

SEC Sample Paper Q6 - Critically evaluate the statement – “Human rights are a western concept.”

[Your answer should include current examples and evidence from a local or global context to support your argument. You should also refer to the views of at least one named theorist you have studied.]

**** This sample essay represents just one of **DOZENS** of ways this question could be approached. It is designed to demonstrate how to structure a response, not that it should be learned off and regurgitated in the exam****

Introduction

TS

While this premise is far from being a settled question on the international stage, I disagree with the statement that Human Rights(HR) are a western concept, certainly not exclusively so. While they have their origins in the European 'Enlightenment' ideas of individuality and liberalism, they have broader applications than just in a western context. In exploring this idea, I will draw on the ideas of Key Thinkers John Locke & Edward Said to explain aspects of HR "universality", but will also consider how Vandana Shiva and Samuel Huntington argue against this idea. By tracking the context in which the Universal Declaration of Human Rights (UDHR) emerged in the 1940s, I will argue that the rights enumerated in the UDHR were open to interpretation in different parts of the world, thereby strengthening how they were conceptualized globally. I will conclude by demonstrating how the 'Capabilities Approach' of Martha Nussbaum seeks to look beyond the limited framework of HR.

Paragraph 1 – Historical Context.

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Drawing on the ancient Roman idea of "Natural Law", John Locke outlined what he saw to be basic human rights in his *Two Treatises on Government* (1689). These centred around the right to "Life, Liberty, and Property". This idea was expanded by Thomas Jefferson who replaced property with 'the pursuit of happiness' which was written into the American Declaration of Independence and the French Revolution's '*Declaration of the Rights of Man and the Citizen*'. While this suggests HR's overtly 'Western' origins, it doesn't necessarily preclude broader influences. I was surprised to see that Locke advocated a degree of what we would now call 'positive rights', that place a greater onus on the individual to act beyond simply their own self-interest, even though his views were often used a justification for acts as atrocious as the confiscation of Native American lands in the 17th and 18th Century. This was particularly the case in his idea of property rights, where you owned the land with which you "mixed your labour", only so long as there was "enough & as good" remaining for others, an often omitted qualification, which certainly has echoes of other non-Western societies.

Paragraph 2 – Emergence of the UNDHR

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The UDHR emerged from the WW2 expression of the "Four Freedoms". In his 1941 'State of the Union' address to congress, US President Franklin D Roosevelt said that mankind should have the "Freedom **of** speech, freedom **of** worship, freedom **from** want, and freedom **from** fear." This embraces both positive 'entitlements' and negative 'rights'. After his death, these ideas were championed by his wife Eleanor, who ensured that the newly founded UN develop these ideas into 30 separate articles. While they were proposed, debated, and enacted in the West, African, Asian and Latin American states were involved in the process. The declaration was endorsed in 1948 by the General Assembly of the UN with 48 of its 58 member states voting in favour (with 8 abstentions and the other two countries missing the vote). 33 of the 48 signatories were either Latin American or 'non-Western' countries meaning that the 'West' accounted for less than 1/3 of the original signatories. Furthermore, the committee that drafted the original document included not only René Cassin of France, but also the Committee Rapporteur Charles Malik of Lebanon, its Vice-Chairman Peng Chung Chang of China, and John Humphrey of Canada, suggesting a broader set of 'non-western' influences. So this requires us to believe that either the UDHR wasn't entirely a 'western' idea, or that all of the 'non-western' countries were coerced into signing the declaration which seems unfeasible.

Paragraph 3 – ICCPR vs ICESCR

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In their broader application, HR are 'universal' but do exhibit regional diversity of implementation. The fact that Saudi Arabia and the Soviet Bloc countries abstained from the original vote presents an interesting perspective on the UDHR, but the fact that they eventually engaged with the process further strengthens the argument as to their universality. This idea is strengthened when we note that two separate HR protocols emerged from the UDHR, both in 1966. While the '1st World' (Liberal Democracies) adopted the **ICCPR** (International Covenant on Civil and Political Rights), the '2nd world' (Communist countries) adopted the **ICESCR** (International Covenant on Economic, Social & Cultural rights.) The ICESCR was more collective and autocratic, rather than individualistic, in focus. This gave countries in both the 'east' and 'west' the freedom to consider 'immediate obligation to realize the

rights of their covenant', or in the case of the Soviet Bloc, to take steps based on the availability of resources to 'progressively realize those rights'. I find it interesting that if the idea of HR is such a western concept that there would be such latitude given during the Cold War for different ideologies to interpret the UDHR so broadly.

