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Contemporary paradigm of human rights: Balancing universality and cultural relativism

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Abstract

The study aimed to examine practices of relativisation of human rights in selected jurisdictions. The methodology was based on comparative law and systematic generalisation, which made it possible to critically examine the conceptual foundations of universalism and relativism and identify their practical manifestations. As a result, three main approaches to analysis of the relationship between universalism, moral relativism and interculturalism were identified. Based on an analysis of state practice, the study established that deviations from universal standards were most often justified by reference to traditional values without the development of clear legal mechanisms, which reduced the level of international guarantees for the protection of individuals. At the same time, the existence of a universal core of rights, in particular the prohibition of torture, slavery and genocide, which are not subject to relativisation, was confirmed. An analysis of constitutional

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practice in Ukraine, France, India revealed different strategies for reconciling universal standards with national traditions. In addition, the jurisprudence of the European Court of Human Rights (cases "S.A.S. v. France", "Lautsi v. Italy"), as well as the decisions of the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights were studied, confirming the importance of cultural context in the interpretation of human rights. The practical significance of the conclusions lies in their use for developing human rights strategies, adapting international standards, and improving education and institutional practices in this field

Keywords: globalisation; socio-cultural differences; morality; legal systems; autonomy; pluralism

Introduction

The issue of human rights remains highly relevant in the modern world, as globalisation processes, increased intercultural contacts and intensified migration flows have confronted the international community with the problem of reconciling universal standards with the cultural and legal characteristics of individual states. According to the Convention on the Elimination of All Forms of Discrimination against Women (1979), more than 70 states expressed official reservations to international conventions, citing "national traditions" or "religious norms". This indicates the existence of significant conflicts between the proclaimed universality of rights and the practice of their implementation. The main problem lies in the absence of a comprehensive model that would harmonise universal standards with culturally determined practices, without replacing human rights by local traditions that may restrict them. The conflict between universalism and cultural relativism creates the risk of double standards in international law, undermines trust in human rights institutions, and complicates the implementation of international treaties, complicates the work of international voluntary organisations (Akhmetova *et al*., 2025; Kurylo *et al*., 2026). The universality of human rights has long been considered an indisputable achievement of the international community, but the realities of intercultural interactions, religious diversity and the specifics of national legal systems have called into question the possibility of their full harmonisation with local traditions. The question of the relationship between universalism and cultural relativism in the field of human rights is becoming increasingly relevant, as it determines not only the level of legitimacy of international standards but also the practical effectiveness of the mechanisms for their implementation.

The researchers examined the tension between universal human rights standards and cultural relativism, including states' reservations to international conventions, conflicts in implementation, and the impact of national traditions and legal systems on the effectiveness of human rights protection. R.M. Khazhynskyi (2024) explored the problem of universality and relativism in the modern human rights system, with an emphasis on the emergence of somatic rights. The study demonstrated that the emergence of a new generation of rights related to physicality, medical and bioethical aspects further exacerbate the conflict between universalist and relativist concepts. The study emphasised that an excessive emphasis on universality leads to the neglect of cultural and ethical contexts, while relativism threatens to fragment the legal system. The M.V. Hromovchuk's (2022) study demonstrated that excessive formalisation of legal norms without incorporating the socio-cultural orientations

of society leads to a loss of their legitimacy. The author emphasised that a balance is needed between legal principles and value orientations, otherwise universal standards remain alienated from the everyday life of citizens.

V. Sewpaul & L. Kreitzer (2021) explored the role of emancipatory social work, Ubuntu philosophy, and Afrocentrism in the context of human rights violations. The authors showed that these approaches could be effective antidotes to the cultural and legal challenges faced by certain communities. Their study highlighted the importance of integrating local values into universal legal norms while preserving fundamental human rights principles. This research offered perspectives for harmonising global standards with local practices, but its limitation was the lack of specific legal mechanisms for implementing such ideas. S. Khan (2021) examined how Pakistan attempted to balance Western concepts of human rights with Islamic law. The author emphasised the complexity of adapting international standards to the Islamic legal system and national conditions.

In turn, O. Balynska *et al.* (2024) studied the transformation of human rights content under the influence of globalisation. The study showed that globalisation has significantly changed perceptions of human rights, particularly in the context of economic and social processes. This study provided a theoretical context for research on how universal standards could be adapted to new conditions but did not offer specific models for adapting international legal norms to cultural differences. P. Wadud (2025) provided a feminist intersectional response to the inviolability of fundamental human rights, emphasising the significance of racial, gender and other social factors in the protection of women's rights. The study emphasised the need to preserve universal standards when integrating cultural and social contexts, but the study focused more on theoretical aspects and did not propose specific legal mechanisms to achieve a balance between universalism and relativism.

