruption or allegation of irregularity.¹²⁴

Moreover, this English source of laws was not abandoned after independence. Instead, the Privy Council, comprising British judges sitting in London, was placed at the pinnacle of the legal system as the highest court of appeal. Under its influence, legal reform tended to take a path of evolution, not revolution.¹²⁵ Academics were among a minority that sought legal autonomy.¹²⁶ Up to the late 1980s, however, politicians upheld the Privy Council as a symbol that assured all of the legitimacy of Singapore's legal system.

Only in 1994 did appeals to the Privy Council stop.¹²⁷ By that time, Singapore's laws had begun to differ from some British and much U.S. law in respect of civil and political rights. These differences did not emerge despite the law, but through it. For instance, limitations to the aforementioned fundamental liberties were enacted or interpreted by the legal system.¹²⁸ Constitutional amendments have made the form of Singapore's parliament increasingly hybrid.¹²⁹ Some of these changes

vesting of full control over the public service and the conduct of elections in the hands of independent commissions (Tan, Yeo & Lee, eds., *ibid.*).

The British themselves, most notably, do not have a written constitution.

¹¹⁹ Other rights stated in the *Singapore Constitution*, *supra* note 23, include rights to personal liberty (*ibid.* at art. 9), for the accused in criminal trial, against retrospective criminal laws and double jeopardy (*ibid.* at art. 11), and special rights for the Malays and other racial minorities (*ibid.* at art. 152).

¹²⁰ See *ibid.*, Part IV at art. 14.

¹²¹ See *ibid.* at art. 12.

¹²² See *ibid.* at art. 9.

¹²³ See *ibid.* at art. 15.

¹²⁴ See *Country Reports*, *supra* note 5, which states: "Voting and vote-counting systems in elections are fair, accurate, and free from tampering" (*ibid.* at 653). Note, however, that the U.S. State Department report also indicated that "[i]n 1992, the Government continued to use its power to handicap Singapore's two main opposition parties" (*ibid.* at 647).

¹²⁵ See *Hinds v. R.* (1975), [1977] A.C. 195 (P.C.). The Privy Council opined:

[T]he new Constitutions ... were evolutionary, not revolutionary. They provided for continuity of government. ... [E]ach institution (of government) was to exercise powers which, although enlarged, remained of a similar character to those that had been exercised by the corresponding institution (before independence) (*Hinds*, *ibid.* at 212).

¹²⁶ See A. Phang, *The Development of Singapore Law: Historical and Socio-Legal Perspectives* (Singapore: Butterworths, 1990).

¹²⁷ The first, partial, break with the Privy Council came after it had decided an appeal in favour of a former member of the political opposition (see *Jeyaratnam v. Law Society of Singapore*, [1988] 3 M.L.J. 425).

¹²⁸ For example, courts could review preventive detention without trial until legislation ousted those powers, except on procedural matters. This, however, still stands in contrast to non-judicial disappearances.

¹²⁹ See Thio Li-Ann, "The Post-Colonial Constitutional Evolution of the Singapore Legislature: A Case Study" (1993) *Singapore J. Legal Stud.* 80 at 110.

have encouraged a broader participation in the political process within Parliament¹³⁰ and in part of the executive, through the enlargement of the previously ceremonial office of the President to one with some veto powers.¹³¹ These constitutional changes parallel policies, also from the second half of the 1980s, aimed at providing more consultation and at allowing greater public participation in shaping government policy.¹³² The new hybrid nature of the Constitution does not, however, mean free rein for the political opposition.¹³³ Rather, some see the constitutional changes as providing ways in which the government may adopt or co-opt a wider range of non-partisan voices and ideas, thus, de-emphasizing the need for opposition and for more vigorous forms of checks and balances.

These changes may have been effected in order to make the *Singapore Constitution* and laws more consistent with Asian cultural values. It may be said that they emphasize "consensus" rather than "confrontation" in a one party dominant state by allowing different voices but by avoiding the clash and challenge of actual opposition. Whatever the reason, Singapore's constitutional and legal development demonstrates not an Asian heritage that was intrinsic or original. It is, instead, born of

¹³⁰ Elections of members of M.P.s in some constituencies were conducted on a group basis of four candidates, of whom one had to be a racial minority. Beyond the elected M.P.s, different types of representatives were created, such as nominated and non-constituency M.P.s. Both nominated and non-constituency M.P.s may speak and move motions but have restricted voting powers. They cannot, for example, vote on matters of finance. Nominated M.P.s ("N.M.P.'s") are screened by a panel before admission. At present, there are six N.M.P.s (see *Constitution of the Republic of Singapore (Amendment), Act 1990* (Sing.), 1990, No. 11). Non-constituency M.P.s ("N.C.M.P.'s") can be admitted in the event of the opposition winning three or less seats; if so, the three next-best electoral contenders will be admitted. One N.C.M.P. has served. Presently, there are four Opposition M.P.s and, as such, the provision for N.C.M.P.s does not arise (see *Singapore Constitution, supra* note 23 at art. 39(1)(b), as amended by *Constitution of the Republic of Singapore (Amendment) Act 1984* (Sing.), 1984, No. 16 and *Parliamentary Elections (Amendment) Act 1991* (Sing.), 1991, No. 9). For commentaries on the provisions, see: Thio, *ibid.*; V.S. Winslow, "Creating a Utopian Parliament: The Constitution of the Republic of Singapore (Amendment) Act 1984; The Parliamentary Elections (Amendment) Act 1984" (1986) 28 M. L. Rev. 268.