Paragraph 4 - Key Thinkers

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As a Palestinian intellectual, Edward Said questioned whether human rights are universal or just another example of western imposition and "cultural imperialism". In his key work *Orientalism* argued that the Occident (West) has tended to undertake a process of 'Othering' when discussing or examining the Orient (East). He argued that the western 'ethnocentric' approach meant that the west was examining the east through its own set of values, preferring to impose their own views rather than judge 'non-western' countries in an appropriate manner, which we might term 'cultural relativism'. Despite the fact that he highlighted the differences in treatment between the 'orient' and 'occident', Said relied heavily on HR arguments to criticize Israel's treatment of his native Palestine, for whom he was an impassioned and staunch advocate. Shortly before his death in 2003, Said addressed the University of California, Berkley, under the title "*Palestine and the Universality of Human Rights*". This acts as a direct foil to anyone who argues that Said unilaterally argues that HR were purely a western imposition on the non-western world.

Paragraph 5 - "Counter Narrative" Key Thinkers

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Despite this strong evidence of HR universality, two key thinkers, Huntington and Shiva strongly suggest that HR really is incompatible with many 'non-western' traditions and practices. In his work "Clash of Civilizations?" (1993), Huntington argues that ideas such as "*human rights, equality, liberty, the rule of law... often have little resonance in Islamic, Confucian, Japanese, Hindu, Buddhist or Orthodox cultures.*" He went on to argue that, if the 'West' spends lots of time and effort trying to spread those values, it will produce a backlash against "*human rights imperialism*". Similarly, the fact that gender equality rights (such as the right to drive or travel alone) can so easily be dismissed by some Muslim majority countries supports Huntington's view. The same point might be made about the murder of Saudi Arabian activist, dissident, and journalist for the Washington Post, Jamal Khashoggi, in the Saudi Embassy in Turkey would seem an anathema to the Western idea of the 'Freedom of the Press', the 1st Amendment to the US constitution. Similarly, Shiva bemoans the fact that Western ideas of 'property rights' enshrined in the UDHR, have done great damage to her native India. In *Water Wars* (2002), she argued against Locke by highlighting the idea she called "*The Tragedy of the Commons*", where Locke's property rights (as used by Coca-Cola in its appropriation of water or Monsanto's patenting of intellectual property in the form of GMO seeds) were in direct conflict with traditional Indian practices. She promotes '*Usufructuary*' rights, which is the right of one individual to use and enjoy the property commonly held with others, provided its substance is neither impaired nor altered, i.e. water in a stream. This is a fundamental rejection of Locke's view of property rights, which was so central to the UDHR and the modern idea of HR.

Conclusion

Even though there have been competing versions and interpretations of HR around the world, it is particularly interesting to look at how the treaty bodies that enforce HR have a far more international in their composition, further reinforcing their universality, moving beyond anything that could be exclusively described in 'western' terms. Although there were many problems with the original "UN Human Rights Commission", its replacement (in 2006) with the "Human Rights Council" and the instigation of the UN Periodic Review (UPR) means that the peer-review system that is currently used encourages a more international approach to human rights. In both 2011 and 2016 Ireland received feedback from countries like India and Turkey, both with distinct cultural traditions. The fact that Ireland now has its own Human Rights and Equality Commission, established after the 1998 Good Friday Agreement, means that we are no longer dealing with HR issues in a purely parochial manner, but that we can enlist the influence of other countries around the globe to help to improve the HR situation for all people in Ireland, be they native born, of Traveller ethnicity, migrant, or asylum seeker. In some ways, it might even be argued that the current view of HR isn't 'Western' enough as it doesn't embrace some of the "Social Democratic" ideas of 'progressive' countries like Denmark and Sweden. Martha Nussbaum argues, in her 'Capabilities Approach', that a right isn't truly a right unless you have the capability to fully utilize it. In this regard, at least, even the 'West' has a long way to go!

What could you add from Colm O'Gorman's argument that would offer an alternative conclusion?