The aim of the study was to examine and systematize relativist practices and principles applied across different jurisdictions. To achieve this goal, the study focused on analysing theoretical approaches to universalism and cultural relativism in human rights, identifying barriers to harmonising international standards with national cultural and legal practices, and developing a conceptual framework for reconciling universal standards with cultural diversity while avoiding both relativistic fragmentation and rigid formal universalism.

Literature Review

Within the framework of cultural relativism, it is asserted that human rights are not absolute or universal in nature, but are shaped by the specific traditions and values of each society. However, certain rights are considered universal and not subject to adaptation in the context of cultural relativism, in particular the right to life, the prohibition of torture, slavery and genocide. These rights are recognised as immutable and binding on all states, regardless of cultural differences. Other rights, such as the right to freedom of religion, the right to family life and cultural identity, can be adapted to reflect the cultural and social characteristics of specific communities, if this does not violate fundamental human rights, such as the right to freedom from discrimination or violence. This approach preserves the balance between universal human rights principles and cultural diversity, while preserving their fundamental essence.

Since the end of the 20th century, awareness of the importance of cultural context has grown. As D. Eggel *et al.* (2022) emphasise, universalism was formed as a political and legal instrument of global knowledge management, but its perception in different regions was uneven. V.L. Derkach (2022) points to the normative autonomy of

cultures within philosophical pluralism, where rights only make sense in a local environment. M.J. Bennett (2023) viewed this process through the prism of interculturalism, emphasising the significance of intercultural sensitivity for the interaction of universal and local approaches. O. Myroniuk (2024) showed that misunderstanding of the universality of rights most often arises in countries experiencing social or economic instability (Latin America, sub-Saharan Africa, South Asia). A similar position is developed by M.K. Sinha (2023), who emphasised the complexity of combining universal norms with cultural pluralism in developing countries. M. Budiana (2024) has shown that in Southeast Asian countries, cultural and social traditions are often used as an argument for deviating from universal legal standards, as these countries consider it essential to preserve traditional ways of life and values that may conflict with generally accepted international norms. Thus, a comparison of national constitutional acts and universal human rights standards reveals significant variations in approaches, which are determined by historical circumstances as well as cultural, religious and political factors, which significantly affect the effectiveness of the integration of international legal norms into national legal systems.

In human rights discourse, the approach of interculturalism gained prominence, focusing efforts not on contrasting the universal and the local, but on the identification of points of intersection between different cultural paradigms. Interculturalism was perceived as a dialogue that recognised the equality of cultures, but at the same time formed common normative foundations at the intersection of different traditions. In this respect, human rights were regarded as the result of constant intercultural coordination, rather than strict adherence to predetermined universal norms. Thus, human rights remained central to the development of national, international and transnational strategies aimed at ensuring social justice, dignity and legal equality. Relative universalism, complemented by elements of interculturalism and critically informed moral relativism, was recognised as the most promising approach in a globalised world, where there was a growing need for flexible but ethically sound approaches to human rights.

According to H. Zhang (2023), ideas of individual rights were often ignored in favour of collective rights, which could limit personal freedom. However, the study showed that economic development and improving the well-being of the population remained the declared priority, which, in their opinion, required the concentration of power in the hands of the state leadership, rather than its restriction in the name of individual rights. In such conditions, social and cultural rights that strengthened state institutions and collective identity gained priority. V. Muntarbhorn (2021) emphasised the need to develop a specific Asian and post-colonial legal response, calling for the restoration of the Asian perspective in international law. The studies argued that many parts of Asia opposed liberal approaches to human rights that focused on individual freedoms and insisted on the freedom to choose the path of development independently. In this sense, Asia's problems related to development and ethnic diversity were significantly different from those in Europe and therefore required autonomous approaches.

Instead, the research process demonstrated that the issues of ethnic diversity and the priority of collective interests did not always require an autonomous approach but could be reconciled with universal principles through mechanisms of contextual interpretation. The results did not indicate a complete rejection of universalism, but only its adaptation to socio-cultural characteristics without undermining basic legal guidelines. A.A.M. Hassanein (2025), an expert in Islamic law, explored the paradox of the relationship between

universalism and relativism. These analyses indicate that the implementation of human rights within the Islamic legal system required the integration of Sharia concepts. Although achieving a universal consensus remained difficult, it was not impossible. Therefore, there were options for harmonising Islamic law with international standards through the application of the doctrine of "discretion" by international bodies and the use of the "maqasid al-sharia" (the objectives of Sharia) and "maslahah" (public interest) by states with a Muslim legal tradition.

