The Concept of 'Suffering' in Human Rights Discourse: A Response to Richard Rorty's "Human Rights, Rationality and Sentimentality"

by

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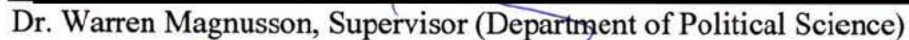

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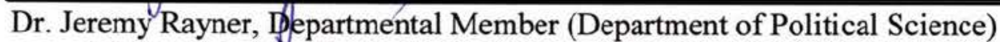

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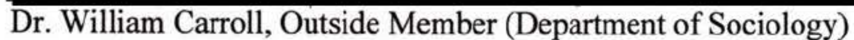

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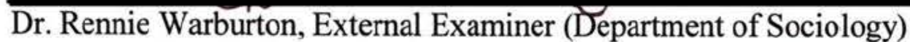

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ABSTRACT

This thesis is a response to Richard Rorty's essay entitled, "Human Rights, Rationality, and Sentimentality," in which Rorty suggests that existing approaches to human rights concerns should be discarded in favour of an approach he calls 'sentimental education,' through which people learn about the particularities of others' lives – and particularly their suffering – in order to foster more enriched cross-cultural understanding and action to end violence and oppression. My method entails an analysis of Richard Rorty's writings, theoretical writings on human rights and suffering, and critical analyses of Rorty's writings. I explore the implications of attempting to use the concept of suffering as a foundation for a new approach to human rights problems. I argue that, although Rorty avoids some problems inherent in universalist approaches to human rights and some pitfalls inherent in constructivist discourses, his proposal does not provide a satisfying resolution to the central debates in human rights discourse.

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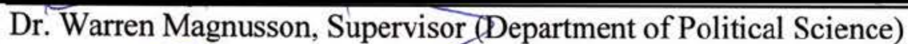

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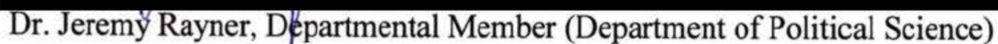

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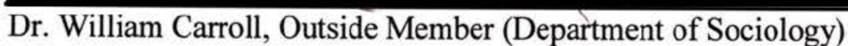

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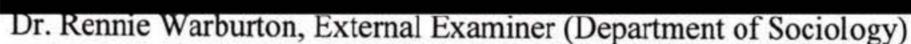

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Introduction

Purpose

Human rights discourse plays an important role in contemporary political theory. Rights talk is pervasive in Western societies, and is rapidly gaining influence in many non-Western regions. Its proponents argue that the concept of human rights satisfies the moral need to provide foundations for a universalist understanding of justice, in an era in which we can no longer rely on the certainty provided by the ultimate law of religion. Human rights language is the dominant contemporary vehicle for understanding human need and our obligations to other people.

This thesis is a response to an Amnesty Lecture delivered by Richard Rorty entitled, "Human Rights, Rationality, and Sentimentality," in which Rorty suggests that existing approaches to discussing and acting on human rights concerns should be discarded in favour of an approach he calls 'sentimental education,' through which people can learn about the details of others' lives – and particularly their suffering – in order to foster a more enriched cross-cultural understanding and more effective action to end violence and oppression. I have selected Rorty's approach as worthy of analysis because he is uniquely positioned as an anti-universalist who believes that human rights language (a universalist discourse) can be salvaged from its Enlightenment roots through its commonplace use in the realm of 'culture' (and not only Western culture) to become a useful tool against oppression. Unlike most human rights universalists, Rorty does not take as given the ontological status of human rights; but unlike most constructivists, he is able to propose a way to use human rights as they exist, in the realm of *culture*, as a basis for concerted action.

My purpose is to evaluate Richard Rorty's proposal for taking a new approach to human rights theory. In other words, I will analyse whether it is coherent and effective to reject a universalist view of human rights while advocating that human rights discourse can and should continue to be used as a basis for judgement and action, provided that it is informed by a better understanding of particular human suffering. I will evaluate whether

his approach succeeds in avoiding the theoretical problems inherent in other approaches to human rights issues, and draw conclusions concerning the merit of his approach in resolving the universalist/ cultural-relativist debate.

Method

My method entails a textual analysis of several subjects: Richard Rorty's writings, theoretical writings on human rights, texts on suffering, and critical analyses of Rorty's writings which address his views on suffering and human rights. Through close textual reading, I will contextualize Rorty's approach in the existing literature on human rights theory and debates concerning the cultural construction of 'suffering,' and I will explore the implications of using 'suffering' as a foundational concept for developing 'sentimental education' and thereby a new approach to human rights problems.

Conclusions

I will argue that, although Rorty avoids some of the problems inherent in universalist approaches to human rights and some of the problems inherent in more radically constructivist discourses, he does not provide a satisfying approach to human rights based on the principle of avoiding suffering. Having explored a number of views on the cultural construction of 'suffering,' I will demonstrate that the concept is radically contested and interpreted differently over space and time, and thus does not provide a sufficiently solid foundation on which to build a new approach to human rights.

I will, however, highlight a promising facet of Rorty's work, namely that he recommends the increased use of ethnographic writings in developing responses to human rights problems, in order to foster cross-cultural understanding, empathy, and action against violence and oppression. I will point toward an alternative approach based on the notion of human rights as agreement, rather than as ontological truth, and suggest a way to take into account cultural differences while building a better-grounded, albeit contingent, discourse of human rights that is a useful tool for the oppressed.

Chapter One: Contemporary debates in human rights theory

The purpose of this chapter is to provide the contemporary context for the human rights problems that will be considered in the rest of this paper. My discussion of the contemporary debates will outline the universalist position on human rights, and will subsequently present the major criticisms of human rights theory from perspectives within anthropology, philosophy, and politics. My intention in this chapter will be to show why thinkers such as Richard Rorty have attempted to reconceptualize human rights and detach them from their Enlightenment origins.

Defending universal human rights

International human rights principles are popularly seen as a set of moral guidelines to which we can compare existing, imperfect, systems of rights. Human rights principles are important because they have been accepted internationally as a way of promoting justice and peace in the world. The Universal Declaration of Human Rights, drafted after the Second World War, states that: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

Jack Donnelly is considered one of the principal contemporary defenders of a universalist theory of human rights. In his *International Human Rights*, Donnelly argues that we need universal human rights standards to protect human dignity, primarily from the state and from the free market. Donnelly presents a defence of universalism against what he calls the 'strong' version of cultural relativism, while simultaneously recognizing that human rights discourse can be strengthened and legitimated by incorporating a recognition of cultural difference in a 'weak' sense.

As Donnelly claims, any theory of human rights must be premised on a theory of human nature. Without a conception of a nature which lies beneath all socialization and cultural variances, it would be impossible to claim that humans have rights by virtue of their being human. Donnelly points out that it is insufficient to base human rights on a

'scientific' or physiological understanding of what humans require, as the list of rights produced by this reductionist view would be insufficient to protect a life worth living; it would merely provide for subsistence. "We have human rights not to what we need for health but to what we need for human dignity."[1]

Having rejected this physiological approach to rights, Donnelly suggests that a moral understanding of human nature is therefore required.

> The human nature that is the source of human rights rests on a moral account of human possibility. It indicates what human beings might become rather than what they have been, or even what they 'are' in some scientifically determinable sense. Human rights rest on an account of a life of dignity to which human beings are 'by nature' suited and the kind of person worthy of and entitled to such a life.[2]

Donnelly cites Alan Gewirth's argument that human rights are those rights which enable humans to act as 'moral agents.' Similar approaches define human rights as providing the conditions of possibility for 'human flourishing' or 'living a life of virtue.'[3]

Donnelly rejects the view that 'human nature' is no more than a product of historical processes. If this were true, he says, it would be "pointless to speak of equal and inalienable rights held by all people simply because they are human."[4] In other words, the universalistic view of human rights is dependent on an essentialist conception of human nature. Human rights are not compatible with the view that socialization or culture goes 'all the way down.'

Michael Ignatieff is another leading defender of a universalist theory of human rights. In *The Rights Revolution*, Ignatieff explores what it means to have rights and why we claim to have them: "[R]ights regimes exist not to define how lives should be led, but to define the condition for any kind of life at all, the basic freedoms necessary to the enjoyment of any kind of agency, . . . [meaning] the capacity of individuals to set themselves goals and accomplish them as they see fit."[5] In keeping with Donnelly and Gewirth, Ignatieff argues that rights require human agency to be respected above all else.

Ignatieff sees the modern-day system of human rights and civic (citizenship) rights as derived from two complementary sources: residual rights of agreement (social contract rights) and human rights, i.e., those rights which people everywhere in all times have

possessed even when they have not been recognized as such. "Constitutions do not create our rights; they recognize and codify the ones we already have, and provide means for their protection. We already possess our rights in two senses: either because our ancestors secured them or because they are inherent in the very idea of being human."[6] In Ignatieff's view, inherent human rights are a "residual system of entitlement" upon which people may rely when their other rights fail them.

As a typical liberal, Ignatieff argues that human rights discourse does not 'promote' a particular political philosophy; it simply provides a neutral framework for arbitrating between competing claims. "Rights aren't intrinsically in the service of either progressive causes or conservative ones. They're just there to keep our arguments orderly."[7] Human rights essentially provide individuals with a moral claim against the state, a claim which is recognized internationally as 'overriding' the system of state laws, or the rights of the state. Some nation-states do not agree with this override, and therefore refuse to ratify international human rights conventions. Ignatieff defends universal human rights, however, by arguing that they offer a way of protecting individuals from the tyranny of majority rule.

At the same time, Ignatieff moderates his universalist approach to human rights by recognizing that it is not the place of the West to 'impose' human rights on other cultures. While human rights themselves may be universal, it is still a matter of negotiation to determine how they may be implemented.

> Human rights are not the trump cards that end arguments. In the real business of moral life, there are no trumps. There are only reasons, and some are more convincing than others. If this is true, then the legitimacy of human-rights interventions – the large ones that marshal armies and the small ones that intercede in personal lives – can only ever be limited and conditional.[8]

Thus Ignatieff argues that human rights cannot be used to justify imperialism; they can only be used as a framework for negotiating between competing conceptions of the good. While human rights themselves are universal, their application must always be subject to reasoned argument and arbitration.

Cultural anthropological perspectives on human rights

For half a century, but increasingly during the past two decades, advocates of universal human rights have had to defend their theories against the 'spectre' of cultural and moral relativism.[9] Cultural relativism is the claim (developed by cultural anthropologists) that cultures cannot be judged by value systems other than their own. There are no objective, universal standards by which we can evaluate cultural practices and traditions; these practices and traditions can only be evaluated from within their particular historical and cultural contexts. Similarly, moral relativism claims that there are no universal, objective norms for deciding right and wrong, and that beliefs, values and actions can be evaluated only from within their particular, contingent contexts. Both moral and cultural relativism claim that a person's acculturation primarily determines the 'lens' through which that person will view other cultural contexts. Having delegitimated the idea of objectivity, or 'the view from nowhere,' relativism presents us with the intractable problem of making judgments and defending positions from whichever cultural standpoint in which we find ourselves.

The implications for epistemology, morality, and human rights theories are profound. Human rights talk has been increasingly called into question by theorists who recognize that it invokes a Western, individualistic conception of political relations. The specificity of the origins of the discourse problematize its applicability in parts of the world which have different cultural understandings of human nature, the relationship of the individual to the state and to society, and the extent of political obligations beyond one's own group, however defined. State leaders in certain countries have defended their traditional practices with the concept of cultural relativism, and have claimed that the human rights movement is tantamount to Western moral imperialism. For example, "India, China, and several Islamic countries such as Iran, Pakistan, Sudan, Afghanistan, Indonesia, and Saudi Arabia, have ancient legal systems, and call for human rights to be viewed in a historical and cultural context."[10]

Much of the more recent criticism of human rights from cultural anthropology has built upon the work of Clifford Geertz. The importance of Geertz's work to this field has been in his critique of the modern attempt to find substantial cultural universals – and to

ground them in the 'biological substratum' – which could then be used to justify the modern conception of 'human nature.'[11] Radical variation in cultural understandings of such concepts as human nature, morality, and justice points to the conclusion that there is no essential human being (underneath the 'clothing' of his or her culture) which shares with all other humans a core of dignity, moral worth, or moral agency. And without this universal substratum, there can be no universal human rights.

An early and influential text which took the cultural-relativist critique of human rights seriously was Adamantia Pollis and Peter Schwab's *Human Rights: Cultural and Ideological Perspectives*.[12] The authors' main argument was that the system of human rights developed in the post-war era was intrinsically ethnocentric and not applicable to non-Western cultures.[13] Here, the impact of arguments from cultural anthropology was clear: radical cultural difference had major implications for the applicability of universalist human rights. Human rights were viewed as a way for the West to impose its system of morality, and its individualism, on non-Western societies. In this respect, human rights were, at best, misguided attempts to falsely universalize a particular conception of justice, and, at worst, a form of cultural imperialism.

There has been an intense and ongoing rebuttal from human rights advocates against cultural relativism, and the debate is far from resolved. Universalists argue that cultural relativism is invoked by the powerful (i.e., non-democratic regimes and ruling classes) in non-Western nations to mask and justify brutal human rights violations. According to universalists, cultural relativism is never invoked by the ordinary people in a country, but only by its leaders who seek to maintain their status with impunity. While cultural anthropology has enriched human rights by insisting that human rights frameworks recognize cultural difference, it must now insist that the principle of 'cultural difference' is not used to justify violence, inequality and oppression. According to Carole Nagengast, for example,

> the concept of cultural relativity, developed by anthropologists to induce respect for difference, is appropriated, simplified, bastardized, and deployed by despotic states, politicians, patriarchs, and sometimes by well-meaning friends and scholars to rationalize and excuse human rights abuses. Anthropologists should take the lead in making cultural relativity a liberating and not a constraining concept.[14]

Nagengast's second point, about scholarly support of cultural relativist arguments, is an important one. She insists that scholars take responsibility for the political implications of their stance, emphasizing that vested interests must be exposed.

> [W]hat should we say to well-meaning cultural relativists, whether from the modernist or post-modern school? We need to *politicize* this position by asking about the status of the person or group who asserts that human rights are relative. . . . *[W]ho* claims that men and women have different rights as a matter of cultural principle or tradition? Then, we need to ask *in whose name* is the assertion that human rights are relative advanced? Next, in whose interests are these cultural principles? Who *benefits* from them?[15]

Donnelly echoes this point in his argument that respect for cultural difference cannot lead to paralysis. Even though there may be no universal agreement on basic human values, he says, we must still act on the values *we* hold to speak out against objectionable practices.

> [T]he Western legacy of imperialism demands that we show special caution and sensitivity when dealing with fundamentally clashing cultural values. Caution, however, must not be confused with inaction. Even if we are not entitled to impose our values on others, they are our own values. Sometimes they may demand that we act on them even in the absence of agreement by others. And if the values of others are particularly objectionable – consider, for example, societies in which it is traditional to kill the first-born child if it is female, or the deeply rooted tradition of anti-Semitism in the West – even strong sanctions may deserve neither respect nor toleration.[16]

In some ways, the anthropological tradition has moved on in recent years, in that the anthropological understanding of 'culture' has evolved. 'Culture' is no longer seen as a static entity which must be protected from the imperialism of other cultures. 'Culture' is now understood to be a fluid, dynamic set of processes, in which cultures increasingly affect each other, and which intersects with axes of power, development, gender, class, religion and other human constructs. "There is nothing we can call *a* homogeneous culture, or *a* nation that will be damaged if any aspect of it is challenged by dissidents or criticized by human rights organizations."[17] Anthropologists have moved away from

speaking of 'a' culture, and toward speaking of *cultures* – not monolithic, but multiple and changing.

Ann-Belinda Preis is one anthropologist who criticizes the way 'culture' is deployed in the human rights debate. She points out that this debate has "gradually, but effectively, lost its import within anthropology itself." This has occurred because "rapid changes in the modern world have forced anthropologists to rethink their discipline's fundamentally 'relativistic' position, and most importantly, its underlying assumption of 'culture' as a homogeneous, integral, and coherent unity." Changing perspectives on the notion of 'culture' – now seen as 'a network of perspectives, or as an ongoing debate' – have resulted in theoretical shifts that have implications for human rights. [18]

Preis finds that Western human rights theorists (Jack Donnelly, and Pollis and Schwab, for instance) attempt to homogenize non-Western societies, and tend to pronounce on the boundaries which separate acceptable from unacceptable cultural practices. In her discussion of Donnelly's defence of the 'essential character' of human rights, Pollis notes that Donnelly recognizes the value of non-Western views on rights, but still concludes that boundaries must be established around what constitutes acceptable practices, and that we must "reject an anything-goes attitude."[19] Preis responds, "Who is this 'we' authorized (by whom?) to 'keep choices restrained' and reject a so-called 'anything goes attitude'? Isn't this the much-debated Western hegemony discreetly slipping in, yet again?"[20] Her accusation indicates that even those human rights advocates who attempt to take cultural difference into account still fail to question their own positions of power, and to ask why *they* are authorized to decide which practices can be tolerated (by them) and which are not acceptable.

Preis argues that human rights discourse has been allowed to ignore changing perspectives on 'culture' only because it often takes place at an abstract and general level. She proposes that reconstructing 'culture' within human rights discourse will allow it to move beyond the universalism/cultural relativism stalemate.

> Human rights now form part of the multiple cultural flows between centers and peripheries in a world where 'cultures have lost their moorings in particular places,' and 'the rapidly expanding and quickening mobility of people combines

> with the refusal of cultural products and practices, to 'stay put.' In this culture-play of diaspora, familiar lines between 'here' and 'there,' center and periphery, colony and metropole have become blurred; hence, the question of the relevance or irrelevance of human rights has become strictly irrelevant.[21]

The implications of Preis' argument is that cultural relativists cannot avoid taking human rights culture into account. Although its universalism is unequivocally false, it has become embedded in the language and politics of countless cultures. It remains contested, but it cannot be removed from current debates over shifting norms and power.

The American Anthropological Association (AAA) adopted a declaration on human rights in 1999 which includes the following:

> People and groups have a generic right to realize their capacity for culture, and to produce, reproduce and change the conditions and forms of their physical, personal and social existence, so long as such activities do not diminish the same capacities of others. . . . As a professional organization of anthropologists, the AAA has long been, and should continue to be, concerned whenever human differences is made the basis for a denial of basic human rights, where 'human' is understood in its full range of cultural, social, linguistic, psychological, and biological senses. . . . The AAA founds its approach on anthropological principles of respect for concrete human differences, both collective and individual, rather than the abstract legal uniformity of Western tradition.[22]

This provides breathing space to understand how cultures may adapt to outside forces, including the human rights movement. If no 'culture' is immune to shifting and changing as a result of contact with other 'cultures,' it can no longer be argued that human rights is necessarily an alien concept that should not 'taint' a pure culture. With increasing globalization in communications, trade and technology, it has become more difficult to claim that cultures are static and should not be interfered with. This begs the question, of course, of whether globalization represents the ultimate success of Western cultural imperialism, but that is beyond the scope of this paper.