¹³¹ The office of the President, originally a largely ceremonial role, is now popularly elected with increased powers to check and veto cabinet decisions that require deficit financing, as well as key appointments (e.g. the Chief Justice). The President may also veto government decisions in respect of laws concerning security and stability. These powers are exercised with the concurrence of a six-person Presidential Council. It is not, however, a U.S. or French system of presidency. The Prime Minister and cabinet remain in charge of government. The President is described as a "safeguard", taking on a reactive, not proactive, role.

¹³² These initiatives were started by Goh Chok Tong when he was Deputy Prime Minister and are associated with his ascension to the office of Prime Minister. Chief among them are: a Feedback Unit which gathers opinions of a broad spectrum of citizens; town councils which allow more local say over municipal matters; and the Institute of Policy Studies, which receives alternative thoughts on government policies, usually from professionals and others of higher educational learning.

¹³³ In 1981, an opposition member, Mr. J.B. Jeyaretnam of the Workers' Party, was elected in a by-election. At present, four opposition members have entered Parliament, the highest number since the Barisan walk-out in the 1960s. Prime Minister Goh recognized that the opposition had a role to play in Singapore politics, albeit a minor one.

Western sources and influence. The changes proceed through politics¹³⁴ and have a political effect.

Looking at the Singapore example in these four ways — in terms of its Western heritage, the diversity of its people, its deliberate construction of Asian values, and its legal and constitutional development — demonstrates that Asian culture is not a natural thing that pre-exists and determines human rights. It is, in fact, dynamic and plastic. Culture is open to influences, whether from the West or from a politic that seeks to create an Asian identity that is different from the West.

If culture is dynamic and malleable in the face of politics and other forces, then perhaps a more accurate characterization of the Singaporean experience would be one that does not evoke pre-existing, traditional culture but, rather, one that emphasizes a culture in the process of re-invention. This process does not, however, aim at mimicry of the human rights policies of the West by adopting the dominant view. Rather, the cultural re-invention aims at what some have termed the “Asianisation of Asia”.¹³⁵ The force that drives Asia’s cultural differences is not a deterministic, pre-existing culture, but acts of will.

III. The Will to Differ

“We are all in the midst of very rapid change and at the same time we are all groping towards a destination which we hope will be identifiable with our past.”¹³⁶

Lee Kuan Yew

The emphasis on Asia’s will to differ recognizes that it is not primarily an existing cultural difference that makes Asia’s view of human rights distinct; rather, the differences are those that are being re-created.¹³⁷ Asia’s will to differ runs counter to the phenomenon of convergence between cultures and between political and economic systems, what some have called the end of history.¹³⁸ Although considerable forces suggest a greater convergence between nations is emerging, these are not the only forces at play. There are those who believe that Asia, with its culture, historical development, and its ethnic and religious pluralism, will remain different, evolving on its own path. It is beyond the scope of this essay to enter fully into the

¹³⁴ They are, moreover, made possible not because they are culturally necessary, but because the Peoples’ Action Party (“P.A.P.”) government has an ample Parliamentary majority to pass any law or constitutional amendment it thinks fit. The P.A.P. now holds all but four seats in Parliament. Constitutional amendment is passed with two-thirds majority and the assent of the President.

¹³⁵ Y. Funabashi, “The Asianisation of Asia” (1993) 72:5 Foreign Affairs 75.

¹³⁶ Quoted in Zakaria, *supra* note 77 at 118.

¹³⁷ From this perspective, the view that there are great and pre-existing civilizational and cultural differences is, I believe, wrong (see S.P. Huntington, “The Clash of Civilizations?” (1993) 72 Foreign Affairs 22).

¹³⁸ See Fukuyama, *supra* note 7.

debate on convergence. Yet, the focus on Asia's will to differ, rather than a "natural" difference, is significant for the cultural argument in relation to human rights. If we agree that the accentuation of cultural difference is an act of will, for instance, how do we decide how acts of will should be exercised? Or again, if culture is malleable, why should we privilege it? This latter question becomes especially difficult if we find elements in that culture that are unacceptable on more universal grounds.

The will to differ may be understood sympathetically. It is fairly widely accepted, for example, that during Japan's period of modernization, a trend, analogous to Singapore's current experiment,¹³⁹ was to identify and emphasize its unique cultural aspects, to preserve the essence of being "Japanese".¹⁴⁰ Similar impulses can be detected in the present politics of diversity in Western democracies, in which indigenous peoples and minorities struggle to maintain or create a culture that is different from the mainstream and dominant culture. There is something in each of us that does not want to be homogenized.

In times of great social change, as we now witness, people seek out symbols and strands of a more comfortable, known past. It makes no difference, from that perspective, if elements of that past culture are invented traditions.¹⁴¹ Past culture does not serve to resist wholly the ineluctable processes of change but, rather, to reassure people going through the uncertainties of change.

