

Nietzsche and the Universality of Human Rights

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Abstract

Universality of common human values embedded in declarations and international treaties supposed to be evident in the international human rights legal system but it does not mean that there were no intellectual discrepancies behind those instruments. Universality of human rights has its roots more than anything on theories of *Jhon Locke's natural law* and *Immanuel Kant's rational ethics*. But one of the earliest philosophers of opposition side against unity of human nature and universal morality at the embryonic stage was *Nietzsche*. Bringing forth the theory of *will to power* by adopting a psychological *genealogy* method Nietzsche distinguished between two moralities: *Masters Morality* and *Slaves Morality*. He attributed human rights as slave morality. Slaves revolted with the spirit of resentment and womanish deception against masters then introduced their own qualities as standard and universal. *The Rise of Christianity* and *the Great French Revolution* are amongst two biggest examples of such slave revolt in morality. With such a presupposition, trying by any effort to reconcile human rights morals with Nietzschean views seems to be unachievable. While reviewing past philosophical challenges, this article tries to analyze necessity of co-existence both international human rights legal system and Nietzschean world from a new perspective.

Keywords

Ethics, Human Rights, Natural Law, Universality, Nietzsche

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1. Introduction

The idea of human rights has always been the subject of many criticisms and critics have attacked it from different angles. Some have found human rights too progressive and others have found them reactionary. Jeremy Bentham, one of the founders of the school of "utilitarianism", in a booklet called "Anarchical Fallacies" criticizing the French Declaration of the Rights of Man and Citizen (1789), considers human rights to be another name for natural rights and calls it "Nonsense upon Stilts".¹ Community oriented thinkers such as McIntyre have considered the "liberal myth" of human rights as a radical threat against virtuous life and have argued that rights have no origin other than society and social duties.² Marxist movements have introduced human rights as a bourgeois idea which, by defending the legal equality of individuals, hides the economic inequalities between classes and acts against the "emancipation of humanity".³

Liberal supporters, by defending political and civil rights (first generation), condemn any limitation of the free market in the name of new generations of human rights such as economic rights (second generation) and environmental rights (third generation). They also argue that the solution of economic and environmental problems is not in limiting the market, but on the contrary is applying the logic of the market or "marketism in the field of environment".⁴ Cultural thinkers, emphasizing that human rights is a Western concept, have risen to defend Asian values, Islamic human rights, etc.⁵

Feminist currents consider "liberal human rights" as a male and white phenomenon that ignores the experiences, sufferings and emotions of women, especially non-whites.⁶

Emphasizing that human rights are organized around a linguistic conflict between humans and animals, post-structuralist thinkers consider it a tool and justification for legitimizing the cruel slaughter of animals.⁷ The post-colonial currents see human rights as a means by which the Europeans have reduced the peoples of other lands to a level lower than humans, and thus

1. Alexander, A., "Bentham, Rights and Humanity: A Fight in Three Rounds". *Journal of Bentham Studies*, vol. 6, 2003, pp. 1-18.

2. MacIntyre, Alasdair, *Ethics in the Conflicts of Modernity: An Essay on Desire, Practical Reasoning, and Narrative*, Cambridge: Cambridge University Press, 2016, pp. 77-78.

3. Macfarlane L. J., "Marxist Theory and Human Rights", in: *Government and Opposition*, vol. 17, No. 4, 1982, pp. 414-428.

4. Pennington M., Liberty, "Markets, and Environmental values: A Hayekian Defense of Free-Market Environmentalism", *Independent Review*, vol. 10, Issue 1, 2005, pp. 39-57.

5. Ghai, Yash. "Human Rights and Asian Values", *Journal of the Indian Law Institute*, vol. 40, No. 1/4, 1998, pp. 67-86.

6. Binion, G., "Human Rights: A Feminist Perspective", *Human Rights Quarterly*, vol. 17, Issue 3, 1995, pp. 509-526.

7. Derrida, J., Wills, D., "The Animal That Therefore I Am" (More to Follow), *Critical Inquiry*, vol. 28, Issue 2, 2002, pp. 369-418.

have paved the way of colonization, plundering of resources and enslaving these peoples.⁸ Techno skepticism on the other hands, stressing that the progress of science and technology has brought unprecedented threats to human freedom, claims that the existing human rights are outdated and inadequate therefore insists on the necessity of something called the "fourth generation" of human rights.⁹ Finally, in the pessimistic view based on contemporary international politics and especially with the adoption of self-preservationist policies by the United States after the events of 9/11 and failure to fulfill this role, international developments have progressed in a direction that some thinkers sarcastically talk about the "end of ideology" and "end of history" and "the end of human rights" theories.¹⁰ These criticisms are very diverse but have one common feature: "good criticism" or at least acceptable criticisms of human rights. The mentioned criticisms criticize human rights either in the name of noble and honorable ideals such as freedom, equality and liberation, or in the name of desirable good things such as social solidarity and elimination of deprivation, or in the name of popular slogans such as women's rights, rights of sexual minorities. They also invoke the rights of non-whites, the rights of the lower classes of society, non-western cultural values, the interests of colonized nations, etc. However, in the midst of these well-known criticism, there is also an "evil criticism" that attacks human rights from its very fundamental core principles. The most important and serious supporter of this infamous critique is the German philosopher Friedrich Wilhelm Nietzsche (1844-1900). With the coarsest and harshest literature, Nietzsche made the theoretical foundations and key components of human rights, especially their universality, the target of his frank and open-ended philosophical attack, and he opened his language to honor the virtues that the human rights discourse has declared its innocence.

However, our entire discussion is not a review of these theories. The hypothesis of Nietzsche's stubborn enmity with the philosophical foundations of human rights is not a hidden thing, and Nietzsche's incompatibility with human rights and modern democratic institutions is obvious to scholars. Instead of repeating the famous and repeated rumors about the incompatibility and enmity of Nietzsche's superman and the ordinary man defended by human rights, this article presents an innovative idea and a challenge about the relationship between Nietzsche's ideals and the principles of human rights, not from a purely philosophical point of

8. Bonnet, Sebastian, "Overcoming Eurocentrism in Human Rights: Postcolonial Critiques – Islamic Answers?", *Muslim World Journal of Human Rights*, vol. 12, Issue 1, 2015, pp. 1-24.