The point is that the discourse of human rights has generally been embraced by the oppressed, the impoverished, and the victimized in many parts of the world. It has been used as a tool to highlight and fight against the unfair practices of governments, police,

and dominant populations. It has, in a significant sense, become part of many non-Western cultures. As Preis argues:

> Human rights clearly have become part of a much wider, globalized, cultural network of perspectives. This does not mean, however, that they simply constitute an influx of alien meaning or cultural form which enters into a vacuum or inscribes itself on 'a cultural tabula rasa.' They enter various kinds of interactions with already existing meanings and meaningful forms. . . [C]ultural processes . . . are not simply a matter of constant 'pressure' from the center toward the periphery, but of a much more creative interplay. The periphery indeed 'talks back.' [23]

Human rights advocates ignore this interplay at their peril, as it is this dialogue which allows human rights to become embedded in cultural practices. It is not through international movements and agreements, but through the cumulative effect of local processes, that human rights standards become accepted.

Preis points to the work of Abdullahi Ahmed An-Na'im as a good starting point for developing a cross-cultural dialogue on human rights standards. An-Na'im argues that these standards are more likely to be respected within a given culture if they are seen as sanctioned by that culture. It is not by imposing human rights standards, but by improving the cultural legitimacy of those standards, that they will be observed.

> [T]here are many legitimate ways of influencing and informing the moral standards of a society. To dictate to a society is both unacceptable as a matter of principle and unlikely to succeed in practice. Cross-cultural dialogue and mutual influence, however, is acceptable in principle and continuously occurring in practice. To harness the power of cultural legitimacy in support of human rights, we need to develop techniques for internal cultural discourse and cross-cultural dialogue, and to work toward establishing general conditions conducive to constructive discourse and dialogue.[24]

An-Na'im essentially supports a modified version of Donnelly's approach, in that cross-cultural dialogue in the service of promoting universal human rights standards can be seen as a form of 'weak' relativism. The question remains, however, whether his is a tenable position, as he holds that moral interpretation can only be determined by moral

standards internal to a society. Given this, it may not be morally consistent to try to influence those standards from the outside.

The debate is, therefore, far from over. The universalists conclude that "radical cultural-relativist human rights arguments today seem to carry little conviction or persuasive power, either internally or internationally. . . . The universality of the Universal Declaration and the Covenants is now the real starting point for discussion."[25] At the same time, the cultural relativists recognize that there is still no global consensus on moral issues, so we must proceed with caution. As Elvin Hatch, a cultural anthropologist, suggests:

> No moral theory has yet emerged that provides the theoretical basis for making cross-cultural value judgments and that enjoys widespread acceptance; hence the paradox of ethical relativism: we can't live with it, but it isn't clear how to avoid it. Consequently, the tolerance that relativism called for should constitute our default mode of thought; it should govern our moral position in the absence of persuasive arguments to the contrary.[26]

Philosophical perspectives on human rights

The liberal tradition, on which human rights discourse is based, has been the dominant discourse in political philosophy for two centuries. It is this tradition with which other philosophies must engage in order to have an impact on the discipline. Three main challenges to liberalism have been Marxism, communitarianism and post-modernism. Each has called into question the underlying assumptions and values of liberalism, and in the process, has cast doubt on the legitimacy of the philosophical basis for human rights. Without going into all the facets of these debates, I will focus on their relevance and application to the discourse of human rights.

The Marxist critique of liberalism

The first major criticism from Marxism is that liberalism sacrifices too much in the way of equality in order to safeguard individual liberties. As we saw in Chapter 1,

socialist theory tends, by contrast, to emphasize equality over freedom. The argument that rights are meaningless without the material means to exercise them still poses a relevant challenge to liberalism today. While human rights discourse has evolved to include economic and social rights, the formulation of these rights tends toward a 'basic needs' approach, rather than being concerned with the equitable distribution of resources. From a socialist perspective, the continued existence of economic inequality within societies which operate within a framework of human rights points to a failure to protect human dignity. Material inequality must be addressed, and not simply ignored as it is within liberalism.

The second problem with liberalism, from a Marxist perspective, is that the claim to universal, inherent human rights is false and empty. The Marxist insistence on historicism means that rights have to be *won* and *defended* time and time again, that they were borne out of *struggle* and not out of a timeless notion of inherent human dignity. Rights are historically contingent, not universal and certainly not inalienable. "[H]uman rights however fundamental are historical rights and therefore arise from specific conditions characterized by the embattled defence of new freedoms against old powers. They are established gradually, not all at the same time, and not for ever."[27] Marxist attention to the historical nature of rights serves to ground purported universal rights in the particular social, political, and historical context in which they evolved. In Engels' words, they "therefore reject every attempt to impose on [them] any moral dogma whatsoever as an eternal, ultimate and forever immutable moral law on the pretext that the moral world too has its permanent principles which transcend history and the differences between nations."[28]

The communitarian critique of liberalism

There are three communitarian criticisms of liberalism which are relevant to human rights debates. First, communitarians argue that the liberal conception of the person as 'unencumbered' by its attachments to the community presents a falsely individualistic version of the self. Secondly, there is no place in a liberal framework for

those 'ends' or 'goods' which are communal or social, rather than individual. And thirdly, communitarians echo the Marxist criticism of liberal universalism, arguing that we must pay attention to the historically specific nature of concepts of justice and morality.[29] The following section will briefly sketch each critique.

Looking first at the liberal conception of the self, communitarians point out that it is an unacknowledged premise of liberalism that society is no more than a collection of individuals. In opposition to this liberal view, communitarians argue that society is an organic whole, and individual selves are 'embedded' in it, and indeed are produced by it. The liberal doctrine of human rights ignores the fact that individuals have rights only because they have developed identities with specific values and ends within particular social contexts.

In his article, 'Atomism,' Charles Taylor takes liberalism to task for its 'atomistic' view of the self. According to Taylor, the primacy of rights dictated by liberalism is premised on an inherently *social* understanding of human nature, even though the doctrine denies the primacy of membership in a community. It is taken for granted by liberals that we have inherent individual rights. This starting point "has an undeniable *prima facie* force for us," he writes.[30] But the inherently free individual of rights discourse does not spring fully formed from the state of nature. Starting from the 'intuition' of the free individual is "a kind of blindness." Taylor writes:

> [T]he bearer of rights can only assume this identity thanks to his relationship to a developed liberal civilization . . . [T]here is an absurdity in placing this subject in a state of nature where he could never attain this identity and hence never create by contract a society which respects it. Rather, the free individual who affirms himself as such *already* has an obligation to complete, restore, or sustain the society within which this identity is possible.[31]

Thus the 'unencumbered' self is actually a liberal myth. The consequence of this argument is that a right can only be said to exist within a context of social relations, and therefore there is no such thing as a natural human right.

Turning now to the question of communal goods, we should recall that the discourse of human rights is motivated by the desire to define the minimum conditions

that allow individuals to exercise their agency in pursuing their own version of the good. While liberals maintain that rights talk does not attempt to define the good in our private or public lives, the communitarian argument is that this discourse does indeed impose an implicit idea of the good on liberal societies, and on those cultures where human rights standards are imposed. Rights culture is not 'end-neutral' because it actually gives priority to individual goods over social goods. The liberal tendency to assume that the good of society is served by allowing individuals to choose their own ends ignores the possibility that what these individuals choose by themselves may not serve the interests of society. Furthermore, it ignores the fact that individuals' values and versions of the good are constituted by the social and historical context in which they are formed; thus even individual ends cannot be thought of as 'asocial.'

Turning to the third argument, we recall that communitarians share with Marxism an emphasis on historicism. Charles Taylor observes that "[o]ur conceptions of what makes humans worthy of respect have shaped the actual schedule of rights we recognize, and the latter has evolved over the centuries with changes in the former."[32] Thus it is indefensible to claim that there exists a timeless understanding of human rights which we have simply 'discovered' in recent centuries.

Claims about rights, as Alasdair MacIntyre argues, presuppose a social context in which a set of social rules already exists.

> Such sets of rules only come into existence at particular historical periods under particular social circumstances. . . . those forms of human behavior which presuppose notions of some ground to entitlement, such as the notion of a right, always have a highly specific and socially local character.[33]

Rights are thus tied to membership in specific communities, and the cultural specificity of conceptions of morality and justice render impossible the notion of universal human rights.

The postmodernist critique of human rights

The postmodern critique is not directed at liberalism so much as at the entire Enlightenment project. The postmodern turn represents a loss of faith in universalist discourses, such as 'human progress,' 'social justice,' or 'global emancipation.' Postmodernists argue that these large-scale discourses – or grand narratives, to use Lyotard's term – have lost their relevance, not just for philosophers but for ordinary people, as our world has become increasingly fragmented. In *The Postmodern Condition*, Lyotard argues that "the grand narrative has lost its credibility, regardless of what mode of unification it uses, regardless of whether it is a speculative narrative or a narrative of emancipation."[34]

The postmodern condition can be seen as a turn away from attempts at 'once and for all' legitimation, and toward a focus on contingent, particular linguistic practices (language games) and local narratives.[35] Legitimacy of these narratives is limited to the local level, as recourse to universal narratives has been lost. "We no longer have recourse to the grand narratives – we can resort neither to the dialectic of Spirit nor even to the emancipation of humanity as a validation for postmodern . . . discourse."[36]

Part of this disillusionment in grand narratives has resulted from the realization that there is no objective truth 'out there' for us to discover. What we previously thought of as truth, accessible through reason, is now understood to be only one way of looking at the world. Truth becomes a matter of standpoint, of place in the world. With the loss of faith in truth itself, there are only 'local truths,' that is, beliefs that are held in particular places at particular times, but which have no relation to some concept of eternal truth.

The postmodern is "that which denies itself the solace of good forms, the consensus of a taste which would make it possible to share collectively the nostalgia for the unattainable."[37] For the purposes of this paper, it is the discourse of human rights which represents the 'unattainable,' and it is postmodernism which exposes the futility of the 'nostalgia' for this particular lost grand narrative. The postmodern view of human rights discourse is that it falsely attempts to universalize a particular Western understanding of social and political relationships. It may be 'true' in some sense to say

that persons have certain rights in a Western society whose legal framework is based on the language of rights. But this 'truth' cannot be legitimated beyond the level of the community where this 'language' was developed. Echoing the communitarian and Marxist critiques of universal human rights, the postmodern critique claims that this set of rights is meaningless – and without legitimacy – outside the community where a language of rights is used. The project of human rights, therefore, cannot be legitimated at the universal level to which it aspires. Certainty about universal, inalienable human rights, from the postmodern perspective, can only be viewed as a grand narrative which has lost its legitimacy.

What *can* exist within a postmodern framework is an agreement made at the local level on the basis of a particular understanding of what rights are. Rights cannot transcend time and place, but they can have temporary, contingent legitimation within particular communities. This is what is referred to as the 'triumph of particularism' – the recognition that what is right and good is a matter for local deliberation, but cannot be discussed beyond the limits of a given linguistic community. Postmodernists would, therefore, work toward the replacement of the discourse of universal human rights with an emphasis on fostering local deliberation over how one's community should be structured, given its contingent, temporary circumstances.

Anti-postmodernists accuse their opponents of paralyzing political action on a large scale. On this point, the postmodernist position (like that of the cultural relativist) is vulnerable: postmodernists are accused of 'letting us off the hook' for acting responsibly toward those beyond our local communities, particularly toward those who enjoy less freedom and economic prosperity.

The postmodernist reply is: local legitimation does not preclude the possibility of working in alliances with those outside one's own community. It simply prevents one from taking a colonial approach to problems of legitimation and collective action in other communities. The purpose of turning to local narratives to legitimate action is not to prevent others ("outsiders") from participating, but it is to prevent the superimposition of an alien narrative on another community in the hopes of making the process of collective action easier.

Political perspectives on human rights

It is beyond the scope of this paper to deal with the extensive literature on the implementation of human rights. Nevertheless, it is important to highlight the implications for the philosophical debate of political writings on human rights in practice. This section will outline the central concerns regarding human rights discourse voiced by political theorists.

The three main issues in this section include the tension between the discourse's assumption of a common humanity and the apparent human need for specific identity (difference); the need to affix rights to particular polities; and the inability of human rights discourse to overcome ethnic nationalism. It will soon become apparent that the latter two areas are inextricably linked to the first.

Human particularity and human rights

The discourse of human rights claims that all people have recourse to a system of rights by virtue of their humanity. These rights are attached to us from birth regardless of our citizenship, sex, religion, or any other identifying quality. The challenge to this claim is that only in our specificity, in our ties to our families and neighbours, our country, our faith, our profession, and our life history, are we recognizable as humans to other people. Without these features of specificity, we are viewed by strangers as entirely alien.

Hannah Arendt makes this point most forcefully when she discusses the situation of stateless peoples after the Second World War. In Arendt's view, these people are helpless and powerless because they have lost their specificity and have been reduced to their 'naked humanity.' Those who were to decide their fate could not recognize them as fellow human beings because they could not relate to them at the level of identity/difference:

> The conception of human rights, based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to

> believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still human. The world found nothing sacred in the abstract nakedness of being human.[38]

The paradox that Arendt exposes is that we recognize other people as human beings in their specificity – in the traits we share and those which are different from ours. What makes us human is that which makes us *particular* individuals, that which makes us *unique*. When we are faced with people who have been expelled from their homes, who have lost all their possessions, who have had everything taken from them but their humanity, we view them as alien, as not-human, and we are unable to treat them as fellow persons:

> The paradox involved in the loss of human rights is that such a loss coincides with the instant when a person becomes a human being in general – without a profession, without a citizenship, without an opinion, without a deed by which to identify and specify himself – *and* different in general, representing nothing but his own absolutely unique individuality which, deprived of expression within and action upon a common world, loses all significance.[39]

Thus, humanity without particularity is unrecognizable. The implications of this for human rights are clearly profound: advocates of human rights may be pursuing a futile, and even harmful, goal in their attempts to protect human beings at the level of 'humanity.' Arendt's argument would imply that rights are better protected at the level of the particular. Furthermore, the impact of a failure to recognize the place of specificity within human rights discourse would be felt most acutely at a time when human rights are most needed: when individuals are forced to rely on their human rights, and then find them unavailable.

Citizenship rights vs. human rights

This leads naturally to the second criticism of human rights from a political perspective, i.e. the argument that the discourse of human rights falsely naturalizes rights which are necessarily associated with membership in a specific political community.

Many political theorists have argued that rights discourse evolved from social contract theory, in which rights are agreements of citizenship between individuals and the state. Once rights are divorced from that relationship, they become void of *meaning* or *means of enforcement*. Human rights have been described as empty ideals which mean little to people in their everyday lives, especially in countries where war, famine and arbitrary violence are the norm. Human rights claims are thus no more than unenforceable expressions of aspiration.

Arendt herself draws this conclusion from her argument on humanity and particularity: detached from the particular, human rights are grounded in nothing and can achieve nothing. If there is no political community which is specifically obliged to respect one's rights, then there is no claim to a right, much less a foundation on which to claim a rights violation has taken place. As history demonstrates, "[n]ot only did the loss of national rights in all instances entail the loss of human rights; the restoration of human rights, as the recent example of the State of Israel proves, has been achieved so far only through the restoration or the establishment of national rights."[40]

As Arendt argues, because "human rights" are not based on a contractual agreement between states and citizens, they are bound to fail people who, having lost their civil rights, are forced to rely on them.

> "The Rights of Man, after all, had been defined as 'inalienable' because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them."[41]

It is not only, therefore, a question of philosophical foundation, but also a matter of political enforcement that leads Arendt to support citizenship rights over human rights. If there could be only one human right, in her view, it must be the right to be a member of a political community, the right to "a place in the world which makes opinions significant and actions effective."[42] The protection of rights of citizenship is far more important than the empty ideal of human rights.

Others have made the same argument from the perspective of enforcement. While human rights are seen as having political legitimacy and moral authority, individuals and groups have no effective means for seeking redress when their rights have been violated. Citizenship rights, by contrast, generally include provisions for legal redress, even in cases where the state is the rights violator. Human rights can hardly be said to exist at the practical level, as the only people who enjoy their human rights are those who are protected by rights of citizenship.

Maurice Cranston argues that it is dangerous to use human rights language to talk about those rights we aspire to (but which are not codified in law), as this usage detracts from the legitimacy of actual human rights. He follows Burke in arguing that rights can only be understood as such if they are positive (presently enforceable) rights. Expanding human rights to include 'aspired-to' rights obfuscates the concept and prevents actual rights from being given the respect they deserve.[43] "Thus the effect of a Universal Declaration which is overloaded with affirmation of so-called human rights which are not human rights at all is to push *all* talk of human rights out of the clear realm of the morally compelling into the twilight world of utopian aspiration."[44]

Furthermore, rights are enforceable only in polities where citizens are willing to fight for them. As the historicist argument goes, rights are the product of struggle and they remain contestable. As Benjamin Barber writes: "Natural rights *are* paper parapets, and are defensible only when manned by citizens willing to pay for them with their civic engagement, their social responsibilities, and often their lives. . . . The recent penchant for rights absolutism has led many to neglect or forget such arguments."[45]

In her analysis of the systematic violation of women's human rights, Catherine MacKinnon argues that a person's purported human rights can be 'collapsed' into citizenship rights.[46] MacKinnon defines rights of citizenship as those rights which are a function of the relationship between individuals and the state. Human rights, by contrast, are popularly seen as being innate, and therefore independent of this relationship. The problem lies in the fact that violations of human rights are generally only recognized when the violators are state parties, and that (compounding the problem) states are then called in to respond to these violations. Her main example is that women's human rights

are systematically violated by individuals on a regular basis, but these acts are for the most part not regarded or treated as human rights violations.[47]

Since 'human rights violations' are only recognized as such when they are perpetrated by state parties, she observes that it is a cruel paradox that states are also the enforcers of human rights.

> [M]ost human rights instruments empower states to act against states, rather than individuals or groups to act on their own behalf. Given that only state violations of human rights are recognized, this is very odd. . . . [P]ower to act against public acts [i.e., acts of the state] are left exclusively in the hands of those who commit those acts.[48]

As a result, even when human rights are invoked because citizenship rights have failed to protect a person or group, it is *state parties* which are called in to remedy a situation caused by state-sanctioned activity. In other words, human rights violations are not recognized if they are not committed by state parties, and – furthermore – they are only remedied when a state decides to take action. Thus people's human rights are protected only by states, and the violation of human rights is only recognized when the offenders are states.

MacKinnon concludes, therefore, that human rights can be collapsed into citizenship rights, as they cannot be separated from a person's relation with the state.[49] Consequently, human rights advocates would be more effective, in her view, if they focused on constitutional protection of citizenship rights.

Nationalism and belonging

The third criticism of human rights relates to both particularism and citizenship. Confirming Arendt's argument about the human need to have a place in the world is the phenomenon of ethnic nationalism. The recent resurgence of nationalism around the world is a direct challenge to the discourse of human rights. The challenge, more specifically, is that recent world events cast serious doubt on the possibility that the discourse of human rights can overcome the violent hatred of ethnic nationalism.

In *Blood and Belonging*, Ignatieff journeys through several of the world's most notoriously nationalistic communities, in an attempt to understand what motivates this excess of national sentiment. He begins by outlining what it means to belong to a nation, whether it be a moderate, pluralistic state or an exclusive, ethnically-based nation state:

> You can never know the strangers who make up a nation with you. So you imagine what it is that you have in common and in this shared imagining, strangers become citizens, that is, people who share both the same rights and the same image of the place they live in. A nation, therefore, is an imagined community. Yet these imaginings never exactly overlap, are never exactly shared.[50]

By analyzing those whose situation is opposite to that of stateless people, i.e. ethnic nationalists, he concludes that having 'a place in the world' can be, and often is, distorted to the point where belonging turns to xenophobia.

