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Chapter 4

Culture on the Half Shell

*Universal Rights through the Back Door*

When Nico Jacobellis took a chance and decided to screen Louis Malle's *Les Amants* at the Continental Theater in Cleveland Heights, Ohio, he must have thought he was doing the residents of the east Cleveland suburbs a favor. Only two years before, in 1957, the Continental had shown the film *And God Created Woman*, which launched the career of Brigitte Bardot and caused an uproar over the movie's eroticism, most famously symbolized by the so-called table scene, in which Bardot's merry dance scandalized a nation and titillated a generation weighed down by the moral yoke of 1950s America. Jacobellis and the Continental had weathered the storm the first time, and anyway, Jacobellis must have thought, why should a place like Greenwich Village be the only center of the avant garde? Should Ohioans have to settle for *The Mickey Mouse Club* or the latest episode of *The Milton Berle Show*? So instead of Annette Funicello, Jacobellis brought Jeanne Moreau to the God-fearing moviegoers of the Buckeye State.

For his troubles, he was arrested under an Ohio statute for "possessing and exhibiting an obscene film." After a conviction in the lower courts, and failed appeals all the way through the Supreme Court of Ohio—whose members were apparently not students of the French New Wave, at least not publicly—this theater manager from Cleveland Heights took his case to the U.S. Supreme Court. In their infinite, but bitterly divided, wisdom, the men in black reversed the Ohio courts after what must have been an interesting private showing of the film in presumably a chamber of the Court itself. As Justice Brennan solemnly observed, "We have viewed the film . . . and we conclude that it is not obscene" (378 U.S. 184, 196, 1964).
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Culture On the Half Shell

In the context of cultural diversity, the term "culture" encompasses much more than just the superficial aspects of a society. It refers to the beliefs, values, customs, and behaviors that are characteristic of a particular group or society. Culture is dynamic and evolves over time, shaped by historical events, social interactions, and individual experiences. Understanding the nuances of culture is crucial for effective communication and interaction in diverse settings.

Culture is often viewed as a barrier to understanding, as it can lead to misunderstandings and misinterpretations. However, by recognizing the complexity of culture and its role in shaping human behavior, we can develop a deeper appreciation for the richness and diversity of human experience. This section explores the concept of culture, its components, and its implications for the workplace, allowing us to better navigate the challenges of cultural differences.

Cultural competence involves the ability to work effectively with people from different cultural backgrounds. It requires an awareness of one's own cultural biases and a willingness to learn about and appreciate the diversity of human cultures. The goal of cultural competence is to create environments where individuals from various cultural backgrounds can communicate effectively, work collaboratively, and solve problems together.

In summary, culture is a fundamental aspect of human identity and behavior. By understanding its complexity and implications, we can foster more effective communication and collaboration in diverse settings. This section introduces the concept of culture and its role in the workplace, setting the stage for exploring cultural differences in more depth in subsequent sections.
portance for our purposes here, some academic, including anthropologists, several things appear next to culture, but two are of particular im-

There are a number of people who have argued, in the opposite direction, that culture is unique, and that the concept culture is not reducible to any other concept. In this view, the concept culture is not reducible to any other concept because it is a unique concept. In this view, the concept culture is not reducible to any other concept because it is a unique concept.

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Since the anthropological version of culture is part of the cultural landscape, one of the most important points to make about culture is that it is not just a set of social practices but a dynamic entity that is constantly being constructed and reconstructed through interactions between individuals and groups. In this sense, culture is not static but rather a process of continuous change and evolution. It is not just a collection of artifacts and symbols but a living, breathing entity that is constantly being reshaped and reinterpreted by those who inhabit it. Therefore, it is important to understand that culture is not just a set of fixed elements but a dynamic, ever-evolving phenomenon that is constantly being shaped by the interactions of individuals and groups.
Chapter 4

Understanding Japanese/Chinese Tornadoes (The Unification of Mass Communication)

The discussion of the "Japanese/Chinese Tornado" is an integral part of this chapter and it will be explored in more detail in the upcoming sections. The concept of the "Japanese/Chinese Tornado" refers to the phenomenon of mass media influence in Japan and China. This phenomenon has become increasingly evident in recent years, as the two countries have become major players in the global media landscape.

