

7. ARE THERE ANY SOCIAL REALITIES CONTRADICTING INTERNATIONAL HUMAN RIGHTS CONCEPT BASED ON INDIVIDUALISM?

<p>7.1. Professor Dr. Carmen Thiele - Germany</p>	
<p>7.2. Professor Juliano Benvindo - Brasil</p>	<p><i>I'm not sure if I understood the question, but, as far as I could, there are certainly social realities that contract such international human Rights concept based on individualism. See, for example, the case of indigeneus people whose societies are based on collective solidarity instead of individual success. This certainly applies to Brazilian reality.</i></p>
<p>7.3. Catherine Willis-Smith/LL.M Candidate – South Africa</p>	<p><i>The professor has chosen not to publish her answers.</i></p>
<p>7.4. Dr. Jur. Marton SULYOK - Hungary</p>	
<p>1.5. Benjamin Danpullo, LL.M - Nigeria</p>	<p><i>Because the majority of international human rights concepts is based on individualism (in the dominant “liberal” approach), the question is unclear what it means by contradicting social realities in this context.</i></p>
<p>7.6. Professor Dr. THIO Li-ann - Singapore</p>	<p><i>My Answer: Yes there are social realities contradicting IHR concepts based on individualism. The overwhelming poverty in the coutry is one of such realities. Whereas IHR concepts such as Right to Dignity of Human Person is well embraced across the western nations through the provision of decent housing, health care, education opportunities and affordable food, among others, the reality in Nigeria, my country is that these basic rights are privileges only the rich and middle class enjoy. Thousands of people die every day due to avoidable and treatable illnesses like malaria or cholera caused by unclean water. Most of the populace live in ghetto settlements in the midst of squallor and decrepit and decayed buildings. Salaries are not paid to workers for months in some states and the “out of school children” are in the tens of million with the trend incresing every year due to neglect of basic education funding. Another reality is the incresing level of insecurity to life and property of citizens in Nigeria, whcih has been aggravated by wanton high way armed robbery, kidnappings and attacks on communities by Boko Haram insurgents which is still occuring. Then there is FULANI HERDSMEN invasion of communities and wanton kidnapping for RANSOM by these</i></p>

	<p><i>herdsmen since they can afford AK47 riffles and other weapons and ammunitins and inter-communal conflicts that disrupt human rights of persons. In the area of survival, food is expensive due to the overwhelming poverty. As you may be aware, Nigeria has been crowned “the poverty capital of the world”. Overtaking India in that sphere. This has resulted in higher incideces of suicide in the past few weeks and the trend is not abating. The law enforcement agencies equally contribute to the eroding of the dignity and human rights of our people through vilations of constitutionally garranted freedoms of movement, right to peacefull assembly and right to free speech and expression.</i></p>
<p>7.7. Prof. Dr. iur Yiren Lin - Taiwan</p>	<p><i>Singapore does not accept that human rights law are exclusively based on individualistic liberal ideology. If one studies the UDHR for example, individuals are situated in families, communities, societies rather than atomistic individuals. As Prof Mary Ann Glendon of Harvard has pointed out, the UDHR adopts a dignitarian approach towards individuals, rather than Anglo-American individualism. Of course there are, a communitarian culture which does not treat rights as trumps but as important interests that must be balanced against other interests. This has been extensively written upon: for example some things I have written on the topic include:</i></p> <ol style="list-style-type: none"> <i>1. Principled Pragmatism and the ‘Third Wave’ of Communitarian Judicial Review in Singapore in Jaclyn L. Neo (ed.), Constitutional Interpretation in Singapore: Theory and Practice(Routledge, 2016). 75-116</i> <i>2. “We are feeling our way forward, step by step”: The Continuing Singapore Experiment in the Construction of Communitarian Constitutionalism in the 21st Century’s First Decade in Constitutionalism in Asia in the Early Twenty-First Century, Albert Chen ed. (Cambridge University Press, 2014) at 270-294</i> <ul style="list-style-type: none"> <i>• Protecting Rights in The Evolution of a Revolution: 40 Years of the Singapore Constitution (Routledge-Cavendish 2009), Li-ann Thio & Kevin YL Tan eds., 193-233</i>
<p>7.8. Dr. Sri Wahyun Kadir - Indonesia</p>	<p><i>Gibt es soziale Realitäten, die einem auf Individualismus basierenden internationalen Menschenrechtskonzept widersprechen? Zwar die Republik China (Taiwan) ist nicht ein Mitglied von der vereinigten Staaten. Nach dem Art. 141 lautet es: Die Außenpolitik der Republik China ...achtet Verträge und die Charta der Vereinten Nationen, um die Rechte der im Ausland ansässigen Staatsbürger zu schützen, internationale Zusammenarbeit und Gerechtigkeit zu fördern und den Weltfrieden zu sichern. Deshalb war im Jahr 2009 ein</i></p>