> I have been to places where belonging is so strong, so intense that I now recoil from it in fear. The rational core of such fear is that there is a deep connection between violence and belonging. The more strongly you feel the bonds of belonging to your own group, the more hostile, the more violent will your feelings be towards outsiders.[51]

But statelessness and nationalism are not merely opposite ends of the spectrum of belonging; they feed into each other in a vicious cycle. The ultimate outcome of violent nationalism is ethnic cleansing, forced migration, and thus statelessness, and it is the fear of statelessness which breeds such a fierce defensiveness of one's place in the world. "Statelessness is a state of mind, and it is akin to homelessness. This is what a nationalist understands: a people can become completely human, completely themselves, only when they have a place of their own."[52]

Ignatieff traces nationalist rhetoric back to the German romantic nationalism of the nineteenth century, which represented a rejection of the Enlightenment project. "Romantic nationalism became a flight from individualism and from individual rights, towards a vision of society in which the individual achieved inner freedom through an intense experience of belonging to the Volk."[53] The implications of this are that rights

discourse and the idea of humanity are too 'cold' or too 'thin' to create allegiance, or a sense of belonging, on the larger scale – too weak at least to overcome more parochial attachments.

Ignatieff emphasizes that the strong sense of belonging fostered by ethnic nationalism is predicated on a fiction. This fiction is the idea that any community can be ethnically pure, that it is possible to divide humanity into friends and foes, and succeed at keeping the right people in and the wrong people out.

> These labels imprison everyone in the fiction of an irreducible ethnic identity. Yet Northern Ireland's is not an ethnic war, any more than the Serbo-Croat or Ukrainian-Russian antagonisms are ethnic. In all three cases, essentially similar peoples, speaking the same or related languages, sharing the same form of life, differing in religions which few actually seem to practise, have been divided by the single fact that one has ruled over the other. It is the memory of domination in time past, or fear of domination in time future, not difference itself, which has turned conflict into an unbreakable downward spiral of political violence.[54]

This is key to Ignatieff's argument, and to the nationalist challenge to human rights: it is not mere difference that is fostered by nationalism. It is the language of superiority and inferiority, and the idea that the 'other' is not simply different but *not worthy of moral consideration*. Thus nationalism has the effect of shrinking one's moral community instead of enlarging it, as the modernist human rights project intends.

Ignatieff does not conclude that a stronger human rights regime can overcome ethnic nationalism. In fact, his view of rights talk appears diminished by the end of his study:

> I began the journey as a liberal, and I end as one, but I cannot help thinking that liberal civilization – the rule of laws not men, of argument in place of force, of compromise in place of violence – runs deeply against the human grain and is only achieved and sustained by the most unremitting struggle against human nature. The liberal virtues – tolerance, compromise, reason – remain as valuable as ever, but they cannot be preached to those who are mad with fear or mad with vengeance.[55]

It is not for human rights discourse to temper the violence of ethnic nationalism, but for something stronger, most likely third-party military intervention. Only after the bloodthirst is calmed and security re-established can the language of rights and the liberal 'virtues' step in to fill the void left by the absence of nationalist rhetoric. The question appears unresolved for Ignatieff as to whether the need to belong can be satisfied by such 'weak' ties, but he concludes that the best 'antidote' to ethnic nationalism is a state of *civic* nationalism "because the only guarantee that ethnic groups will live side by side in peace is shared loyalty to a state, strong enough, fair enough, equitable enough, to command their obedience."[56]

Conclusion

Human rights is a discourse with roots in the Western liberal philosophical tradition, and it is the continuing strength of this tradition that has sustained the myth of inherent equal rights for all individuals. Having explored perspectives on human rights within the disciplines of anthropology, philosophy, and political theory, we have now seen that there are inherent problems with the theory of universal human rights. Valid criticisms against the false universalism and cultural imperialism of human rights language have been brought against the discourse. The foundational myths of liberal individualism have been exposed, calling into question the philosophical basis of human rights. And in parallel arguments from cultural anthropology, we have seen that human rights belong to a particular cultural context, and are predicated on specifically modern Western views on the concepts of justice and morality. Exposing the cultural specificity of these foundations undermines the very idea of universal human rights.

At the same time, we must be cautious about homogenizing the concept of 'culture,' and we must recognize the ways in which human rights language has become embedded in many cultures, and not only in the West. This widespread adoption of human rights language in practice has meant that the debate between universal human rights and cultural relativism is far from resolved.

From philosophical perspectives on human rights we have learned that the influence of cultural-relativist thought has led to a loss of relevance of such 'grand narratives' as human rights. Proponents of anti-universalist thought have argued for the exclusive legitimacy of 'local truths,' insisting (for instance) that rights language makes sense only in particular historical and political contexts. From this argument, we can conclude that rights may exist, but only as a matter of agreement, and only within particular political communities. *Human* rights, as such, therefore become an impossibility.

We have also seen that there is an inherent paradox in human rights, borne out of the fact that human beings can be recognized as worthy of moral consideration only in their particularity. When people can no longer rely on their civic rights, and they have lost everything that marks them as individuals, they may call for their human rights to be acknowledged, only to be met with a lack of recognition at their naked humanity. This points to the conclusion that it is more important to strengthen the protections of rights associated with membership in political communities (i.e. civic rights) than it is to work for the recognition and protection of human rights.

Three themes can be drawn from the critiques of human rights discourse outlined above. First, it has been shown that claims of inherent rights are a myth supported by the falsely universalized assumptions of liberal individualism. Rights which are proclaimed as inherent and universal are predicated on the contestible modern Western notion of the unencumbered individual. Secondly, it is clear that the moral legitimacy of human rights language is derived from a particular cultural and political context, and cannot be claimed as valid beyond this context. The philosophical foundations of rights language are simply not viewed as valid in many traditions outside Western liberalism. And lastly, rights are a historical product, and have been won and maintained only through political struggle; as such, rights can never be taken for granted. The lesson from critiques in anthropology, philosophy, and political theory is that a universalist discourse of human rights can no longer be considered morally legitimate or politically desirable. Furthermore, universalist discourses are not strong enough, or 'thick' enough to overcome the human need to

belong to particular political communities which are defined according to their difference from 'the other.'

Despite the criticisms from anthropology, philosophy, and politics outlined above, however, human rights advocates argue that there is still a need to conceptualize our relationship with 'other' peoples and nations. There is also a need to determine whether and to what degree we have a moral and political responsibility toward people outside our own communities and nations. As long as there is suffering in the world, there will be a need to define our responsibilities to other human beings, and if we reject the existing discourse of human rights, we need another way of conceptualizing this relationship.

Unfortunately, there has yet to be developed a satisfactory alternative approach to theorizing our moral and political responsibility to people living beyond the borders of our own nation state. As a result, it would be premature to abandon human rights discourse entirely, especially since it is a prominent language with some moral force in contemporary society. Given the problems outlined above, it would be useful to identify a new approach to understanding human rights that would enable us to address the concerns and criticisms levelled at the discourse in its present form. The following chapter will present and analyze one such alternative.

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[1] Donnelly, 21.
[2] Donnelly, 22.
[3] Donnelly, 23, citing Alan Gewirth, Human Rights: Essays on Justification and Applications (Chicago: University of Chicago Press, 1982).
[4] Donnelly, 22.
[5] Ignatieff, Rights, 23.
[6] Ignatieff, Rights, 28.
[7] Ignatieff, Rights, 30.
[8] Ignatieff, Rights, 52.
[9] The American Anthropological Association registered its concern about the purported universality of proposed human rights documents as early as 1947.
[10] Bhoumik, 3.
[11] Geertz, 38-43.
[12] Lukes, 20, 218 (n. 1); Hey, 17.
[13] Interestingly, Pollis & Schwab have recently warmed to the idea of universal human rights, arguing that a "new universalism is emerging because of globalization" in their edited book, *Human Rights: New Perspectives, New Realities* (Boulder, CO: Lynne Rienner, 2000). This could imply that human rights advocates have found a more successful way to build cross-cultural understandings of human rights in the last twenty years, or it could imply that Western cultural imperialism has been so effective as to homogenize many world cultures under the Western framework of "human rights," along with other imposed universals, such as consumer culture, free markets, and radical individualism.

[14] Nagengast, 11.
[15] Nagengast, 10.
[16] Donnelly, 38.
[17] Nagengast, 7.
[18] Preis, 288-289.
[19] Jack Donnelly, "Human Rights and Human Dignity: An Analytical Critique of Non-Western Conceptions of Human Rights," in *American Political Science Review* Vol. 76 (1982), 313.
[20] Preis, 293.
[21] Preis, 310.
[22] American Anthropological Association, 2.
[23] Preis, 306.
[24] An-Na'im, 37.
[25] Donnelly, 145-146.
[26] Elvin Hatch, "The Good Side of Relativism," *Journal of Anthropological Research*. Vol. 53, No. 3 (Special Issue on Human Rights), Abstracts. www.unm.edu/~jar/v53n3.html.
[27] Bobbio, x-xi.
[28] Friedrich Engels, "The Anti-Duhring," quoted in Ishay, 213.
[29] This section has been supplemented by the summary of communitarianism provided in Mulhall and Swift, 157-164.
[30] Taylor, Atomism, 41.
[31] Taylor, Atomism, 60.
[32] Taylor, Sources, 77.
[33] MacIntyre, 67.
[34] Lyotard, 37.
[35] Lyotard, 41.
[36] Lyotard, 60.
[37] Lyotard, 81.
[38] Arendt, 299.
[39] Arendt, 302.
[40] Arendt, 299.
[41] Hannah Arendt, 291-292.
[42] Arendt, 296.
[43] Cranston considers political and civil rights as 'actual' rights, and argues that social and economic rights are not, because in his view they are generally unrealizable in many places. This distinction is a separate point from the basic 'actual' rights/'aspired to' rights argument he is making, which is directly relevant to this section of my paper.
[44] Cranston, 52.
[45] Barber, 357.
[46] MacKinnon actually uses the term 'civil rights' to mean rights of citizenship, but I am using the term 'citizenship rights' so as to avoid confusion with other sections of this paper, which refer to the different generations of rights: civil and political, social, economic and cultural rights, and rights of self-determination.
[47] MacKinnon, 92.
[48] MacKinnon, 93.
[49] Of course it may be argued that rights which are enforced by 'the international community' are separate from those which are protected by one's own government, but the point remains that there is no effective body other than state parties to enforce rights.
[50] Ignatieff, Blood, 109.
[51] Ignatieff, Blood, 188.
[52] Ignatieff, Blood, 161.
[53] Ignatieff, Blood, 64.
[54] Ignatieff, Blood, 164.
[55] Ignatieff, Blood, 189.
[56] Ignatieff, Blood, 185.

Chapter Two: Analysis of Richard Rorty's writings on suffering and human rights

Among the various theorists attempting to justify the current emphasis on human rights, Richard Rorty's neo-pragmatist approach appears to be the most interesting and controversial. Rorty is a self-identified 'liberal ironist' philosopher who rejected the traditional pursuits of analytic philosophy early in his career in order to build a sustained critique of the foundationalist, metaphysical preoccupations of philosophy as it is currently practised. While viewed with scepticism and mistrust within many academic quarters, Rorty has become a provocative and influential voice beyond the boundaries of the university by engaging in public debate over the political and social questions that are central to Western liberal societies.

Rorty sets aside questions of epistemology and metaphysics in order to explore important questions about culture and politics. He has elaborated a vision of a 'truly' liberal culture, one which is aware of its own historical contingency, and in which individual freedom is balanced with the cultivation of human solidarity. Rorty believes that this solidarity is developed through sentiment, and not reason, and that it is therefore the role of literature, and not philosophy, to develop our capacity to feel solidarity with strangers.

It is because he calls into question the task of philosophers that Rorty has been so vehemently attacked within academia. Rorty argues that the traditional pursuits of philosophy are simply not worth thinking about, as they do nothing to advance the twin causes of increased freedom and increased equality. This argument leads him to reject the traditional role of the intellectual as disengaged theorist. In Rorty's view, "[t]he task of the intellectual, with respect to social justice, is not to provide refinements of social theory, but to sensitize us to the suffering of others, and refine, deepen and expand our ability to identify with others, to think of others as like ourselves in morally relevant ways."[1]

Rorty has been greatly influenced by the American pragmatist tradition in general, and especially by John Dewey. Rorty's pragmatism encourages us to see vocabularies as *tools* which are to be assessed in terms of the particular purposes they may serve. Rorty's

basic conviction about language is that "any vocabulary is optional and mutable."[2] It is this approach to the vocabulary of human rights that makes Rorty's perspectives so thought-provoking.

I selected Rorty as the subject of my analysis because his approach to human rights language appears to offer a resolution of the universalist/cultural relativist stalemate, in such a way that seems to be sympathetic to claims of cultural difference, but which also provides a basis for political action. Defenders of universalist human rights do not, in my view, take seriously the claims of culture which call into question the basis for the discourse. Rorty, by contrast, takes 'culture' as a central concept of analysis, and sees 'human rights culture' as the most useful approach to building solidarity and alleviating suffering in the world. Most critics of universalist human rights, on the other hand, appear to have little to offer in the way of proposals for action which might replace human rights-based movements, even as these critics detract from the legitimacy of what has been a well-intentioned and successful movement. Rorty suggests that we set aside the philosophical problems that appear to undermine human rights discourse, and ask only whether human rights language has been a useful vocabulary for building solidarity, and ultimately for assisting the oppressed to resist the powerful. He shifts the focus away from metaphysical and foundational inquiry, and toward questions about redescribing vocabularies in the name of explicit political ends. In doing so, he provides a way for us to take concerted action without the certainty associated with having established philosophical foundations.

We turn now to a consideration of Richard Rorty's account of human rights and we will see that his conception of rights discourse constitutes a radical departure from the dominant universalist discourse. Rorty sets aside the question of whether we have innate rights, and asks only whether 'human rights culture' has in some way helped those who suffer. He proposes a form of 'sentimental education' that aims to develop empathy across cultural borders, and to foster the kind of behaviour that we wish to see in future generations. He argues that the principal goal of human rights culture is to alleviate suffering, and that promoting sentimental education is the most promising means of advancing this goal. After outlining Rorty's approach, I will explore the main advantages

and disadvantages of this approach before turning my attention in the next chapter to a detailed analysis of the concept of suffering.

Richard Rorty's anti-foundationalism

Rorty's rejection of the concept of philosophical foundations

One of the most interesting aspects of Rorty's writing is that he refuses to answer some of the most central questions in contemporary philosophy. He dismisses metaphysics and epistemology and attempts to replace philosophical questions with political ones. Instead of reasserting the foundations of modernist thought and attempting to defend the modernist project, Rorty argues that we do not need such certainty in order to justify our political institutions, such as democracy and a free press; we simply need to show that they are *useful*. Philosophy, in his formulation, is not a search for truth but a way of solving problems. Rorty calls his approach 'antifoundationalist,' 'liberal ironist,' and 'postmodern bourgeois liberal,' all of which emphasize the contingency of values (and all our judgments) and the possibility of maintaining a progressive liberalism without foundations.

So how does Rorty suggest we make decisions about questions of justice? Instead of allowing his 'relativism' to undermine the legitimacy of our political institutions (and being left with no basis for political action), he defends these institutions – not as the best possible as measured against an absolute – but as the best we can do right now, *measured against our own standards and values*. This last part is crucial, as it shows that Rorty recognizes, indeed emphasizes, that there are no non-circular arguments available to justify our political arrangements. Our decisions with respect to political and social organization are contingent in the sense that they are a product of historical forces and of the types of individuals contemporary socialization produces.

Similarly, on issues of morality, Rorty argues that there are no universal principles on which we can draw in our conversations about what is right and just. There are only the principles which have been distilled from our culturally-specific way of doing things.

As he argues in *Philosophy and Social Hope*, morality is entirely a question of acculturation:

> [T]o us pragmatists moral struggle is continuous with the struggle for existence, and no sharp break divides the unjust from the imprudent, the evil from the inexpedient. What matters for pragmatists is devising ways of diminishing human suffering and increasing human equality, increasing the ability of all human children to start life with an equal chance of happiness. This goal is not written in the stars, and is no more an expression of what Kant called 'pure practical reason' than it is of the Will of God. It is a goal worth dying for, but it does not require backup from supernatural forces.[3]

This 'goal' arises not from an understanding of how the world 'should' be, or from a particular understanding of human nature, but from the way we (in modern liberal societies) are raised to be concerned about equal opportunity and the prevention of cruelty. It is because of our particular history as a culture that makes us *unable to live with the consequences of doing otherwise*, and not because it is an ahistorical truth that these should be our principles.

In some ways, Rorty leans toward communitarianism in his expressions about morality, as the following passage from *Contingency, Irony, Solidarity* demonstrates. Without universal moral standards, he is forced to rely on a notion of 'community standards' to draw a line between prudence and morality:

> We can keep the notion of 'morality' just insofar as we can cease to think of morality as the voice of the divine part of ourselves and instead think of it as the voice of ourselves as members of a community, speakers of a common language. We can keep the morality-prudence distinction if we think of it not as the difference between an appeal to the unconditioned and an appeal to the conditioned but as the difference between an appeal to the interests of our community and the appeal to our own, possibly conflicting, private interests.[4]

Indeed, this appeal to the interests of 'our community' over 'our own' interests leads him precariously away from his original 'liberal' position, and can only be resolved with a firm dividing line between public and private. This will be explored further in a later section.

Human nature and human rights

In the case of human rights, Rorty argues that we cannot appeal to a concept of universal human nature, as we humans are 'endlessly malleable,' and there are no transcultural truths about our essential nature.

It is not that Rorty thinks there is no such thing as human nature, so much as he thinks that the question is not important. The quest to identify our 'true' nature merely diverts us from more urgent questions, like how we encourage the development of tolerance, or trust, or non-violence in subsequent generations. Since humans are 'endlessly malleable,' we cannot seek ways to make people act more in accordance with their true nature; we can only find ways to bring out the traits we think would further the development of our society toward more egalitarian, peaceful democracy.