The "Japanese/Chinese Tornado" is characterized by the rapid spread of ideas and values through mass media outlets. This includes not only traditional media such as television and newspapers, but also social media and other digital platforms. The result is a powerful influence on public opinion and cultural trends, often leading to a homogenization of cultural practices and beliefs.

In this chapter, we will explore the causes and effects of the "Japanese/Chinese Tornado" phenomenon, and discuss its implications for mass communication. We will also examine the role of technology in facilitating this phenomenon, and consider the ethical and social implications of mass media influence.

We will begin by discussing the historical and cultural context of Japan and China, and how these factors have shaped their media landscapes. We will then explore the role of technology in facilitating the "Japanese/Chinese Tornado" phenomenon, and consider the implications for mass communication.

In conclusion, the "Japanese/Chinese Tornado" is a powerful force in shaping contemporary culture, and its impact on mass communication cannot be ignored. As we continue to explore this phenomenon, we will see how it reflects broader trends in global media and culture, and how it continues to evolve and change over time.
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Courting Culture

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human rights system. Indeed, considerations have extremely demanded the protection of human rights and the enforcement of international law. The ICCPR, the UDHR, and the other international human rights instruments have been adopted to protect and ensure the enjoyment of people's human rights. These instruments provide a framework for the protection and promotion of human rights, including the right to life, liberty, and security of person, the right to freedom of expression, the right to freedom of religion, the right to freedom of association, and the right to education. These rights are recognized and protected by the international community and are enforceable through international law. The enforcement of these rights is carried out by national governments and international organizations. The UN Human Rights Council and the International Criminal Court are among the organizations responsible for monitoring and enforcing these rights. Despite these efforts, there are still challenges in realizing the full protection of human rights in all countries.
Chapter 4: Cultural Heritage and International Law

The guarantee of human rights is a fundamental principle of international law. It is enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. These instruments recognize the right to have their cultural heritage protected and to enjoy the benefits of cultural diversity.

Cultural diversity is a key concept in the protection of cultural heritage. It refers to the variety of forms in which culture is expressed, including traditions, practices, beliefs, and artifacts. The protection of cultural heritage is not only a matter of preserving the material aspects of culture, but also of ensuring the rights of the communities that produce and live with it.

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural表现 the importance of cultural heritage in promoting diversity and intercultural dialogue. It recognizes the right of States to manage their cultural heritage in accordance with their own cultural traditions and practices. The Convention also encourages States to cooperate in the protection and promotion of cultural diversity.

In conclusion, cultural heritage is a precious resource that should be protected and preserved. The protection of cultural heritage is not only a matter of preserving the material aspects of culture, but also of ensuring the rights of the communities that produce and live with it. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural表现 is a key instrument in this regard.


The study of cultural diversity lays human rights at the heart of the matter. However, this fundamental understanding is not always straightforward. For instance, it is often difficult to reconcile the cultural norms and expectations of different societies with the universal values that underpin human rights. This tension is particularly pronounced in international human rights law, where the right to freedom of expression, for example, is balanced against the protection of cultural identity.

In this context, it becomes crucial to explore the intersection of human rights and cultural diversity. This is where the concept of cultural sensitivity and respect for cultural differences becomes crucial. The challenge lies in finding a balance that acknowledges the richness of cultural diversity without compromising the protection of human rights.

The Vanishing of Overlapping Consensus

As the nature of human rights evolves, so too do the challenges they face. The erosion of traditional values and the rise of new social movements have posed significant challenges for human rights advocates. The nuanced approach to human rights, grounded in the recognition of cultural diversity, is essential in navigating these challenges.

The Evolution of Human Rights

Chapter 4

Cultural attitudes vary, and the exploration of how they influence the application of human rights is crucial. This is particularly evident in the context of the cultural diversity underpinning human rights, where the right to freedom of expression, for example, must be reconciled with the protection of cultural identity.