	<p><i>Durchführungsgesetz zum „The International Covenant on Civil and Political Rights“ und „The International Covenant on Economic, Social and Cultural Rights“ in Kraft getreten. Nach dem Gesetz war einigen Gesetze oder Rechtsverordnung geändert um die internationalen Schutzstandard anzupassen. Außerdem wird ein Überwachungs- und Beratungskommision gegründet und jährlich ein Bericht gestellt. Soweit sehe ich die strafgesetzlche Strafe ein Kontroverse, nicht nur zwischen Gesellschaft, sondern auch zwischen den Mensen. Im Prinzip wird es unter den relativen strengen Bedingungen, oder sehr zu rückhaltende Stellung, vollgestreckt.</i></p>
<p>7.9. Professor Marina Calamo Specchia - Italy</p>	<p><i>People with disabilities are still an issue that has not received enough attention, although currently for the achievements of sports for people with disabilities have been valued, but the fulfillment of their basic rights has not been fully carried out. For example the right to get access to the highway, or the right to decent work. But the right to education is getting better. The cultural problem of accepting children with disabilities for some village communities is still a problem, due to lack of information and education. However, if in some cities, it will not be a problem, especially with the incessant information from social media.</i></p>
<p>7.10. Josef Martin Zielinski Flores - Peru</p>	<p><i>No.</i></p>
<p>7.11. Dr. Martín Risso Ferrand – Uruguay</p>	<p><i>At least in the field of legal bodies, I don't think so.</i></p>
<p>7.12. Professor Dr. Shinar Adam – Israel</p>	<p><i>Uruguay is a Latin American country, a member of the Organization of American States, which has ratified all universal (UN) and regional (OAS) international documents and has submitted to the jurisdiction of the Inter-American Court of Human Rights. Therefore, it is fully aligned and consistent with the human rights contained in those instruments. There are no normative contradictions.</i></p> <p><i>Likewise, the country has no indigenous populations whose regulations could be in contradiction with the abovementioned instruments.</i></p> <p><i>Difficulties, as noted in the answer to question 6, are based on budgetary and economic development problems.</i></p>
<p>7.13. Assist. Professor Sombhojen Limbu – Nepal</p>	<p><i>Unclear.</i></p>

<p>7.14. Suzan Tavares da Silva –Portugal</p>	<p><i>Minority people in term of religion, language, culture, and population they could under threat to second class citizen in Nepal. They might not able to peruse the state they have rights to dignity and sanctity of their own values. Country feels such groups are as it is their incapability to compete with open competition market. State treats them individual basis instead of collective and minority rights.</i></p> <p><i>We have national diversity in term of cultures, religious, linguistics, life of living styles etc. Each person has its own decision to be happy to live or life which is we can say it is his or her human rights until does not harm society and break laws.</i></p> <p><i>However fundamental principle of human rights to extend happiness to a person cannot be derogated still we respect as Nepal is one of Asian Countries to abolish the death penalty for almost three decade ago.</i></p>
<p>7.15. Assist. Professor Zewdu Mengesha - Ethiopia</p>	<p><i>No. Portuguese are also very individualist people, and the impact of the catholic religion is decreasing and is not a barrier.</i></p>
<p>7.16. Dr. Alexander Kim - Russia</p>	<p><i>There are different Harmful Traditional Practices (FGM, Abduction for marriage and others) that exist within the different societies in the country that may contradict with the human right concept.</i></p>
<p>7.17. Prof. Dr. Vasanthi Nimushakavi - India</p>	<p><i>Yes.</i></p>
<p>7.18. Massimiliano Buriassi - Italy</p>	<p><i>Yes, India is a vast and diverse country with a large section of its population living in very poor conditions and below the poverty line. The right to privacy has been held to be negotiable where state expenditure is concerned. Thus, the State can ask for the biometric data of those who seek basic amenities from the State. (see Puttasway vs UOI 2018 Supreme Court).Structural inequalities, need for redistribution of resources such as land, addressing social needs like education, health and sanitation, removal of historical injustices towards indigenous communities cannot be addressed merely by the idea of a liberal constitution based on individualism. India has strong communitarian values, such as common property and strong family values and community values. These often come in contradiction to individual human right.</i></p> <p><i>Social realities also do not permit the full expression of sexuality as we have only recently decriminalized homosexuality and have a long way to go before the full acceptance of gender diversity is achieved in the understanding of family. (see Navtej Johar vs UOI 2018 Supreme Court of India)</i></p>