> '[H]uman nature,' 'rationality,' and 'morality' are abbreviations for the kinds of human conduct we wish to encourage. To say that a certain course of conduct is more in accord with human nature or our moral sense, or more rational, than another is just a fancy way of commending one's own sense of what is most worth preserving in our present practices, of commending our own utopian vision of our community.[5]

Of course, the idea that 'human nature' is irrelevant calls into question the possibility of 'human rights.' If there is nothing special about being human, on what grounds can we assert that people have inalienable, fundamental rights arising from their innate human dignity? Rorty argues that there are no such grounds: in his view, it is not possible to justify, once and for all, the concept of universal human rights. All we can do is appeal to our contingent, particular view of what society should look like, and *agree* that the human rights culture is a good *means* for developing tolerance and sympathy. In an essay entitled, "Idealizations, Foundations, and Social Practices," Rorty claims that humans are 'special' not because we can "rise above the contingencies of culture and history" to acquire knowledge of absolute, universal truths; we are special because we have the "ability to feel for, cherish, and trust people very different from ourselves."[6]

In *Objectivity, Relativism and Truth*, Rorty notes that liberals "who have not yet gone postmodern" find themselves in a paradox when they hold on to a concept of "human nature [as] a metaphysical substrate in which things called 'rights' are embedded." The paradox arises when they attempt to square this belief with their awareness that their thinking is inevitably influenced by their own particular cultural circumstances. They are then faced with the question of whether "their belief in such a substrate is itself a cultural bias." Because these Enlightenment liberals realize that it is a peculiarly modern Western notion that all people are equal, they are unable to distinguish between "rational judgment" and "cultural bias." To get out of this paradox, Rorty says, "So what? We Western liberals do believe in [human equality], and so much the better for us." There is no distinction between rational judgment and cultural bias, so "we are going to have to work out the limits [to liberal tolerance] case by case, by hunch or by conversational compromise, rather than by reference to stable criteria."[7]

In his Amnesty lecture entitled, "Human Rights, Rationality, and Sentimentality," Rorty develops his theory of morality, and applies it to the concept of human rights. Even though humans can depend only on sentiment, and not rationality, as a moral guide, Rorty does not argue that we are therefore no different from non-human animals. The following statement is key to his argument about empathy for another person's suffering being the basis for morality, and hence for human rights. Rorty says that we should not respond to the question, 'What makes us different from the other animals?' by saying, 'We can know, and they can merely feel,' "We should substitute, 'We can feel *for each other* to a much greater extent than they can.'"[8]

But once again, Rorty argues that we are asking the wrong questions. It simply does not matter what human nature is, or whether humans have innate rights; it only matters that the human rights culture has in some way helped the oppressed and the suffering. In a recent speech called "The Communitarian Impulse," Rorty writes that:

> Nobody, except a few philosophers, cares whether human rights are intrinsic to every member of the biological species or whether they're rendered by God or whether they're just recent Western social constructions. Nobody needs a theory about how many of these rights there are or about which takes precedence over which. All we need to know is that, where there is a well-organized and vocal

> Helsinki Watch committee, the strong have a slightly harder time inflicting unnecessary suffering on the weak than they would have had otherwise. . . . [T]he proof of the human rights culture is that it has made it a little more difficult for the strong to increase their own wealth and power by grinding the faces of the weak.[9]

This is the crux of Rorty's 'theory' of human rights (if it can be called that): there are no innate human rights, but the *language* of human rights can be used as a tool to reduce suffering and build tolerance in the world. As moral witnesses to human suffering, participants in the human rights movement work to expose the cruelty of the powerful, and attempt to create a moral connection between those who suffer and those fortunate Westerners who have the resources to respond to those occurrences we call "human rights violations."

Sentimental education

Rorty argues that cruelty will not be reduced by convincing more and more people "rationally" that human rights exist and must be respected. A "human rights culture" is built upon the idea that people's sentiments can and should be manipulated to encourage identification and understanding between "people like us" and "people like them." In his Amnesty lecture, Rorty argues that "the emergence of the human rights culture seems to owe nothing to increased moral knowledge, and everything to hearing sad and sentimental stories."[10]

In Rorty's view, people treat "others" differently because their membership in a group defines their identity as a human being. As a result, human rights violations occur precisely because otherwise moral people do not understand the victims of their violence as members of their moral community, and hence as *real* humans. The solution, then, is not to point out commonality, but to look to future generations and attempt to teach tolerance of difference to those young people who have *not yet learned* to view certain others as non-human.[11] In other words, our best hope is to change the way we educate children – before they are socialized into becoming prejudiced exclusivists – to think of ever-widening circles of people as worthy of moral concern. Rorty argues that what is required is to:

> concentrate our energies on manipulating sentiments, on sentimental education. That sort of education sufficiently acquaints people of different kinds with one another so that they are less tempted to think of those different from themselves as only quasi-human. The goal of this manipulation of sentiment is to expand the reference of the terms 'our kind of people' and 'people like us.'[12]

A subtle, but important, aspect of Rorty's sentimental education is that it does not aim to teach that 'we are all the same inside.' He argues that it is futile to try to convince people that everyone shares something in common, as this depends on the outmoded idea of human nature as the 'substratum' below acculturation. Sympathy for strangers is developed by paying close attention to the particularities of their lives, and especially to the suffering they experience:

> [H]uman solidarity [should] be seen not as a fact to be recognized by clearing away 'prejudice' or burrowing down to previously hidden depths but, rather, as a goal to be achieved. It is to be achieved not by inquiry but by imagination, the imaginative ability to see strange people as fellow sufferers. Solidarity is not discovered by reflection but created. It is created by increasing our sensitivity to the particular details of the pain and humiliation of other, unfamiliar sorts of people. Such increased sensitivity makes it more difficult to marginalize people different from ourselves by thinking, 'They do not feel it as *we* would,' or 'There must always be suffering, so why not let *them* suffer?'[13]

Sentimental education teaches that it *matters* that these strangers are suffering, because although they are different from us, they share our susceptibility to pain, and by virtue of their beliefs and values (different from ours though they may be), are also susceptible to humiliation.

What exactly is sentimental education in this formulation? According to Rorty, it involves the act of 'redescription.' "[The] process of coming to see other human beings as 'one of us' rather than as 'them' is a matter of detailed description of what unfamiliar people are like and of redescription of what we ourselves are like. This is a task not for theory but for genres such as ethnography, the journalist's report, the comic book, the docudrama, and, especially, the novel."[14] Thus we learn to pay attention to the details of

others' lives, and especially to their suffering, through cultural productions and not through abstract thinking about human nature or inalienable rights.

Furthermore, not only is this the most effective way of teaching people to expand their moral boundaries, but Rorty argues that it is already taking place at the societal level: "[T]he novel, the movie, and the TV program have, gradually but steadily, replaced the sermon and the treatise as the principal vehicles of moral change and progress."[15] Thus the progress of moral sentiments is furthered by sentimental education, the teaching of the specificity and suffering of human lives.

An interesting result of this theory of expanding moral sentiments is that it does not encourage people to make the leap from identifying with their existing moral community to the entirety of humanity. Because sentimental education is based on the teaching of specificity, it relies on the gradual widening of moral boundaries to include more and more types of people. It does not, however, aim to weaken moral ties by attempting to show that "all of humanity" is worthy of moral concern. The reason for this is that Rorty does not think that human beings, as such, generate respect and concern on the part of strangers.

> [O]ur sense of solidarity is strongest when those with whom solidarity is expressed are thought of as 'one of us,' where 'us' means something smaller and more local than the human race. That is why 'because she is a human being' is a weak, unconvincing explanation of a generous action.[16]

It is knowledge of particular humans *in their specificity*, with particular cultures, languages, and beliefs, that elicit our sympathy and solidarity. We concern ourselves with them only because we know something about their lives. This distinction has implications for human rights culture, and will be discussed further in a section below.

Adequate material conditions as a requirement of sentimental education

In order to increase people's sympathy/solidarity with others, we have to put in place the material conditions that provide the security people need to be capable of thinking beyond their own needs to consider the living conditions of others. Although

this is not a point that Rorty dwells on, he does make it clear that his program of sentimental education cannot work except under circumstances of material security and comfort. When people have their basic needs met, and do not live in situations of violence, they are in a position to be more receptive to the idea of expanding their boundaries of moral concern:

> The tougher things are, the more you have to be afraid of, the more dangerous your situation, the less you can afford the time or effort to think about what things might be like for people with whom you do not immediately identify. Sentimental education only works on people who can relax long enough to listen.[17]

It is because of our material wealth and sense of security that we in the West have, in the past few decades, shown increasing support for human rights culture, while those in poorer, more conflict-ridden countries have a more closed understanding of obligations. The affluent West takes out its cheque-book every time there is a natural disaster, or a flood of refugees, somewhere in the world, only because it has reached a point where comfort and security have allowed it to look beyond its borders.

In less privileged non-Western countries, on the other hand, it is much more common to encounter exclusivist, 'fanatical' views about who counts as a human being, and people whose boundaries of moral concern have been reduced to a small community. According to Rorty, people in these situations are perfectly rational in excluding others from their sphere of moral concern. Primarily this is the case because living in difficult circumstances (i.e. with conflict, disease, poverty, etc.) does not allow people the luxury of concerning themselves with those beyond their familial or community boundaries. But going beyond this, it is also the case because in situations of oppression and war, safety and security rest on familial or tribal loyalty – it is simply dangerous to identify with the 'other.' Outside European culture,

> most people are simply unable to understand why membership in a biological species is supposed to suffice for membership in a moral community. This is not because they are insufficiently rational. It is, typically, because they live in a world in which it would be just too risky – indeed, would often be insanely

> dangerous – to let one's sense of moral community stretch beyond one's family, clan, or tribe.[18]

So Rorty's answer to nationalism, war, ethnic cleansing and religious intolerance is, first of all, to work towards providing all people with the basic material comforts and security of the West, and secondly, to enact a program of sentimental education through which others can (like us in the West) learn more about their enemies and other strangers.

Alleviating suffering as the goal of a human rights culture

As the previous section on Rorty's view of human nature showed, Rorty does not believe that moral concern, and hence human solidarity, will develop from the widespread realization of our 'true' human nature and essential commonality. Instead, he thinks that solidarity is "a goal to be achieved" through "redescription," through paying attention to the details of the suffering of others. But why does he focus on "suffering" as the key problem to which we must pay attention?

Rorty believes himself to be a 'liberal,' where "liberals are the people who think that cruelty is the worst thing we [humans] do."[19] This definition is borrowed from political theorist Judith Shklar. Rorty is also an 'ironist,' meaning that he has abandoned the idea of being able to ground central desires and beliefs in an absolute, ahistorical reality. Putting the two together, then, we find that 'liberal ironists' maintain their hope for the alleviation of suffering in spite of their understanding that this hope cannot be grounded in 'truths' about human nature, rationality, or absolute justice. In other words, the frightening conclusion that liberal ironists draw from moral contingency is that "there is no answer to the question, 'Why not be cruel?' – no noncircular theoretical backup for the belief that cruelty is horrible."[20] As Shklar writes, "[b]y putting it unconditionally first, with nothing above us to excuse or to forgive acts of cruelty, one closes off any appeal to any order other than that of actuality."[21]

Putting cruelty first, like making the avoidance of suffering the goal of human rights culture, is a plain assertion on Rorty's part. He cannot provide a justification, but he does not believe that we should require one. In Rorty's view, "J.S. Mill's suggestion

that governments devote themselves to optimizing the balance between leaving people's private lives alone and preventing suffering seems to me pretty much the last word."[22]

Rorty claims that people will disagree with his assertion only because they still subscribe either to a form of religion or to Enlightenment rationalism, and are thus unwilling to face the moral contingency exposed by liberal ironists. But for Rorty, and those like him, it is possible to maintain the 'hope' of the Enlightenment project, even after relinquishing the rational foundations on which the project formerly rested. One simply has to recognize its contingency and abandon the notion of ultimate justification.

To sum up, Rorty considers the alleviation of suffering to be the raison d'être of human rights culture, but offers this as a belief and not as a 'truth' for which justification can be provided.

Rorty's approach as an alternative to universal human rights discourse

Rorty's rejection of the need for philosophical foundations and his emphasis on human rights as a cultural vehicle for fostering sympathy are a promising way to respond to the problems in human rights theory outlined in Chapter One. In recognizing that there are no moral principles that exist independently of particular cultural contexts, Rorty addresses the challenge of cultural relativism in his approach to human rights. By suggesting that it is more important to develop tolerance, sympathy and trust than to establish the existence of inherent rights, he shifts the focus from questions of justification to processes of 'redescription.' And in doing so, Rorty abandons the moral absolutism and the myths about human nature, inherent rights and natural equality that underpin traditional approaches to human rights.

A central point in Rorty's argument is that human rights belong to the realm of 'culture,' in which people learn the narratives of their moral communities: who counts as a human being, who is worthy of moral concern, and how one should treat people who fall outside the boundaries of his or her particular group. It is at the level of 'culture,' and not at the level of 'universal truth,' that we develop a sense of our responsibilities to people outside our communities. Human rights as 'culture' therefore holds promise as an

approach which can respond to the criticisms raised against traditional human rights discourse, while maintaining the possibility of alleviating suffering and building tolerance through the process of sentimental education. In this way, Rorty's brand of 'cultural relativism' also manages to avoid the political paralysis associated with other relativist positions.

Having established that Rorty's approach to human rights may have potential as a response to the criticisms raised in Chapter One, I will now turn my attention to a more detailed analysis of the advantages and disadvantages of this approach.

Advantages of Rorty's approach

Human rights 'culture' as the basis for 'human rights as agreement'

One advantage of Rorty's approach is that it allows us to view human rights as a matter of agreement, without being forced to rely on 'foundational truths' which can no longer be justified in our post-foundational era. At the same time, Rorty's approach avoids the common problem with rights-as-agreement theories by sidestepping the issue of how individuals relate to institutions not of their making.

There is a long line of thought on 'rights,' going back to Edmund Burke, that supports 'rights' as a matter of tradition, or agreement, or social contract. This view of rights has typically been opposed to the concept of *human* rights, as rights were seen as a matter of contract between groups of people, or between a citizenry and a state. This made universal human rights an impossibility, at least until a world government could be created (not to say that this was seen as desirable by such thinkers).

The difficulty with viewing human rights as a matter of agreement is that this view is subject to the same criticism as all social contract theories: while they tell a story of how states came into being, they cannot answer to the fact that people born into existing arrangements have made no such agreement, and are constrained in their ability to withdraw from them.

Rorty's approach to human rights draws on the idea of human rights as agreement, but escapes the criticism of rights-as-agreement theories by telling a slightly different story. Rorty admits that we are born into circumstances not of our own making, and are therefore limited in the ways we can 'choose' to make such an agreement. But by using the phrase 'human rights culture,' he sidesteps the question. We are all born into one culture or another, so being (a lucky Westerner) born into a human rights culture simply means that we have an unprecedented level of freedom and opportunity to lead a fulfilling and creative life, and ultimately to criticize – or 'redescribe,' more specifically – the institutional arrangements under which we live. It is this ability to redescribe our institutions that ensures our freedom and ultimately demonstrates our consent. The 'agreement' into which we have been born is merely an obligation to leave others to pursue their own version of the good life, and to participate in the redescription of the public institutions governing our society.

Rorty argues that the spread of human rights culture did not require us to 'prove' the universal legitimacy of rights talk – clearly, he thinks no one cares about the metaphysical status of human rights except academics. It required only that more and more people embraced it as a tool to combat suffering and oppression. In Rorty's terms, human rights discourse should not be seen as more accurately reflecting 'truth' than other discourses, but as answering the "*practical* question, 'Are our ways of describing things, of relating them to other things so as to make them fulfil our needs more adequately, as good as possible'"?[23] On this view, the basis for human rights is not a universal framework, but an agreement, to which increasing numbers of people subscribe because it is a tool for fulfilling needs. Rorty concludes that human rights discourse does an excellent job of addressing our needs (to alleviate suffering and promote tolerance) when it is implemented, and the proof is in the spread of human rights culture around the world. As NGOs employ rights discourse to expose abusive treatment of citizens (and refugees) by governments, it simply becomes impossible for governments to *deny* that these rights exist, or to *ignore* the prevalence of rights language.

A second advantage of Rorty's approach is that it calls into question why we feel a stronger sense of obligation to our fellow citizens than to people on the other side of the world. If we acknowledge the contingency of our political arrangements, we must acknowledge that our obligations to people on the other side of the world are no more tenuous than our obligations to our neighbours. While the existing disparity in moral concern may be an inevitable result of existing systems of parochial socialization, it is possible to strengthen our weak sense of obligation to 'the other' through a program of sentimental education.

Furthermore, such a program is not only *possible*, but it is also *necessary* because of cultural and economic globalization. While national boundaries remain in place, cultural boundaries have become more impermeable than ever, to the point where global cultural exchange is now taken for granted. As Rorty himself points out:

> Even if we wanted to avoid exposing non-Western cultures to the West, we wouldn't be able to, thanks to the globalized economy and modern communications. So I think we should stop worrying about whether such exposure is going to make people unhappy and just make sure that the strong don't use non-Western cultural traditions as an excuse to continue their oppression of the weak.[24]

We can no longer claim that the sovereign state system absolves us of responsibility to people in other countries, as our cultural imperialism is affecting their development whether we like it or not. Because of the expanding acceptance of Western liberal democratic ideas, Rorty argues that we Westerners have a responsibility to make sure that our cultural and institutional 'exports' are used in ways that empower the oppressed.

The 'culture' of human rights is one of the institutions that can and must be exported beyond the borders of Western nations, according to Rorty. As part of the ongoing global cultural exchange, human rights culture has been embraced by cultures around the world, and has some cultural legitimacy in many, if not most, non-Western

societies, even where the legal framework for rights is not in place. It is for this reason that we must stop being concerned about the Western roots of human rights discourse, and devote ourselves to the task of ensuring that the discourse protects the weak against the strong.

Despite having established the contingency of rights discourse, and having shed its universalist pretensions, Rorty's approach still provides a way to 'expand' the rights-as-agreement discourse beyond national borders. Furthermore, Rorty suggests a way of thinking about our global responsibility which is sensitive to questions of western imperialism.

The pragmatic role of the liberal ironist

A third advantage to Rorty's approach is that it allows us to focus on the lived experience of oppressed peoples, and the power imbalances that cause their suffering, instead of devoting all our attention to esoteric questions. Even though Rorty dismisses the idea of a human nature, his approach reminds us that human beings have a number of basic vulnerabilities, some of which we share with other species, such as the susceptibility to injury, disease, and hunger, and some of which are uniquely human, namely the vulnerability to humiliation. It is addressing this pain and humiliation that is our paramount challenge.

Rorty notes that it has only been because of the astonishing developments of twentieth century science and technology, coupled with increasing secularization, that more and more people have begun to include total strangers within their sphere of moral concern. He argues that only recently have we been able to sympathize with the plight of others without concerning ourselves with their eternal soul, or their conception of the good life, or any other of their moral beliefs In Rorty's words, we live in

> the first epoch in human history in which large numbers of people have become able to separate the question 'Do you believe and desire what we believe and desire?' from the question 'Are you suffering?' In my jargon, this is the ability to distinguish the question of whether you and I share the same final vocabulary from the question of whether you are in pain. Distinguishing these questions

> makes it possible to distinguish public from private questions, questions about pain from questions about the point of human life, the domain of the liberal from the domain of the ironist. It thus makes it possible for a single person to be both.[25]

The approach of the 'liberal ironist,' then, is one which sets aside the 'big questions' in order to pay attention to, and hopefully do something to mitigate, the suffering of strangers. In Rorty's terms, the liberal ironist discards the search for knowledge in favour of a quest for hope. "This element of romantic hope, this willingness to substitute imagination for certainty, and curiosity for pride, breaks down the Greek distinction between contemplation and action," (Rorty, PSH, 88). Thus the liberal ironist has a more active role to play than the philosopher s/he replaces.

Problems in Rorty's approach

Moral relativism

Although Rorty is clearly a moral relativist, he makes a distinction between radical moral relativism (which results when 'anti-ethnocentrists' or 'wet liberals' find themselves incapable of making moral judgments) and his own tempered sense of relativism, which simply requires admitting that there are no *neutral* criteria by which one can judge moral positions, while still maintaining the capacity to judge *from the perspective of the values and norms of one's own society*. Rorty's perspective on moral relativism must be scrutinized in three ways: I will examine whether his distinction holds up to argument, whether Rorty is consistent in his brand of relativism, and what the implications of his position are.