The evolution of human rights law is marked by a shift towards a more nuanced approach. This is evident in the development of international human rights instruments, which recognize the importance of cultural diversity. The principle of non-discrimination, for instance, is interpreted as a right to benefit from cultural diversity in the context of human rights.

In the 1990s, the United Nations' Universal Declaration of Human Rights was amended to include the right to cultural diversity, recognizing the importance of cultural identity in the promotion and protection of human rights. This was a significant step towards acknowledging the diversity of human rights and the need to balance cultural identity with the protection of individual rights.

The Intersection of Human Rights and Cultural Diversity

The interaction between human rights and cultural diversity is complex and multifaceted. On the one hand, human rights provide a framework for the protection of cultural diversity, while on the other hand, cultural diversity can be seen as a source of enrichment for human rights. The challenge lies in finding the right balance between these two forces.
culture—the one that anthropologists themselves develop and popularize—
cross-cultural differences in human rights is made possible
by the fact that "cultures are constantly changing and evolving." In part,
cross-cultural differences in human rights are emergent. These differences are not
"fixed" or "natural." They are the result of ongoing interaction with other cultures.
Therefore, the concept of "culture" is not static. It is always evolving. The

On the other hand, the concept of "culture" is not static. It is always evolving. The

process through which human rights shape and are shaped by cultures is complex.

In the work of J. N. L. Patten (1996), the term "culture" is used in a way that
connotes "cultural identification and recognition" and refers to the

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Chapter 4

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into the Rabbit Hole

have been examined by human rights scholars.

In the next section, we consider other ways in which the problems of culture...
problems remain for human rights theory and practice.

In the next and final section, I bring the chapter’s different strands to

Lugo is in turn, the human rights (acute) and Kosovo

work on behalf of human rights and the promotion of peace in postconflict set-

ting. The former president of Ukraine, Volodymyr Zelensky, who was elected in 2019 for

the term, made a strong and personal appeal to the UN human rights system. His

appointment was widely seen as an important and symbolic act, perhaps even

political. The support and commitment of the Security Council and Kosovo

in July 2020, as New York Times reported on a one-day meeting between the

Security Council president and prime minister of Serbia, and contributed to the

Decisions in favor of international human rights law, but a draft resolution of the

Council is the formation of an International Criminal Court, which could be

used to bring to justice those responsible for serious violations.

Beyond the need for the leaders of the two directly divided sides and agreed
Cultural orientation as a way for understanding cultural differences.

The cultural orientation of the world’s major religions and the way they are practiced can provide insights into the different perspectives and values that influence behavior. Understanding these differences can help in navigating cross-cultural interactions and building effective relationships.

In the context of business, cultural orientation can help in making informed decisions about market entry and strategy formulation. It can also aid in the development of culturally sensitive communication strategies, which are essential for global operations.

For example, understanding the cultural orientation of different countries can help in determining the most effective marketing approaches. This can involve analyzing cultural values, beliefs, and norms, and tailoring marketing messages to resonate with the local audience.

Similarly, in the realm of leadership and management, cultural orientation can influence decision-making processes and the effectiveness of leadership styles. Leaders who are culturally aware can better adapt to different environments and foster inclusive work cultures.

In conclusion, cultural orientation is a critical aspect of understanding cultural differences and can provide valuable insights for both personal and professional life. By embracing cultural orientation, we can enhance our ability to interact effectively and respectfully with people from diverse backgrounds.

This approach not only enriches our personal experiences but also contributes to a more inclusive and harmonious society.
with the Gheg-speaking Muslim Kosovar Albanians than they believed, that they were, in effect, simply variations of the same collectivity.