9. Soh, Changrok, *et al.*, "Time for a Fourth Generation of Human Rights?", 2018, available at: <https://www.unrisd.org/TechAndHumanRights-Soh-et-al>, last seen 13th February 2023.

10. Douzinas, Costas, "The End of Human Rights", *University of Melbourne Law Review*, vol. 445, 2002, pp. 3-26.

view, but from the point of view of defenders of international law. Our hypothesis is that although Nietzsche ruthlessly attacks human rights, the realization of the principles of human rights can at least help to preserve and perpetuate the virtues and spirits that Nietzsche defends.

We know that the values and ideals defended by Nietzsche cannot be realized on a large scale in our time, and his idealistic philosophy seems more and more alien and strange to our real world. However, the institutional realization of human rights provides the possibility for individuals with Nietzschean interests and virtues to enjoy a minimum of rights. It is true that the institutional framework organized around the axis of human rights has a different path from the realization of the Nietzschean world, but in the absence of the minimum protective umbrella that human rights provide for all people, Nietzschean individuals due to their anachronistic characteristics are subject to risk of cleansing. Therefore, it can be said again that the philosophical foundations of the Nietzschean world and the philosophical foundations of human rights are incompatible and may remain incompatible forever, but the institutional framework of human rights allows the Nietzschean humans to continue their life. Nietzsche wished that the world would crush human rights and would go beyond it, but in practice, it is human rights that allow Nietzschean interests and spirits to continue to breathe and enjoy the right to life and freedom of expression.

2. The Dilemma of Universality

One of the most challenging topics in the academic field of human rights is the universality of human rights, which is mainly opposed to the critical current of "relativism".¹¹ The concept of "universalism" itself has many meanings to the extent that one of the professors of human rights, Eva Bramoz, has listed sixteen meanings for it in his book.¹² Here, we are only satisfied with the description of its two legal and philosophical concepts, which are more important than the others and directly related to our subject.

1-2. Universality of Human Rights in International Legal Concept

Since the issuance of the United States Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen (1789) until today, many human rights documents have emerged that are invoked not only in the regulation of relations between governments but also in the relations between governments and Individuals of communities in certain countries. These documents have a lot of variety and emphasize many aspects of human rights (political rights and freedoms, economic rights, cultural rights, environmental rights, etc.). However, one thing is common in

11. Zakerian, Mehdi, *All Human Rights for All*, Mizan, 2013, (Persian), PP. 51-53.

12. Brems, Eva, "Human Rights: Universality and Diversity", in: *International Studies in Human Rights*, Kluwer Law International, 2001, vol. 66, pp. 3-16.

all these documents: the emphasis on universality. None of the human rights documents and treaties have limited the defended rights to a specific group or society. The centrality of the universality can be traced in each human rights document.

Due to the impossibility of showing the importance of universal discussion in all human rights documents, we inevitably focus our discussion on a few important documents, among which the "Universal Declaration of Human Rights" has a special place.

The universal nature of human rights is so important that despite the fact that this concept is hidden in the word "human", the declaration of 1948 used the word "universal" as the first and only attribute of the declaration in its title to further emphasize it. The Universal Declaration of Human Rights emphasizes the unity of the human race and the equality of all human beings in Article 1: "All human beings are born free and equal in dignity and rights." Based on this principle, the subsequent articles declare that either "everyone" has certain rights or "nobody" should be subject to discriminatory behavior and treatment contrary to the principles and principles of the declaration. "Equality" and "non-discrimination" are re-emphasized in Article 2 and a long list of areas of distinction and difference is stated. Applying any kind of discrimination based on race, color, gender, language, religion, religious or political opinion, national or social origin, wealth, birth or any other situation is considered unacceptable.

The Universal Declaration of Human Rights does not specifically address the issue of "regional affiliation", but this issue is implicitly based on the idea that the Declaration does not have any affiliation. Therefore, the aforementioned declaration is a "manifesto" that defends the universality of human rights. From the perspective of the declaration, all human beings everywhere in the world are considered to have rights, which was officially announced on December 10, 1948. The equality of human beings is independent of any conditions and stipulates that all human beings are considered to be entitled to realize the conditions of life with dignity. All subsequent documents regarding the protection of human rights have followed this point of view.

International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966) have also used literature and wording similar to the declaration. Among the regional documents, European Convention for the Protection of Human Rights and Fundamental Freedoms (1953), American Convention on Human Rights (1969) and African Charter on Human and People's Rights (1986), have recognized and accepted the universal concept of human rights. In the meantime, of course, there is a non-binding regional document that has a different position. This document explains human rights not like other documents from a purely humanistic perspective, but from a theological

perspective, and that is the Cairo Declaration on Human Rights in Islam (1990), known as The Cairo declaration which was approved by the foreign ministers of the Organization of Islamic Cooperation.

Although the Cairo Declaration did not explicitly question the concept of universal human rights, it is clear that it did not fully accept the universality intended by the 1948 World Declaration and the 1966 Covenants, both in terms of its philosophical foundations and examples of its freedoms and limitations. It has implicitly placed Islamic values against Western values. In 1992, this declaration was presented to the United Nations Human Rights Committee, which was not welcomed by the members and was not taken seriously by any of the international legal institutions.

The Universal Declaration of Human Rights is designed to serve as a model and standard for global action. However, it cannot be denied that the World Declaration had a weak birth due to emerging a newborn organization in a world in which the United Nations was consisting of 56 mostly Western governments, while today the United Nations has exceeded about 200 member states. But considering the implicit concept of universal human rights in the United Nations Charter, which all members have accepted without applying conditions, and the accession of most countries to covenants and other human rights documents, at least the legal acceptance of the universal concept of human rights by governments is undeniable. However, in the political literature, protests against it have been expressed by some communist, Asian and Muslim governments.