A number of contemporary writers have observed that even anti-universalists tend to make universal claims to support their arguments. The paradox of relativism is that even the claim that there are no universal truths is a universal claim in itself. Rorty is even more susceptible to this criticism than most relativist writers, as he often makes claims about particular values and norms the utility of which 'we' in the West will

ultimately be able to persuade others. These include democracy, procedural justice, market economies, and even 'human rights culture.' For example, Rorty writes:

> [My philosophy] urges liberals to take with full seriousness the fact that the ideals of procedural justice and human equality are parochial, recent, eccentric cultural developments, and then to recognize that this does not mean they are any less worth fighting for. It urges that ideals may be local and culture-bound, and nevertheless be the best hope of the species.[26]

It appears to be impossible for Rorty to remain within the boundaries of judgment from the perspective of one's own community. He cannot avoid making transcultural claims.

With his usual ironic wit, Rorty advocates a stance he calls 'anti-anti-ethnocentrism,' which is

> just a bit of *ad hoc* philosophical therapy, an attempt to cure the cramps caused in liberals by what Bernard Williams calls 'the rationalist theory of rationality' – the idea that you are being irrational, and probably viciously ethnocentric, whenever you cannot appeal to neutral criteria.[27]

Rorty claims that thinkers who take anti-ethnocentrism too far find themselves paralysed by their lack of objective criteria with which to make moral judgments.

It is clearly not always possible to find common ground between two worldviews, but according to Rorty this does not mean that relativists cannot condemn certain perspectives as being immoral. Rorty's key claim is that it is not necessary to have recourse to objectivity in order to judge:

> *Our* moral view is, I firmly believe, much better than any competing view, even though there are a lot of people whom you will never be able to convert to it. It is one thing to say, falsely, that there is nothing to choose between us and the Nazis. It is another thing to say, correctly, that there is no neutral, common ground to which an experienced Nazi philosopher and I can repair in order to argue out our differences.[28]

The question is how one can arrive at the conclusion that 'our view' is better than the Nazi view, given that there are no transcultural criteria with which to judge. Rorty's response is that liberal democracy (like other liberal norms and values) is the most

convincing and appealing structure available to human beings, and this is demonstrated by the growing numbers of nations who embrace this type of Western arrangement. That so many nations have 'converted' to Western political structures is evidence that the whole world will eventually realize the benefits of doing so, and no further justification is required. "There is a difference between the Nazi who says 'We are good because we are the particular group we are' and the reformist liberal who says 'We are good because, by persuasion rather than by force, we shall eventually convince everybody else that we are.'"[29]

With this sort of arrogant claim, no one could ever accuse Rorty of being a 'wet liberal.' In fact, it is easier to place him within the universalist camp than it is to accuse him of being a radical relativist. Thus it is fair to say that his distinction between radical moral relativism and his own brand of qualified relativism holds up.

The more interesting point, then, is whether Rorty takes relativism seriously at all. It seems that whenever he is faced with a challenge of his basic moral principles on the grounds of relativism, he forecloses discussion.

> We have to insist that not every argument need be met in the terms in which it is presented. Accommodation and tolerance must stop short of a willingness to work within any vocabulary that one's interlocutor wishes to use, to take seriously any topic that he puts forward for discussion. To take this view is of a piece with dropping the idea that a single moral vocabulary and a single set of moral beliefs are appropriate for every human community everywhere, and to grant that historical developments may lead us to simply *drop* questions and the vocabulary in which those questions are posed.[30]

This seems like a disingenuous attempt to confront those who seriously challenge the moral framework within which Rorty operates. He employs the tool of relativism against the metanarratives of Western philosophy when it suits him, but stops short of facing the implications of this relativism when it is used to undermine his own moral position. Thus, Rorty decides the limits of relativism according to his fondness for the particular ideas being criticized.

Part of Rorty's problem is that, despite his lack of attachment to universal ideals, he is strongly attached to Western liberal institutions.

> The relevant point is that one does not have to accept much *else* from Western culture to find the Western liberal ideal of procedural justice attractive. The advantage of postmodernist liberalism is that it recognizes that in recommending that ideal one is not recommending a philosophical outlook, a conception of human nature or of the meaning of human life, to representatives of other cultures. All we should do is point out the practical advantages of liberal institutions in allowing individuals and cultures to get along without intruding on each other's privacy, without meddling with each other's conceptions of the good.[31]

His unabashed support for 'the American way' causes a major flaw in Rorty's thinking: he fails to confront the critics of liberalism who uncover the unacknowledged cultural assumptions inherent in liberal ideology. Rorty does not answer the question of how a liberal framework can adequately deal with radical cultural difference, or how 'procedural justice,' which requires that everyone be treated as equals in the public sphere while leaving them to their own devices in the private sphere, can coexist with cultural traditions where this public/private split does not exist, or is defined differently. In his enthusiasm for liberal institutions, Rorty falsely universalizes the values which provide the foundation for his beloved ideology.

But it is not only in his liberalism that Rorty is guilty of ignoring implicit values; it is also in his privileging of the category of 'culture.' Even when Rorty abandons his liberal discourse to talk about the relativity of the values of each culture, he is making implicitly universal statements. 'Cryptonormativism' is the apt name given by Pheng Cheah to this kind of 'unacknowledged universalism'. Bruce Robbins suggests that Pheng Cheah's critique of 'cryptonormativism' applies to the implicit norms in Rorty's relativism:

> [C]ultural politics has brought to the forefront an element of hidden normativity, or cryptonormativism, that was always already there in culture. In his essay, 'Given Culture: Rethinking Cosmopolitical Freedom in Transnationalism,' Pheng Cheah suggests that cultural arguments against universality, especially transnational universality, are often inconsistent: 'the critique of the false universalism of cosmopolitical culture already harbors a desire for access to a true universal. The argument for the autonomy of the local presupposes the universal value of autonomy and proposes to apply it to every particular group or collective unit . . . the truth of cultural relativism is multicultural universalism.' If the

> ostensibly cultural always involves cryptonormativism, then perhaps the cultural version of the universal/particular conflict is actually a conflict not for or against normativity itself, but rather between two units or scales of normativity, or even between units or scales that can be shown (like nationalism and internationalism) to overlap, and thus can be shown to be susceptible of resolution.[32]

Thus Rorty's claim that our moral principles can be grounded only within the context of our particular culture contains a hidden normative claim about the value of cultural norms. While Rorty recognizes the contingency of the norms and values of our modern Western culture, he argues that these are the 'best' ones humans have been able to come up with thus far in our history. But how do we evaluate these norms and values, except from the vantage point of someone within this culture? In this way, Rorty implicitly acknowledges the value of the local, and thereby retreats into 'cryptonormativism.'

In the next section, I will look at how the tension between 'cryptonormativism' and relativism comes into play specifically in Rorty's use of the concept of human nature, which is central for understanding his views on human rights.

Human nature

As we have already seen, Rorty's support of 'human rights culture' is based not on the claim that humans have intrinsic rights arising from their nature, but on the idea that *operating as though we have these rights* will result in decreased suffering and increased tolerance and equality. Rorty rejects the notion of a human nature, saying that the only thing we know about ourselves as a species is that we are endlessly malleable.

The question of whether Rorty implicitly relies on a conception of human nature can be answered by examining his treatment of the concept of suffering. Rorty uses the term 'pain' when he wants to say there is no human nature, to make the point that there is nothing particularly *human* about suffering – that we share a susceptibility to pain with non-human animals.

> Those who wish to supply rational, philosophical foundations for a human rights culture say that what human beings have in common outweighs such adventitious factors as race or religion. But they have trouble spelling out what this commonality consists of. It is not enough to say that we all share a common susceptibility to pain, for there is nothing distinctively human about pain. If pain were all that mattered, it would be as important to protect the rabbits from the foxes as to protect the Jews from the Nazis. If one accepts a naturalistic, Darwinian account of human origins, it is not helpful to say that we all have reason in common, for on this account to be rational is simply to be able to use language. But there are many languages, and most of them are exclusionist. The language of human rights is no more or less characteristic of our species than languages which insist on racial or religious purity.[33]

Here he quickly dismisses the idea that susceptibility to pain provides the grounds for an understanding of human nature. Interestingly, he turns to the question of whether humans as language-using creatures share something morally relevant which would provide the basis for an understanding of human nature. He dismisses this, too, by arguing that human languages are varied, and do more to divide us as a species than unite us.

But to respond to this, the point is not that all human must share a language in order for it to be morally significant, but that we all use language, and in a way that is qualitatively different from other language-using species: we use language to reflect on our condition. Dolphins and chimpanzees may express fear, hunger, or aggression through language, but as far as we know, they do not wonder whether their children will have better lives than their grandparents. And if they did participate in such reflective activities, we would have good reason to include them within our moral universe. (It goes without saying that we are obligated to prevent cruelty against all sentient beings, although this is not the same as saying that non-human animals can be considered as having moral viewpoints, and thus as being potential interlocutors).

Of course Rorty is fully aware that there is more to preventing cruelty among humans than addressing the problem of physical pain. In other passages, he recognizes that humans are unique in terms of our susceptibility to certain kinds of suffering that relate to our status as language-using animals. That particular kind of suffering is *humiliation*, and it arises from the fact that humans hold beliefs and values, and reflect on our condition through language: "[The liberal ironist] thinks that what unites her with the

rest of the species is not a common language but just susceptibility to pain and in particular to that special sort of pain which the brutes do not share with humans – humiliation."[34] In another essay, he writes that

> human beings who have been socialized – socialized in any language, any culture – do share a capacity which other animals lack. They can all be given a special kind of pain: They can all be humiliated by the forcible tearing down of the particular structures of language and belief in which they were socialized (or which they pride themselves on having formed for themselves).[35]

Clearly it suits Rorty only some of the time to claim that there is nothing that humans share with each other that we do not share with non-human animals. The question remains as to whether Rorty would concede that susceptibility to humiliation points to a human *nature*, or whether he would argue that, although we all share it, is a result of the contingent fact that we have all been *socialized* as humans. This, however, is an unsatisfying answer, as it is not convincing to claim that all humans just *happen* to have been socialized in a way that makes us *all* susceptible to humiliation, rather than accepting that a global commonality points more directly to a 'human nature,' in a very basic sense.

Norman Geras is a socialist theorist who is concerned with Enlightenment values and the foundation of human rights. In *Solidarity in the Conversation of Humankind: The Ungroundable Liberalism of Richard Rorty*, his project is to show that Rorty implicitly subscribes to foundationalist principles (such as a concept of human nature) even though *prima facie* he rejects them. Geras, as a socialist, is a foundationalist thinker himself, and sees Rorty's work as being more valuable if it can be shown to be grounded in certain universalist principles. In his chapter analyzing Rorty's view of human nature, Geras writes that:

> Rorty knows as well as anyone that we have species-specific qualities. Amongst them is 'that special sort of pain which the brutes do not share with the humans – humiliation.' We are vulnerable to it by virtue of the beliefs and attachments that can be belittled and exposed to ridicule; and because a person can be coerced into doing or saying and sometimes even thinking things 'which later she will be unable to cope with having done or thought.'[36]

Susceptibility to humiliation is thus the commonality that unites all humanity (and only humanity), and is acknowledged by Rorty in some of his writings to be the basis of a 'human nature' of some form. Geras concludes that Rorty does indeed rely on a number of concepts which he claims to reject. "[E]verything renounced by him is, here as elsewhere, in this [Amnesty] lecture as in the rest of his work, retrieved."[37]

Culture, human rights, and the public sphere

In his Amnesty Lecture, Rorty celebrates that 'human rights *culture'* [emphasis added] is a fact of the 'post-Holocaust world.' By calling it a 'culture,' Rorty offers a way of looking at human rights that is non-foundationalist. As a culture, human rights becomes part of our web of beliefs, values, and desires, without requiring 'philosophical presuppositions.' As noted above, this move blends the idea of rights-as-tradition with rights-as-universal. Rights are thereby divorced from the formal institutions of the nation-state, and embedded as part of the informal 'culture' of the West.

In order to evaluate this move, it is important to understand what Rorty means by 'culture.' In *Truth and Progress*, he writes that 'culture' can be taken to mean something very specific and local (such as the culture of a particular workplace) or something much broader (such as modern Western culture). We also make distinctions between what is called low (popular) and high culture. Rorty argues that it is partly because we conflate these various meanings of 'culture' that we have come to be so reverent toward the idea of culture, and that we have come to the false conclusion that every culture has intrinsic value and therefore must be 'saved':

> The suggestion that we treat every culture as a work of art, prima facie worthy of preservation in the way in which every work of art is so worthy, is a comparatively recent one, but it is very influential among leftist intellectuals in the contemporary West. It goes along with a sense of guilt about 'Eurocentrism' and with rage against the suggestion that any culture might be seen as less 'valid' than another. To my mind, this set of attitudes is an attempt to preserve the Kantian notion of 'human dignity' even after one has given up on rationality [as an extra added ingredient that human beings have and brutes do not]. It is an attempt to re-

> create the Kantian distinction between value and dignity by thinking of every human culture, if not of every human individual, as having incommensurable worth – as surrounded by the aura that, for persons who are 'cultured,' surrounds works of art.[38]

Rorty rejects this view on the grounds that cultures are only worthy insofar as they serve (individual) human purposes. "[T]the European enlightenment invented the doctrine that cultures are means for the happiness of individuals rather than ends in themselves. That doctrine seems to me irrefutable."[39]

It is for this reason that Western liberals can *prefer* those cultures that allow the development of critical reflection to those that do not. While anti-ethnocentrists protest that this judgment reflects a form of 'Western bias,' the distinction provides, in Rorty's view, the moral justification for exporting our 'human rights culture' to non-Western societies.

> Maybe someday there will be non-Western fighters against injustice, defenders of the weak against the strong, who turn down free elections, a free press, free universities and the like, on cultural grounds. But until some such people turn up, it is a waste of time for us to worry about whether we're practicing cultural imperialism by doing our best to export these devices. As long as there are persecuted dissidents who think that Western devices are the only way to break the power of the local oligarchs, Western governments should continue doing everything they can to keep those dissidents out of jail, in the news, and on the Net.[40]

According to Rorty, it is this principle of allowing critical reflection (in the form of free speech, a free press, etc.) that distinguishes Western-style democracies as *the best we are capable of at this stage* in our development as a species.

But the problem of how Rorty privileges certain cultures over others runs deeper. He has answered the question, 'Why are some cultures preferable to others?' (to the satisfaction of liberal democrats) but not the question 'Why are we justified in exporting cultural institutions *preferred in the West* to other societies?' To answer this, Rorty does not call upon *universal* values but upon the *contingent* values particular to modern Western culture. It is not because we are *right* that we attempt to export human rights

culture and other democratic ideals; it is because we could not live with ourselves if we did not:

> Exporting [democratic] institutions is a duty we Westerners cannot avoid any more than we can avoid our duty to export anesthetics and to stop exporting automatic rifles and jet bombers. This is not because such initiatives are dictated by transcultural human reason – in my view there is no such thing as transcultural human reason – it's because we Westerners have talked ourselves into being the kind of people who cannot live with themselves if we neglect those duties.[41]

But this does not adequately address the problem of cultural imperialism. When we justify actions with reference to particular, contingent values, we can only justify them to those who share these contingent values. There is nothing in this argument for someone outside Western culture who does not believe that the West in fact *does* have these 'duties.'

This is the crux of the problem of human rights and contingency. Without a foundation of universal values – say, a concept of 'justice' or 'human dignity' – it is impossible to convince anyone who does not share one's cultural suppositions that human rights, democracy, or any other Western institution should be implemented in a society where these ideas are not endemic. 'Culture' is a weak and limited base on which to build support for human rights, as it consciously resorts to values particular to a specific place and time; it is thus incapable of justifying itself to someone standing outside this place and time. In this sense, the anti-ethnocentrists are right in saying that no one is in a position to judge one culture or another.

Rorty would respond to this by saying that we should simply drop the question of justification, just as we should drop the quest for 'truth'. He moves beyond the paralysed judgment of anti-ethnocentrism with the brash assertion that we no longer require justification beyond that of our value-system. Since we will never have objective, universally-valid criteria for such justification, we should abandon the pursuit altogether. All we can do is "point out the practical advantages of liberal institutions in allowing individuals and cultures to get along without intruding on each other's privacy, without meddling with each other's conceptions of the good."[42] In this way, Rorty relegates

considerations of cultural diversity to the private sphere in order to design public sphere institutions based on liberal premises.

On this point, Rorty is susceptible to two well-known criticisms of liberalism: that it creates a false division between public and private, and that it operates on the false assumption that public institutions can be culturally neutral. Feminist theorists have been particularly effective in exposing the dangers and the falsity inherent in the public-private split; communitarian theorists have argued that public institutions are always based on a particular cultural understanding of concepts such as 'the good' and 'fairness.'

This brings us back to the problem of 'human rights *culture*.' If, in Rorty's scheme, culture belongs to the private sphere, what does this imply about the prospects for public action based on the *culture* of human rights? As Rachel Haliburton observes, Rorty's solution to the problem of cruelty is to create a split between the public and private realms. In the public realm, people can be virtuous citizens who avoid cruelty, while in the private realm they recognize that their beliefs are contingent.

> 'The liberal half of the liberal ironist is the public half, and is characterized by the belief that 'cruelty is the worst thing we do.' The private, or ironic, part of the liberal ironist is characterized by an acknowledgement that all of his or her most central and profound beliefs are merely contingent products of time and place.[43]

As Haliburton argues, the act of relegating human rights to the cultural sphere sustains the possibility that cruel behaviour may continue unchecked in private, even while concerted public action is taken against public cruelty:

> [I]f one were able to split one's beliefs (and the actions which arise from those beliefs) there is no reason to think that one might not strive to reduce cruelty in those areas considered part of the public domain (such as, for instance, certain kinds of policy formulation) while simultaneously being extremely cruel to one's family (an area thought of as part of the private realm).[44]

Thus Rorty's liberal ironist solution to the problem of cruelty merely serves to mask problems in the so-called private sphere, problems which feminists strive to have recognized as public issues.

Taking the public/private question to the global level, Bruce Robbins has argued that maintaining a sharp distinction between private culture and public action prevents Rorty and other liberals from making significant progress on human rights issues at the international level, because the concept of the public sphere is integrally linked to the nation-state.

> In describing human rights as cultural rather than juridical, and thereby denying them any foundational status, he is not merely taking up the (to my mind, inescapable) challenge of supporting human rights without positing any universal human nature, a definition of humanity known in advance on which those rights can be based. What it means not to have a foundation, he implies, is indeed to exist on the level of culture, on the level of 'sad and sentimental stories.' But this is true only beyond the nation. For there *is* such a thing as law, and law is what politics is properly about. And law has a better foundation. But law exists, for Rorty, only *within* the nation.[45]

The liberal stance on culture as belonging to the private sphere jeopardizes the possibility of taking action at the international level by making human rights a private, cultural matter. While Rorty may feel sympathy, or even solidarity, toward people in other nations, he has no recourse to an international public sphere through which to act in concert with others who share his sentiment.