In the example of Singapore, the goal has not been to remain in the past. The challenge of development has been to create "a modern, industrialized, affluent state which has as its base a strong cultural foundation".¹⁴² The Singaporean past is insufficient, given the racial and other issues that have been briefly described, to anchor the society against the tide of change; it provides no cohesion to the nation-state. Singapore's Senior Minister, Lee, has described the dilemma between tradition and development in the following way: "We are all in the midst of very rapid change and at the same time we are all groping towards a destination which we hope will be identifiable with our past."¹⁴³

From this perspective, there is something admirable and human about the Asian view of democracy and human rights and the Asian will to differ. It can be seen as a

¹³⁹ Senior Minister Lee has also made a personal journey of rediscovery: educated in Cambridge and originally unable to speak either Chinese dialect or Mandarin, he now speaks fluently in that language and evokes five thousand years of Chinese culture (see Zakaria, *supra* note 77 at 125). See also L. Pan, *Sons of the Yellow Emperor* (Boston: Little, Brown, 1990).

¹⁴⁰ See e.g.: R.E. Moyer & Y. Sugimoto, *Images of Japanese Society* (London: K.P.L., 1986); I. Buruma, *God's Dust: A Modern Asian Journey* (New York: Farrar, Straus & Giroux, 1989).

¹⁴¹ See E. Hobsbawm & T. Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983).

¹⁴² P.K. Shee, "The Evolution of the Political System" in J.S.T. Quah *et al.*, eds., *Government and Politics of Singapore* (Singapore: Oxford University Press, 1987) 3 at 16.

¹⁴³ Quoted in Zakaria, *supra* note 77 at 118.

form of collective reassurance in times of sweeping change. It can be seen as a working out of collective rights to a cultural heritage. It is the exercise of the internationally recognized right to determine one's own system of culture and politics.¹⁴⁴

There are, however, bleaker views of the process of cultural transmission and re-invention. Some believe that culture has to be created anew in each generation, often with much pain and suffering.¹⁴⁵ Seen in this way, efforts to hinder this regeneration of culture may be suspected of being the self-serving machinations of a ruling élite. Such suspicion should be more widely cast in the context of the geopolitics that surrounds human rights. Should we suspect Asia's élites — who propound the Asian view of human rights — of self-interest? Or should we suspect the dominant view promoted by Western nations as cultural imperialism disguised as "universal" values? Suspicion easily applies to both possibilities.

Whether we take one view or the other, however, the focus on Asia's will to differ allows us to see that culture is not determinative. Rather, it is added to a pool of resources from which a selection can be made to constitute a political system. The role of Asian culture and circumstance is plastic, not deterministic. So too are the cultural and political ideas pushed in the mainstream of globalization — such as the market economy, democracy, and human rights.¹⁴⁶ Each factor is a necessary condition but not, of itself, a sufficient one. The adage, "no bourgeois, no democracy", cannot mean that a bourgeoisie will necessarily bring democracy or entrench the dominant view of human rights. Similarly, "no culture, no human rights", cannot be a blanket excuse.

Given the flexibility of the processes surveyed by this essay and the interrelation of factors, we can recognize that the debate between the dominant and Asian views of human rights is not primarily a clash of cultures.¹⁴⁷ It is essentially a conflict and competition between systems of government. This recognition does not deny the place and value of culture in a system of universal human rights. It does not mean that we must all turn to the dominant view of human rights. There remains, after all, the developmental bases for the Asian view, described earlier.¹⁴⁸

¹⁴⁴ See *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, 24 October 1970, GA Res. 2625(XXV), UN GAOR, 25th Sess., Supp. No. 28, UN Doc. A/8028 (1970) 121. The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any state, in accordance with the *Charter of the United Nations*, 26 June 1945, Can. T.S. 1945 No 7, 145 U.K.T.S. 805, includes the right for every state to choose its own political, economic, social, and cultural systems without any interference by another state.

¹⁴⁵ See Moore, *supra* note 96 at 486-87.

¹⁴⁶ This sense of alternatives and plasticity is particularly evident in the work of R.M. Unger (see e.g.: R.M. Unger, *Social Theory: Its Situation and Its Task* (Cambridge: Cambridge University Press, 1987); R.M. Unger, *False Necessity: Anti-Necessitarian Social Theory in the Service of Radical Democracy* (Cambridge: Cambridge University Press, 1987)).

¹⁴⁷ For a contrary view, see "The Clash of Civilizations", *supra* note 137.

¹⁴⁸ See Part I.C, above.

Importantly, however, the recognition that culture is plastic does lead us to question the privilege and deference that culture now enjoys in the human-rights debate.

We may decide that culture, because it is shaped by politics and policies, can and should be submitted to the test that we accord to all other political and social values when considering human rights. This, however, does not lead inevitably to the dominant view of human rights which, as seen earlier, emphasizes civil and political rights. We may still consider that social, economic, and cultural rights must have more emphasis on the principle that all human rights are re-enforcing and indivisible. We may wish to be, in this sense, “universal”, with the firm understanding that this cannot be completely equated with the dominant, mainly Western, view.¹⁴⁹ We may expect that “universal” human rights have some regional influence. Thus, for example, if we are Asians, we could commit ourselves to a system of human rights that differs from the Asian view enunciated by governments but that still is, somehow, Asian. In this view, therefore, there is still a place for culture — something that is recognizably us — even if we do not privilege it at all cost to human rights. As such, how we adapt to the Asian view, once we accept that culture is politically malleable, very much depends on how we assess the resulting realities and practices, specifically, regarding how we rate a nation’s human-rights record.