Two other important global events in the last decade of the 20th century can be mentioned that have played a role in the evolution and acceptance of the universal concept of human rights; Bangkok Declaration (1993) and Vienna Declaration and Programme of Action (1993). The Bangkok Declaration was accepted by the ministers and representatives of the Asian governments in April 1993 on the eve of the preliminary meeting of the World Conference on Human Rights. In one of its main clauses, it is stated, "that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds". The World Conference on Human Rights (1993) in Vienna was held after the Bangkok Conference with implying the defense of Asian values and the debate on the limits of the "universal" concept. This Conference emphasizing the provisions of the Universal Declaration of Human Rights, the 1966 United Nations Charter and the Covenants, reaffirmed the universality of human rights and declared its acceptance without question. The first paragraph of the declaration states that "there is no doubt about the universal nature of these rights and freedoms." It is safe to say that this position of "unquestioning the universal nature of human rights and freedoms" has been

repeated in almost all of the initiative documents of the United Nations system.

In fact, the centrality of the discussion of universality in the Universal Declaration and other human rights documents is not a strange thing, because the very concept of human rights implicitly implies universality. "Human" is a general concept and can be applied to all people regardless of gender, race, skin color, physical and mental health, status, religion, ethnicity, and other distinguishing characteristics. Universality has a presence in every instrument as spirit in the human rights body, but the question is the foundation of the universality. Human rights instruments mainly focus on enumerating universal human rights and show less attention to the question of what justification these rights have and where they arise. It seems that these instruments have considered human rights as an obvious issue without the need of being justified and explained. Of course, it is obvious that declarations and legal instruments are only limited to outlines due to the necessity of brevity, but finding detailed theoretical and philosophical discussions about the way ideas and concepts are related in mentioned instruments is not a reasonable expectation. However, the ideas presented in the human rights declarations originate from philosophical debates and socio-political movements that historically precede them. Here, the two foundations that have been the most important ones to the founders of human rights will be examined: natural rights and reason. These principles, which are referred to in the United States Declaration of Independence, the French Declaration of the Rights of Man and of the Citizen and the Universal Declaration of Human Rights, are rooted in heated philosophical-political debates which had conquered the public that preceded the issuance of declarations. Therefore, in order to understand how natural rights and the enjoyment of reason justify the universality of human rights, we have no choice but to refer to these philosophical debates and discussions.

2-2. Universality of Human Rights in Philosophical Concept

Two of the most inspiring justifications of human rights in the history of political philosophy based on natural rights and rationality were presented by two figures: John Locke and Immanuel Kant. Each of these theoreticians put forth their ideas in the heat of the intense intellectual-political controversy that was going on in their time. But these two thinkers did not present their ideas in a vacuum. Their ideas were rooted in the philosophical-rational tradition of which the first systematic formulation was presented by René Descartes in his *Discourse on the Method*. In this great and highly influential work, which was first published in 1737, Descartes argued, following the Aristotelian tradition, that reason is the distinguishing feature of humans from animals. But Descartes, with a radical revision in the Aristotelian

tradition, called reason a natural gift that is equally distributed among all human beings: "The ability to judge correctly and distinguish right from wrong is naturally equal among all human beings".¹³ By referring right and wrong judgment to reason and insisting on the natural and equal distribution of the blessing of reason among all human beings, Descartes implicitly laid the foundation for legal equality, which was later perfected in the works of Locke and Kant.

2-2-1. John Locke and Natural Rights

John Locke (1632 - 1704) presented his ideas at a time when the main topic of his intellectual-political debates was the origin of the right to governance. The debate on the origin of the right to governance was important because it implied serious consequences for the limits of ruling and governance. The movement against which Locke proposed his theories was historical right as the origin of the right to rule. This movement, whose most famous figure was "Robert Filmer", argued by mixing history and theology that kings have always had power throughout history and God has granted this power to kings through nature; Because God's will and power is "absolute", the power of God's representatives on earth must be absolute.¹⁴ In the treatise on government that was first published in 1689, Locke turned the historical-theological argument of the supporters of absolute government against them. He proposed the idea that before the establishment of governments, individuals have "natural rights", and governments are basically created to protect these natural rights; Natural rights have been assigned by God to man through nature and no one can deprive him of these rights. According to Locke, natural rights were not affected by time and place and were valid in all situations and everywhere. Also, since these rights were entrusted to man by God himself, they were sacred rights, and violating them would not be justified and even necessitated rebellion and disobedience.¹⁵ Locke however, most importantly, argued that these rights are not limited to a certain class and all human beings are entitled to them simply by birth. If we pay attention to Locke's arguments in defending natural rights and the characteristics of these rights (inalienability, sanctity, perpetuity, comprehensiveness, and universality) as well as the text of the American Declaration of Independence and the French Declaration of Man and Citizen Rights, especially their first articles, we will realize that they are clearly influenced by John Locke thoughts, especially in the justification of universalism. by

13. Descartes, Rene, *Discourse on the Method of Correctly Conducting One's Reason and Seeking Truth in the Sciences*, Translated with an Introduction and Notes by Ian Maclean, New York: Oxford, 2006, p. 5.

14. Filmer, Robert, "Patriarcha", Peter Laslett (ed.), in: *PATRIARCHA and Other Political Works of SIR ROBERT FILMER*, Oxford: Oxford University Press, 1949 (1680), pp. 31-38.

15. Locke, John, *Two Treatise of Government*, Edited by Peter Laslett, Cambridge: Cambridge University Press, 1998, pp. 273-277.

Knowing that the founders of American independence were interested in Locke's ideas, this matter is not surprising. As an example, it is sufficient to look at this paragraph of the American Declaration of Independence, which seems to be a copy of John Locke's works: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness".

