GENERAL INTRODUCTION

The starting point of this study is the existence of a vehement political and scholarly debate on the universality of human rights. Representatives of several non-Western societies hold a critical human rights discourse. They complain that human rights are oriented too much to the West and that as a result they do not sufficiently reflect the needs, concerns and values of other parts of the world. The West and the international human rights community have generally perceived this criticism of international human rights based on the contextual particularities of non-Western societies as an attack on human rights, and in particular as a threat to the fundamental principle of the universality of human rights.

This study examines this non-Western particularist human rights discourse, and suggests how the international human rights system can respond to it.

Part One provides, as a necessary background to this enterprise, an overview of different meanings of the term “universality” in contemporary human rights discourse (I), and a brief history of the universality of human rights (II).

In Part Two, non-Western particularist human rights views are analysed, through the examination of political and academic texts from East Asia (II), sub-Saharan Africa (III) and the Islamic world (IV).

The analysis identifies the different arguments that are advanced, and the claims that are addressed by these particularist views to the international human rights system.

Part Three proposes a theoretical framework for the approach of the international human rights system to non-Western diversity claims. Its central principle is called “inclusive universality”, because it conceives the inclusive character of human rights as inseparable from their universal applicability. One of the consequences of this conception is the need to integrate diversity into universal human rights, in other words to take the non-Western particularist claims seriously.

Part Four examines the contribution that the law can make to this reconciliation of universality and diversity, by proposing a range of legal techniques for the accommodation of diversity, which are developed in the light of the principle of inclusive universality.