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Are human rights ethnocentric? Cultural bias and theories of moral development

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Although I am a cultural anthropologist, I am certainly not a cultural relativist. In my work on social and cultural evolution, especially in *The Foundations of Primitive Thought*, I have made more use than any other anthropologist of Piagetian developmental psychology, and in my latest book, *The Evolution of Moral Understanding*, I also give Kohlberg's theory of moral development a central place.

In this I show that as societies become more complex the sorts of moral issues that have to be confronted lead to a development of moral thought, from the Pre-Conventional thinking typical of hunter-gatherers and simple farming societies through Conventional to the Post-Conventional thinking found in the élites of literate civilisations. This type of reasoning is capable of thinking about society as a whole and about hypothetical social orders, of the abstract individual regardless of social status, of recognizing the purely conventional nature of custom, of distinguishing between law and morality, and so on. There are clear parallels between Kohlberg's and Piaget's account of moral development, and the evidence of moral thinking from history and anthropology; the moral ideas of tribal societies, for example, are not just *different* from ours but fail to grasp certain essential moral issues. For instance, it is not an adequate justification of human sacrifice or head-hunting to say that "It is our custom" or "Everybody round here does it"; some deeper appeal must be made to general moral principles that go beyond the limits of one's own cultural traditions. Again, people who do not see that intention is an essential aspect of establishing moral responsibility for someone's actions have failed to understand an important ethical point. Guilt is more than being found out; being able to put oneself in the position of others is a genuinely important rule about how we should assess our moral obligations to them; these obligations cannot be based solely on their

social status; and there are more compelling justifications for doing what is right than custom or being popular with our neighbours. Those anthropological relativists who claim that Kohlberg's and Piaget's schemes of moral development are ethnocentric are therefore mistaken.

One of the characteristics of Post-Conventional or Principled moral thinking is the ability to think of other people as in a sense abstract individuals, regardless, that is, of their social status, gender, nationality, and so on, to whom we have certain basic moral obligations. These are summed up in the Golden Rule, to do to others as we would have them do to us, and in this sense all human beings have an equal claim on our consideration. This is a perspective that we also find in the world religions, but *moral* equality of this sort is too general, as such, to have much to say about *social* equality and cannot by itself be the basis for claiming that distinctions of status, rank, wealth, and so on are unjust. The principle of moral equality cannot tell us, for example, whether people should be paid according to the value of what they actually produce, or in accordance with their needs, or at a rate to attract applicants to that particular job in the labour market or, indeed, if everyone should be paid exactly the same, as George Bernard Shaw maintained. Kohlberg, however, specifically relates moral equality to a Lockean and Rawlsian moral philosophy in which the individual is understood as prior to society: "The moral rights of individuals are prior to law and society...The demands of law and society derive from inherent moral rights rather than vice versa" (Kohlberg *The Psychology of Moral Development*, 1984, pp.177,179). In such a system of moral philosophy, of course, which gives primacy to free and equal individuals, justice and human rights then become fundamental concepts, and Kohlberg assumes that the use of arguments based on human rights is evidence for moral reasoning at the Post-Conventional level of moral thought.

Now I do not dispute for a moment that the ability to understand abstract arguments about human rights is cognitively advanced and is quite properly treated as characteristic of Post-Conventional thinking. My point is that some Post-Conventional thinking, like Formal Operational thinking in general, can also be wrong. There are many examples in the social and natural sciences of theories that, conceptually, involve hypothetico-deductive, propositional reasoning but are nevertheless mistaken because

they rest on false assumptions, and I think this is true of Kohlberg in this case. My argument will be that he was insufficiently critical of the cultural assumptions of his own Western intellectual tradition, particularly with regard to the relations between the individual and society and the concept of universal human rights.

The Western theory of human rights essentially began with John Locke's reflections on the struggle of the English Parliament against the absolutist claims of the Stuart Monarchy. They were taken further in eighteenth century France when the middle classes challenged the privileges of the aristocracy, at the same time as the American colonists rebelled against the authority of the British crown. In the twentieth century, the United Nations drew up its Universal Declaration of Human Rights in response to the atrocities committed by the Nazi and Japanese regimes in World War II. In all these cases, particular governments and social orders were seen as oppressive, and those responsible for developing the theory of human rights wanted to go behind what they regarded as corrupt societies to a universal model of human relations based on Man himself.