In either case, the death of culture provides a way of surrendering to a Utopia that will be regulated by some version of human rights. It is no coincidence, therefore, that I invoke Thomas More in the way I have, since he is the one who first gave us the idea of Utopia, that fabulous island that cannot, by definition, ever exist, because it serves a different function: to shape human aspirations despite, not because of, what people know about the world around them. But is it enough that universal human rights can be willed into existence where they otherwise do not exist, either because they clash with values dear to one cultural tradition or another or because international or transnational institutions are still not powerful enough to shape the world in ways that would make the problem of cultural difference, in a sense, irrelevant?

In other words, can universal human rights come in through the back door, one that is created by the innovative arguments of cosmopolitan elites who cannot but view the idea—and continued reality—of culture with a kind of bemused hostility, even as they treat the idea of it like an exotic conceptual dish—culture on the half shell? Regardless of how we might answer these questions, the stubborn fact of culture remains, even though for populations in diaspora, elites, well-traveled bourgeoisie (whether from the “West” or elsewhere), those regularly on the information superhighway, and others, the world does seem to be a smaller, less divided place. But human rights scholars should not be too concerned with these relatively tiny segments of the world’s population. Rather, the problems that culture poses for human rights theory and practice will not really be solved until those who have chosen to surrender to utopia come to terms with everyone else.
from those hidden recesses of the human spirit that the Romantics valued above reason and intentional understanding. Here is Dilthey, for example, explaining Weltanschauung well after its meaning had been established by Hegel and others: "Weltanschauungen [i.e., "worldviews"] are not products of reflection. They are not the fruit of the mere will to know. The perception of reality is an important force in their formation, but only one. They arise from the process of life, from our experience of life, from the structure of our psychic totality. The ascendency of life to consciousness, in the knowledge of reality, the acceptance and appreciation of life, and the accomplishments of the will—this is the slow and difficult work that mankind has performed in the development of its Weltanschauungen" (1911).

Chapter 5

1. Korey’s study of nongovernmental organizations and the Universal Declaration focuses on the political and institutional implications of Roosevelt’s invocation of the "curious grapevine," which first appeared in a 1948 New York Times article on the work of the UN Human Rights Commission. As Korey rightly observes, the notion of a curious grapevine of human rights is "pregnant with possibilities" (1998:48).

2. I leave aside the further and important distinction between "nation-state" and "nation"—a distinction that is also frequently ignored—because it is a bit too tangential to the main thrust of the argument here.

3. Although the United States is a relatively young nation-state, there is a surprising level of legal diversity between its different states and regions, a diversity that reflects its complicated political history, especially in the way the official policy of internal imperialism incorporated parts of the legal systems and traditions of Spain, France, and Mexico within the federal structure. This legacy can be seen in the contemporary legal codes of states like of Louisiana, California, and New Mexico. Despite this legal diversity, there has been a powerful countercurrent in the United States since the 1920s, one best represented by the American Law Institute. Led—not surprisingly—by the national equivalent of today’s transnational cosmopolitan elites, the ALI’s mission has been to foster legal reform throughout the United States by standardizing and clarifying legal principles between different jurisdictions. These efforts have been only partly successful, most notably in the area of commercial law (through the Uniform Commercial Code) and—in collaboration with the American Bar Association—through the standardization of legal education (where ALI’s Restatements of the Law are still widely used).

4. "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

5. A good example was the Civil Rights Act of 1964, a bill passed by the U.S. Congress and signed into law by President Lyndon Johnson. Among other things, this act outlawed, in one dramatic fell swoop, the so-called Jim Crow laws, which were found primarily in the southern part of the country and which had been enacted toward the end of the nineteenth in the period in These laws requi tion to movie th Act nullified a la hall, theatre, op public assembla the white race a therein to be occ to be occupied b 6. In invoki to suggest that it tions. But I think system is sugges also instructive v confront.

7. It is not cl was agreed on by it would be incorp small num what is an unsta cated German.

8. I first came a spring 2006 into Rights: Genesis a dation and the Me of Erfurt. The wo vocative keynotes : 

9. Rilee’s study s who were preg Beijing in 1995.

10. For an exc mopolitanism, see

Chapter 6

1. As I menitio nal campaign on gists from the dev yond), because it v culture would "des 2. The literatur book is not intend man rights, as else