A full human-rights assessment of Asia, or even of Singapore, is clearly beyond the scope of this essay. However, a brief consideration of Singapore’s human-rights record will serve to sketch the possible significance of the Singapore example for other Asian countries and will test the rhetoric and arguments of the Singapore school against actual experience. In particular, this sketch will help us consider if there has been a trade-off of political rights for economic progress, as some say. A brief consideration of Singapore’s record on human rights may also give us an idea of what may result if human rights are mediated by calls for cultural differentiation.

IV. Singapore’s Record

This essay began by noting the controversy that surrounds Singapore’s record on human rights. Some of its critics see Singapore as a “dictatorship”¹⁵⁰ or focus exclusively on its every transgression, as international human-rights non-governmental organizations are prone to do. Yet Singapore has not been among the marked and gross abusers of human rights, reviled at the United Nations. It has known no period of emergency since independence. There have been no mass killings or widespread disappearances. No military force or dictator has curtailed the right to vote, which is widely acknowledged as being untampered and unbought. A number of cross-country comparisons on human rights compliance and governance

¹⁴⁹ This strand of thought is evident in the *N.G.O. Declaration*, *supra* note 20, which differs from both the dominant view and Asian view of human rights.

¹⁵⁰ William Safire, of *The New York Times*, has called Singapore a “dictatorship” (see W. Safire, “Crime in Singapore” *The New York Times* (7 April 1994) A-27).

have tended to place Singapore toward the middle of the human-rights spectrum among Asian countries.¹⁵¹

Accordingly, perhaps the more interesting and more accurate starting point for thinking about Singapore's human-rights record is not its divergence from Western practices, but its similarity. This assertion may be counter-intuitive to those influenced by the dominant view. Moreover, it may be surprising in light of the considerable efforts of Singaporean representatives in articulating the Asian view and in staking out their differences from the West. A full justification for this thesis is beyond the scope of this essay, but what is said may point the way.

A modern, bureaucratic nation-state has been established in Singapore with the mandate and ability to govern. This is the first similarity to Western democracies, contrasting sharply with many nations torn apart by civil and ethnic wars, warlordism, and other problems.¹⁵² A second point of similarity is that Singapore has also been able to ensure a core of rights against genocide and slavery. This accomplishment is put into perspective by looking at recent transgressions in other countries.¹⁵³ There is no parallel in Singapore, despite past ethnic conflict, to the genocidal incidents in East Timor and Cambodia under the Khmer Rouge, for instance. Nor has Singapore witnessed anything like the June 4 killings in Tiananmen Square and other places in China or the 1992 killing of civilians by the military in Bangkok.

¹⁵¹ A number of cross-national comparisons support this contention. The 1992 annual Freedom House Survey on civil and political rights ranked Singapore as "partly free". On its scale of 1 to 7, Singapore scored 4. Among Asian countries, only Japan and South Korea were considered "free". The Philippines and India, although also "partly free", were rated above Singapore (reproduced in "Evolution and Implementation", *supra* note 8 at 3). The political scientist, Huntington, has listed Singapore as "non-democratic", alongside Thailand and Malaysia. In contrast, India, South Korea, Pakistan, Philippines, Taiwan, and Japan were classified as democratic (see Huntington, *supra* note 2). Another observer, Fukuyama, lists Singapore among 61 liberal democracies on the basis of the existence of a market economy, representative government, external sovereignty, and judicial rights. He notes, however, its inclusion is controversial (see Fukuyama, *supra* note 7 at 49-50). Similar results are seen in D.K. Gupta, A.J. Jongman & A.P. Schmid, "Creating a Composite Index for Assessing Country Performance in the Field of Human Rights: Proposal for a New Methodology" (1994) 16 Hum. Rts. Q. 131. For the year 1991, the United States was rated at the top with 13.39, while Myanmar was last with 36.18. The mean score was 22.57, and Singapore was rated at 23.09, above other countries in Asia such as India, South Korea, Sri Lanka, Indonesia, and China (see *ibid.* at Annex 1). Chan Hang Chee reports that Singapore is given a "medium freedom" ranking, where Sweden is scored highest and Iraq is at the bottom of the list. Among Asian countries, Singapore is rated below Japan but, among others, above the Philippines and Malaysia (reproduced in "Evolution and Implementation", *ibid.*).

¹⁵² See R.D. Kaplan, "The Coming Anarchy" *The Atlantic* (February 1994) 44, who gives a good contemporary survey of the present problems of governance in Africa and other parts. Kaplan has a book forthcoming on the same theme.

¹⁵³ In contrast, economic disparity and severe poverty are the background to young Northern Thai and Burmese girls who are sold into prostitution (see "AsiaWatch" in *Human Rights Watch Annual Report 1993* (New York: Human Rights Watch, 1993) 147).

