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**‘TRADITIONAL VALUES’
AND HUMAN RIGHTS:**

WHOSE TRADITIONS? WHICH RIGHTS?

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'Traditional Values' and Human Rights: Whose Traditions? Which Rights?

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Introduction

In November of 2013, the Russian Federation was elected to the United Nation's Human Rights Council (HRC). Vitaly Churkin, the Russian representative to the UN, identified "traditional values" as a topic of special concern for the Russian delegation during their three-year term on the HRC.ⁱ This emphasis comes on the heels of Russia's tabling, in 2012, of a resolution asserting that "traditional values, especially those shared by all humanity, can be practically applied in the promotion and protection of human rights."ⁱⁱ This resolution came on the heels of two previous resolutions endorsing "traditional values" as a legitimate part of human rights practice, both initiated by the Russian Federation. This third resolution passed, by a vote of 25 to 15, with seven member states abstaining.

The resolution endorsing "traditional values" was immediately condemned by human rights practitioners. Article 19, a human rights NGO devoted to freedom of expression, described "traditional values" talk as "synonymous with majoritarian, conservative, and mono-cultural conceptions of what some people think human rights should be."ⁱⁱⁱ ARC International noted that "traditional values" would tend to legitimize the abuse and marginalization of those who are socially unpopular.^{iv} The European Union, similarly, noted that "traditional values" surrounding gender and sexual

orientation have led to the marginalization – and worse – of individuals throughout history.^v The HRC was made aware of concerns such as these in its own study of the topic, which it commissioned in response to the earlier Russian proposals: the study noted that “traditional values” were both ill-defined and likely to undermine support for human rights.^{vi} Despite this report, and the chorus of disapproval, the HRC seems likely to be receptive to future proposals emphasizing the moral importance of “traditional values.”

Protecting or Limiting Human Rights?

The political danger of the proposal seems obvious: while “traditional values” are described as a vehicle through which human rights might be *protected*, they are more often presented as a means by which these rights might be *interpreted* – and, thereby, limited. Graeme Reid, director of the LGBT Program at Human Rights Watch, notes in this context that gay men and lesbians are all too familiar with the use of “tradition” as a tool for marginalization and oppression.^{vii} In the present context, though, I am not most concerned with what can be said about the political dangers of this proposal; I am more concerned with what arguments might be said in *favor* of this proposal. I do not want, I should emphasize, to endorse the proposal; I want, instead, to understand what sorts of arguments might be said in favor of such a proposal, so as to understand the limits of those arguments.

We can begin, then, by asking a simple question: whose traditions, exactly, are at issue in the discussion of “traditional values”? There seem to be two ways in which one might answer this question. We might emphasize, as the 2012 resolution seems to do, that the traditions with which we are concerned are the traditions held by *all* societies. Alternatively, we might emphasize that the traditions in question are distinctively *local* traditions, held by only particular societies at particular times. We can consider each of these answers in turn.

So: let us say, with the resolution, that “traditional values” are those values that are held in all societies at all times, and that these values are rightful tools with which to understand human rights. One immediate problem presents itself: which values, exactly, are those that are held in all societies at all times? Those who are in favor of “traditional values” as a concept will undoubtedly want to emphasize the most noble of values – patriotism, perhaps, or familial love – but it is important to note that there are other, less welcome, values that are equally prevalent. Susan Okin notes, in this context, that the denigration of women and women’s work is as close to a cross-cultural universal as anything social science has yet to find.^{viii} All cultures, at all times, have had some traditions best described as marginalizing to the experience and lives of women. Our response to this, of course, is not – and should not be – to validate the marginalization of women as morally sacred. The response is, instead, to say that women’s lives have traditionally been blighted, and that this should change. We are willing, I think, to say this about women; however badly our laws and our societies live up to what human rights would require for gender equality, we are willing to say that tradition should bow to the force of human rights and dignity. The problem, however, is that this result is more general; it tells us that sometimes there can be a “traditional value” held in all places and at all times that should be abandoned in face of the moral equality of persons. Once we have admitted that sometimes tradition should bow to dignity, it seems that tradition must submit itself generally to the tests of moral reasoning. A traditional norm must earn its status as rightful; it cannot assume it.

Why Should ‘Traditional Values’ Have a Special Moral Status?

Why, though, should we even believe that there is anything morally special about “traditional values” in the first place? The argument here is hazy – the Russian federation has been unwilling to make its terms or its arguments specific – but we might think it resembles a more general conservative argument, one made popular in the previous century by the writings of Patrick Devlin.^{ix} Society, on this argument, persists

and perpetuates itself only when individuals are bound together by a shared set of social norms. These norms, we might argue, bind individuals to one another so that shared sacrifice for a common ideal is made possible. A society that refuses to promote and protect these norms, in sum, is setting the stages for its own disintegration – a result that would spell disaster for the human rights, which are impossible outside the legal and political structures of society.