Materials and Methods

The study was theoretical in nature and based on international legal acts. – UN Charter (1945), Universal Declaration of Human Rights (1948), the Geneva Conventions of 12 August 1949 (1949), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977), the Refugee Convention (1951), Rome Statute of the International Criminal Court (1998), International Covenant on Economic, Social and Cultural Rights (1966), Vienna Declaration and Programme of Action (1993) – reflecting the peculiarities of human rights implementation in various socio-cultural environments. The study was conducted as a theoretical and comparative legal analysis of the interaction between universal human rights standards and culturally, religiously, and historically conditioned models of their implementation in national and regional legal systems. The research focused not only on selected constitutional models of Ukraine, France, and India, but also on regional human rights protection systems, including the European, African, and Inter-American systems, in order to identify different mechanisms of contextual interpretation, legal relativisation, and adaptation of universal human rights norms. The selection of Ukraine, France, India was made to ensure a comparative analysis of different legal systems and constitutional models representing varying degrees of integration of international human rights standards with national cultural, religious, and legal traditions. In addition to these constitutional models, selected regional and national cases from Africa and the Americas were included as illustrative examples of legal relativisation in judicial practice. Their inclusion was not intended to create a comprehensive country-by-country comparison, but to demonstrate how regional courts and quasi-judicial bodies address conflicts between universal human rights standards, collective rights, cultural traditions, religious norms, indigenous practices, public order, and national security considerations. The analysis also included national constitutional acts of states with different models of human rights protection, in particular the Constitution of Ukraine (1996), the Constitution of the French Republic (1958), the Constitution of India (1950). This was used for a comparative legal analysis of different systems for guaranteeing human rights and their correlation with universal standards. The case study method was used to analyse legal approaches to the interaction between universal human rights and cultural traditions. In particular, the practice of the European Court of Human Rights (ECHR) was studied, namely the cases of S.A.S. v. France (2014) and Lautsi v. Italy (2009).

Judicial practice in national jurisdictions where conflicts between universal standards and local traditions occurred was emphasised. The study examined several key cases from the African Commission on Human and Peoples' Rights. Finally, was considered, highlighting state responsibility in cases of gender-based violence and failure to ensure effective protection of women's rights. The cases were selected according to three criteria: first, the presence of a direct conflict between universal human rights standards and national, cultural, religious, or historical specificities; second, the relevance of the case for explaining

judicial approaches to the margin of appreciation, legal pluralism, collective rights, freedom of religion, gender equality, freedom of expression, or indigenous rights; third, the ability of the case to illustrate different regional models of balancing universality and contextual adaptation.

Abstraction and generalisation were applied to construct a comprehensive conceptual framework of the interaction between universalist and relativist approaches in human rights theory, while the analogy method enabled the comparison of interdisciplinary interpretations from philosophy, sociology, and law. A systematic approach was used to examine human rights as a complex, multidimensional phenomenon operating within both the global legal order and culturally specific normative systems. The case study method was additionally employed to analyse practical manifestations of these theoretical approaches in judicial practice, in particular the jurisprudence of the European Court of Human Rights in S.A.S. v. France (2014) concerning restrictions on religious dress in the name of secularism, and Lautsi v. Italy (2009) regarding the display of religious symbols in public schools, as well as the practice of the African Commission on Human and Peoples' Rights in cases concerning freedom of expression and state security restrictions. Country Reports on Human Rights Practices: India (2023) also used, which provided for the consolidation of a wide range of civil, political, social, economic and cultural rights.

Results and Discussion

Comparative constitutional models of human rights implementation in other countries. A comparison of universal standards with the national constitutional acts of different countries reveals significant variability in the application of human rights principles, which is determined by the historical, cultural, religious and political contexts of each individual state. Studying these differences is relevant for analysis of how each country adapts international norms to its unique conditions. In Ukraine, in accordance with the provisions of the Constitution of Ukraine (1996), the principle of direct application of international law is enshrined. In France, according to the Constitution of the French Republic (1958), the importance of human rights and freedoms is also emphasised, but in contrast to Ukraine, there is a certain amount of discretion regarding the integration of cultural traditions. This is particularly evident in matters of secularism, where the French legal system separates religion and state institutions. A comparative analysis of the constitutional provisions of Ukraine and France reveals different models of implementing international norms within national legal systems. In Ukraine, the Constitution establishes the principle of direct applicability of international treaties, which ensures their integration into the national legal order without additional transformation.

In particular, Article 9 of the Constitution of Ukraine (1996) stipulates that international treaties in force, consented to be binding by the Verkhovna Rada of Ukraine, form part of national legislation. This provides a legal basis for the direct application of international human rights standards and strengthens their universal character within the domestic legal system. Constitution of the French Republic (1958) also recognises the importance of human rights and freedoms; however, their implementation follows a more indirect model based on constitutional review and the principle of secularism. According to Article 1 of the Constitution of the French Republic (1958), France is an indivisible, secular, democratic, and social state ensuring equality before the law regardless of religion. This indicates that the incorporation of international norms is mediated through national constitutional principles, particularly laïcité, which ensures a strict separation between religion and state institutions. Thus,

Ukraine represents a model of direct incorporation of international law, whereas France demonstrates an adaptive model in which international norms are interpreted through national constitutional principles and socio-cultural specificities.