In terms of the rule of law, Singapore's legal system is largely noted for its transparency and fairness, especially in matters of business and commerce.¹⁵⁴ The concept of legality is well-entrenched. Order was imposed against Chinese gangs, resulting in lower crime rates than are found in many of the Western democracies.¹⁵⁵ Laws have been enforced even against those in ministerial or other positions of authority.¹⁵⁶ The practice in many countries and democracies¹⁵⁷ is less secure in this respect. One of the achievements of Singapore, as such, is the creation of order through law, while avoiding the excesses of corruption and force that result in Russian-style gulags, illegal killings, or disappearances.¹⁵⁸

Allied to this is Singapore's palpable progress in securing economic and social rights. Education, housing, health care, incomes, and opportunity have all seen marked improvement since independence. Singapore has entrenched the belief in equality and fairness of opportunity, called "meritocracy". A middle class has developed with an increasing overlap of attitudes, interests and aspirations as befits a citizenry, rather than a mere collection of disparate people in one place.¹⁵⁹ Government policies mix social programmes with capitalism, and the government has encouraged greater feedback and participation.

This economic and social progress is not simply a measure of quality of life; it reinforces rights of political participation. The citizen has the literacy and education to exercise his or her vote and the economic wherewithal not to be tempted to sell it. With electoral propriety and high voter turn-out, Singapore enjoys the vote as the basic exercise of the right of political participation. The P.A.P. is a dominant party, but that status is not from the legislated creation of a one-party state. It is maintained at the ballot box. Although the opposition has not been able to form the government,¹⁶⁰ the vote has bite. For instance, the P.A.P. has shifted policies and tactics

¹⁵⁴ The *World Competitiveness Report 1993* (Lausanne: World Economic Forum, 1993) rated the Singapore legal system as the best in the world, above America's. It was felt that the system was "fast and fair" (reported in "S'pore's legal system rated best in world" *The Straits Times*, Weekly ed. (2 October 1993) 3).

¹⁵⁵ Comparing official figures between the United States and Singapore, for example, per 100,000 population in 1991: murder & manslaughter: U.S.: 9.8, Singapore 1.8; rape: U.S.: 42.3, Singapore: 1.3; robbery: U.S.: 272.7, Singapore 50.8, burglary: U.S.: 1252.0, Singapore 127.4 (see Criminal Investigation Department, Singapore Government, Press Release (March 1994)). This comparison was made by the Singapore government at the time of the Michael Fay caning incident.

¹⁵⁶ In 1994, for example, a senior public official was charged and convicted of corruption and sentenced to jail (see Lim Li Hsien, "\$12 million[:] Sum in PUB graft case could be the largest in corruption probes here" *The Straits Times* (11 October 1995) 3).

¹⁵⁷ Note, for example, the present reforms in Italy and Japan against political corruption.

¹⁵⁸ The *Country Reports on Human Rights Practices* (Washington, DC: Department of State, 1993) state that there are no illegal killings or disappearances; preventive detention, as discussed, is a different matter (*ibid.* at 725-26).

¹⁵⁹ See: J. Quah, "Government Policies and Nation-Building" in Quah, ed., *supra* note 110, 45; S.K. Chiew, "National Identity, Ethnicity and National Issues" in Quah, ed., *ibid.*, 66.

¹⁶⁰ The opposition has been in disarray over leadership squabbles. The Singapore Democratic Party founder and opposition M.P., Chiam See Tong, has been ousted from the central committee of his

in the face of declining votes, even if it insists on the need not to rule by opinion polls.¹⁶¹

On these bases, the differences between Singapore — as an example of the Asian view — and Western democracies, who hold the dominant view, may not seem so great. The rhetoric of Singaporean spokesmen may place the nation alongside countries such as China, in a stand-off against the Western dominant view. The reality of its record is, however, quite a different picture: Singapore stands very close to the midpoint.

The difference at the level of rhetoric is exacerbated by the focus of those who subscribe to the dominant view. They, and increasing numbers of younger Singaporeans,¹⁶² take for granted the achievements of the Singaporean P.A.P. government. Their focus is on the question: "Is that all?". While credit and greater recognition must be given to Singapore's achievements, such questions should also be welcome. The claims and aims of human rights and of democracy are high; higher than any nation has reached in reality. The point of setting such goals is, after all, to encourage further ambition.

It is at this point, beyond the voting rights and the other achievements mentioned, that Singapore's record is more mixed. There are instances that suggest that legitimate reasons for P.A.P. dominance are supplemented by other means, such as subtle forms of cooperation, co-option and control over media, labour, the grass-roots, business — the roots from which civil society must grow.

Less subtle forms of control over civil society and the opposition are also present. Government institutions undertake prosecutions against members of the opposition on what may seem like trivial offences and prosecute them to the limit of the law. One opposition candidate has been convicted of tax offences.¹⁶³ Another was sacked from the university where he worked for the alleged misuse of research funds to courier his wife's thesis to a U.S. university.¹⁶⁴ Citizens have been detained

party (see Z. Ibrahim, "Opposition should deal with its weaknesses and face challenges" *The Overseas Straits Times*, Weekly ed. (9 April 1994) 12).

¹⁶¹ After the 1991 elections, for example, the P.A.P. re-emphasized its commitment to Chinese language and culture and the "bread-and-butter" issue of costs which affect the middle class. This followed a poorer result than it had anticipated which was blamed on its attention to the concerns of the English-educated, Singaporeans, and minorities.