7.19. Professor Dr. Ahmed Aubais Alfatlawi – Iraq	<i>Risp. Vi è una costante violazione dei diritti umani, anche da chi dovrebbe garantirne la tutela ed il rispetto come la politica e le forze dell'ordine. Basti pensare ai plurimi episodi di abusi di potere da parte delle forze dell'ordine e/o di applicazione di metodi di coercizione fisica in danno di attivisti, manifestanti, volontari ecc.</i>
7.20. Professor Dr. Hyungnam Kim - South Korea	
7.21. Associate Professor Tomáš Ľalík, Ph.D - Roman Lysina, Ph.D Candidate - Slovakia	<i>Not much. But a few conservative politicians have contradicted actual equality of foreign laborers in Korea.</i>
7.22. Professor Dr. Mohammad Javad Javid - Iran	<i>I am not aware of any social realities, that would contradict the international human rights concept based on individualism.</i>
7.23. Professor Dr. Adrienne Stone - Australia	<i>Everything opposed to natural rights is the deviation of Natural rights or Human rights. For instance, these day one of the concerning matter in most of societies even religion based one is the matter of freedom marriage of Homosexuals. Homosexuality is against natural law it is a deviation in interpretation of reality of the human rights or natural rights. Every thing out of the natural law or tendency , or instict and nature of human rights rooted in his nature is not the subject of human right or human nature. As HR Declaration reflects natural law as its foundation of Philosophy. Although their rights to health and physical integrity protection are respected. Because their status raised up the sensitivity of their health care .</i>
7.24. Professor Dr. Mark Tushnet - USA	<i>Bkz Answer 5</i>
7.25. Professor em. Dr. iur Reinhard Mußgnug - Germany	
7.26. Professor Dr. Mabid Ali Mohammed Al-Jarhi - Egypt	<i>There is a minority of right-wing nationalists which oppose against not European migrants, but they are under control.</i>

<p>7.27. Assoc. Professor Dr. Patrick Emerton - Australia</p>	<p><i>Yes. In particular, no free elections, incarceration of political opposition, police brutality, no rights to protest, torture of political prisoners, indefinite imprisonment without trial, etc.</i></p>
<p>7.28. Professor Dr. Hajer Gueldich - Tunis</p>	<p><i>Australia has an official policy of multi-culturalism. Eg although English is the only official language, many public information resources are provided in other “community” languages (eg Greek, Vietnamese, Turkish, Chinese, Somali, Italian). Relations between state agencies and non-English speaking/non-north western European communities tends to be managed through community organizations and representative bodies rather than in direct relations between the state and individuals.</i></p> <p><i>Australian labour law, including the law around strikes and wage bargaining, gives a particular role to trade unions as privileged actors.</i></p> <p><i>Some elements of Indigenous policy operate by engaging with “tribal”/national representative bodies rather than directly with Indigenous individuals. The extent to which this should happen – eg whether the role of Indigenous collectives as intermediaries – is contentious, especially among conservative politicians.</i></p>
<p>7.29. Asst. Professor Narender Nagarwal - India</p>	<p><i>There are some social realities in Tunisia, like in every country, whether we acknowledge it or not, contradicting human rights concept based on individualism. According to us, it’s the rights of the LGBT again that come within the framework of human rights and they are based on what is called individualist democracy.</i></p> <p><i>These rights can be both rejected in some countries (especially the conservative ones) because of the socio-anthropological realities even identities, on the basic foundation of the hard core of any society that derives its well being from religion. This is the case of Tunisia.</i></p>
<p>7.30. Professor Gerd Oberleitner - Austria</p>	<p><i>Ans: For centuries people practicing various religious faith and have lived side by side in peace. In fact, India's rich tradition of religious plurality has been a symbol of social and religious harmony as guaranteed under Article 25 of the Constitution of India which asserts that state won't differentiate among citizen based on religion and the same time shall give equal respect to all</i></p>