In India, according to the Constitution of India (1950), a complex constitutional system combines enforceable Fundamental Rights with non-justiciable Directive Principles of State Policy, creating a structured balance between universal human rights standards and socio-cultural and developmental priorities of the state. This dual framework is particularly evident in the regulation of religious personal laws governing marriage and family relations, where cultural and religious traditions coexist with constitutional guarantees of equality. A concrete example is the case Shayara Bano v. Union of India and Others (2017), in which the Supreme Court of India declared the practice of instant triple talaq unconstitutional as it violated the fundamental rights to equality and non-discrimination under the Constitution of India. This case illustrates how the Indian judiciary limits certain cultural-religious practices when they conflict with constitutional human rights standards, while still preserving a plural legal system that accommodates religious norms in other domains. In terms of human rights theory, this approach represents a moderated or "structured" form of legal relativism rather than absolute relativism, as it does not reject universal human rights norms but adapts their implementation within a culturally plural legal order. Thus, the Indian model reflects a hybrid approach in which universal principles of equality and dignity are constitutionally guaranteed, yet their practical application is continuously mediated through national traditions and socio-cultural realities (Country Reports…, 2023). This approach reflects a compromise between universalism, which provides for universal equality of human rights, and the specific local needs and traditions of the country.

Furthermore, the cases Shayara Bano v. Union of India and Others (2017), Brigadier General Maude Aminun Kano V. Nigeria Army & Anor (2008), Republic v. Mohamed Abdow Mohamed (2013) were analysed as key judicial and quasi-judicial precedents addressing the protection of fundamental rights in different socio-legal contexts. These cases collectively highlight issues related to gender equality and personal law reforms, unlawful detention and political participation, freedom of expression and press freedom, as well as the role of state authorities in ensuring compliance with constitutional and international human rights standards. Overall, the examined jurisprudence demonstrates the ongoing tension between national legal frameworks, cultural or security-based justifications, and universal human rights obligations, particularly in relation to individual liberties, due process, and protection against arbitrary state interference.

The cited Judgment of the European Court of Human Rights in Case No. 43097/15 (2024), reflect the ongoing evolution of contemporary human rights jurisprudence within the framework of balancing universal human rights standards and cultural diversity. These cases illustrate how the Court continues to interpret the European Convention on Human Rights as a living instrument, capable of adapting to complex social, cultural, and legal contexts across member states. In these decisions, the Court reaffirms the principle of universality of human rights while simultaneously acknowledging the doctrine of the margin of appreciation. This approach allows states a certain degree of discretion in implementing human rights obligations, particularly in areas where moral, cultural, or religious sensitivities differ significantly between societies. As a result, the Court seeks to maintain a delicate equilibrium between legal uniformity and respect for national identity.

Overall, these judgments demonstrate that contemporary human rights protection is increasingly

characterised by interpretative flexibility rather than rigid standardisation. They indicate a judicial tendency toward contextual balancing, where universal norms are upheld as fundamental, yet their application is shaped by cultural and societal conditions. This confirms the dynamic nature of human rights law in addressing tensions between universality and cultural relativism.

Positive examples of ECHR enforcement in the cases of Lautsi v. Italy (2009) and S.A.S. v. France (2014) demonstrate attempts to balance the right to religious self-expression with the fundamental principles of democracy, in particular internationally guaranteed human rights and freedoms. In these cases, the ECHR sought to balance the interests of individuals in the context of their religious freedom with the need to protect social order and security in societies based on secular principles. In its judgment in S.A.S. v. France (2014), the ECHR considered the issue of banning the wearing of full Muslim dress in public places in France, emphasising the importance of combating terrorism and ensuring public order, while seeking to consider the applicant's right to personal freedom and religious beliefs. Similarly, in the Case of Lautsi v. Italy (2009) considered the issue of displaying Christian crosses in Italian state school classrooms. The ECHR's position recognises the importance of traditional religious symbols, while emphasising the need to respect the rights of minorities, in particular the right to religious freedom, which is a substantial component of democratic principles.

A comparative analysis of France and Italy demonstrates two different models of regulating religious expression in public space, which directly reflects the tension between universal human rights standards and national interpretations of secularism. In France, the principle of laïcité is legally enshrined through the Law of France No. 2004-228 (2004) regulating, in accordance with the principle of secularism, the wearing of symbols or clothing indicating religious affiliation in state primary and secondary schools, which prohibits the wearing of visible religious symbols, including the Islamic hijab, in public schools in order to ensure state neutrality and equality among citizens. This approach represents a strong form of institutional secularism, where individual religious expression is limited in the public sphere to protect a universal model of civic identity. In contrast, Italy demonstrates a more flexible approach, where religious symbols in public institutions, such as crucifixes in classrooms, are generally permitted. In the landmark case Lautsi v. Italy (2009), the ECHR upheld Italy's right to maintain crucifixes in public school classrooms, emphasising the "margin of appreciation" doctrine, which allows states a certain level of discretion in balancing religious neutrality with cultural and historical traditions. This reflects a model of moderated relativism, where national identity and cultural heritage are considered legitimate factors in interpreting human rights obligations. Thus, while France applies a strict universalist-secular model limiting religious visibility in public institutions, Italy adopts a culturally embedded approach that allows greater contextual flexibility. Together, these cases illustrate how European states operationalise different degrees of relativism in the implementation of the right to freedom of religion, balancing universal human rights norms with national constitutional traditions.