¹⁶² See Z.A. Rasheed & A. Mahizhnan, "The New Environment, The Young Singaporeans and National Values" in Quah, ed., *supra* note 110, 80.

¹⁶³ Francis Seow, a candidate for the Worker's Party, was investigated on a number of tax charges. He left Singapore for the United States and did not return, citing ill-health. He has been tried *in absentia*. Leaving aside the merits of the case, the investigation into Seow's tax matters seems to have been far more intense than that given to the average citizen (see: Frank *et al.*, *supra* note 5; F.T. Seow, *To Catch a Tartar* (New Haven: Yale University Press, 1994)).

¹⁶⁴ It is widely known that this action involved Dr. Chee Soon Juan and followed an investigation started by Dr. Chee's Head of Department — who also happened to be a P.A.P. member of Parlia-

without trial for fifteen years or more.¹⁶⁵ Detainees allege mistreatments that may amount to transgressions of human rights, and these have yet to be publicly investigated.¹⁶⁶

Yet, in the example of Singapore and the P.A.P. government, restraints and transgressions did not seem to amount to a widespread use of force, coercion, or blatant intimidation. Despite an array of wide and largely unchecked powers, there was considerable restraint and a sense of incorruptibility in their exercise.

It is frequently argued that Singapore has traded human rights for economic prosperity.¹⁶⁷ This has even been called the "Lee Kuan Yew hypothesis" of rights and development.¹⁶⁸ Some supporters of the Asian view have suggested that "[g]ood government may well require ... detention without trial to deal with military rebels or religious and other extremists; curbs on press freedoms to avoid fanning racial tensions or exacerbating social divisions; and draconian laws to break the power of entrenched interests in order to, for instance, establish land reforms."¹⁶⁹ The question however seems to be whether a government is "good" despite these measures or, somehow, *because* of them.

Others will remind us that Asian countries with "repressive" governments, such as Burma, are among the world's poorest.¹⁷⁰ As such, it seems a strong government is not necessarily "good" government. The relationship between progress and strong government is more complex.¹⁷¹ A close look at Singapore also suggests that the "trade-off" hypothesis is an over-simplification.

The assessment of Singapore's example does not show a blanket barter of rights for prosperity. Rather, both social and economic rights and civil and political

ment. While, again, the moral and legal merits of the case itself may be debated, it is clear that a systematic and special scrutiny was paid to Dr. Chee's doings after he entered opposition politics.

By contrast, other members of the opposition seem not to have been subject to the same level of scrutiny. In particular, Chiam See Tong, the founder of the opposition Singapore Democratic Party ("S.D.P.") and an M.P., has been acknowledged as being constructive and reasonable by the P.A.P.

¹⁶⁵ Chia Thye Poh was detained for 22 years (see Neier, *supra* note 15 at 51). Tracing the Amnesty International *Annual Report* series (London: *Amnesty International*) from the 1960s, it would seem the following have served 15 years or more: Poo Sai Kee (1963-73, 1976-82); Ho Piao and Lee Tze Tong (1963-80); Said Zahari (1963-78); Lim Hock Siew (1963-78).

¹⁶⁶ See Seow, *supra* note 163. Another detainee, Ms. Teo Soh Lung also alleged mistreatment during her detention in 1987 in interviews with the B.B.C.

¹⁶⁷ In a political commentary, Russell Heng, then a journalist, coined the phrase, "Give me liberty, or give me wealth", substituting "wealth" for "death" in the well-known U.S. quotation (R. Heng, "Give me liberty or give me wealth" in *Trends, Institute of South-East Asian Studies 2*, distributed with *The Straits Times* (28 April 1991)).

¹⁶⁸ See A. Sen, "Freedoms and Needs: An Argument for the Primacy of Political Rights" *The New Republic* (10 January 1994) 31 [hereinafter "Freedoms and Needs"].

¹⁶⁹ Kausikan, *supra* note 12 at 38.

¹⁷⁰ See Neier, *supra* note 15 at 44.

¹⁷¹ See "Freedom and Needs", *supra* note 168.

rights have grown over the last twenty years.¹⁷² The P.A.P. government provided equitable distribution of economic goods and social justice¹⁷³ while consistently maintaining the popular vote. In minority rights, because Malays were disproportionately represented among lower-income Singaporeans, the government recognized their special position in the Constitution,¹⁷⁴ targeted their economic advancement, and entrenched their rights of political participation and representation by legislation.¹⁷⁵ In these examples, rights were not traded-off. Rather, the two sets of rights were used in conjunction to promote development.

This suggests a cycle: the P.A.P. governments worked to achieve prosperity and fulfill social and economic rights in order to gain political support and votes; the increased political support and votes then returned them to office and strengthened their mandate and ability to make further reform and progress possible. The interplay between civil and political rights on one hand and social and economic rights on the other, was not a trade-off but rather a re-inforcing cycle. A strong state emerged, able to implement many policies effectively and legitimately, without widespread use of force. It has been argued that political rights of freedom of speech and of the press and the right of political participation make government more responsive to basic economic needs and contribute to a system that successfully alleviates shortages.¹⁷⁶ Singapore's development — although in less desperate circumstances — tends towards a similar conclusion of the nexus between the two groups of rights: not as a trade-off, but as a re-inforcing and growing relationship.