Despite Rorty's support of "human rights culture" in the Amnesty Lecture, Robbins points out that Rorty tends to dismiss human rights in his other writings because of its reliance on universalist foundations, and actually places the discourse in opposition to the "private" language of sympathy and sentiment, which he feels is more effective. Robbins contrasts Rorty's 'private realm of sympathy' with the realm of public action. The consequences of valuing the former over the latter are that, while sympathy may help us relate to others in far-off places, this sentiment is limited to the private sphere and cannot therefore be translated into political action.

Robbins claims that the 'cultural left' must not sacrifice its focus on the issue of culture in order to make an allegiance with the 'liberal left.'

> As Rorty himself reminds us, culture will have to be at the heart of any feasible scenario that works toward global democracy and economic redistribution.

> Culture is also and already part of the action on behalf of both that is carried on in the liberal vocabulary of human rights.[46]

Bruce Robbins refutes Rorty's attempt to deny the existence of the public sphere at the international level by pointing to the recent rise to prominence of NGOs and the prevailing discourse of human rights internationalism. Robbins traces inconsistencies in Rorty's use of the opposition between democracy and culture, and demonstrates that Rorty's use of national borders as the appropriate dividing line between the realms of (domestic) democracy and (international) culture is false and dangerous. Robbins observes that international and regional NGOs are finding a way to bridge the universalist-particularist (or public legislation/ private culture) divide by working with and against sovereign states to develop a language of human rights that is grounded in local cultures. This international public sphere is thus already grappling with cultural issues as well as formally public issues, such as international law, in ways which challenge the private-public split, as well as the national-international divide. Robbins concludes that "[t]he concept of culture need not be aligned against such normative concerns as human rights. Flawed and limited as both concepts undoubtedly are, they are tools with which good work is already being done."[47]

Robbins' work highlights a major problem in Rorty's work: that he is possibly giving up too much when he renounces the foundations of human rights. Without the capacity to make transcultural normative claims, and to take action in the public sphere, liberal-ironist advocates of a 'human rights culture' are limited in their ability to contribute to the already-existing transcultural movement for human rights. Simultaneously, Rorty and other liberals run the risk of ignoring the cultural specificity of liberal claims (especially concerning the public and private spheres), and thus end up paying inadequate attention to the role of culture in public institutions.

Cruelty and suffering as culturally neutral concepts

Considering that Rorty's original rejection of the foundationalist concept of universal human rights is based on his belief that there are no transcultural truths, it

would be useful to investigate how Rorty uses the concepts of cruelty and suffering as focal points for grounding his approach to 'contingent' human rights.

Cruelty can be defined as the intentional infliction of pain or humiliation, which together constitute 'suffering' for the purposes of this paper. As we saw in the section entitled 'Human Nature' above, Rorty clearly understands that vulnerability to physical pain is universal, although not exclusive to humans. He also seems to concede, despite his ambivalence in places, that 'humiliation' plays a role in defining us as humans. As Geras points out, Rorty grants central importance to the prevention of cruelty, and in fact makes it the defining feature of his brand of liberalism:

> According to Rorty, 'cruelty is the worst thing we do.' This is a central, repeated point with him and he follows Judith Shklar in making it definitive of liberal belief. Cruelty *is* the worst thing we do. But cruelty is deliberately inflicting suffering; it is delight in, or indifference to, the pain of others. Rorty knows these obvious connections. One way for him of being 'very cruel' is to cause that special sort of pain which is humiliating people. The normative priority of this concern of his is something about which Rorty is himself emphatic.[48]

The prevention of cruelty, then, is an aim which Rorty appears to use as a sort of transcultural imperative. Paying attention to cruelty, and to our common susceptibility to pain and humiliation, is the only strategy available to the liberal ironist who has renounced all other transcultural facts.

This begs the question, how does Rorty reconcile his renunciation of universal truths with the idea that preventing cruelty (however defined) requires no further justification than 'it is the worst thing we do'? If all other goals are contingent on the values and beliefs of the society we live in (or those we have constructed for ourselves), how can this one idea exist beyond the self-conscious contingency of liberal ironism? If one takes that there are no facts in the world other than 'cultural facts,' as Rorty argues, then the definition of cruelty or suffering cannot be taken for a transcultural fact any more than 'human dignity' or 'justice' can. Even cultural practices which would appear to those of us in the modern West to be clear cases of cruelty can be (and often are) interpreted in a different light within local contexts. This would suggest that a transcultural understanding of cruelty is not possible.

Consider the example of female genital mutilation, common in certain African and South Asian countries, and widely discussed within feminism. Western (and international) feminist and human rights groups consider the practice a human rights violation, while a number of African groups attempt to problematize these Western interpretations of a non-Western cultural tradition.[49] Western feminist theorists argue that human rights 'trump' cultural tradition on the grounds that genital mutilation is a cruel, barbarous practice with no health benefits to women. Western feminists then go on to argue that if you examine the social context in which the practice takes place, you will see a set of highly patriarchal societies which retain a rigid gendered division of labour and a misogynous condemnation of women's sexuality. This human rights violation is allowed to happen only because women have unequal access to power in such societies.

The response from many people (women and men) embedded in the cultures where this practice takes place is that privileged Western feminists are not in a position to condemn this cultural practice because they do not understand the cultural significance of it to women in this culture. They argue that it is ethnocentric to judge cultures to which you do not belong. In countries where the practice is performed, women's sexual purity is more valuable than sexual freedom or sexual equality, and so Western values simply do not apply.

This example demonstrates that the prevention of cruelty is not a culturally neutral concept, even in cases which appear very clear to a citizen of the modern West. To this, Rorty would undoubtedly reply that genital mutilation, like Nazism, is a case where we must refuse to engage with our interlocutors within their own vocabulary. The possibility of genital mutilation not being an act of cruelty would be, for Rorty, simply not worthy of being taken seriously.

What is interesting here, though, is that Rorty himself acknowledges that our understanding of suffering changes over time:

> "[W]e in the West have become aware of forms of suffering and humiliation of which [John Stuart] Mill was less aware. Since we invented cultural anthropology, we have become more aware of humiliations caused by colonialist arrogance. Since Freud, we have become better able to take homosexuality in our

> stride, and more willing to see homosexuals as an oppressed minority rather than a corrupting and subversive influence on society."[50]

As we will see in more depth in the following chapter, the concepts of cruelty, pain, and suffering are, as much as any other concept, cultural constructions. For Rorty to argue from the perspective that 'avoiding cruelty' can be used as a (uniquely) culturally neutral concept is for him to ignore the particular cultural context in which he operates. For the universalist (or, in Rorty's terms, the liberal metaphysician), cruelty and suffering can take their place with other transcultural truths, like justice, rationality, and freedom, as part of the 'final vocabulary' with which they make their moral judgments. For the liberal ironist, however, recourse to a culturally neutral concept of cruelty, humiliation, or suffering is not a philosophically consistent option.

Having taken a closer look at Rorty's conception of cruelty, I must now examine more closely his commitment to human rights language. Throughout his writing, Rorty places himself firmly in opposition to those who hold human rights to be universal and unquestionable. In Rorty's view, human rights, like all other concepts, are not to be used as ideological trumps, but as tools for conversing about our values and persuading others to be more tolerant or less cruel.

> From a pragmatist's point of view, the notion of 'inalienable human rights' is no better and no worse a slogan than that of 'obedience to the will of God.' Either slogan, when invoked as an unmoved mover, is simply a way of saying that our spade is turned – that we have exhausted our argumentative resources.[51]

At the same time, he thinks that 'human rights' is one of the more useful conceptual tools the West has come up with lately. While the human rights culture cannot be justified with reference to an ahistorical truth about human nature or what justice must look like, this culture can help us acknowledge and work to alleviate suffering in different contexts. Rorty and like-minded philosophers view their task "as a matter of making our own culture – the human rights culture – more self-conscious and more powerful, rather than of demonstrating its superiority to other cultures by an appeal to something transcultural."[52]

Is Rorty attempting here to have it both ways? Is he trying to retain the benefits of a universalist discourse developed by the West to suit Western interests, while attempting to argue that the discourse in its non-foundationalist form can nevertheless provide a valuable tool for moral persuasion? How can a "liberal ironist" defend and promote a human rights culture without having the philosophical certainty that rights can be said to exist?

Norman Geras notes that others have suggested that Rorty's Amnesty Lecture represents a departure from his previous views, especially in his new found warmth of expression toward human rights culture. Geras himself does not see the lecture as embodying a change of view, however. Even though Rorty offers, on first glance, his support for human rights, he still rejects the philosophical framework which others assume is implicitly required to ground human rights discourse:

> [T]here comes a day, and Rorty gets up and endorses the thought that the human rights culture is a welcome fact of our world and morally superior to other cultures. A change of heart? In something, obviously yes: it is the thumbs-up instead of the thumbs-down. In everything else, however, no. For the whole structure of ideas we have become familiar with from his earlier work remains intact. Thus, there is no human nature, there is only open possibility . . . Respect for human dignity (enclosed by him in scare-quotes) does not presuppose any 'distinctively human attribute,' nor the superiority of the human rights culture count in favour of the existence of 'a universal human nature.'[53]

Geras concludes that Rorty's support for human rights, as expressed in his Amnesty Lecture, is seriously qualified by what Rorty thinks human rights actually are. Since philosophical questions about the nature of human rights are simply 'outmoded' in Rorty's view, his support of human rights culture is based on a view of such rights which is embedded in – and of course contingent upon – the particular web of beliefs and values which makes up the dominant worldview in the modern West. But this raises the issue of whether a view of human rights which is embedded in such particularism is compatible with what most people understand to be human rights. The kind of human rights to which Rorty subscribes – those which are valid only within certain cultural contexts – are not properly known as human rights, as they do not belong to all humans everywhere.

Going back to the Enlightenment debate between rights-as-tradition and rights-as-universal, we recall that the followers of Burke viewed rights as an agreement between citizens and state. With Rorty's emphasis on human rights as a cultural construct, valid only within particular social contexts, it could be argued that he is advancing a modified version of rights-as-tradition. The main peculiarity with this reasoning is the question of why Rorty chooses to call this sort of rights '*human* rights.' Surely if rights are contingent, like workers' rights or the rights of the disabled, they should be called by a more specific name. Human rights can only be called that if they apply to the entirety of humanity. Indeed, as Geras observes:

> Rorty *only* neglects to explain what need there could be of rights properly qualified as 'human' if there really were no morally relevant transcultural facts, no transcultural fact in particular of a common human nature. In these circumstances there would still be a place, certainly, for special rights: rights appropriate for this, and other rights appropriate for that, lot of people; rights fashioned to fit the characteristics – capacities, interests or needs – acquired in virtue of these forms of acculturation, different rights fashioned for those forms and for the quite other characteristics produced by them. But it would not seem apt, it would seem indeed perverse, to put such rights under the rubric of universal 'human' rights when it is their cultural specificity, tailored to historical and social differences, that marks them. . . . So the human rights culture looks to me like a misnomer for any moral outlook Rorty could, on the basis of his favourite themes and emphases, consistently support.[54]

This conclusion appears to hold bleak prospects for Rorty's approach to developing a 'human rights culture.' It seems unclear how Rorty's philosophical approach could do anything but damage to the cause of human rights, judging by Geras' evaluation. But to this point, we have yet to critically evaluate a key aspect of Rorty's view on human rights, and that is the role of sentimental education in Rorty's human rights project. I will now turn to this question.

Suffering, power imbalances, and the manipulation of sentiment

As we saw above, Rorty proposes that sentimental education is the most effective way to work toward the alleviation of suffering. We should recall that sentimental

education encourages ordinary people to learn more about the specificity of the lives of distant others, in order to gradually expand their moral boundaries to include more and more different types of people. It does not aim to breed a love of humanity as such, but a sympathy for others based on increased knowledge of their culture, language, beliefs, and life circumstances. Essentially, sentimental education teaches what it is like to be in the shoes of the other.

To turn a critical eye now toward Rorty's concept of sentimental education, it is necessary to examine whether human rights education teaches people to be *more tolerant of difference* (i.e. attempts to demonstrate that differences are morally irrelevant), or whether it attempts to 'override' certain differences with a 'learned' *commonality* by pointing to comparable life circumstances (e.g. 'what it means to be a mother').

In one passage, Rorty argues that it is futile to try to convince people that everyone shares something in common:

> To get whites to be nicer to Blacks, males to females, Serbs to Muslims, or straights to gays, to help our species link up into what Rabossi calls a 'planetary community' dominated by a culture of human rights, it is of no use whatever to say, with Kant: Notice that what you have in common, your humanity, is more important than these trivial differences. For the people we are trying to convince will rejoin that they notice nothing of the sort.[55]

Here Rorty is observing that, especially in times of conflict, differences (such as ethnicity, religion, or custom) are morally relevant to the people involved. These differences delineate their identities, and they will never recognize the common humanity that is supposed to unite them. This would imply that the goal of sentimental education is to show that the differences are morally irrelevant, but not that they are overridden by a notion of commonality. This reading of Rorty's position is borne out by the following passage:

> Pragmatists suggest that we simply give up the philosophical search for commonality. They think that moral progress might be accelerated if we focused instead on our ability to make the particular little things that divide us seem unimportant – not by comparing them with the one big thing that unites us but by comparing them with other little things. Pragmatists think of moral progress as

> more like sewing together a very large, elaborate, polychrome quilt, than like getting a clearer vision of something true and deep.[56]

So it seems justified to conclude that Rorty rejects the idea that sentimental education is supposed to highlight commonality, rather than merely foster tolerance for difference.

Having established this, it is clear that there is a flaw in Rorty's approach. 'Sentimental education as teaching tolerance for difference' is much less likely to work than 'sentimental education as pointing out commonality' for the simple reason that we cannot persuade people to include others within their sphere of moral concern if they cannot *identify* with them in some way. The object of learning about the specificities of another's life has the effect of uncovering hidden similarities, or else it can only be an *alienating* process.

If, for example, we are learning more about the life of a poor, HIV-positive prostitute in Thailand, we may learn that she loves and misses her parents, that she dreams of getting an education, that she hates feeling trapped in her job, and that she is fearful of the violence which plagues her life. These pieces of knowledge elicit our sympathy because we can relate to them. If we are learning more about the life of a machete-wielding soldier in Sierra Leone, we may learn that he has turned off his emotions, that he regularly maims and kills men, women and children, that he has participated in gang rapes, and lives only for the thrill he feels when he engages in violence. This is the radical other for whom we can feel no sympathy, and whose humanity is not obvious to us, as we see only difference. It is only when we learn more about his childhood, perhaps, or the girlfriend he left behind when he went to work as a soldier, that we can begin to see that he was once a person instead of a killing machine. It is only when we make connections with parts of his life *to which we can relate* that we can feel any sympathy for how his life has turned out.

The point here is that learning about the specificity of another's life elicits sympathy only if we can identify in some way with that life. If in learning about a life we encounter only radical difference, we are more likely to feel revulsion than sympathy. So sentimental education can be seen as entirely *dependent on the aim of demonstrating commonality*, rather than merely trying to make difference less morally relevant.

Norman Geras argues that, as with other concepts, Rorty implicitly relies on a notion of commonality even as he rejects its appeal to the metaphysical. For, in contradiction to the passages above, Rorty does also claim that the goal of sentimental education is "to expand the reference of the terms 'our kind of people' and 'people like us.'"[57] Geras argues specifically that the particular traits to which Rorty refers (i.e., those that encourage sympathy in the process of sentimental education) are those which are linked to universalistic notions of a common humanity:

> Pressing the virtues, for example, of the sentimental story as against the 'universalistic notion,' he speaks of stories which begin so: 'Because this is what it is like to be in her situation – to be far from home, among strangers.' Or which begin so: 'Because her mother would grieve for her.' He speaks, too, of a progress of sentiments that consists in 'an increasing ability to see the similarities between ourselves and people very unlike us as outweighing the differences.' But now, 'grief' and 'mother' and 'home,' do they not just begin to edge one toward a possible terrain of morally relevant transcultural facts? And similarities with 'people very unlike us' that can nevertheless come, these similarities, to be seen as outweighing the differences, do they not point after all to *something* shared, the common traits of a humanly general make-up?[58]

Thus, despite Rorty's disavowal of sentimental education as the teaching of commonality, it appears that not only is this the most promising version of sentimental education, but it is also the one on which Rorty implicitly relies to make his case.

Keeping in mind that Rorty is politically motivated by a desire to improve the lives of the suffering and the oppressed, I must now turn my attention to questions of power within Rorty's approach. Recall the following statement of Rorty's position:

> All we need to know is that, where there is a well-organized and vocal Helsinki Watch committee, the strong have a slightly harder time inflicting unnecessary suffering on the weak than they would have had otherwise. . . . [T]he proof of the human rights culture is that it has made it a little more difficult for the strong to increase their own wealth and power by grinding the faces of the weak.[59]

Clearly Rorty views the human rights culture as a movement of empowerment. And yet, he claims that social change is less likely to come from a mass uprising than from the gradual expansion of the sympathies of powerful people, namely, government leaders and

the affluent, privileged populations of the West. He notes that most people find it terrible to think that we have to wait for the sympathy of the privileged before any significant work can be done to alleviate suffering, but that it is most likely that this is the case. Rorty attributes the continued reliance on universalistic beliefs to this disgust with the thought that the fate of the world's suffering populations is dependent on the sentiments of the powerful:

> The residual popularity of Kantian ideas of 'unconditional moral obligation' – obligation imposed by deep ahistorical noncontingent forces – seems to me almost entirely due to our abhorrence for the idea that the people on top hold the future in their hands, that everything depends on them, that there is nothing more powerful to which we can appeal against them.
>
> Like everyone else, I too should prefer a bottom-up way of achieving utopia, a quick reversal of fortune which will make the last first. But I do not think this is how utopia will in fact come into being.[60]

This, however, does not come across as supporting the idea of human rights culture as a movement of empowerment. It hints at arbitrariness, contingency, the enslavement of the developing world to the developed. Despite Rorty's professed love of hope, the price of his having renounced the Enlightenment project appears to be the definitive loss of hope for a just world.

Equally alarming is Rorty's complicity in silencing the voices of the suffering. He writes that:

> pain is nonlinguistic: It is what we human beings have that ties us to the nonlanguage-using beasts. So victims of cruelty, people who are suffering, do not have much in the way of a language. That is why there is no such thing as the 'voice of the oppressed' or the 'language of the victims.' The language the victims once used is not working anymore, and they are suffering too much to put new words together. So the job of putting their situation into language is going to have to be done for them by somebody else.[61]

But on the contrary, paying attention to power imbalances *requires* that we listen to the 'voice of the oppressed,' even if they 'do not have much in the way of a language.' To demonstrate a genuine sensitivity to power imbalances, Rorty should be advocating that

we pay more attention to the voices of the suffering, and not dismissing what limited speaking ability they *do* have.

This brings us back to the problem of relegating human rights to the 'private' realm of culture. Recall Robbins' observation that it is not *culture*, but the *law* which protects the weak from the strong. Even though international law has its weaknesses, it is possible to use both domestic and international law to wrest some of the power away from the strong and place it in the hands of the weak and the suffering. Only where the ruling class has the entire mechanism of the law within their hands must we be forced to use culture (media), persuasion, and 'sad and sentimental stories' to enlist the support of the privileged international bystander.

