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Women's Rights as Human Rights: Problems and Paradoxes

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In modern times human rights discourse has been increasingly used, over-used and arguably misused to make demands of governments, corporations, fellow citizens – practically any public figure or body. Nonetheless, as the recent case of Abu Qatada demonstrated, core issues in the human rights discourse continue to be debated. For example, whose rights (e.g. an individual's/a nation/culture) or which particular rights (e.g. right to not be tortured/right to security), take precedence over others.

In international relations, many have argued that human rights are not actually universal but rather Western in origin. Their objections to international human rights conventions have often been framed in terms of “cultural” differences. However, in what circumstances, and in whose interests “culture” is evoked can also be highly contentious. For example, the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has been ratified almost universally but has more reservations than any other human rights treaty, and many of these reservations are on the basis of “culture” (UNIFEM, 2009). Feminist critiques, such as the work of Uma Nurayan, have understandably raised concerns that many have selectively equated human rights with Western neo-imperialism as a means of protecting patriarchal gender relations, rather than any real concern for the intrusion of “Western” values.

Nevertheless, it is important to acknowledge that the modern human rights discourse did indeed emerge out of a particular geopolitical and historical context, namely post-WWII Europe, and consequentially is embedded in a particular ethical tradition. Yet, accepting this premise does not necessarily mean we should reject human rights as a principle which has universal potential, nor does it mean we must disavow the voice and legitimacy that the human rights discourse has lent to the claims of numerous “Davids” opposing various “Goliaths”.

As I mentioned earlier, the relationship between feminism and the human rights discourse has not always been an easy one. An initial problem regards the “human” in human rights. Historically, the “free individuals” that actually enjoyed human rights have almost exclusively been white, upper-class men. Moreover, even as other groups have fought and gradually won these rights for themselves, the default liberal subject continues to be the figure of the privileged white man. As a result, anyone who has deviated from this has often required “additional” rights in order to ensure their entitlement to human dignity is met.

There are a number of problems with granting “special” rights to certain groups, however. To begin with, these special rights undermine the principle of *universal* human rights. Furthermore, as Wendy Brown has pointed out, in order to protect a certain vulnerable group, these special rights identify that group as *vulnerable* and thus reinforce the perception that that group is weak. For example, while all humans – male and female – should have a right to protection from sexual assault, if we ignore that women are more often the victims of sexual assault, the gendered nature of this problem is hidden. Conversely, if we were to stipulate that women in particular must be protected from sexual assault, we would reinforce the perception of women as victims of sexual assault.

Inderpal Grewal has identified another problem with women's rights. Specifically Grewal points to the way that the discourse of “women's rights as human rights” has created a “global feminist subject”, much in the same way that

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the historic rights discourse (discussed above) created its liberal subject. And this “global feminist subject” has problems of its own. While claiming to be fighting on behalf of women the world over, the discourse on women's rights has in fact been sensitive only to those needs which are easiest to rally transnational support around. As a result, there has arguably been a disproportionate focus on the issue of violence against women. While clearly an important and urgent issue, this over-emphasis has meant other issues and rights have been neglected. Grewal particularly emphasizes that global economic inequalities *between* women has meant material issues (such as inheritance rights, protection of female migrant workers, global value chains) have not been popular, raising as they do issues of personal culpability and complicity.

As all this makes clear, human rights are not a self-evident or natural way of expressing claims and demands. Still the human rights discourse is likely to endure for the foreseeable future if only because its claims to universality and equality are compelling to people everywhere. But while rights discourse has been credited with helping advance the rights of minority groups, such as LGBT movements, they do not offer a magic solution and have inherent tensions and paradoxes. Wendy Brown captures this point succinctly when discussing women's rights:

“Rights function to articulate a need, a condition of lack or injury, that cannot be fully redressed or transformed by rights, yet can be signified in no other way within existing political discourse. Thus, rights for the systematically subordinated tend to re-write injuries, inequalities, and impediments to freedom that are consequent to social stratification as matters of individual violations and rarely articulate or address the conditions producing or fomenting that violation. Yet the absence of rights in these domains leaves fully intact these same conditions.” (Brown, 2000, p. 239).

Thus, we have no option other than to work within the prevailing discourse of human rights, but should be aware of the limits of this course of action, and remain focused on the wider goals which may seem impossible now (whether that's the overthrow of patriarchy, capitalism, elimination of racism or establishment of a truly cosmopolitan society of states!). After all, the etymology of “paradox” is simply “contrary to common belief/opinion”, and there's nothing final about that.

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