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## Review

# Reframing the intercultural dialogue on human rights: A philosophical approach

Jeffrey Flynn

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*Reframing the Intercultural Dialogue on Human Rights* represents an important contribution to the ongoing discourse on human rights. With such thinkers as Seyla Benhabib, Charles Beitz and Joshua Cohen, Jeffrey Flynn supports an approach that eschews the foundational appeal to a source of authoritative norms common to classic and contemporary versions of natural law theory. Instead, he advances a ‘dialogical’ account of human rights rooted in the actual practice of peoples and persons worldwide forging the conditions of their association. He calls this an ‘intercultural’ approach, and its strengths are clear. By construing human rights as the actual product of global dialogue, he seeks to avoid the parochial and ethno-centrally ‘Western’ character of much of the human rights discourse associated with the natural rights tradition. Flynn’s project thus shares affinities with those sensitive to the challenges posed to the discourse on human rights by the fact of cultural and religious pluralism. His approach is distinguished, however, by its effort to provide a philosophical ‘reframing’ of the nature and proper conditions of the intercultural dialogue on human rights. Included here is a broadening of the terms of that dialogue. On the one hand, Flynn seeks to supplement a model directed to the consensus-oriented deliberation of elites (that reflective of the drafting of the 1948 Universal Declaration of Human Rights) with one that accommodates the human rights struggles of international and local activists, indigenous groups, ordinary people, and others who contest ruling rights interpretations. On the other hand, he situates the intercultural dialogue on human rights within the broader context of ‘globalizing modernity’, delineating institutional requirements entailed by processes of global multiculturalism.

In pursuing his project, Flynn relies especially on the resources of Jürgen Habermas’ discourse theory, ‘the best framework for this endeavor’ (p. 7). He champions the Habermasian approach by contrasting it with kindred efforts, notably those of John Rawls and Charles Taylor. For Flynn, all three approaches represent compelling attempts to fashion an account of universal human rights that (i) rejects



the foundationalism of the natural rights tradition, (ii) promotes global multiculturalism, and (iii) avoids the relativism common to some rejections of foundationalism. Rawls is credited for advancing a strictly ‘political’ approach to human rights that, in avoiding controversial philosophical foundations, provides a framework for engaging non-Western perspectives. However, by focusing on toleration rather than deliberation, he fails to accommodate the type of open-ended discussion that must be part of the intercultural dialogue on human rights. Taylor, with his cross-cultural rendering of Rawls’ overlapping consensus, does provide for a more robustly dialogical approach to the intercultural discourse on human rights, yet his theory inadequately incorporates the normative considerations that would make that approach sufficiently determinate. By contrast, Habermas’s discourse theory, oriented to public justification through dialogue, affirms the general aims of both Rawls’ and Taylor’s approaches, while avoiding their respective difficulties. Yet Flynn also draws on Rawls, Taylor and others to propose modifications enabling Habermas’ general approach to better facilitate the intercultural dialogue on human rights.

As a general matter, Flynn does a masterful job in appropriating the tools of discourse theory to reframe the intercultural dialogue on human rights. But one can ask whether the Habermasian theory, valuable as it is in so many respects, is – even with Flynn’s modifications – fully adequate to the task of fashioning such a dialogue.

One issue, addressed in Chapter 4, is the objection raised by some Asian and African theorists that the Western model of human rights is excessively individualistic. According to Flynn, Habermas accepts elements of this critique, yet responds not by jettisoning, as some do, the Western notion of individual legal rights. Instead, he contends, in line with his notion of the co-primordially of public and private autonomy, that individual rights themselves ‘are grounded on the intersubjective foundation of a legal order’ (p. 114). Yet it is unclear if this response fully addresses the critique. While Habermas’ model effectively challenges the one-sidedness of traditional liberal understandings of individual rights, it does not obviously address the concerns of those for whom intersubjective community is not just a framework to facilitate a system of individual rights, as seems to be the case with Habermas, but instead is constitutive of the meaning of rights themselves. For his part, Flynn follows Habermas in disputing the tenability of more robustly communal notions of individual rights, claiming that the socio-economic exigencies of global modernity now assign unavoidable priority to a Western model of legal rights. But leaving aside Habermas’ intervention in the general debate, addressed by Flynn in Chapter 6, on multiple modernities, one can ask if this move is fully compatible with the goals of ‘genealogical decentering and dialogical decentering’ (p. 170) claimed by a project that seeks to advance ‘an interpretation of human rights that is acceptable from non-Western perspectives’ (p. 91).

In Chapter 5 – ‘How to Frame a Real Dialogue’ – Flynn most clearly presents the theoretical underpinnings of his approach to the intercultural dialogue on human rights. Here he details the fundamentals of what he takes to be the superiority of a



Habermasian approach to those approaches – represented, whatever their differences, by Taylor, Rawls and Rawlsians – directed to a substantive account of shared norms and values. Flynn rejects these approaches in part owing to the difficulties posed by global cultural plurality for any substantive agreement on beliefs and values. Instead, he follows Habermas in appealing to the argumentative procedures that must inform the practice of those participating in a global dialogue about human rights.