Robbins demonstrates that an analysis of unequal power is as necessary in the international public sphere as the analysis of cultural difference. He notes that both are in tension with the language of universal human rights. But switching our focus from questions of culture to an analysis of power imbalances allows us to explore the dialectical relationship between power and human rights – a possibility that does not exist within the 'all-or-nothing' log-jam that is the cultural relativism/ universal human rights debate.

> Though both unequal power and cultural difference exist in friction with the universality of human rights, the two differ in at least one crucial respect. The assertion of cultural difference is often understood as an all-or-nothing proposition that offers no substance for further debate. The assertion of unequal power, on the other hand, opens out into a continuing discussion with more than two sides, indeed with a profusion of tactical and principled complications to attend to.[62]

Thus Robbins' approach can be said to be more integrated with the idea of human rights as a movement of empowerment than Rorty's approach to the question of unequal power.

This brings me to my final criticism of Rorty's approach to suffering and sentimental education. Pursuing the point that sentimental education reinforces the position of the powerful by leaving it up to them to effect social change, it should also be noted that the manipulation of sentiments can go either way. Take, for example, the public entreaties for international financial aid which flood the airwaves and the post.

Many of these requests include detailed descriptions of the lives of distant others, and attempt to elicit the kind of sympathy Rorty considers the natural outcome of sentimental education. On a typical campaign, more than 95% of these requests receive no response.[63] And this type of campaign usually focuses on 'innocent victims'; the reaction to descriptions of combatants in civil war, and other less 'worthy' aid recipients (such as HIV-positive prostitutes) is often *negative*, rather than merely *apathetic*.

Robbins cautions against thinking that "sad stories" will inevitably lead to sympathy and appropriate responses, as the interpretation of stories is contingent. Sentimental education can, in effect, backfire, as Rorty admits in his Amnesty Lecture, where he writes that sometimes sad stories can make the reader think of both the perpetrator and the victim of violence as sub-human, especially in cases where conflict has continued for generations. Robbins writes:

> We know how evasive [stories] are, how susceptible to multiple and contradictory interpretations. We also know how often stories have functioned to 'make strange' rather than to produce recognitions of sameness, and sometimes – one thinks of those unverified but highly functional anecdotes which set off rampages – to produce horrors rather than fend them off.
>
> The apparent universality of suffering and the apparent universality of the sentiments in the face of suffering are no less open to possible abuse than any other universality. As Rorty himself admits in his lecture for Amnesty, many and perhaps most of the human rights stories we have been hearing lately tend to make us feel about the perpetrators of atrocity just what the perpetrators apparently feel about their victims – that they are inhuman. If this is not the conclusion we want (and the stories themselves cannot be depended on to make this point), then philosophical reason cannot solve its problems in this domain by abdicating in favor of culture. It is not in the stories themselves, but rather in the conversation about these stories, just the sort of discourse in which Rorty himself is engaging in his lecture, that such supplementary discriminations are properly made. And . . . this is a discourse in which universality, if not necessarily philosophy's version of universality, has a necessary place.[64]

Thus the implications of Rorty's approach to building a human rights culture appear to somewhat contradict the aims of his project. It is not tolerance of difference which fosters understanding, but the realization of commonality. It is not the role of human rights advocates to speak on behalf of victims, but to create an audience who can

hear their voices. And finally, it is not culture, but law which protects the weak from the strong. It appears that Rorty's approach to fostering a human rights culture through sentimental education requires some modification if it is to serve its intended purpose.

Conclusion

It is now clear that Rorty's approach to human rights has some limitations. Viewing human rights as 'agreement' or as belonging to the realm of 'culture' may make it possible to sustain the discourse without its universalist foundations, but this approach also places restrictions on the types of political and cultural contexts in which the language of human rights can be said to make sense. Rorty may argue that the adoption of human rights language around the world is sufficient evidence to support the idea that the discourse is a useful 'tool,' but its adoption is far from universal, and this approach does not provide a way to engage with interlocutors from other cultural backgrounds who do not, in fact, see human rights language as culturally legitimate.

Secondly, it is not sufficient to say, with Rorty, that because Western institutions, including human rights culture, are being 'exported' to other contexts – regardless of whether we think this desirable or not – they can be seen as having widespread cultural legitimacy. Rorty claims that we in the West have an obligation to ensure that our 'exports' are not used in a way that allows the powerful to exploit the weak, but his defence of this claim makes sense only within a Western framework of moral obligation (recalling that we Westerners 'could not live with ourselves' if we did otherwise). Rorty also fails to explore questions about who decides (and on what basis) what constitutes oppression or exploitation in other cultural contexts.

Thirdly, Rorty's view that it is more important to learn about the lived experiences of the oppressed than to answer questions about 'first principles' may well be a productive approach to conceptualizing our relationship with people outside our own political community. This emphasis on sentimental education may indeed lead to an increase in tolerance, sympathy and solidarity. There are serious questions to be answered, however, as to whether sentimental education fosters tolerance for difference

or encourages the recognition of commonality. As we have seen, there are problems associated with either approach, and Rorty's stance on the question is ambivalent.

We have now seen that Rorty's conception of rights discourse constitutes a radical departure from the dominant universalist discourse. We have explored the advantages and disadvantages of Rorty's approach to building human rights culture through sentimental education. We have also seen that there are some flaws in Rorty's conceptual approach to developing sympathy, solidarity, and action on the part of privileged Westerners.

Bearing in mind Rorty's overarching purpose (which is to promote a society in which the alleviation of suffering is paramount), and the strengths and weaknesses of his approach, we must now turn to an analysis of the cultural construction of 'suffering.' Rorty's ambiguous stance on suffering, humiliation, and what makes us human requires that we further explore the nature of suffering, and how it is viewed in different cultural contexts. Can human rights culture be based on the simple idea that we can recognize suffering where it exists, and work to end it? Can we transcend cultural differences through an understanding of what human beings require to survive and flourish in any context? Can we build a non-imperialistic human rights movement on the platform of alleviating suffering through the mobilization of sentiment? If suffering can be shown to be as subject to interpretation and contestation as other 'transcultural concepts' (such as reason or human dignity), then the accusation of cryptonormativism that has been levelled against Rorty will turn out to have some weight. It is through the analysis of the concept of suffering that I will develop a response to Rorty concerning the prospect of sentimental education in the final conclusion.

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[1] Ramberg, 5.
[2] Ramberg, 2.
[3] Rorty, *PSH*, xxix.
[4] Rorty, CIS, 59.
[5] Rorty, "Idealizations," 333-334.
[6] Rorty, "Idealizations," 335.
[7] Rorty, ORT, 207-208.
[8] Rorty, "Human Rights," 122.
[9] Rorty, "The Communitarian Impulse."
[10] Rorty, "Human Rights," 118-119.

[11] Rorty, "Human Rights," 126.
[12] Rorty, "Human Rights," 122-123.
[13] Rorty, CIS, xvi.
[14] Rorty, CIS, xvi.
[15] Rorty, CIS, xvi.
[16] Rorty, CIS, 191.
[17] Rorty, "Human Rights," 128.
[18] Rorty, "Human Rights," 125.
[19] Rorty, CIS, xv.
[20] Rorty, CIS, xv.
[21] Shklar, "Cruelty," 8-9.
[22] Rorty, CIS, 63.
[23] Rorty, *PSH*, 72.
[24] Rorty, "The Communitarian Impulse."
[25] Rorty, CIS, 198.
[26] Rorty, ORT, 208.
[27] Rorty, ORT, 208.
[28] Rorty, *PSH*, 15.
[29] Rorty, ORT, 214.
[30] Rorty, ORT, 190.
[31] Rorty, ORT, 209.
[32] Robbins, 230-231, quoting Cheah Pheng, 'Given Culture,' in *boundary 2*, 24:2 (Summer), 157-197.
[33] Rorty, PSH, 86.
[34] Rorty, CIS, 92.
[35] Rorty, CIS, 177.
[36] Geras, 52, quoting Rorty, CIS.
[37] Geras, 102.
[38] Rorty, T & P, 189-190.
[39] Rorty, "The Communitarian Impulse."
[40] Rorty, "The Communitarian Impulse."
[41] Rorty, "The Communitarian Impulse."
[42] Rorty, ORT, 209
[43] Haliburton, 56, quoting Rorty, CIS, p. 84.
[44] Haliburton, 61-62.
[45] Robbins, 217.
[46] Robbins, 222-223.
[47] Robbins, 231.
[48] Geras, 56.
[49] See, for example, Alice Walker. *Warrior Marks: Female Genital Mutilation and the Sexual Blinding of Women*. Harcourt, Brace & Co., 1993, and the documentary by the same name, made by Walker and filmmaker Pratibha Paramar (also released in 1993). The documentary was criticized by several African women's groups for its ethnocentrism.
[50] Rorty, PSH, 236.
[51] Rorty, PSH, 83.
[52] Rorty, "Human Rights," 116-117.
[53] Geras, 100, quoting Rorty, "Human Rights," 115-124.
[54] Geras, 100-101.
[55] Rorty, "Human Rights," 125.
[56] Rorty, PSH, 86.
[57] Rorty, "Human Rights," 122-123.
[58] Geras, 102, quoting Rorty, "Human Rights," 129, 133.
[59] Rorty, "The Communitarian Impulse."
[60] Rorty, "Human Rights," 130.
[61] Rorty, CIS, 94.

[62] Robbins, 228.
[63] This question will receive a more thorough consideration in the following chapter.
[64] Robbins, 227.

Chapter Three: The cultural construction of suffering

It would seem to be a matter of common sense that we can identify suffering when we see it, even if we cannot arrive at a definition of the concept. While suffering has a number of dimensions - physical, psychological, social and spiritual - it appears to be an inescapable, universal part of the human condition. In this chapter, I am going to argue, however, that the concept of suffering is multi-faceted, contingent, unstable, and subject to varying degrees of *acknowledgement*, *denial*, and *redescription*. The way in which we understand 'suffering' relates integrally to our view of the self, the state, the relationship between individuals and social institutions, and the question of moral boundaries. As a result, it can be viewed as a socially-embedded concept, rather than a universally agreed-upon truth of human existence.

Recalling that Rorty suggests that human rights 'culture' is developed by fostering sympathy for the suffering of distant others, it will be important to explore the many facets of the concept of suffering. If human rights culture has developed in the past few decades as a result of increased sympathy on the part of the privileged for the suffering of the oppressed, questions about how suffering is perceived, and how sympathy is evoked, will be central. This section will aim to answer the question of whether it is possible to build a theory of moral and political obligation based on the principle of alleviating suffering.

My analysis of suffering as a cultural construct will draw on studies in politics, sociology and literary theory, as well as anthropology, social medicine, and psychology. The attempt to apply a cross-disciplinary approach to the study of suffering appears to be fairly recent. A significant work (on which this paper will draw extensively) is *Social Suffering*, a collection of essays presented at a conference in 1994 organized by the (United States) Social Science Research Council's program on Culture, Suffering and Social Change. As the editors of this collection note, "[t]he most interesting questions for theory and practice concerning social suffering are in the cracks between our categories and in the discursive processes that traverse our disciplines."[1] From this collection and other texts, I have drawn five themes relating to the construction of suffering: suffering

and the modern state; suffering, language, and the body; the process of mediation between those who suffer and those who empathize; the relationship between social institutions and personal suffering; and finally, suffering, empathy, and the limits of one's moral community. Throughout the following five sections, I will be emphasizing those aspects of the construction of suffering which demonstrate the inherent weakness and instability of the concept as a basis for reconceptualizing human rights discourse.

Suffering and the modern state

> *[O]nly politics itself, in the profound sense, can deal with torture at its root, the assumption of the power to torture by the state, or perhaps the reassumption of this power as prerogative. Given its unquestioned powers to incarcerate - which is everything, or nearly everything: sequestration and secrecy, physical restraint and the shaping of physical and psychic experience (expanded by detention, particularly if detention is clandestine) - given these powers, the exercise of torture is only a logical extension of power itself.*[2]

In *The Politics of Cruelty*, from which the above quote is taken, Kate Millett discusses the way in which the balance of power between citizens and the state has recently shifted in favour of the state. Millett argues that the vast increase in the technological power of the state has caused the entitlements associated with citizenship to 'wither away.' In this section, I will be analyzing the role of the state in inflicting and regulating suffering, using the arguments of Talal Asad, a contributor to the *Social Suffering* collection.

Talal Asad's project is to destabilize the concept of cruelty through an evaluation of the transcultural applicability of the Universal Declaration article, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[3] Asad argues that the scope of practices encompassed by this article is contestable and unstable, and that the concept of cruelty cannot, therefore, be applied transculturally through the vehicle of rights discourse. Asad analyzes the relationship of suffering to the modern state, and argues that some forms of suffering have become proscribed according to modern Western conceptions of suffering, rights, and human nature, while others are

covertly or explicitly allowed to exist. Asad provides four arguments to support his claim; each will be examined here in turn.

To begin, Asad reviews Foucault's analysis of the birth of the modern prison in *Discipline and Punish*. According to Foucault, the modern penal system was introduced as a result of the modern shift toward egalitarianism. Incarceration was the most equal and civilized of punishments because, unlike corporal punishment or fines, it would be borne by all persons equally. Rich persons suffer less in the paying of fines, and strong persons are more able to bear physical punishment, but all modern individuals enjoy their liberty equally; thus the removal of this liberty was seen as a fair and equal punishment.

> How could prison not be the penalty *par excellence* in a society in which liberty is a good that belongs to all in the same way and to which each individual is attached, as Duport put it, by a 'universal and constant' feeling? Its loss has therefore the same value for all; unlike the fine, it is an 'egalitarian' punishment. The prison is the clearest, simplest, most equitable of penalties.[4]

The view that incarceration is the most egalitarian form of punishment is derived from a peculiarly modern conception of human nature. In this conception, all persons desire their liberty to the same extent, because liberty is intrinsic to human nature.

According to Asad, incarceration is not only considered to be an egalitarian punishment, but also a civilized punishment, in contrast to the barbaric practice of corporal punishment. This presumes that intentionally causing *physical* suffering in criminals is unreasonable, while the *psychological* suffering of incarceration, isolation, humiliation and lack of privacy are acceptable. In a sense, the modern state, through its prison system, creates a hierarchy of suffering, and finds humiliation more acceptable than pain.

> That legal incarceration was considered to be equitable contributed to the sense that physical punishment was gratuitous. For this reason, modern liberals . . . must approve of [Bentham's] endorsement of a quantitative comparison of disparate kinds of suffering. It is not difficult to see how the utilitarian calculus of pleasure and pain has come to be central to cross-cultural judgment in modern thought and practice. By a reductive operation, the idea of a calculus has

> facilitated the comparative judgment of what would otherwise remain incommensurable qualities. [5]

Thus the development of the modern penal system and the gradual elimination of (acknowledged) physical cruelty to criminals has been based on a modern liberal understanding of what it means to be human, whereby freedom is the highest value, and qualitatively different forms of suffering are commensurate.

Having established the origins of the modern state's penchant for quantifying and comparing suffering, Asad turns to his second main point. He argues that the liberal discourse of pain and torture is applied in transcultural contexts, particularly in colonial contexts, in such a way that it legitimizes those forms of pain which are controlled by the state while proscribing other forms of pain.

Asad argues that colonial governments imposed 'civilized standards of justice and humanity' on colonized people through new disciplinary practices, which tended to create more suffering than it relieved. Certain forms of suffering - those which 'developed' and 'civilized' the colonized - were considered necessary for purposes of societal 'progress.' Asad gives the example of indigenous peoples having to give up certain cultural practices which were seen as 'repugnant to justice and morality' in order to become more fully human.

> [I]n the attempt to outlaw customs the European rulers considered cruel, it was not concern with indigenous suffering that dominated the Europeans' thinking, but rather the desire to impose what they considered civilized standards of justice and humanity on a subject population - i.e., the desire to create new human subjects. The anguish of subjects compelled under threat of punishment to abandon traditional practices - now legally branded as 'repugnant to justice and morality' or as 'opposed to natural morality and humanity,' or even sometimes as 'backward and childish' - could not therefore play a decisive part in the discourse of colonial reformers. [6]

As Asad observes, there was suffering and then there was suffering. Suffering experienced as part of an indigenous cultural practice, endured because of a passionate belief, was considered gratuitous and 'uncivilized, ' an indication of "mere false consciousness, a fanatical commitment to outmoded beliefs, which invites forcible

Turning first of all to war, it is clear that troops are deployed only if their anticipated suffering is warranted by the political gains that can be expected. The difficulty emerges when we see that virtually any military measure can be justified by the prospect of eventual victory:

> [A]n attempt can be made to measure the physical suffering inflicted in modern warfare in accordance with the proportionality of means to ends. The human destruction inflicted should not outweigh the strategic advantage gained. But given the aim of ultimate victory, the notion of 'military necessity' can be extended indefinitely. Any measure that is intended as a contribution to that aim, no matter how much suffering it creates, may be justified in terms of 'military necessity.' [11]

Asad notes that modern technological warfare has increased, in scope and in kind, the suffering experienced by those involved in combat. Even though the Geneva Convention seeks to regulate the conduct of war, this approach has merely legalized most of the new forms of suffering experienced by those involved in combat, not to mention the pain inflicted on civilian casualties. Asad concludes that international instruments like the Universal Declaration thus display a "fundamental hypocrisy" by prohibiting "punishments considered brutally inhuman while saying nothing about practices such as war that result in massive imposition of pain and suffering on whole populations."[12]

Turning to his second example, Asad argues that torture "is to be understood as a practical logic integral to the maintenance of the nation state's sovereignty, much like warfare."[13] Despite the prohibition on torture in international law, and the general public sentiment that it is never justified, torture is covertly employed by increasing numbers of modern liberal states. States either attempt to cover up their use of torture, or else they attempt to redefine their 'pain-producing' practices so they are not officially labelled 'torture.'

Kate Millett supports Asad's claim that torture is now frequently employed by modern states "on the sly."[14] Furthermore, she argues, the public appears to be less inclined to condemn the practice outright, and has become desensitized to the suffering that results. "Torture was always possible, always materially if not culturally available - but there was a time when popular opinion would not, once it was discovered, accept the

continued use of torture. We have now gone beyond that, we have become habituated, acquiesced."[15] Thus states are finding it more acceptable to publicly acknowledge the practice of torture, as public opinion appears to accept the argument that 'national interests' justifies a certain amount of suffering.

The intentional infliction of suffering, then, is not a residual effect of pre-modern practices, but is central to the practice of modern states. Suffering is part of the bureaucratic order which defends the national interest and exports Western conceptions of justice and humanity around the world. The result is a 'false universalism': the enforcement of Western cultural norms in foreign contexts, the covert violation in the West of modernity's own principles, and the ultimate reification of these interpretations in the Universal Declaration of Human Rights.

Suffering, language, and the body

"[I]n serious pain the claims of the body utterly nullify the claims of the world."[16]

Elaine Scarry's text, *The Body in Pain: The Making and Unmaking of the World*, explores the problem caused by the fact that pain is always an internal state, and can never be adequately expressed or described to another person. This problem is central to the analysis of the concept of suffering, because it is this inexpressibility which allows both the torturer and the bystander to ignore, or even delight in, the presence of pain and humiliation in another person.