In negative examples of the application of human rights standards within the selected countries, limitations of universal norms are observed in different legal and cultural contexts. In France, the strict interpretation of secularism has led to restrictions on the wearing of religious symbols in public schools, including the Islamic hijab, which has been criticised as limiting freedom of religious expression in the name of state neutrality. In India, despite constitutional guarantees of equality, the persistence of certain religious

personal laws has been associated with unequal protection of women's rights in matters of marriage, divorce, and inheritance, revealing tensions between constitutional universalism and cultural pluralism. Overall, these examples demonstrate how national legal frameworks may lead to selective or restrictive implementation of international human rights standards, illustrating different forms of legal and cultural relativism in practice. This approach significantly weakens the legal image of states, as it leads to situations where human rights and freedoms may be restricted due to religious beliefs or cultural traditions that contradict universal human rights. The lack of integration of international norms into the national legal systems of such countries raises doubts regarding their ability to meet international obligations and guarantee the protection of human rights. It may also lead to the isolation of such states in the international arena, as they do not comply with the basic human rights standards required for participation in global institutions.

Religious and cultural relativism in regional and national human rights jurisprudence (ECHR, Africa, and domestic courts). According to research conducted by J.D. Strauß (2024), M. Alkış (2024) and E. Lafaye de Micheaux (2024), such situations are common in several African and Asian countries, where cultural and religious arguments are often placed above universal human rights norms. In the before the African Commission on Human and Peoples' Rights highlighted systematic restrictions on freedom of expression and political participation under emergency and security legislation influenced by religious and state doctrines. The Commission found violations of fundamental rights, emphasising that national security and religious justification cannot override core human rights obligations The judiciary acknowledged the importance of cultural and religious context while simultaneously affirming the supremacy of constitutional protections, illustrating a moderated form of legal relativism within a plural legal system. This case demonstrates the practical challenges of aligning international human rights standards with decentralised and tradition-based legal orders. In Ethiopia, before the African Commission revealed restrictions on freedom of expression justified by state security and political stability concerns. The Commission stressed that such limitations must remain proportionate and cannot undermine the essence of protected rights.

The analysed cases demonstrate that in African jurisdictions international human rights law is often relativised through three main legal mechanisms: legal pluralism (coexistence of state, customary, and religious law), broad interpretations of public order and security exceptions, and constitutional or legislative incorporation of cultural and religious norms into domestic legal systems. Despite formal adherence to international treaties, states frequently invoke cultural specificity, religious legitimacy, or national security to justify deviations from universal standards. However, regional judicial and quasi-judicial bodies, particularly the African Commission on Human and Peoples' Rights, consistently attempt to reassert minimum universal standards by limiting excessive reliance on relativist justifications and reinforcing the binding nature of core human rights obligations C.J. Allsobrook (2023) adds that in certain regions of Asia, there is a tendency to use cultural traditions as a means of restricting human rights, with national courts often refusing to apply international standards in favour of local practices. In France, limitations on visible religious symbols in public institutions, particularly the prohibition of hijabs in public schools, reflect a strict secularist approach that prioritises state neutrality over individual religious expression. In India, tensions arise in the application of personal religious laws, where women's rights in marriage and inheritance may be constrained by

community-based legal traditions. and Africa, religious norms often carry more weight in judicial practice than international obligations, creating serious problems for the integration of universal human rights into local legal systems. E. Lafaye de Micheaux (2024) also noted that in many parts of the world where traditional and religious influences are strong, the application of universal legal norms requires considerable effort and adaptation to local realities, creating certain legal and social barriers.

The observation made by K. Tanbir (2022) regarding the role of states in ensuring human rights showed how participation in international treaties was often accompanied by reservations based on cultural grounds. Although the study confirmed that this did not always take the form of open discussion and that commitments were made through the ratification of treaties, often with reservations related to the incompatibility of provisions with cultural or religious norms. The integrative model previously described is replaced by the analytical approaches developed by E.R. Hogemann (2020) and A.O. Marchenko (2023), which reinterpret the relationship between universalism and cultural relativism in human rights law. E.R. Hogemann (2020) proposes a post-dichotomous framework that rejects the strict opposition between universalism and relativism and instead emphasises the existence of a dynamic normative continuum in which human rights are simultaneously universal in essence and context-sensitive in application. In contrast, A.O. Marchenko (2023) focuses on the role of religion in shaping both universalist and relativist discourses, arguing that religious norms may function either as a source of limitation or as a complementary interpretative framework for human rights implementation.