2-2-2. Immanuel Kant and the Universal Moral-Rational Principles

Kant's philosophy is another foundation on which human rights has built its universal claim. It can be said that the importance of Kant's ideas for proving the universality of human rights is even greater than the importance of Locke's ideas. Due to the nature of the intellectual controversy of his time, Locke tried to defend the existence of human rights rather than to justify its universality. However, the intellectual correspondence of Kant's time revolved specifically around the contrast between the concepts of particularism and universalism.¹⁶ In his influential essay, "What is Enlightenment", Kant interpreted the various paths that history had taken in different societies in a different way. In his opinion, these paths, despite their differences, are all proofs of human's inability to use his wisdom. The various existing paths do not have any superiority over each other and they all belong to the age of "immaturity" of mankind. The real history of man is something related to the future, not the past. Mankind has lived in his prehistoric era, and his real history begins when he finds the "courage" to organize his life based on wisdom.¹⁷ But what are the characteristics of this wisdom that human history should be divided into two periods before and after its application? To find the answer to this question, we should look at two other works by Kant that were published before and after the essay of "What is Enlightenment" respectively: *Critique of Pure Reason* (1781) and *Critique of Practical Reason* (1788). In these works, in continuation of Descartes' subjectivism, Kant argued that the capacity for rationality is the "substance" that defines our humanity. It is the only intellectual faculty that is original in humans. Other human powers and desires and the actions and judgments that arise from them are deviations from this original ability. Wisdom is the same deposit in all human beings equally and it leads to general and universal rules both in the field of science and in the field of ethics and politics. Kant expanded this discussion further in the *Metaphysics of Morals*. In its later work, by repeating the emphasis on the originality of reason in a person and weighing the validity of all laws in the balance of

16. Kant's problem of time has shown itself once again in the form of the opposition of relativism and universalism in our era, and for this reason it is more tangible and alive for us.

17. Kant, Immanuel, *What is Enlightenment, in Kant Political Writings*, Edited by H. S. Reiss, Cambridge: Cambridge University Press, 1991 (1784), pp. 24-26.

reason, Kant proposed the famous idea that "Act only according to that maxim whereby you can, at the same time, will that it should become a universal law".¹⁸

Because reason is the criterion for evaluating laws, and because reason has a universal nature and direction, it must be said that the only valid law is the one that can be applied to all human beings. In other words, in order to see whether a ruling is valid or not, our criterion should be whether that ruling can be made public or not. According to Kant, freedom is one of these rational rules because, unlike oppression and discrimination, it has "universalizability capacity". In fact, one of the most consistent theoretical defenses of contemporary human rights is Kant's defense, which ultimately relies on human autonomy as the most important basis of human dignity. In Kant's philosophy, since man has self-based reason (autonomy), he also has the power of choice. Denying the right to choose means denying human rationality, and denying human rationality means denying human's humanity.¹⁹

3. Nietzsche and Human Rights: Contrasting Interpretations

Nietzsche, although historically, is a thinker of the 19th century (1844-1900) and his world belongs to the time which is far from the last developments of the international human rights system in the 20th century, especially the adoption of the epoch-making documents of the United Nations Charter (1945) and the adoption of the Universal Declaration of human rights (1948). But we know that apart from these institutional developments, the theoretical foundations of human rights go back to a few centuries ago in Europe, at least to the Enlightenment era, and in its legal literature has been proceeded since the adaption of the American Declaration of Independence (1776). Then a few years later was the time for the French Declaration of the Rights of Man and of the Citizen (1789). Therefore, Nietzsche was Inheritance the French Revolution and other democratic and humanist movements in Europe, he was well familiar with the content of human rights and fundamental freedoms, and this is evident in his various writings. For example, when he states in the book of "*Gay Science*" that:

"we are not by any means "liberal"; we do not work for "progress"; we do not need to plug up our ears against the sirens who in the market place sing of the future: their song about "equal rights," "a free society," "no more masters and no servants" has no allure for us, We simply do not consider it desirable that a realm of justice and concord should be established on earth

18. Kant, Immanuel, *Groundwork of the Metaphysics of Morals*, in: Practical Philosophy Translated by Mary Gregor, California: Cambridge University Press, 1996, p. 496.

19. S. Fatemi, Seyed M. Ghari, *Human Rights in the Contemporary World*, Negah-e Moaser Pub., Tehran, 2017 (Persian), vol. 1, p. 23.

(because it would certainly be the realm of the deepest leveling and chinoiserie)".²⁰

Such evidence from Nietzsche's texts shows that he was not only fully familiar with the concept of human rights in his time, but the Human Rights movement was one of his most important intellectual concerns. It goes without saying that Nietzsche considered himself a "Untimely philosopher" and a "philosopher of the future" whose true audience will understand the meaning of his thoughts "after at least two centuries". Therefore it is not odd that he is considered the dominant ancestor of the beliefs of today's post-modern philosophers.²¹

Nevertheless, Nietzsche's views are usually ignored in the discussion of the theoretical foundations of human rights. However, more or less researches have been done about the relationship between his thoughts and human rights. In a general classification, these researches can be divided into two categories: a) Works that emphasize the mutual confliction between Nietzsche's thought and human rights. b) The works that try to remove the accusation from Nietzsche and to show fully compatibility of his thought with the principles and foundations of human rights. The second type who seek to exonerate Nietzsche in the field of human rights is a minor and marginal research currently. The main stream of research on the relationship between Nietzsche and human rights is made up of works that see Nietzsche's horizon and the world of human rights different.²² Here, before introducing the works of the main stream, we first review the unsuccessful efforts of the secondary stream to show Nietzsche's philosophy and the philosophical foundations of human rights.

The most famous representative of the mentioned secondary stream is the German philosopher Karl Theodor Jaspers (1883 - 1969). Jaspers, who is considered one of the first interpreters of Nietzsche, presents a very "humanistic" reading of Nietzsche, in which Nietzsche's philosophy is not only incompatible with human rights, but also becomes a true supporter of human rights. Jaspers' Nietzsche has nothing to do with his advocating of cruelty, power-worship and contempt and hatred of the weak. From this side, Nietzsche is regarded as high-minded, pious and tender-hearted person who has freed himself from the shackles of meanness and wants the exaltation and greatness of his fellow men. At a time when the ideas of progress and prosperity had captured the soul and psyche of the common people and philosophers alike, Nietzsche protested science and reminded his

20. Nietzsche, Friedrich, *The Gay Science: With a Prelude in Rhymes and an Appendix of Songs* by; translated, with commentary, by Walter Kaufmann, Vintage Books, 1974, p. 338.