	<p><i>religion. But unfortunately, the latest development and sudden rise of religious animosity, religion-based violence, communal violence have been questioning this freedom as a rising graph of intolerance in the form of mob lynching. Many innocent Muslims were brutally thrashed and killed just because of their food habits especially in the case of Akhlaq, Junaid, Pahlu Khan. The sudden rise of mob lynching, religious violence, cow vigilante attack (Gau Rakshaks) incidents increases to 75 % in 2017 to 97% in 2019, communal hatred and violence, hate speech have created a feeling of insecurity among the religious minorities and different ethnic groups. In all these incidents, the role of State has been remained questionable as it failed to protect the minority's right to live a dignified life and not to be killed arbitrarily just because of their religion, language and food habits. Recently, there is another surge of communal violence where a group of majority community forced a Muslim boy to chant religious slogan i.e. Jai Shri Ram, refusing to do so, he bludgeoned to death or brutally assaulted. Why these senseless crimes not reported to the police? Who are these people? Why police and law enforcement agencies remained suspiciously silent to take stern action against such rowdy element.</i></p> <p><i>Moreover, excessive use of force in Kashmir against children (mostly school going children) is also a matter of concern. In my view the use of pellet gun must be banned, the Indian government should respect the international norms and standards of international human rights principles with its current response to protests in Kashmir. However, in Kashmir, restraint is not being exercised, injury is not being minimized and medical assistance is not ensured. Pellet guns are not a proportional response to the current protests by the stone pelters children. Far too much harm has been inflicted, particularly involving people's eyesight, far too many bystanders, including children, have been injured. In 2013, the Jammu and Kashmir State Human Rights Commission (SHRC) stated that "the use of pellet guns by government forces was a serious threat to life". The use of pellet guns as a crowd control tactic must be banned. Since 2010, these "non-lethal" weapons have caused serious injury and severe harm to thousands of Kashmiris. The use of pellet guns in Kashmir in reaction to the current protests is a clear violation of human rights and humanitarian law. These weapons have neither been used proportionally nor in compliance with international standards on the use of force or domestic standards on crowd control.</i></p>
<p>7.31. Professor Dr. Adnan Oweida - Jordan</p>	

<p>7.32. Dr. Andres Cervantes Valarezo - Ecuador</p>	<p><i>Yes, there are certain rights that have been given to the individual that are contrary to the rights of the group, such as the right to abortion, and the right of women to have sexual relations outside the family. Where family and community rights are ignored.</i></p>
<p>7.33. Asst. Professor Dr. Manal Totry-Jubran - Israel</p>	<p><i>In the Ecuadorian case, there are several cases that demonstrate the shift of individualistic paradigm of human rights towards a transformation based on collective representation. For example, in the area of indigenous rights it is widely accepted that communities can be considered as holders of collective rights such as the ownership of ancestral lands. On the other hand, recognizing the procedural standing of workers' unions implies recognizing the possibility that they may ask for the protection of collective rights. Finally, in relation the nature or "Pacha Mama" as a subject of rights according to the Ecuadorian constitution, anyone can exercise its representation to guarantee collective rights such as water and air quality or protection against environmental damage.</i></p>
<p>7.34. Dr. Maria Paula Garat - Uruguay</p>	<p><i>I guess all the existing of the state contradicts human rights based on individualism. This is a Jewish nation state that is committed to the wellbeing of the collective and of its tenants.</i></p>
<p>7.35. Professor Luis G. Francheschi – Kenya</p>	<p><i>No, in Uruguay there are no indigenous collectives as in other region countries, and there are no other collectives that represents, in reality, an important tradition in which collective values are very dominant or important and with a significant problem.</i></p>
<p>7.36. Professor Hugh Corder - South Africa</p>	<p><i>The human person requires a social context for survival. Western ideals have focused on the individual due to the paramount interest of defending the person's dignity against historical abuses. However, more recently, the placing on the individual at the centre of the study of rights may have been erroneously seen as a contraposition or struggle against the community. This should have never been so and this has sadly developed into a furious and bitter fight between individual rights and collective rights, when both the personal and common good serve each other and are not in contradiction. Concepts based on individualism in international human rights set the human individual apart from his/her social contexts. In the African context, and so in the Kenyan one, this is not so. It is difficult and often impossible to view the person as autonomous, separate and entirely self-determining. In international human rights instruments, rights are viewed from the individual perspective; rights such as ownership of property are considered individual and often only from a man's perspective;</i></p>