In the context of the previously analysed judicial practices, these approaches allow for a more nuanced interpretation of regional jurisprudence, particularly in the African and Inter-American human rights systems, where courts combine universal standards with cultural and contextual considerations. For example, the African regional mechanisms demonstrate a stronger inclination toward communitarian values and socio-cultural adaptation, while the Inter-American Court maintains a more structured balance between universality and limited contextual flexibility. These tendencies reflect the analytical position of E.R. Hogemann (2020), who conceptualises such variations not as contradictions but as different expressions of a unified human rights system.

At the same time, A.O. Marchenko's (2023) emphasis on religion is particularly relevant for the analysis of national legislation and constitutional frameworks, where religious and cultural norms often influence the scope of rights implementation. This is evident in states that apply reservation mechanisms or constitutional restrictions based on religious or cultural identity, thereby illustrating the practical tension between universal human rights standards and contextual legal orders. Thus, both approaches provide a comprehensive analytical lens for evaluating judicial practice and national legislation within the broader discourse of human rights relativism and universalism.

M. Káčer (2021) took a more moderate position, advocating the concept of relative universality. Such works noted that functional and conceptual universality were more often realised at the level of concepts. Most of the articles of the Universal Declaration were based precisely on this level. International treaties also left room for local differences. Human rights were not a panacea, but they remained a substantial element in the struggle for justice. Relative universality was a resource that could be used to build a more humane society. In practice, this was confirmed by the same list of universal rights recognised by all international organisations. For example,

Article 1(3) of the UN Charter (1945) contained a reference to the promotion of rights and freedoms for all without distinction (Popovski, 2024). The International Covenant on Economic, Social and Cultural Rights (1966) was ratified by 174 countries. The preamble to both documents emphasised that human rights derive from the dignity of the individual.

The African Charter on Human and Peoples' Rights (1981) and the Arab Charter on Human Rights (2004) also emphasised dignity as a supreme moral value. The Vienna Declaration and Programme of Action (1993) enshrined the universality of rights as an indisputable fact. All international acts contained a unified list of rights recognised by the global community. As of 2025, none of the 193 UN member states had renounced the provisions of the Universal Declaration of Human Rights (1948). Article 1, which dealt with the equality and freedom of all people, remained universally recognised.

It was stated that political rights, unlike natural rights, were usually linked to citizenship. Their scope was determined by the domestic legislation of each state and was of a recommendatory nature. The articles of the Universal Declaration of Human Rights (1948) began with the words "Everyone has the right...", which indicated the natural law origin of rights and their binding nature for states. Although the declaration was not an international treaty, its provisions were considered norms of customary international law. They were reflected in the constitutions of many states.

It is separately noted that the problem of universality lies in the absence of a single moral system. Both cultural absolutists, supporting injustice for the sake of preserving traditions, and absolute universalists, who could justify violations for the sake of achieving an ideal, were criticised. One contemporary researcher noted that human rights are, paradoxically, relatively universal. The described paradigm of human rights was increasingly associated with the need to incorporate context and pluralism in the process of realising rights. The effectiveness of existing conventional and institutional mechanisms in the field of human rights largely depended on their ability to adapt to regional specifics, including cultural relativism and unique historical and legal factors.

Mechanisms of legal relativisation of international human rights standards in national and regional legal systems. The jurisprudence of the ECHR has illustrated this contextual approach through the consistent application of the doctrine of "discretionary power". Although this doctrine was not explicitly enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms, its formal recognition was enshrined in Protocol No. 15 (Gümüştaş, 2021), which emphasised respect for the national identity of the participating states. The doctrine of "discretion" was consistent with the provisions of the Vienna Convention on the Law of Treaties (1969), particularly regarding the dynamic interpretation of international legal norms. Thanks to this, the provisions of the Convention could be adapted to new social and political realities that were not foreseen at the time of its conclusion. The application of this doctrine provided states with a certain degree of autonomy in interpreting human rights, incorporating national traditions, social values and historical experience, while maintaining uniform standards within the European human rights space.

Another approach to the consideration of the regional context was applied within the inter-American and African regional human rights protection systems. In particular, the IACHR applied an evolutionary interpretation of the provisions of the American Convention on Human Rights: Pact of San Jose, Costa Rica (1969), independently interpreting them considering cultural identity and historical circumstances. In cases concerning the right to life of indigenous peoples,

the right to life required expanded guarantees in response to historical practices of forced assimilation and prolonged marginalisation on the American continent (Table 1).