21. Robinson, Dave, *Nietzsche and Postmodernism*, Totem Books, 1999, p. 61.

22. Martin Heidegger, Gilles Deleuze, Michel Foucault, Johnny Vattimo, Felix Guattari, Antonio Negri and Georges Bataille are among the most famous representatives of the mainstream interpretation of Nietzsche.

contemporaries that man is not a being but a "becoming".²³ He introduced satisfaction and indulgence in material well-being and considering it as the last station of progress as a destructive threat that was lurking in human freedom. The greatest danger that threatened modern man was not the government or capitalism, but the extinguishing of the embers of desire. Modern man is so engrossed in his material achievements that he cannot think about anything beyond it and he is so immersed in the pleasures of comfort that he has forgotten the taste of adventure, risk taking, discovery and suffering.²⁴ Although this depiction is very attractive, it does not have textual evidence behind it.

The flow of Nietzsche's critics, which has a philosophical-ethical orientation, sees the philosophical foundations of Nietzsche's views and the philosophical foundations of human rights as completely unattainable. These narratives rightly point out that the basis on which Nietzsche's entire philosophy is power and "will to power" and domination, while the philosophical foundations of human rights are freedom, self-governance and independence. Nevertheless, among the researchers who have a philosophical approach to Nietzsche and human rights and their irreconcilable contradiction, two fronts can be distinguished: one front is in an aggressive position and takes Nietzsche's side. Another front is in a defensive position and defends human rights. Thinkers of the first front, whose famous figure is the French philosopher Gilles Deleuze (1925 - 1995), argue that all human rights rely on the foundation or principle called natural rights, which is nothing more than a myth; Human rights cannot defend itself coherently against Nietzsche's destructive critiques. On the other hand, from the supporters of the second front, the most prominent figure is the German philosopher Jürgen Habermas, turn this criticism towards Nietzsche's own philosophy and focus on the mythical and empirically unproven nature of the will to power.²⁵

In the meantime, there are also thinkers who have tried to create a new synthesis using elements from both sides; The most prominent of them is the contemporary American philosopher Richard McKay Rorty (1931 - 2007). Rorty accepts that human rights can no longer rely on the principle of natural rights, but he believes that the invalidity of natural rights does not mean the invalidity of human rights and that human rights can still have a "base" and it is not based on the reason and rationality but on Sentimentality. According to Rorty, this foundation is called "the comprehensibility of others' suffering for us" or "sympathy". We can understand the suffering of our fellow

23. Jaspers, Karl, *Nietzsche: An Introduction to the Understanding of His Philosophical Activity*, Translated into English by C. F. Wallraff, F. J. Schmitz, Johns Hopkins, University Press, Revised Edition, 1997, pp. 233-240.

24. *Ibid.*

25. Holub, Robert C., *Jurgen Habermas: Critic in the Public Sphere*, Routledge, 1991, pp.210-214.

humans and identify with them, and this is enough for us to demand fundamental rights for all human beings. But this apparently new theory, as some critics such as Keith Ansell-Pearson (1960 - alive) and others have pointed out, is a kind of reproduction of the same Christian ethics that Nietzsche previously criticized and rejected like natural rights.²⁶

Contrary to the mentioned interpretative currents, this article shows that although theoretically Nietzsche's perspective and the world of human rights are not compatible with each other, the institutional framework organized around human rights with minimal provision of safeguarding and freedoms for all people in all societies allow Nietzsche's *Übermensch* scouts to enjoy the right to life and freedom of speech. The reason why the fundamental importance of human rights for Nietzsche's *Übermensch* has been ignored and hidden until now, is due to the common way of interpreting Nietzsche's perspective. In common interpretations, Nietzsche's perspective is considered something that is completely related to an unknown future. According to these interpretations, Nietzsche's vision is a philosophy about a superior world and superhumans that will appear in the future, and their emergence is postponed until the existing world changes from the beginning and the human beings become the current victim. These interpretations cannot see that there is a difference between the ideal man and the ideal world in Nietzsche's perspective. The ideal world is a world that must be created, but the ideal men are the people who already exist among us. This is a key distinction; Because it changes our understanding of the relationship between human rights and Nietzsche. As long as we see Nietzsche's perspective as a philosophy about the world and human beings, we see the world of human rights and Nietzsche's perspective as totally incompatible. But when we consider the fact that Nietzsche's theory of *Übermensch* is not necessarily about a certain type of human being that will appear in the future, but about people with certain characteristics whose examples are present among us, then we can understand the contributions of the human rights system to Nietzsche's superhuman or *Übermensch* in German term.

4. Nietzsche and the Radical Criticism against Human Rights

In the previous section, we concluded that human rights documents rely on Locke's arguments of natural rights and Kant's arguments of rationality to justify the necessity of organizing social life around a universal system of human rights. To what extent are these arguments lasting or reliable today? Friedrich Nietzsche was the first philosopher who dealt with this issue systematically. According to Nietzsche, the universality of human rights is at best based on illusion and at worst based on cowardly lies; Natural rights

26. Ansell-Pearson, Keith, *An Introduction to Nietzsche as Political Thinker: The Perfect Nihilist*, Cambridge University Press, 1994, pp. 166-172.

(Locke's idea) are illusions and rational rights (Kant's idea) are illusions as well.

4-1. Nietzsche against Locke; Criticism of the Universality of Natural Rights

By proposing the concept of "will to power", Nietzsche attacked the idea of the existence of any moral meaning in the world. If we take a closer look at the events of the world, we will see many events that cannot be easily explained within the framework of our moral systems. The senseless violence that shakes the structure of the strongest moral and meaning systems has covered the entire history of our existence. But Nietzsche does not seek to prove the corruption and demonic nature of the world by emphasizing that the course of events in the world does not follow a moral order. "The Universe" by itself is not only devoid of moral meaning, but fundamentally devoid of meaning and purpose. Rather than following a meaningful order, the course of events in the world exhibits meaningless chaos. The world itself is meaningless because meaning is basically a human creation. The events of the world simply happen, and it is we who name the events and assign moral or immoral meaning to them; Therefore, the meaning is like "Truth that is not something external that can be discovered, it is something that has to be created".²⁷

As far as natural rights are concerned, the logical conclusion of Nietzsche's views is that the nature has not granted us any rights. The existence of a system of human rules and laws in nature is a myth that we created. Rights are a human artifact and not a natural thing. But from the idea that artificial rights are human, Nietzsche reaches more radical conclusions: what we know as human rights is not only something baseless and illusory, but something destructive. In fact, these rights are destructive precisely because they rely on an ontological illusion about the nature of the world. Borrowing from ancient Greek mythology, Nietzsche argues that the world has a "Dionysian" nature and that is distinguished by characteristics such as "eternal" dynamism, restlessness, fluidity and instability. But fluidity and constant ambulation are not the only characteristics of the nature of the world. Another characteristic of the nature of the world is that "its dynamism has no end or purpose". The world is nothing but an insatiable appetite for nothing.²⁸ There is not something like fixed and inviolable rights in nature by itself, but an irrational desire for constant creation and destruction. The natural thing (unstable and irrational desire for nothing) has been introduced as an unnatural thing, and the artificial and unnatural things (virtues such as

27. Nietzsche, Friedrich, *The Will to Power*, translated by Walter Kaufman and R.J. Holdingale, New York: Vintage, 1968, p. 298.