	<p><i>very few international human rights address woman's rights from a community perspective. In Kenya, communal ownership of property by communities (mostly ethnicities) is one of the fabrics that hold communities together and this is jeopardised and undermined by individual ownership of land. These contextual intricacies should be taken into consideration when speaking of human rights. Yes, human rights are universal, but when projected on the society and societal relationships it must be contextualised. For example, homosexual unions may find a justification from the point of view of individual rights and freedoms (I do what I want), but unions and more so marriage in Africa is a social concept and reality. It is not the union of two persons, but of two families and two communities. This needs to be taken into account, understood and respected; otherwise, we run the risk of jeopardising human rights application in its entirety.</i></p>
<p>7.37. Assist. Professor Umar Rashid - Pakistan</p>	<p>(-)</p>
<p>7.38. Assist. Professor Simon Alexander Wood - Malaysia</p>	<p><i>Ans) Yes there are. For example, freedom of speech though protected in the Pakistani Constitution is limited in Pakistan and does not protect speech that may be considered blasphemous, or against national security. Similarly discrimination based on sexual orientation is part of the legal system, with section 377 of the Pakistan Penal Code criminalizing sexual relations between same-sex couples. Similarly Islamic inheritance law requiring inheritance to be divided between men and women in the ration of 2:1, is protected under the law, even though it goes against right not be discriminated on the basis of gender.</i></p>
<p>7.39. Professor Merris Amos-UK</p>	<p><i>Right of freedom of religion as some restriction 4 some Muslims specifically adherence to the Sunni sect dominate the country where as those who are Shia can barely practice their faith. The right to equality and particularly rights of women contradicted buy religious practices of certain faiths in Malaysia for example Hindu and Islam</i></p>
<p>7.40. Ştefan Bogrea - PhD student at human rights law / Advocate - Romania</p>	<p><i>The professor has chosen not to publish her answers.</i></p>
<p>7.41. Assist. Professor Dr. Cristina Tomulet - Romania</p>	<p>?</p>

<p>7.42. Professor Dr. Mahendra P. Singh - India</p>	<p><i>Generally speaking, social realities do not contradict international human rights concepts based on individualism. However, there are certain fields where problems exist from this point of view. For example, domestic violence against women remains an important problem in Romania, stemming from a patriarchal mindset according to which women are inferior to men and should depend on them. A relevant case highlighting this issue is Bălșan v. Romania, in which the applicant alleged that the authorities had failed to protect her from repeated domestic violence and to hold her husband accountable, despite her numerous complaints. At the same time, social realities contradicting individualistic human rights values exist in the midst of the Roma population. For example, forced child marriages in Roma communities remain a problem from this point of view.</i></p>
<p>7.43. Professor Dr. Stephanie Wattier - Belgium</p>	<p><i>The basis of individualism is the struggle for recognition of individual rights and the rise of collective rights. Human rights are primarily based on individualism and struggle to provide equal dignity to each individual. Individualism goes beyond the political and social sphere claiming the space for identity. The practices of untouchability where physical contact with persons are avoided because of social beliefs have been abolished under the constitution of India. In spite of this constitutional arrangement untouchability still remains very much prevalent in our social realities.</i></p>
<p>7.44. Dr. Malika Tastanova M. Narikyeu - Kazakhstan</p>	<p><i>S.W.: In Belgium, I do not think so.</i></p>
<p>7.45. Professor Dr. Jasna Baksic - Bosnia and Herzegovina</p>	<p><i>U Bosni I Hercegovini je suprotna situacija. Kolektiviteti- etnički, religijski, politički dominiraju nad interesima pojedinaca. Prema BH iskustvu zaštita kolektivnih prava je moguća jedino u liberalnoj I demokratskoj državi sa vladavinom prava. U suprotnom dolazi do marginalizacije pojedinaca I određenim slučajevima do ugrožavanja individualnih prava od strane kolektiviteta. Primjer je osporavanje legitimiteta članu Predsjedništva željku Komšiću od strana političkih stranaka sa hrvatskim predznakom. Kao predvodniku jedne od probosanskih građanskih stranaka osporava mu se pripadnost Hrvatima zbog ideološke pozicije. Tako da je predstavljen kao nepodoban da iskazuje hrvatske interese. Dodatni argument je da nema legitimitet hrvatskog biračkog tijela I da su ga izabrali Bošnjaci. U postojećim ustavno-zakonskim odredbama FBiH je izborna jedinica za za izbor jednog Bošnjaka I Hrvata u Predsjedništvo BiH. Srbin se bira iz entititeta RS koji je druga izborna jedinica ua izbor članova Predsjedništva I za izbor političkih izbornih tijela u BiH.</i></p>