Table 1. Interpretation of the right to life in cases concerning indigenous peoples

Case	Case core	The Court's approach to the right to life	Cultural context/Customs
Villagrán Morales v. Guatemala	Intentional killing of five street children by the police; lack of protection	The right to life includes the state's obligation to create conditions that guarantee a dignified existence	The court recognised the vulnerability of street children as a "social group" requiring special protection, including cultural characteristics
Yakye Axa Indigenous Community v. Paraguay	Loss of access to traditional lands, death of community members due to lack of food and medicine	The interpretation of the right to life includes economic and social components (food, water, and healthcare).	The court recognised that the community's way of life was inextricably linked to the land, and that this should be addressed in the interpretation of rights
Sawhoyamaxa Indigenous Community v. Paraguay	Loss of access to traditional lands, death of community members due to lack of food and medicine	The right to life is the state's obligation to ensure minimum conditions for existence and the protection of vulnerable groups	The court emphasised the community's spiritual connection to the land and the need to respect cultural and religious practices

Source: compiled by the authors based on Case of the Villagrán-Morales et al. (Street Children) v. Guatemala" (1999), S. Sklar (2005), U.U. Ewelukwa (2006), Case of the Sawhoyamaxa Indigenous Community v. Paraguay (2013)

The jurisprudence of the African Court on Human and Peoples' Rights (AfCHPR) reflected the specificity of the African Charter on Human and Peoples' Rights (1981), which emphasised the importance of historical tradition and African civilisation (Preamble), as well as collective rights, social obligations and respect for the community (Articles 17-29). These principles became the normative basis for both the AfCHPR and the African Commission on Human and Peoples' Rights, including cultural specificity and traditions in the general human rights discourse. From a practical point of view, this approach facilitated a balance between the universality of human rights and the regional context, ensuring the realisation of rights in a manner that was sensitive to the context and at the same time consistent with international standards.

The implementation of relativism in the decisions of regional international courts in Africa and the Americas is reflected in a gradual balancing between universal human rights standards and the socio-cultural, historical, and legal specificities of states. The African Commission on Human and Peoples' Rights and the AfCHPR frequently incorporate the principle of "African particularism," acknowledging the relevance of traditional norms, collective rights, and communitarian development approaches in cases concerning socio-economic rights violations in Nigeria and systemic human rights issues in Zimbabwe. In the Inter-American human rights system, particularly in the jurisprudence of the Inter-American Court of Human Rights, national context is also taken into account; however, priority is generally given to universal standards of the American Convention on Human Rights, which limits the scope of acceptable relativism and encourages convergence toward harmonised human rights interpretation, especially in cases involving state responsibility for human rights violations and discrimination in Chile and Honduras.

In contrast, national relativism is implemented through domestic strategies, constitutional principles, and legislative mechanisms that prioritise

cultural, religious, or historical specificities over universal norms. Within this approach, the state acts as the primary interpreter of the scope of international human rights obligations, which may result in reservations to international treaties, constitutional limitations, or selective incorporation of human rights standards. Thus, while regional courts tend to seek a balance between universalism and contextual adaptation, national relativism is more strongly oriented toward the primacy of internal legal and cultural systems.

The obtained results are consistent with the theoretical position of D. Eggel *et al.* (2022), who explain universal human rights as a product of historical legal convergence, particularly after the adoption of the Universal Declaration of Human Rights (1948) and subsequent UN treaties, where states such as Germany, Canada, and South Africa incorporated international standards into constitutional frameworks through judicial interpretation and treaty incorporation mechanisms. This demonstrates that universality functions as an evolving normative consensus rather than a fixed legal doctrine. A similar analytical approach is proposed by V.L. Derkach (2022), who links cultural relativism to specific legal systems such as India and Iran, where family law, gender norms, and religious regulations significantly shape the application of international human rights standards. For example, in India, personal religious laws influence marriage and inheritance regulation, while in Iran, Sharia-based legal frameworks directly affect gender equality and freedom of expression, illustrating how cultural autonomy operates as a structural filter in rights implementation. Ignoring regional specificities can only serve to bolster the propaganda of terrorist groups operating in the regions (Ketners, 2025).

These findings are further supported by M.J. Bennett (2023), who emphasises intercultural competence in global legal practice, particularly in multicultural societies such as France, the United States, and the United Kingdom, where courts and institutions must balance secular constitutional principles with increasing religious and cultural diversity. This is evident in debates on religious symbols in public space in France and accommodation of religious practices in public institutions in the UK and US. The integrative model of E.R. Hogemann (2020) and A.O. Marchenko (2023) is reflected in comparative jurisprudence of regional courts, including the European Court of Human Rights and the African human rights system. For instance, in S.A.S. v. France (2014), the ECHR allowed restrictions on religious dress under the principle of margin of appreciation, while in African Commission practice, cases from Nigeria and Sudan show stronger reliance on cultural and religious justification in limiting certain rights. E.R. Hogemann's continuum model explains these differences as variations in contextual application rather than contradictions.