The argument, however, assumes too much, especially about what actually must be the case for a society to flourish. Take, in connection with this, the Russian concern with homosexual conduct: the Russian Federation has criminalized “propaganda” in favor of “non-traditional sexual relationships.”^x Devlin agreed: laws against homosexuality preserved the willingness of persons to sacrifice themselves for their society, by enforcing and preserving the traditions that individuals found morally sacred. If homosexual conduct were permitted, Devlin argued, the bonds of society might indeed disintegrate. The problem with the argument, of course, is that a more open attitude to homosexual conduct in the West has not led to widespread anarchy or social disintegration; it has, instead, led simply to a slightly changed social world, in which same-sex relationships are no longer quite so anathema. Devlin’s argument – like that of the Russians – seems to mistake a *different* social world for a *destroyed* social world – as if gay sex, if not legally prohibited, would prove so attractive that society itself would collapse! Society can, once again, survive the alteration of a tradition, and the claim that social flourishing requires the legal protection of those norms and values currently most popular seems entirely without merit.

An Updated Version of the ‘Asian Values’ Debate?

We might, then, switch gears, and look at the more *local* version of the argument. On this analysis, what matters about a tradition is not that it is universally held, but that it is held *around here*; each individual society is possessed of its own tradition and history, and each society should have the right to promote human rights with reference to its

own, unique “traditional values.” This version of the argument would present the modern Russian proposal as an updated version of the “Asian values” debate of a previous generation; as in that argument, the chief contention to be considered is whether or not human rights should be modified in light of the local traditions of the local community.^{xi} The argument of the proponent, here, is an argument against human rights universalism that begins with the same terms used by human rights practitioners: tolerance, respect, and dignity. It is, on this view, an affront to the dignity and self-respect of the traditional society to have human rights presented to them as cross-culturally valid absolutes. Human rights documents emerge from parochial conversations: from distinctively Western institutions and trajectories, which are insufficiently inclusive of the thoughts and traditions of other societies. To respect these traditional societies, though, is to respect the social worlds they have built together, and the traditions they endorse. If Western societies are to live up to the mutual respect they endorse, they must do so in light of these “traditional values” – and modify or curtail their human rights absolutism in face of the traditions of other societies.

I suspect something like this is at the heart of the Russian emphasis upon traditional values. I think the argument is powerful; I do not think it is right. I want to emphasize three distinct reasons to worry about this argument; each of these tells us something about why we should be worried about “traditional values,” as defended by this proposal.

Three Reasons to Worry

The first of these worries stems from simple empirical facts: there has never been a society that was not enormously complex in what actual traditions could be ascribed to it. We understand this as a matter of course about our own societies; one living in the United States, or France, would hesitate before saying definitively what the American or French traditions demanded in any particular social issue. Each society is, instead of a

set of distinctive values, something more like a distinctive kind of argument – one in which certain threads and contentions might recur, but never with a final resolution or simple conclusion.^{xii} Each society, moreover, tends to have both universal and particularistic strands within it; democratic notes were sounded in the history of the East, and communitarian ideas have flourished in the West.^{xiii} Under these circumstances, to make a claim that a certain value is *ours* seems simply impossible; instead of describing an empirical reality, it tends instead to describe the will of the most dominant parts of society. Those who care about human rights, of course, should be enormously hesitant before taking the will of the strongest as a good reason to ignore the dignity of the weak.

The second of these worries comes about in a consideration of the idea of mutual respect. A society that begins its argument with an ideal of respect is, wittingly or not, deploying a pattern of argument that commits it to a moral framework in which agents are worthy of respect; this framework, however, can end up *demanding* universal human rights, rather than limiting them. We can think of it this way: one who insists that their way of life is worthy of respect is saying, whether they want to or not, that people and what they build together are generally worthy of respect. Someone who says this, though, cannot consistently claim that the dignity of other persons is not a matter of moral gravity. If respect for agency is the start of the argument, then that respect is owed to all agents – whether or not tradition would tend to endorse that respect. A society that uses the language of *respect* to mandate the legal protection of tradition, then, engages in something very much like self-contradiction when it cites that respect as a reason to dismiss the dignity or agency of others. I am reminded, here, of a relativist student of mine who refused to condemn even genocide; who are we, he said, to say that genocide isn't demanded by the value system they have developed over there for themselves? Maybe *we* disrespect *them* by insisting that genocide is wrong! His argument was flawed in a number of ways, of course, but it was most importantly flawed because it used the language of respect for agency to defend acts and practices that denied agency; we cannot think that we respect people, though, by respecting

those acts and practices that degrade them. So it is with “traditional values”; respect for persons requires us to speak out against the marginalization of the weak, rather than simply defend the traditions of the strong.