7.46. Assist. Professor Dr. Iwona Wroblewska - Poland	(-)
7.47. Professor Kwadwo Appiagyei- Atua - Gana	<i>One can talk of LGBT rights.</i>
7.48. Paidamwoyo Mukumbiri - Zimbabwe	<i>Yes some societies still practice child marriages despite their prohibition by the bill of rights</i>
7.49. Professor Dr. Helen Irving - Australia	<i>I don't feel equipped to answer this question.</i>
7.50. Dr. Faridah Jalil - Malaysia	<i>Yes, it does to certain extent contradict the communitarian ideology or common good subscribed by conventional community and religious belief.</i>
7.51. Dr. Tatiana Khramova - Russia	<i>Yes. With an authoritarian political regime (no real elections, no real opposition, no real Parliament, one strong President who stays in power for over 20 years, etc...), the government does not care to protect individual rights, but cares to protect the ruling party: therefore, the state passes laws suppressing free speech, freedom of assembly, etc... An example is the so-called Law on disrespect for the government (Federal Law of March 18, 2019 No 30-Φ3 amending the Federal Law "On information, information technologies and protection of information" establishing administrative liability for openly expressing a "clear disrespect towards the society, the state, official symbols of the state, the Constitution of the Russian Federation or state authorities of the Russian Federation" on the Internet).</i>
7.52. Eduardo G. Esteva Gallicchio - Uruguay	<i>In my opinion there are no such social realities in Uruguay.</i>
7.53. Dr. Aldana Rohr - Argentina	
7.54. Roman Schuppli - Switzerland	<i>International human rights law does not establish any rights of subjects who have no legal standing, such as those of future generations, nature or animals. With regard to future human rights challenges, such as climate change, it is by no means clear whether the traditional model of individualistic human rights protection in its current form could reach its limits as it may not adequately take into account the interests of the mentioned groups.</i>

7.55. Dr. Ljubomir Frckoski – Macedonia	<i>Kitabını göndermiştir.</i>
7.56. Assoc. Professor Juan Pablo Beca F. - Chile	<i>I don't think so.</i>
7.57. Professor Simon Rice - Australia	<i>Many aspects of Australian indigenous culture, and of the cultures of many migrant communities in Australia, are inconsistent with the individualistic nature of civil and political rights.</i>
7.58. Dr. Renata Bedö - Hungary	
7.59. Damir Banović - Bosnia and Herzegovina	<i>Social reality mostly corresponds to the collective spirit and understanding of an individual who fulfills his interest within the collective. This has mainly been reflected within the political sphere (public). There are some attempts to change this understanding, but still it's predominantly collective society which conflict with the international human rights documents built up on the idea of an individual.</i>
7.60. Dr. Lilla Berkes, PhD candidate - Hungary	<i>Sometimes it is needed to consider individuals as group of people and grant them collective rights, for example in the case of national minorities, in order to preserve their cultures and national identities. Also, in some cultures persons primary consider themselves as part of the group which is more important for them than individualism.</i>
7.61. Professor Dr. iur. Jorge León - Peru	<i>En el Perú se tienen registradas más de 7 mil comunidades campesinas¹ y cerca de 50 pueblos indígenas u originarios². Dentro de la cosmovisión de este tipo de organizaciones sociales priman factores identitarios, tales como: el origen ancestral, el idioma, el territorio determinado sobre el cual se asientan y las reglas institucionalizadas a través de costumbres comunales (derecho consuetudinario). Por este motivo, la Constitución peruana ha reconocido el pluralismo jurídico y ha adoptado un enfoque multicultural³. Estas realidades sociales, en su gran mayoría, contradicen el concepto internacional de derechos humanos basados en el individualismo, ya que la visión del mundo desde la que parten estas comunidades y pueblos indígenas es principalmente comunitarista; es decir, los componentes esenciales</i>