In contrast, M. Budiana (2024) presents a strong relativist model evident in jurisdictions such as Afghanistan and Brunei, where reservations to the Convention on the Rights of the Child (1989) and Convention on the Elimination of All Forms of Discrimination against Women (1979) explicitly prioritise Sharia-based norms over international obligations, particularly in family law and gender equality. This approach raises concerns about fragmentation of universal standards due to conditional treaty compliance. Finally, the classical universalist position of O.M. Bukhanevych *et al.* (2021) is reflected in global treaty participation, where nearly all UN member states, including Ukraine, France, and Brazil, have ratified core human rights instruments such as the International Covenant on Civil and Political Rights (1966), confirming the normative assumption that human rights derive from inherent human dignity and are universally applicable regardless of cultural differences.

Thus, the comparative analysis demonstrates that regional human rights courts in Africa and

the Americas tend to operate within a dynamic equilibrium between universal standards and context-sensitive interpretation, although the degree of accepted relativism varies significantly between systems. The African human rights system shows a stronger openness to socio-cultural particularism, whereas the Inter-American Court of Human Rights maintains a more constrained form of contextualisation grounded in the primacy of the American Convention. At the national level, relativism becomes more pronounced, as states directly mediate international obligations through constitutional and legislative filters that may limit or condition universal norms. The reviewed theoretical approaches collectively suggest that universality in human rights should be understood as an evolving consensus shaped by historical convergence rather than a fixed normative structure. Overall, the findings indicate that the tension between universalism and relativism is not resolved but institutionalised within a multi-layered legal framework ranging from global treaties to regional and domestic adjudication.

Conclusions

The study conducted an in-depth analysis of the interaction between universal human rights principles and their culturally conditioned interpretations, particularly in the context of differences in the interpretation of human rights in different socio-cultural conditions. A conceptual approach was developed that effectively combines international legal standards with local traditions and cultural differences. This not only determined the essence of human rights, but also to incorporate the social.

It was studied three main approaches to the interaction between universal norms and cultural traditions: radical universalism, moral relativism, and interculturalism. Each of these approaches has unique specifics. Interculturalism proposes finding common points of intersection between universal and local approaches, which prevents extremes and ensures flexibility in the implementation of human rights in different countries.

The analysis demonstrates that human rights implementation is shaped by a persistent tension between universal standards and national contextual adaptations, where states such as Ukraine and France represent different constitutional models of integrating international norms, India illustrates a hybrid system balancing constitutional rights with religious personal laws, and countries such as Iran, Afghanistan, and Brunei show stronger relativist approaches through reservations and reliance on Sharia-based frameworks, particularly in areas of gender equality and family law; at the same time, judicial practice in the ECHR (including S.A.S. v. France and Lautsi v. Italy) and African human rights mechanisms, as well as cases from Nigeria, Sudan, and Kenya, demonstrate that courts often allow limited contextual flexibility while still preserving minimum universal standards, especially in matters of religious freedom, public order, and non-discrimination; overall, the comparative evidence shows that contemporary human rights protection operates through a combination of universal obligations and culturally conditioned interpretations, resulting in a hybrid and variable global system rather than a uniform model.

Further research aims to expand the geographical scope of the analysis to include Latin American countries, as well as to conduct more detailed thematic studies on the application of the human rights hybridisation model to the most controversial issues, such as freedom of religion or gender equality. This approach can provide a more detailed analysis of the challenges and opportunities for the application of universal legal standards in different contexts.

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Сучасна парадигма прав людини: Пошук балансу між універсальністю та культурним релятивізмом

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Анотація

Метою дослідження було вивчення практик релятивізації прав людини в окремих юрисдикціях. Методологія ґрунтувалася на порівняльному праві та систематичному узагальненні, що дозволило критично проаналізувати концептуальні засади універсалізму та релятивізму та виявити їхні практичні прояви. У результаті було виявлено три основні підходи до аналізу взаємозв'язку між універсалізмом, моральним релятивізмом та інтеркультуралізмом. На основі аналізу державної практики в дослідженні встановлено, що відхилення від універсальних стандартів найчастіше обґрунтовувалися посиланням на традиційні цінності без розробки чітких правових механізмів, що знижувало рівень міжнародних гарантій захисту особи. Водночас було підтверджено існування універсального ядра прав, зокрема заборони тортур, рабства та геноциду, які не підлягають релятивізації. Аналіз конституційної практики в Україні, Франції та Індії виявив різні стратегії узгодження універсальних стандартів із національними традиціями. Крім того, було досліджено судову практику Європейського суду з прав людини (справи «S.A.S. проти Франції», «Лаутсі проти Італії»), а також рішення Міжамериканського суду з прав людини та Африканського суду з прав людини та народів, що підтвердило важливість культурного контексту в тлумаченні прав людини. Практичне значення цих висновків полягає в їхньому застосуванні для розробки стратегій у сфері прав людини, впровадження міжнародних стандартів та вдосконалення освітніх програм і інституційних практик у цій галузі

Ключові слова: глобалізація; соціокультурні відмінності; мораль; правові системи; автономія; плюралізм