The final worry I want to address begins with a disquiet many of us will feel at this juncture. If the defender of “traditional values” has a point, I think it is this: we ought to be hesitant before we think we adequately understand the practices and values of another society. We ought to be careful, that is, that our reactions to the actions or policy taken by another society do not reflect our own ignorance and unwillingness to take seriously the agency of those outside our own social context.^{xiv} The defender of traditional values invokes the legacy of colonial conquest and warfare, to note that the traditions we condemn are often those of societies more marginal than our own, and that their marginalization is related to historical patterns of atrocity and evil. Should we not, therefore, feel some historically grounded hesitancy, before insisting that another society’s “traditional values” should be eliminated?

The response to this worry, though, is to simply insist that *modesty* is not the same as *deference*. To be modest in one’s claims is to acknowledge that evidence might change one’s perspective; to defer, in contrast, is to say that the other party is – and always will be – in possession of some authority to define what that evidence shall say. The response to the legacy of colonialism should be, I think, to be modest in our willingness to say that the traditions of a given society are necessarily in conflict with the universal human rights we prize. We should, in other words, be willing to engage in discourse with the other party, to hear what it is like to be a part of their social world, before we condemn what they do. But to say this is not to endorse a deference, in which that other party is always able to define right simply with reference to their own form of life – to their own “traditional values.” In the Russian context, we can certainly endorse a willingness to listen to the other party, to hear grievances that stem from the lack of respect shown to their particular acts and institutions. All this is true. Nothing in this, however, precludes us from saying that – even after this conversation – the

traditions in question ought to be overcome or eliminated. Modesty demands the willingness to hear; it does not demand that we agree.

Conclusion

My conclusion in this paper is simple: there is very little that can be said in favor of “traditional values” as a vehicle for the promotion or interpretation of human rights. The emergence of this framework within the HRC is to be lamented; the states of the world that prize human rights have a reason to work for a world within which human rights, unmodified by the considerations of “traditional values,” are more widely respected. If that conclusion seems to fly in the face of either social well-being or respect for societies, that is only because we often misunderstand what these concepts actually require. “Traditional values” would be, if integrated into human rights practice, a political disaster, gutting the core of what human rights demands; they would also be, I think, a *moral* disaster, in that there are no good arguments in favor of such integration. Traditions, for their value, must respect human rights; we should not let the former influence or override the latter.

*) Michael Blake is author of *Justice and Foreign Policy* (Oxford: Oxford University Press, 2013).

ENDNOTES

ⁱ Nikolay Surkov, "Russia to rejoin the UN Council on Human Rights," *Russia Beyond The Headlines*, 18 November 2013.

ⁱⁱ A/HRC/21/L.2, "Promoting human rights and fundamental freedoms through a better understanding of traditional values of mankind: best practices," 21 September 2012.

ⁱⁱⁱ "Human Rights Council" States Must Reject Traditional Values," Statement of 11 September 2013. Available at <http://www.article19.org/resources.php/resource/37236/en/human-rights-council:-states-must-reject-'traditional-values'>

^{iv} ARC International, "Traditional Values: Fact Sheet." Available at <http://arc-international.net/global-advocacy/human-rights-council/hrc12/tv-fact-sheet>

^v "Contribution of the European Union: Traditional Values," Statement of 15 February 2013. Available at <http://www.ohchr.org/Documents/Issues/HRValues/EU.pdf>

^{vi} A/HRC/22/71. "Study of the Human Rights Council Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of mankind," 6 December 2012. Available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/Session10/A.HRC.22.71_en.pdf

^{vii} Graeme Reid, "'Traditional Values' code for human rights abuse?" 17 October 2012, commentary for [cnn.com](http://globalpublicsquare.blogs.cnn.com/2012/10/17/traditional-values-code-for-human-rights-abuse/). Available at <http://globalpublicsquare.blogs.cnn.com/2012/10/17/traditional-values-code-for-human-rights-abuse/>

^{viii} Susan Okin, *Justice, Gender, and the Family* (New York: Basic Books, 1989).

^{ix} Patrick, Lord Devlin, *The Enforcement of Morals* (Oxford: Oxford University Press, 1965).

^x David M. Herszenhorn, "'Propaganda' by Gays Faces Russian Curbs Amid Unrest," *New York Times*, 25 January 2013.

^{xi} See, on this, Daniel A. Bell, *East Meets West: Human Rights and Democracy in East Asia* (Princeton: Princeton University Press, 2000).

^{xii} I discuss this in my *Justice and Foreign Policy* (Oxford: Oxford University Press, 2013).

^{xiii} Jack Donnelly, "The Relative Universality of Human Rights," 28(6) *Human Rights Quarterly* (2007) 281-306.

^{xiv} On this, see Azizah Al-Hibri, "Is Western Patriarchal Feminism Good for Third World/Minority Women?" in Joshua Cohen et al., eds., *Is Multiculturalism Bad for Women?* (Princeton: Princeton University Press, 1999).

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