For Locke and his successors this model was the State of Nature in which individuals have no natural authority over them, but freely enjoy life, liberty, equality, and property, and therefore the only legitimate basis of government was a notional contract between these free individuals with the aim of preserving their fundamental rights. The Protestant belief that the individual alone was responsible for his sins to God, and that no Church or priest, or Communion of Saints, could intercede for him with God was also a powerful basis for the idea of fundamental rights.

The problem is that the idea of the pure individual who enjoys certain rights simply as a human being, not as a member of society, is factual and logical nonsense. As a matter of fact, we only possess our human faculties of speech and reason because, since infancy, we have grown up in a real society and learnt its language and its customs, and acquired the knowledge accumulated by untold generations of our ancestors. And as a matter of logic, the idea of fundamental rights belonging to a lone individual outside society is nonsense, too, because the only sorts of things that can belong to individuals are physical or mental qualities, like height and hair colour, or intelligence and knowledge. Rights, in other words, are inherently social, not individual, because they are

a class of rules, and rules must by definition apply to more than one person because they prescribe how X should behave to Y. For example, the right of free speech only makes sense if there is someone else to listen; the right to property assumes that there is someone else to take it away; and the right to equality assumes that there is someone else who might claim superiority. Robinson Crusoe had no rights.

The idea of the inherent or natural rights of individuals therefore makes no sense at all because it ignores the inherently social condition of Man. But it is perfectly reasonable to claim that governments have certain inherent duties to their citizens, and we do not need an imaginary social contract between free individuals in a State of Nature to make this point. What else could justify the duty of subjects to obey their ruler and the payment of taxes or military service, except the obligation of the ruler to give his people certain benefits in return? In the pre-modern world the ruler had a divine legitimacy, but he also had divinely commanded responsibilities to his people as well, notably to rule benevolently and to give his subjects peace, order, and justice, and to prevent the abuse of the weak by the strong. While, of course, the main political problem in the pre-modern world was to get rulers to honour their obligations to their subjects, there never was and never could be any principled justification for tyranny and oppression. So, too, in the modern world, if we put the divinity of kings on one side, and treat government as purely secular, it is perfectly reasonable to say that the state exists, as it always has, to preserve order and justice, but that because power corrupts, there should be certain restraints on government that we now refer to as the rule of law and constitutional government. These are embodied in a number of political rights that specifically target those areas where oppressive governments are most likely to attack their citizens: rights such as freedom of speech and of the press, security of one's person, house, and possessions from arbitrary search or seizure, to communicate freely with others and assemble peacefully without surveillance by the state, the right of the people to hold the government to account in elections, and the right to a fair trial.

The right to a fair trial, indeed, follows logically from the nature of social order itself. Every social order is maintained by rules, and there *can* be no rule without sanctions or punishments, formal or informal, against those who break it. Punishment for its own sake, regardless of the guilt or innocence of the accused, is obviously absurd, so

if there are formal punishments, as in the criminal law, there must be some procedure for establishing the guilt or innocence of the accused based on reliable evidence. The accused must have the right to answer the charges against him as part of this process, not only to establish the facts but because an essential aspect of legal responsibility is the mental state of the accused, in particular his intentions, and only the accused can testify to these. All the other criteria of what is generally accepted as judicial fairness can be justified in similarly social terms.

At this point some would accuse me of quibbling by talking of the *duties* of governments to their citizens, rather than of the *rights* of individuals to certain things from their governments; the idea of the Rights of Man, they would say, may be philosophically muddled but they were brilliant propaganda that shook tyrannical regimes to their foundations and brought about a fundamental and beneficial change in the way in which governments treat their citizens. As long as one is talking about modern states there is a good deal of force in this, although the anthropologist would point out that the right of free speech can mean nothing in a tribal society without a government to threaten it, just as the right to vote can mean nothing in a mediaeval society of illiterate peasants.