28. Nietzsche, Friedrich, *The Birth of Tragedy*, translated by Shaun Whiteside, Holdingale, Harmondsworth: Penguin, 1993, pp. 5-18.

human rights) have been taken to the place of the natural thing. This displacement has emptied our lives of originality. In order to bring authenticity back to life, we must get rid of illusions such as natural rights that have strengthened and legitimized this distortion.²⁹

4-2. Nietzsche against Kant; Criticism of Universal Christian-Rational Morality

According to Nietzsche, the defense of universal morality is not just the result of simple illusionism, it has a history of lies and cynicism, and the main movement behind it, was "Christianity. Nietzsche's criticism of Christianity is based on the distinction between two types of morality: the morality of masters and the morality of slaves. The conflict between these two types of ethics, in turn, relies on the opposition between the natural and the unnatural. The morality of the masters is the character and spirit that gives rise to irrational natural desire, and the morality of slavery is to degenerate an instinct called "conscience" which suppresses the instinctive and fundamental desire for nothing.³⁰ Aristocratic ethics make moral judgement from the point of view of life, and the morality of slaves evaluates life from the point of view of morality.³¹ According to Nietzsche, before the morality of slavery which ruined the western world, aristocratic morality ruled this civilization. But this dominant morality gradually lost the field to the morality of slavery. Confrontation with aristocratic morality and the Dionysian nature of existence, although started with Socrates and even before him with the Greek playwright Euripides (480 – 406 BC), but it was Christianity that played a decisive role in the victory of slavery morality because "With Christianity, man finally learns to be ashamed of all of his instincts".³²

Emphasizing the centrality of sin in Christianity, Nietzsche argues that this religion was the result of the rebellion of the weak who did not benefit from the passion for life and the ability to create meaning and value, so did not tolerate the existence of people with this ability; Despite its moral appearance, Christianity reflects the lowest and most decadent type of morality and that is the result of "Resentment" and envy of the weak towards the strong.³³ According to Nietzsche, Christianity won over Hellenism not with a manly war but with "feminine" tricks. The trick, on which Christianity is based, is to reverse the moral value of nobility and servitude. Christianity

29. Nietzsche, Friedrich, *Beyond Good and Evil*, translated by Judith Norman, Cambridge University Press, 2002, p. 90.

30. Nietzsche, Friedrich, *On the Genealogy of Morality*, translated by Carol Dietche, Cambridge University Press, 2000, pp. 38-40.

31. *Ibid.*, p. 21.

32. Nietzsche, Friedrich, *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings*, translated by Judith Norman, Cambridge University Press, 2005, p. 7.

33. Nietzsche, Friedrich, *op.cit.*, 2000, p. 89.

introduced aristocratic spirit as a reprehensible thing and servile morality as a worthy thing. This inversion of the ratio of the value in practice undermined the spirit of the nobility in two ways: on the one hand, it weakened the self-confidence of the nobles regarding their superior position compared to the slaves, and on the other hand, it gave moral legitimacy to the cowardice of the weak. The tactic that Christianity used to invert the value of moral values was a heresy called "one moral for all".³⁴ Christianity falsified the idea that there are general principles that all people, regardless of their status, should follow. The moral dignity of every person and every stratum depends on the level of loyalty and adherence to these values and general principles. Those who are more loyal to common values have a higher moral status, even though they have a lower social status.

Nevertheless, how does Nietzsche's "life-centered" criticism of Christianity relate to his criticism of Kant and human rights? Considering that the Enlightenment movement was a non-religious and even anti-religious movement and defended reasons against revelation, on what basis does Nietzsche criticize Christianity and Enlightenment with the same methodology? What led Nietzsche to extend his criticism of Christianity to Kant's philosophy was Kant's alignment with Christianity and the defends of natural rights about the necessity of organizing a permanent system of life around general rules and abstract ethics. Christianity and Enlightenment supported by Kant disagree about the origin of general morality and universal rights arising from it. Christianity considers these universal ethics and rights to be the result of God's will, but Kant considers them to be the result of rational establishment by human invention, however, there is no difference regarding the necessity of organizing life around general ethics either. Because Kant has not yet cut off his umbilical cord from Christianity regarding the need to organize life around general ethics, therefore, the same criticism that is applied to Christianity applies to Kant as well.³⁵ Kantian ethics, like Christian ethics, originates from weakness and reflects the inability to face the world as it is. Kantian ethics and human rights, which are based on same morality, oppress human in the name of humanity, just as natural rights that oppress the true nature of human in the name of nature. Kantian ethics and human rights derived from it are anti-human and "anti-life". In fact, these alleged morals and rights are anti-human because they are anti-life.

By negating the "basic essence" of existence, that is, the insatiable and meaningless desire for nothing, they define the human being with the capacity to create and follow universal rational rules. Being human in Kant's ethics and in human rights which is mostly based on Kant's theories, means the opposite of the fundamental natural human desire for nothing; Because

34. Nietzsche, Friedrich, *op.cit.*, 1968, p.158.

35. Nietzsche, Friedrich, *op.cit.*, 2005, p. 39.

actions get moral and humanistic label only when they are completely empty from those fundamental natural desires. According to Kant's theory of ethics, any action that has the least trace of the fundamental natural appetite for nothing (nihilism) is seen as an impurity and an existential threat against universal ethics and rights. Kantian ethics and human rights cannot be satisfied unless abandoning the entire discipline of our connections with existence. Therefore, because Kantian universal ethics are the exact opposite of the insatiable and irrational natural appetite that forms the foundation of our existence, human rights based on Kantian ethics have an anti-human nature.