One can ask, however, if procedural and substantive considerations are so easily distinguished, just as one can also question the related distinction, also central to Flynn's Habermasian project, between the right and the good. If, as has been claimed by critics from diverse perspectives, this distinction cannot be easily maintained, then one can also question the plausibility of an approach to the dialogue on human rights other than one represented by the practices of members of the global community coming to some substantive agreement – provisional, contested and revisable though it may be on shared norms and values. Flynn opposes such appeal to actual practices in part because it fails to accommodate the normative considerations needed to question and criticize the deficiencies of what can result from those practices. Yet it is unclear if norms can be identified and implemented outside actual practices; it is also not clear, as has been argued by James Tully (to whom Flynn makes no reference), that an actual intercultural discourse on human rights – which arguably cannot occur without ongoing reflection on the conditions of dialogue itself – is itself devoid of its own norms of criticality. In distinguishing his own view from that of Habermas, Flynn shows an awareness of these issues, invoking Thomas McCarthy's notion of dialogue as the ongoing activity of 'reflective participants.' Yet if he does accept McCarthy's position, then his commitment to features of the Habermasian programme, like its sharp distinction between epistemic and practical levels of discussion, is difficult to maintain.

In Chapter 6, Flynn addresses the charge that the discourse on human rights is tied to a secularist worldview hostile to non-Western notions of religious belief. In response, Flynn's aim is not primarily to confront the general opposition of Western secular reason to non-Western religious belief. Consonant with his general project, it is rather to rethink Western interpretations of the religious and the secular in a way that challenges traditional Enlightenment views regarding their opposition. He does so through appeal to the notion of post-secularity developed by Habermas in his account of the place of religion in the public sphere. The upshot of this endeavor is to furnish a framework for 'cooperative translation' between religious and secular citizens.

Flynn's analysis in this chapter is rich, informative and characteristically clear. It also represents an important component in his effort to facilitate the intercultural dialogue on human rights. Yet here, too, it can be asked if the Habermasian framework is sufficiently broad to facilitate that dialogue adequately. However, much Habermas seeks to decenter the Western notion of secularity, he remains committed to features that arguably are unacceptable to all participants in an



inclusive intercultural dialogue on human rights. These include the notion that accommodation of religion in the public sphere must (and can) be restricted to the informal domains of deliberation, that religion remains reliant on a dogmatic core, and that reason itself is easily demarcated from faith. Dispute over this last point is a core element in the debate between Habermas and Taylor, who – Flynn’s claims notwithstanding – do not obviously share ‘the same aim of undermining secularistic certainties’ (p. 161). In this chapter, Flynn again seeks to challenge one-sided notions of secularistic reasons so as to facilitate greater openness to other traditions and cultures. Whether that is enough, however, to fashion an intercultural dialogue oriented to ‘cooperative translation’ is unclear.

In Chapter 7, the final substantive chapter, Flynn addresses conditions needed to institutionalize the intercultural dialogue on human rights. He considers certain formal conditions, like Habermas’ proposal for a reformed UN General Assembly. But he also considers more informal options, including forms of transnational solidarity he associates with the idea of a global public sphere. Here Flynn supplements the form of ‘reactive’ solidarity he ascribes to Habermas with the more ‘active’ form he claims is needed to achieve a really existent human rights regime. Whereas the former construes solidarity as indignation over human rights violations based on already existent collective sentiments, the latter – Flynn here draws on arguments by Craig Calhoun – sees the intercultural dialogue as itself a source for generating a transnational solidarity with regard to human rights. For Flynn, this type of solidarity is facilitated by attention to global inequality and, in particular, the ‘positive’ socio-economic rights that he claims are inadequately addressed by Habermas. More so than attention to negative rights, that directed to subsistence rights depends on the active cooperation and concerted action on the part of members of the global community.

Flynn is undoubtedly correct in asserting that an active form of transnational solidarity is needed to institutionalize a human rights regime. He also does well to emphasize the issue of global inequality. Yet one might ask if appeal to a global public sphere should be restricted simply to the question of *implementing* human rights. For a theory committed to the intercultural dialogue on human rights, is it not also appropriate to see the global public sphere as itself a site for clarifying, validating and even forging a doctrine of universal human rights? Isn’t this the view entailed by the social-historical account of universality that Flynn himself, following Benhabib and Waldron (pp. 5–6, 125), says is central to intercultural discourse on human rights? And wouldn’t such a view follow from rejection of the reactive form of human rights solidarity for which Flynn criticizes Habermas?

In his discussion of transnational solidarity, Flynn also allows that the intercultural dialogue of human rights can fashion a culture supportive of human rights. Yet one might ask if this dialogue might not require a culture of its own, something like the democratic human rights ethos detailed by Tully. Flynn does not appear to acknowledge this option, perhaps because it might conflict with the procedural



account of the intercultural dialogue he champions. Yet one wonders if a procedural account can itself be sufficiently realistic without some solidaristic support of its own.

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