Civil and political rights were not assumed to exist automatically upon Singapore gaining independence nor because the government inscribed these rights in the *Singapore Constitution*. Time and a social and economic base were needed to build the supporting and necessary institutions, such as a functioning and effective administration and judiciary drawn from Singaporeans. Yet their realization, although

¹⁷² Donnelly has made an analysis of the development of South Korea in similar terms, as compared to Brazil, in which both sets of rights were devalued over time (see Donnelly, *supra* note 42 at 166-79, 198-200).

¹⁷³ The Singaporean political scientist, Chan Heng Chee has described the P.A.P. program as "one of the most advanced programs of social redistribution in Asia and in the World" (H.C. Chan, "Democracy, Human Rights and Social Justice as Key Factors for Achieving Balanced Development" (Paper presented to the Colloquy on Democracy and Economic Development in the Asia-Pacific, the Strasbourg Conference on Parliamentary Democracy, 22 and 23 October 1992), summarized and reported in H. de Jonge, "Democracy and Economic Development in the Asia-Pacific Region" (1993) 14 H.R.L.J. 301.

¹⁷⁴ See *Singapore Constitution*, *supra* note 23 at art. 152, which provides that the government should recognize the special position of the Malays.

¹⁷⁵ The social and economic support was both through the government (e.g. free education for Malays at all levels) and a government-supported, Malay self-help organization. The system of political representation is through the Group Representative Constituency scheme which requires that M.P.s be elected as a team with at least one Malay (see *Singapore Constitution*, *ibid.* at art. 39A).

¹⁷⁶ See: "Freedoms and Needs", *supra* note 168; Donnelly, *supra* note 42.

gradual, was real. Despite the practical difficulties of development, "civil and political rights are always in the picture", as commentators say is necessary.¹⁷⁷

Why then is there talk of a "trade-off"? Perhaps those who believe this subscribe to the idea that civil and political rights require very little effort other than the absence of state intervention. Or they mistake the gradual and inter-related growth described as a blanket trade-off. A more cogent view of trade-offs may hold in respect of further liberalization and fulfillment of civil and political rights beyond the present levels. Now that Singapore enjoys material prosperity on par with some Western democracies, they ask, why it does not adopt the same practices of democracy and human rights?

Such questions may only be answered with assurance by the country's future. New targets for Singapore's development have been set.¹⁷⁸ Economically, the new target is to achieve a Swiss-type standard of living by the turn of the twenty-first century, requiring the search for higher value-added jobs¹⁷⁹ and the development of business in the region by Singaporean companies. Beyond economic development, social and artistic goals have also been enunciated.¹⁸⁰ These ambitions will both require and encourage greater education, independence of thought, and initiative of action in the workplace and in society. They will affect the ways people live, the real culture of the people.

These ambitions and changes do not imply an inevitable adoption of the dominant view of human rights. They do suggest, however, an opportunity for change. Within that change, there may well be more things that are common with the dominant view, that are more universal. There is however an instinct, and perhaps a hope, that Singapore, as a mark of the uniqueness that all peoples and nations have, will demonstrate a degree of diversity.

Conclusion

The debate between the dominant view and the Asian view to human rights seems at first to be about cultures. There is something to this. Human rights may be better respected when they coincide with the culture in which people believe and

¹⁷⁷ See Donnelly, *ibid.*, who suggests that "any potentially justifiable trade-off of civil and political rights must be selective, flexible, and specific" and advises that "whatever the analytical and practical difficulties, it is necessary to keep civil and political rights always in the picture" (*ibid.* at 202).

¹⁷⁸ These goals are mainly contained in *The Next Lap* (Singapore: Government of Singapore, 1991), a government publication bringing together and endorsing ideas from over one thousand Singaporeans.

¹⁷⁹ See M.H. Best, *The New Competition: Institutions of Industrial Restructuring* (Cambridge, Mass.: Harvard University Press, 1993) for a description of the processes in Italy.

¹⁸⁰ *The Next Lap*, *supra* note 178, declares: "Now that we have achieved a measure of affluence, we can better address the other dimensions of arts. ... In pursuing excellence, we should not forget the less fortunate in our midst" (*ibid.* at 16).

with which they live. It is therefore tempting to search for cross-cultural values that serve this function.¹⁸¹ The problems in this approach become apparent, however, when we look beyond the culture that is recorded in history or “museumized”. When we see culture as a living thing, caught up in social and political forces, it becomes more difficult to posit any “original” culture that supersedes or limits the search for truly universal human rights.

This essay suggests that — in the experience of Singapore, at least — any differences in human rights do not primarily stem from deep and immutable cultural variations. A blend of Asia and the West — a hybrid form — was the starting point for the Singaporean nation-state, not a discrete and “original” culture. Differences that have arisen since have resulted primarily from a conflict of political power and systems. In this conflict, culture is malleable in the hands of state policies regarding education and other spheres. Culture is asserted by will. It is not the determinative but, at most, one factor — however important — among several that explain the differences between the Asian and Western view of human rights.