In addition, following the same method of Nietzsche's genealogy, other contemporary thinkers consider the philosophical assumptions and anthropological images that give life to the secular tradition of natural-human rights, as indicating the strong connection of rights with Christianity. Costas Dozinas argues that if all human beings are created free and with common rights, then humanity has a common essence. "This is the language of Christianity glossed over by Enlightenment philosophy".³⁶

As a tripartite, moral constraints must be freely accepted by the subject acting in accordance to the dictates of reason, in the same way that the Christian followed the whispering voice of conscience freely. This almost impossible enterprise was carried out by Kant who turns religious transcendence into the transcendental preconditions of reason. Kant's categorical imperative brings together reason and free will in an act of self-legislation. Rights recognize human as an autonomous moral person, a free dignified agent worthy of respect. On the high plane of Kantian morality, people act towards others disinterestedly in the way they would like others to act towards them and conflicts of interest are downplayed.

Keeping its idealist core claims that general state law, the Kantian tradition, irrespective of who legislates it, must be obeyed, as if it was made by the citizens themselves. This is the hypothetical process that Rawls revived with his idea of an original position from which people negotiate and legislate the principles of justice. The law is given by higher authority but is willed by us, isn't this the secular version of Christianity? It is not so much that rights and traditions divide into Universalist and relative or communitarian versions, as much of contemporary human rights theory claims. On the contrary, according to Dozinas, the modern declarations of human rights incorporated the Christian "civitas dei"³⁷ into society, incarnated the spirit into the letter of the law and inaugurated their historical separation. For example, the message of the Universal Declaration of Human Rights could be read as the axiom of a secular gospel: "let us make

36. Dozinas, Costas, *Human Rights and Empire: The Political Philosophy of Cosmopolitanism*, Routledge-Cavendish, 2007, p. 94.

37. The Name of a Famous Doctrine of St. Augustine

everyone, despite their differences and disparities, equal. Such would be their revolutionary interpretation".³⁸

5. Nietzsche's Opposition or Compatibility with the Universal Human Rights

After explaining the philosophical-theological foundations of the universal human rights and explaining Nietzsche's critiques on those foundations, now we can return to the main research question: Is the philosophy of human rights incompatible with Nietzsche's Ideal world? When we read Nietzsche's critiques on the philosophical foundations of Universalism, we can hardly imagine the least possibility for reconciliation between Nietzsche's Ideas and theoretical foundations of human rights. Nietzsche sees the decline of his ideal world (ancient Greece) as a disaster and condemns the Great French Revolution, which officially introduced the idea of human rights to the world, as "the last great uprising of slaves".³⁹ In his opinion, individuals possessing aristocratic spirits in our time, although are rare, but exist. These rare people represented by Zarathustra are subject to mockery and threats by those who neither have benefited from the aristocratic spirit nor are capable of understanding it. When Zarathustra wants to learn the meaning of Übermensch (Superhuman), a man warns him: "Go away from this town, oh Zarathustra," he said. "Too many here hate you. The good and the just hate you and they call you their enemy and despiser; the believers of the true faith hate you and they call you the danger of the multitude. It was your good fortune that they laughed at you: and really, you spoke like a jester. It was your good fortune that you took up with the dead dog; when you lowered yourself like that, you rescued yourself for today. But go away from this town – or tomorrow I shall leap over you, a living man over a dead one".⁴⁰ According to Nietzsche, these disparate people have no choice but to protect themselves as Zarathustra, should take the mountain and desert route and stay away from slave gathering centers. If we look at the relationship between the philosophy of Nietzsche and his ideal world, and the philosophy of human rights from this angle, we see them as mutual obstacles; Nietzsche's philosophy and ideals negate philosophy and the world of human rights and vice versa.

But when we look at the relationship between Nietzsche's philosophy and human rights from the perspective of Nietzsche's second wish (protection of people with an aristocratic spirit), we see a different perspective. Since human rights are based on the universality of rights, it basically does not accept discrimination, even if this discrimination refers to those who do not

38. *Ibid.*, p. 95.

39. Nietzsche, Friedrich, *op.cit.*, 2002, p. 45.

40. Nietzsche, Friedrich, *Thus spoke Zarathustra*, Translated by Adrian Del Caro, Cambridge University Press, 2006, p. 12.

accept human rights. The ideal world of human rights, with the protection of the life and dignity of all people, regardless of their beliefs and attitudes, allows people with Nietzschean mentality to continue their different lifestyle with others, without fear of being rejected and killed. The world of human rights may not help the multiplication and increase of ideal human beings intended by Nietzsche, but it prevents the destruction of their generation. Nietzschean individuals have unusual and incompatible natures with our time, and because of this, they will be imprisoned, tortured, exiled and vanished in any order other than a human rights order. In this case, the human rights system can help Nietzschean world for "today" only through its function and profit; Where if there is no place in the fulfillment of "tomorrow's"⁴¹ dreams, one should be satisfied with minimal ideals.

Therefore, by rejecting any kind of rational and moral universalism in Nietzsche's intellectual sphere, inevitably, like American pragmatist philosophers and postmodernists who are largely influenced by Nietzsche's critical philosophy, human rights would be accepted or rejected only by their benefits and functions in practice, not by an all-encompassing theoretical foundation. In order to strengthen the mentioned arguments, we refer to Richard Rorty's theories, which are a combination of postmodernism and pragmatism in his philosophy.⁴² By criticizing Kant's moral system, Rorty invents "ethics of solidarity" through universalizing "pain" instead of "reason". The ethics of solidarity is a conscious effort that instead of paying attention to the essence and foundation of the nature of the world, which is something useless and unprovable, pays attention to the function and result of a behavior. In fact, Rorty believes that if we are going to seek rational foundations for ethics instead of trying to create a sense of solidarity between people, then we leave ourselves open to the pointlessly skeptical question "Is this solidarity real?". We also leave ourselves open to Nietzsche's insinuation that the end of religion and metaphysics should mean the end of our attempts not to be cruel.⁴³

However, despite of denying the Kantian philosophy of human rights, the problem of postmodern thinkers like Rorty, by relying on emotionalism and the universality of suffering, is still caught in the trap of Christian theology, which probably cannot gain universal legitimacy for others. On the other hand, it should be noted that Nietzsche's greatest intellectual effort was directed at this "ethics of pity" or the feminine aspect of modern Western culture, which he considers to be derived from Christianity, not from the wisdom of Rome and ancient Greece, as Nietzsche attacked the philosophy

41. Nietzsche considered himself as "the philosopher of tomorrow."

42. Ghezelsofla, Mohammad Taghi, "The relationship between ethics and human rights in the thought of Richard Rorty" (In Persian), *Human Rights*, vol. 9, Issue 1 and 2, 2013, pp. 71-90.