The problem is that while the philosophical muddle on which the doctrine of fundamental human rights is based can be largely overlooked as long as we are discussing political or constitutional rights, it becomes much more dangerous once we come to what I shall call social rights. Political or constitutional rights essentially tell governments what they are *not* allowed to do to their citizens, and since the means of oppression are pretty well known we have over the centuries come up with a set of rights that can be justified by reason and experience. But social rights are concerned not so much with what governments should *refrain* from doing, as with what society as a whole, and indeed the whole human race, *ought* to do for those who are seen as oppressed in a vast number of different ways. The Universal Declaration of Human Rights by the United Nations lists some of these: the right to a job, to marry and have children, to rest and leisure, to education, and to enjoy the arts, for example. In this conception of human rights we are no longer dealing with the victims of oppression by governments, but with what are portrayed as the victims of society, or of life in general, and who are said to have had a raw deal. No one would deny that having a job, being able to marry and have

a family, to receive an education, and so on are all good things, but unlike political rights, where there are rational criteria for discussing, say, the right to vote, or the criteria of a fair trial, social rights are simply a wish-list of nice things, to which one could go on adding indefinitely – the right to a good standard of living, to be included in the life of one's community, to a stable future, and increasingly the right not to be offended.

Whereas political rights can be fairly clearly and tightly defined in terms of the obligations of governments to their citizens, the problem with these broader social rights is deciding whose duty it is to provide them, and how to balance them against all the other requirements of social life – public order and health, the needs of the economy and industry, administrative efficiency and so on. For example, societies have traditionally regarded children's education as requiring a level of discipline that would be inappropriate for adults, but advocates of children's rights dispute this, and are willing to accept increased disorder in the classroom as the price of what they claim is an extension of human rights to an oppressed group. There is clearly, here and in the whole field of social rights, a conflict between liberty and order which cannot be settled with the same clarity and reasoned arguments as those for political rights because it rests on personal values, priorities, and beliefs.

A further example is a good illustration of this. In Britain recently a man claimed the human right to walk naked from Land's End in Cornwall to John o' Groats in the north of Scotland and eventually succeeded, although he spent more time in various gaols for violating public decency than actually walking. But if we take the idea of human rights seriously as deriving from Locke's State of Nature it is hard to see why his right to nudity is not just as important as the right of other people not to be offended. Since claims for the rights of one class of people, such as children or nudists, must inevitably conflict with the rights of other classes, such as parents or the general public, how are such conflicts to be resolved? To what meta-theory of fundamental rights can we appeal once we assume that the individual is the basic source of rights?

The notion of human rights has also been complicated by the even more problematic claim that we can meaningfully talk of *group* as well as *individual* rights, so that certain groups claiming to be oppressed are entitled to redress. This redress may actually involve violating the legal norm of equal treatment for all by advocating

preferential treatment for members of groups defined as oppressed, so-called “affirmative action”. I do not intend getting into the rights or wrongs of all this, but would merely reiterate that this sort of discourse involves huge leaps of logic from the tight set of arguments justifying constitutional or political rights, and is essentially cultural in nature. The view one takes in such cases depends among other things on one’s personal politics, and on the relative weight one gives to liberty and equality as against order, discipline, and tradition.

In other words, there is no clear method or procedure for discovering or establishing what is a basic human right that is remotely comparable to those rights existing in common and statute law, and there *can* be no such method or procedure because individualism has abandoned the whole idea of society, and the notion that societies have certain organizational requirements that cannot be based primarily on the needs of individuals.

To sum up, then, the constitutional rights endorsed by Western civilisation, although expressed in the Western idiom of rights, are not ethnocentric because they are essentially a codification of the traditional and rationally justifiable duties of rulers to their citizens, and so have universal validity for all modern states. But the broader social rights advocated by Western liberalism are far more open to the charge of ethnocentrism because they rest on a whole set of cultural assumptions about human nature, priorities, and values that can be *explained* by the history of Western civilisation, but with which members of other cultures have no obligation to agree.