Perhaps this should not surprise us. Culture is often the subject of politics, particularly in developing nations and in the process of nation-building. Culture and the arts are managed, encouraged, or repressed, as components for the common purpose and for ideology, rather than for mere individual expression and preference. During the Cold War, even painting was politicized: Soviet art was associated with the sober duty of socialist-realism and U.S. art with the freedom of abstract expressionism.¹⁸² A similar political process, therefore, exists in the current debate over culture and different views of human rights.

The patina of tradition and culture may often conceal the hard iron of past hegemony and force. To recognize that culture is dynamic is the first step. The second and more revealing step is to bear witness to the forces that control the process of change, that is, the politics that selectively encourage, allow, or deny new elements that might change culture.

Recognizing the plasticity of culture does not necessarily mean it has no place when one is considering human-rights issues. What becomes essential, however, is to consider the exact place culture does hold. If culture is privileged above other rights, and above a more universal approach to human rights, it is a form of absolutism which many may want to resist. If culture comes into the human-rights equation on par with other rights, however, it can be welcomed.

¹⁸¹ This approach is taken by those who examine cross-cultural perspectives for human rights, notably the work of: An-Na'im, *supra* note 27; Renteln, *supra* note 45.

¹⁸² See P. Fuller, *Beyond the Crisis in Art* (London: Writers and Readers, 1980): “The most perceptive apologists for corporate American capitalism saw the decisive comparison. ... [U.S.] abstract expressionism was manifestly unregulated and imaginatively free ... Thus it could be seen to contrast sharply with the Soviet visual tradition [of socialist realism]” (Fuller, *ibid.* at 79).

Where does the Singapore example stand in this analysis of human rights and culture? This essay has summarised the statements of the Singapore school and has tried to set out the specifics of how this approach views human rights as different in Asia. Singapore is sometimes taken as an ideological champion for Asia, excusing human rights abuses as differences dictated by Asian cultural heritage. Yet, in a debate about East and West, this essay suggests that the true position of Singapore would seem to be an intermediate position. This is also evident from Singapore's own human-rights record.

Singapore's example of actual practice, unlike interpretations of what the Singapore school says, does not explain away human-rights abuses in other parts of Asia. The Singapore example, as we have seen in summary, shows no gross, widespread abuses of human rights. In Singapore's experience, freedoms have been expanded in conjunction with economic progress and not traded-off absolutely and indefinitely. There is a core of rights that has been observed for the vast majority of citizens. Accordingly, we may surmise that whatever place culture is accorded in Singapore, culture has not eroded that core of rights.

From this, perhaps the better approach may be to acknowledge the positive aspects of the Singapore example. We may then expect the same, as a minimum, from others who take the Asian view. The lessons drawn from the Singapore experience, rather than the statements of the Singapore school, seem useful and necessary examples to set before nations who do not ensure a minimum core of human rights.

For Singapore itself, the direction and pace in the development of democracy and human rights is still being charted and measured. Civil society is growing, most Singaporean commentators suggest,¹⁸³ although that growth may seem slower than might be hoped. Some may feel that more subtle controls prevent a greater scope for civil and political rights. Other nations may hope and encourage a greater and more rapid dynamic.

Yet, carping criticism of Singapore does not help. Harsh words seem to go against the idea of promoting human rights and treating different nations with respect. It often results in equally loud rebuttal; voices rise; both sides speak but neither listens. Unless there are gross abuses and a failure to safeguard those rights already attained, this may cause greater harm than good for universal human rights. Attacks by those perceived to be outsiders can cause sharper dichotomies between Asia and the West, and if hard and fast lines are drawn, many more will come to their country's defence in the name of culture and nationalism. Human-rights discourse, then, is in danger of being seen exclusively as a Western instrument of criticism. Asians who call for universal human rights can be painted as people who are somehow not Asian or who are disloyal.

¹⁸³ See Pang Gek Choo, "Civil society 'shows hopeful signs of growing stronger'" *The [Singapore] Sunday Times* (5 May 1996) 16.

Outside of gross abuses, perhaps the better approach to human rights between nations is not to protest its absence but to promote its growth. There is a subtle but real difference in these attitudes. Foreigners may encourage the progressive elements within another society. They can help foster improvements, but they cannot, and should not, foist change.

What, then, should we make of the tension between culture and human rights? There is great value in affirming the beliefs and practices we all share as human beings. Yet something in each of us also resists the aggregation of our experience and aspirations. We seek out something unique, something that is more ourselves — as a nation, a community, an individual. This tension runs through the idea of human rights and culture. The ideal, after all, aims to enrich and ennoble us as human beings, not to impoverish us as common denominators. The idea of human rights speaks to us — as political, social, economic and cultural beings, as individuals and members of families and communities — not to limit and simplify these many aspects of our self-expression, but to recognize the full complexity of our shared dignity and humanity. It is not uniformity that human rights should seek, but a true universality. In defining who we are, the ideal of human rights requires that we resist the imposition of cultural identity by others — whether they propound the dominant view or the Asian approach — and that we accept others and they, us. With such aims, culture has a place in human rights but not a privileged and prior position. Beyond this, there is no easy conclusion to the search for human rights in the different regions and nations of the world and its relationship to culture. There is, rather, a tension with which we must live and from which we must grow. We are the same, and yet we are different.