¹ <https://ibcperu.org/mapas/siccam/>

² <https://bdpi.cultura.gob.pe/pueblos-indigenas>

³ Ver artículo 2.19, 17, 48, 89, 149 y 191 de la Constitución Política del Perú.

	<i>de estas sociedades son la comunidad, la identidad cultural, la propiedad comunal y la ayuda mutua⁴.</i>
7.62. Professor Thierry Rambaud – France	<i>An article was sent by the Professor.</i>
7.63. Mario Campora - Melisa Szlajen - Argentina	<i>Rights recognized by the Constitution and the international treaties are not absolute. They may be able to be limited and regulated so the state can apply and guarantee them and also to not oppose with another rights⁵. All the rights guarantee in the Constitution and in Human Rights Treaties with constitutional hierarchy have the same hierarchy so when there is a conflict between them the judges must deliberate how to protect each one⁶. The American Convention of Human Rights establish in its article 32 that: “The rights of each person are limited by the rights of others, by the security of all, and by the just demands of the general welfare, in a democratic society”⁷ This interpretation and application must always be made in respect of the principle pro homine⁸.</i>
7.64. Dr. Alaa Nafea Kttafah - Iraq	<i>بحسب فهمي للسؤال ، هناك بعض الاعتبارات الاجتماعية تتعارض مع المفهوم الراجح للحقوق ، ومثال ذلك حق المثلية الجنسية التي البعض يعدها من ضمن الحقوق والحريات للمواطن لكن من الناحية الاجتماعية والصحية والفلسفية (طبعاً قبل الدينية والساوية المحرمة شرعاً) تناقض طبيعة المجتمع وفلسفة وجود الانسان .</i>
7.65. Professor Silvina Ramirez - Argentina	<i>No sé si comprendo adecuadamente el alcance de esta pregunta. Desde ya que existe una discusión profunda sobre las insuficiencias de las tradiciones liberales que giran alrededor del individualismo, y que no pueden dar respuestas a un conjunto de derechos – principalmente los derechos sociales- que no son individuales sino derechos colectivos. Los derechos colectivos no se encuentran suficientemente protegidos.</i>
7.66. Agnieszka Bień-Kacała - Poland	<i>The professor has chosen not to publish her answers</i>

⁴ <https://tc.gob.pe/jurisprudencia/2017/02765-2014-AA.pdf>

⁵ Bridart Campos, G. J. , "Manual de la Constitución Reformada", Tomo I, quinta reimpression, Buenos Aires, p. 493.

⁶ *Op. Cit.* p. 494.

⁷ Art. 7, American Convention of Human Rights, adopted at San José, Costa Rica, 11/22/1969, at the Interamerican Specialized Conference on Human Rights, entry into force 07/18/1978.

⁸ Abramovich, V., Bobino, N y Curtis C., “La aplicación de los tratados de derechos humanos en el ámbito local”, Pinto, M., *El principio pro homine. Criterios de hermenéutica y pautas para la regulación de los derechos humanos*, Buenos Aires, Argentina, 2004, P. 163/4.

7.67. Professor Dr. Claire Breen - Australia	
7.68. Marwan Al-Moders - Bahrain	<i>The Professor has send articles.</i>
7.69. Dhia Al Uyun - Indonesia	<i>Iya. Tentang perlindungan bagi LGBTQ yang mana bertentangan dengan hak asasi manusia di Indonesia yang menolak LGBT. Realitas lainnya adalah diskriminasi terhadap mayoritas karena tekanan individualism. Minoritas karena perlindungan negara, bertindak sewenang-wenang dan tidak toleransi.</i>