43. Rorty, Richard, *Contingency, Irony, and Solidarity*, Cambridge University Press, 1989, p. 196.

of Schopenhauer for this point of reasoning.⁴⁴ That's why Nietzsche introduces himself as a "psychologist" and "doctor of culture" and considers his philosophy to be a prescription for the treatment of mental illnesses of modern culture.⁴⁵ Therefore, what Rorty brings to Nietzsche's world is not his compassionate solutions, but his methodology, showing how to practice a kind of universal ethics despite its weak metaphysical foundations and simply because of its function to create a more humane livable world.

6. Conclusion

According to the most researchers, human rights derives its origin from the school of Natural Law, Christian Theology, and the rationalism of Enlightenment movement. Universalism is the core element of human rights. However, for critical thinkers among contemporary schools such as positivism, relativism, and postmodernism, the universality of human rights is very controversial. While universality is the basic pillar of human rights and is intertwined with the spirit of this discourse, any doubt in this concept creates a wavering in the foundation of human rights. because of this fundamental characteristic, defenders and critics of human rights have mainly made universalism as the axis of their debates for or against it. Nietzsche separates his way from the universal human rights as far as he is concerned about specific individuals, but human rights is for the common man; for the same reason that aristocracy had separated its way from democracy. In Nietzsche's elitist philosophy, the subject of human rights protection, which is called biological or transcendental man, has not worth paying attention. Because from his point of view, contrary to Kantian ethics, man is not an end in himself.

"What is great about human beings is that they are a bridge and not a purpose: what is lovable about human beings is that they are a crossing over and a going under".⁴⁶ On the other hand, Nietzsche denies the existence of any common human essence and nature in human beings, which is manifested in human reason and conscience like what is stated in Article 1 of the Universal Declaration of Human Rights.

However, denying any kind of rational and moral universalism in Nietzsche's intellectual sphere does not mean non-commitment to it. Like American pragmatist philosophers and postmodernists, who are largely influenced by Nietzsche's critical philosophy, we can interpret the human rights system for the benefit of the Nietzschean world through its benefit and function in practice and not as a series of rights resulting from essence and nature which are theoretically unprovable.

44. Mahboobi Aranie, HamidReza, *Nietzsche and the tragic Yes-saying to life*, Nashr-e Markaz Publishing Co., Tehran, 2013, (In Persian), p. 352.

45. R. Ahern, Daniel, *Nietzsche as Cultural Physician*, Penn State University Press, 1995, p. 12.

46. Nietzsche, Friedrich, *op.cit.*, 2006, p. 7.

Nevertheless, it should not be overlooked that Nietzsche is a multi-faceted philosopher and does not have a single and coherent intellectual system that can easily be judged about him; Therefore, his opinions can be interpreted from different angles. For example, the subtle and humanistic nature of Nietzsche's thoughts, which is associated with a glorious type of praise of freedom and anti-essentialism, can play a role in strengthening the theoretical foundations of human rights. To solve the dilemma of Nietzsche's compatibility with universal human rights, invoking philosophical reasoning or presenting liberal interpretations of his works are not the way to go. Because Nietzsche is not an exceptional historical event for a single period of time, but a critical trend of challenge that will probably remain in front of the human rights discourse forever. What is important is not Nietzsche's compatibility with human rights, but the way the human rights system confronts Nietzschean world. This view is the result of pondering Nietzsche's thought through his works, not from the perspective of a philosopher, but from the perspective of those interested in international law. Such a point of view does not see Nietzsche irreconcilable with human rights. Because on one hand, apart from its historical-philosophical history, which is not far from criticism, the international human rights system tolerates all human intellectual trends, including of Nietzsche, due to its flexible and receptive nature. From other hand, it can be considered beneficial because of the function and profit it gives to Nietzschean world in protection and security without affecting the realization of its belligerent values. Beneficial means that the establishment of the human rights system in any society fulfills at least what we consider to be the bottom of Nietzsche's expectations, and that is the protection of the nobles and potential powerless superhumans and the culture of mastery from the evil resentment of the ruling-slaves.

Nietzsche, who philosophized with hammer, despite all his scathing criticisms against human rights, only "with the right to freedom of speech" as one of the most important models of modern human rights, could express his unorthodox thoughts. Today we, the people of the "post-Auschwitz" generation, know very well that he used the protection umbrella of human rights to criticize European religions, morals, culture and other "sacred" spheres severely without the fear of being tortured or prosecuted for any of his sayings and at the same time has had the "right to life". This tolerance is due to the democratic systems of public freedoms and human rights resulting from the age of enlightenment and modernity, which was belonged to illusionary dreams in past times.

Finally, it must be acknowledged that the classical philosophical foundations of human rights are not immune to criticism and they should have a more convincing power than natural rights and rational-moral systems based on the opinions of philosophers such as Descartes, Locke and

Kant. Because these principles are the result of the project of the age of enlightenment and the builder of modernity, and all of them are rooted in Christian theology, which after the "death of God", not only these principles but also no universal rules and values can be relied upon. Nietzsche, who considered himself the philosopher of tomorrow, two centuries ago, was ahead of his contemporaries and much closer to the modern mentality of today. Therefore, rethinking the theoretical foundations of human rights and presenting new theories is necessary to strengthen the legitimacy of the international human rights system.

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