> [F]or the person in pain, so incontestably and unnegotiably present is it that 'having pain' may come to be thought of as the most vibrant example of what it is to 'have certainty,' while for the other person it is so elusive that 'hearing about pain' may exist as the primary model of what it is 'to have doubt.' Thus pain comes unsharably into our midst as at once that which cannot be denied and that which cannot be confirmed.
>
> Whatever pain achieves, it achieves in part through its unsharability, and it ensures this unsharability through its resistance to language.[17]

Pain's resistance to language is the enabling factor in failures of moral imagination. It is the ability of strangers to imagine and relate to the lives of sufferers that makes empathy, and hence corrective action, possible. The work of building this moral imagination tends to fall to international aid and humanitarian organizations like Amnesty International, but they are limited in their ability to put pain into words that can be understood by a distant other.

Scarry argues that the problem of communicating pain through language is a major challenge for humanitarian organizations in their public appeals.

> When, for example, one receives a letter from Amnesty in the mail, the words of that letter must somehow convey to the reader the aversiveness being experienced inside the body of someone whose country may be far away, whose name can barely be pronounced, and whose ordinary life is unknown except that it is known that that ordinary life has ceased to exist.[18]

Such organizations have found that the public tends to respond more to appeals which contain personal information about specific instances of torture or suffering, as (we recall) empathy relies on knowledge of the particular details of the other's experience. As a result, there is a need to include information about "the most intimate realm of another human being's body." At the same time, Scarry notes, the appeal must show "the greatest possible tact" toward its subject, who must not be dehumanized in the process.[19] The physical and cultural distance between the subject (victims) and the object (bystanders) of the appeal can thus be bridged only by a balance of *urgency* and *tact*. Needless to say, even the most successful campaigns do not entirely meet the challenge, and often fall short of eliciting a significant response.

The problem of expressing pain through language is, Scarry argues, common across all cultures. According to Scarry, there is "only a very narrow margin of variation"[20] in the ability of different cultures to find expression for pain in language. This apparently limited variation demonstrates "the universal sameness of the central problem," which is less about the limits of particular languages than about "the utter rigidity of pain itself: its resistance to language is not simply one of its incidental or accidental attributes but is essential to what it is."[21]

Scarry notes that there are few strategies for overcoming pain's "assault on language," and people in diverse social roles tend to employ one strategy in particular: the language of agency.[22] Whether one is a patient, a doctor, a disaster relief worker, a victim, or an artist, one cannot face severe pain without thinking of the agent that caused it. Scarry provides us with an excerpt from Nietzsche, written during his serious illness:

> 'I have given a name to my pain and call it, "dog," ' announces Nietzsche in a brilliantly magisterial pretense of having at last gained the upper hand; 'It is just as faithful, just as obtrusive and shameless, just as entertaining, just as clever as any other dog - and I can scold it and vent my bad mood on it, as others do with their dogs, servants, and wives.'[23]

Pain is here personified, or given agency, and the sufferer is able to place responsibility for his suffering outside himself, even in the case of illness, where there is no obvious person to blame. Similarly, as Scarry quotes, Michael Walzer writes, "I cannot conceptualize infinite pain without thinking of whips and scorpions, hot irons and other people." Even the etymology of "pain," which refers to *poena* or punishment, "entails an immediate mental somersault out of the body into the external social circumstances that can be pictured as having caused the hurt."[24] It is not just that we make sense of pain by imagining the agent that caused it, argues Scarry; it is that we simply cannot comprehend it through any other language.

It is in the case of torture that the relationship between language, suffering, and the body becomes clearest. "The tendency of pain not simply to resist expression but to destroy the capacity for speech is in torture reenacted in overt, exaggerated form."[25] The tortured prisoner not only loses the capacity to use language as the demands of the body take over, but the body itself is turned into a weapon against the self.

> [W]hat the process of torture does is to split the human being into two, to make emphatic the ever present but, except in the extremity of sickness and death, only latent distinction between a self and a body, between a 'me' and 'my body.' The 'self' or 'me,' which is experienced on the one hand as more private, more essentially at the center, and on the other hand as participating across the bridge of the body in the world, is 'embodied' in the voice, in language. The goal of the

> torturer is to make the one, the body, emphatically and crushingly *present* by destroying it, and to make the other, the voice, *absent* by destroying it.[26]

Thus the self is first stripped of language, and then victimized by the vulnerabilities of its own body.

In the most extreme cases of suffering, it can be argued that the self is not only betrayed by the body, but is lost entirely through the absence of a language and a sense of agency that can attach it to the world. The loss of self is a common theme in writings about suffering. Several writers suggest that suffering, at least in its extreme form, can be likened to a loss of self. Similarly, the status of 'victimhood' is equivalent to a loss of agency. As Stanley Cohen observes, victims can be defined as people "to whom things are done."[27] There is an important connection between suffering and the loss of self, and it can be seen in the way we view victims as people who have no agency, and no power to resist the circumstances of their victimhood. If selfhood is connected to agency, then suffering is to some extent tantamount to loss of self.

In his study of suffering and voice in literature, Morris lays out the argument that because suffering exists "in a realm beyond language," it amounts to the loss of agency, and hence of selfhood.[28] "Many people who suffer the routine misery of famine, civil conflict, and industrialized poverty have almost no status beyond the role of victim. An occasional grim picture flashed across millions of television screens merely intensifies the silence: it is axiomatic that the victims do not speak."[29] Morris' point is that having an identity other than that of 'victim' requires that one be connected to others through language, and that one has *agency*, in the sense of being able to affect the course of one's life. The most dire instances of suffering, such as torture and famine, silence the sufferer and 'shatter' the self.

> [V]oice ranks among the most precious human endowments that suffering normally deprives us of, removing far more than a hope that others will understand or assist us. Silence and the loss of voice may eventually constitute or represent for some who suffer a complete shattering of the self.[30]

Silence here is metaphorical, Morris notes, as the screams of the tortured would indicate. But, he emphasizes, a "scream is not speech but the most intense possible negation of language: sound and terror approaching the limits of absolute muteness."[31] He suggests that the retreat to a prelinguistic state actually serves as an appropriate symbol for the loss of self in the sufferer.

All this presents a bleak picture for the prospect of building a cross-cultural conception of suffering. Not only do these findings preclude the possibility of transcultural empathy, but they even cast doubt on the possibility of understanding pain in one's fellow citizen. In their introduction to the *Social Suffering* collection, Kleinman, Das, and Lock respond to Scarry's conclusion with the argument that moral imagination does not depend on being able to *imagine* another's pain, but on being able to *acknowledge* that pain. We should be less concerned, they argue, with individual certainty and doubt about the presence of pain, and more concerned with "how such suffering is produced in societies and how acknowledgement of pain, as a cultural process, is given or withheld." It is the failure of acknowledgement that is at the root of the "cultural process of political abuse."[32]

In Kleinman's formulation, the problem becomes reconstructed as an analysis of social processes: which forms of suffering are acknowledged and which are ignored? This brings us back to the question of how the state controls the acknowledgement of suffering. The challenge for those who wish to draw attention to unacknowledged forms of suffering is to expose those cultural processes which attempt to hide or mask these instances of suffering. But even when the challenge of exposing unacknowledged suffering is addressed, Scarry's problem of involving distant bystanders remains.

The role of mediation in the manipulation of sentiments concerning suffering

> *The Witness program claimed that video footage (mass exhumation of graves in Vulkavor, street demonstrations in Guatemala, and evidence of torture in rural Haiti) could be used to 'improve respect for basic human rights by bringing images of brutality to public attention.' But telling the truth, as Jan Karski discovered, is not the same as being believed. And pictures, as Rodney King discovered, can be disavowed as much as words. Furthermore, the*

> *transubstantiation of one thing (images of brutality) into another (respect for human rights) can hardly be taken for granted, any more than the iconography of the starving African child can still stand for social injustice.*[33]

Building on Scarry's arguments about the distance between sufferer and bystander, I must now turn to the question of how knowledge about suffering is filtered and altered in its transmission through the media to those who have the ability to respond. I will address Arthur Kleinman and Joan Kleinman's argument that the corporate media contribute to viewer desensitization through the commodification of suffering, and Stanley Cohen's argument that, despite indications of "compassion fatigue," there are indications that the media has played a moderate positive role in generating sympathetic responses to suffering.

Kleinman and Kleinman note that suffering is "a master subject of our mediatized times," and discuss the ways in which corporate media appropriate images of suffering to manipulate public opinion.[34] They argue that media images of suffering contribute to desensitization, moral fatigue and despair in popular sentiment, and therefore play a role in detracting from responsive action that would alleviate suffering.

Kleinman and Kleinman claim that the prospects for fostering responsible, informed "moral witnesses" is reduced if the primary source of information about suffering is the corporate media, as is the case for most people in the West. The media oversimplify conflicts and ignore the structural causes and local complexities of suffering in the name of making stories more accessible to the typical reader/viewer. This oversimplification leads to a widening moral distance between the sufferer and the witness, since, as we recall, it is only in the details of lived experience that these witnesses can relate to and empathize with the victims. Portraying suffering through sensationalism leads only to voyeurism without a sense of responsibility or relationship to the viewer's own life. As Kleinman and Kleinman observe, "[v]oyeurism is another outcome of construing suffering at a safe distance, without the social responsibility of real engagement."[35]

More ominously, they argue, the media do not merely oversimplify suffering, but they actually contribute to its commodification. "Images of trauma are part of our

political economy. Papers are sold, television programs gain audience share, careers are advanced, jobs are created, and prizes are awarded through the appropriation of images of suffering."[36] Suffering "sells" because people find themselves horrifically drawn to images of other people's misery. Wars, famines, and other forms of suffering are at their most newsworthy when we can see images of people dying, people actually starving to death on camera, or still bleeding from a bullet wound. The mundane work of preventing catastrophes is neither interesting to viewers nor likely to capture much media interest, but the graphic depiction of misery always sells. Kleinman and Kleinman liken this phenomenon to pornography: "[T]he cultural capital of trauma victims - their wounds, their scars, their tragedy - is appropriated by the same popular codes through which physical and sexual violence are commodified, sold in the cinema, marketed as pornography, and used by tabloids and novelists to attract readers."[37]

One of the effects of the media's oversimplification of suffering is that viewers tend to become desensitized to images of misery and conclude that suffering is inevitable, and that therefore nothing can be done about it. Without comprehensive information about how a particular conflict arose, or how a famine relates to a war or commercial agricultural practices, the viewer comes to see each catastrophe as "more of the same," and furthermore, as inevitable.

> Viewers are overwhelmed by the sheer number of atrocities. There is too much to see, and there appears to be too much to do anything about. Thus, our epoch's dominating sense that complex problems can be neither understood nor fixed works with the massive globalization of images of suffering to produce moral fatigue, exhaustion of empathy, and political despair.[38]

By shunning the depiction of context for the sake of brevity and simplicity, the media removes the likelihood of understanding the complexities of a situation, and therefore of finding a possible solution. War after war, and famine after famine, the viewer is able to make little distinction between contexts and, despite feeling that "something must be done," despairs of how to respond to the seemingly endless cycle of suffering. Clearly, in Kleinman and Kleinman's view, the media is not a partner in the process of sentimental education.

Turning now to Stanley Cohen's argument, we see a more nuanced understanding of the role of the media in manipulating sentiment in response to images of suffering. While Cohen argues that the news media manipulate viewer sentiments through a particular portrayal of suffering, and contribute to increasing the moral distance between sufferers and witnesses, they do not actually succeed in the *normalization* of suffering.

Cohen does not suggest that the media have played an entirely positive role in generating responses to suffering. He is acutely aware of the way in which they select images of suffering to manipulate sentiment to conform to a political agenda, or to increase media consumption. Cohen provides the example of 'suitable' famine reporting:

> To fit the required template for famine reporting, people must already be starving to death; the causes and solutions must be simplified; and the language of a morality play must be used. Mothers and children are ideal victims; men are associated with violent 'factions' or 'war-lords,' and seldom appear to be hungry (they are too busy being photographed brandishing guns).[39]

Cohen also argues that the media have collaborated with government in one-sided portrayals of war by evading the depiction of suffering on the enemy side, or 'redescribing' suffering with game analogies or other linguistic deceptions. Cohen writes of the first war fought on television, "[t]he media image of the Gulf War was a masterpiece of collusive denial between the producers and reproducers of reality."[40] Sentiment is thus manipulated through the production of selected stereotypical images of victims and the denial or re-working of other images.

Cohen notes that there has been a shift in the past few decades in media depictions of suffering, arising from a backlash against the "starving African child" form of charity appeal in the 1970s. Cohen contrasts the traditional "negative imagery" of suffering, based on this "starving African" model with the newer "positive imagery," or depictions of empowerment and self-sufficiency.[41] Critics of negative imagery argued in the 1970s that donors should be actively educated in order to bring about long-term structural change, rather than supporting short-term relief efforts. The charity model allowed First World donors to feel powerful and superior because of the submissive begging of Third World famine victims. The negative imagery of "decontextualized misery, permanent

victims, endless suffering, helplessness, images designed to evoke tear-jerking compassion" represented racist and colonialist attitudes which maintained and encouraged dependency, while the positive imagery represented "social justice and complexity - structural causes, commodity prices, civil wars, Third World debt, the World Bank, IMF stabilization, geopolitics" and other concepts used to analyze structural causes of suffering.[42]

Interestingly, Cohen observes, while the latter fits better within the newly dominant partnership- and justice-based model of humanitarian education and aid work, the former tends to elicit a better response among the general public.[43] It seems that if people see the victims of natural or human disasters "empowered" through the help of aid initiatives, they are less likely to offer assistance than if they see the victims in the midst of their suffering and desperation.

Turning his attention to the problem of "compassion fatigue," or the idea that people have become emotionally desensitized to suffering through overexposure to media depictions, Cohen suggests that it is not that people have accepted suffering as *normal*, but that they have come to feel helpless to respond to it.

> Some form of normalization is integral to narratives of suffering and atrocities. But the term should not be used too literally. Perpetrators, victims and bystanders can indeed 'normalize' in the sense of 'get used to' the most unimaginable horrors. This progressive accommodation may even be essential for atrocities to take place at all. But even the most active perpetrators and most passive bystanders, however morally or emotionally numbed, do not lose all awareness of conventional definitions of 'normal.' And even if constant exposure to horror images leaves TV viewers in a state of mental inertia, this results more from a sense of helplessness than a perception (either by the sender or the receiver of the message) that everything is just as it should be (in this the best of all possible world orders).[44]

The problem, according to Cohen, is that the media gives the impression that there is so much suffering in the world that no one could possibly know where to begin addressing it. Being bombarded with images of suffering means that viewers cannot possibly focus on and understand the specificities of any one situation, and so there is no moral connection between those who suffer and those who view it.

> The problem with multiple images of distant suffering is not their multiplicity but their psychological and moral *distance*. Repetition just increases the sense of their remoteness from our lives. These are not our children; we have no bond with them; we can never experience their presence; all we know about them is that they exist for that dislocated thirty seconds during which the camera focused on them.[45]

One experiences a visceral response to those who suffer only when "you find a personal link by grasping the predicament of another individual."[46] Without this bond, the moral distance between sufferer and bystander is too great to be bridged. Media depictions of suffering which fail to focus on individuals rather than on the sheer scale of the catastrophe also fail to engage our moral sentiment. On this point, Cohen reaches the same conclusion as Kleinman and Kleinman; i.e., that the media oversimplify suffering while at the same time presenting suffering *per se* as a problem too immense and omnipresent to ever be solved.

In contrast to Kleinman and Kleinman, however, Cohen does not believe that the media create an exhaustion of sentiment in viewers. Cohen displays cautious optimism in arguing that there have been recent shifts in media depictions of suffering - and in the public response to this - which indicate that *something* can be done.

> A far more hopeful narrative can be told: the quite recent and long-term evolution of a more universal, compassionate and inclusive consciousness. Television viewers' impulse 'to do something' about the sights of suffering (or to say to each other that 'something should be done') signals an increasing sense of moral obligation beyond nation and family. Fragile and ambiguous as this narrative of compassion looks, subservient as it must be to the primeval bonds of human attachment, its presence has to be recognized. A new moral imagination has grown perceptibly over the last fifty years, thanks to the visible efforts of international humanitarian agencies and the inescapable presence of global televised news.[47]

He argues that the technological developments in communications which have made possible "real time" depictions of "people directly caught up in horrors" help to close the moral distance between viewers and sufferers. "Everything is coming closer and faster: the faces of people in agony, the space and time it takes to reach them, the life-saving

work of doctors or engineers. The boundaries of 'moral impingement' have been widened - along with the sense that something, after all, can be done."[48] This is due in large part to the increasing media sophistication of humanitarian organizations and on the part of victim groups themselves. Furthermore, Cohen suggests, the public is responding to these new ways of sharing information about human suffering and becoming increasingly engaged.

It is unclear whether Cohen's optimism is warranted, given the opposite trend cited by Kleinman and Kleinman, but it must be acknowledged that technology has positive *potential* to widen our moral communities. The question is whether the potential of this technology for serving humanitarian purposes will ever be realized on a significant scale.

Social structures and personal suffering

> *By what mechanisms do social forces ranging from poverty to racism become* embodied *as individual experience? This has been the focus of most of my own research in Haiti, where political and economic forces have structured risk for AIDS, tuberculosis, and, indeed, most other infectious and parasitic diseases. Social forces at work there have also structured risk for most forms of extreme suffering, from hunger to torture to rape.*[49]

In his contribution to *Social Suffering*, Paul Farmer provides two case studies from Haiti that illustrate ways in which the practices of social structures translate into individual suffering. His main argument has two parts, the first of which is that the victims of so-called "natural" disasters and "misfortune" are actually bearing the brunt of political decisions made by elites who are not held to account for the impact of their decisions on the disenfranchised. The second part of Farmer's argument is that claims of cultural difference offered by anthropologists to justify certain practices serve to obscure relations of power, thereby reinforcing these unequal social structures and practices.

Farmer begins with the story of Acéphie, a Haitian girl from a poor village of peasants who were displaced from their land by a dam built thirty years ago. Acéphie attracts the attention of a soldier working in the area, and contracts HIV from him before

he abandons her. She is forced into domestic service, but loses her job when she becomes pregnant by her new fiancé a while later. This man also abandons her as a result of the pregnancy, and she goes home to die, along with her child, of AIDS.[50]

Farmer's second case study involves a young Haitian man called Chouchou, who is forced to leave school early to help the family earn an income. As a typical peasant, Chouchou opposes the U.S.-backed dictatorship of the Duvaliers, "father and son," and makes an offhand negative remark about the military coup to a truckful of workers, one of whom turns out to be a soldier out of uniform. For this, he receives a beating from a group of soldiers at the next checkpoint and a stay in the military barracks. He is also blacklisted, re-arrested soon after, and tortured. He is left for dead in a ditch, and takes three days to die.[51]

For Farmer, these two stories "illustrate some of the mechanisms through which large-scale social forces crystallize into the sharp, hard surfaces of individual suffering."[52] In this, Farmer is emphasizing a central theme within the *Social Suffering* collection; that is, that individual suffering is largely a product of political, economic, and cultural forces that predetermine risk for poverty, disease, violence and other forms of suffering. These forces are not natural or inevitable, but result from decisions made by political and economic elites. "[E]xtreme suffering - especially when on a grand scale, as in genocide - is seldom divorced from the actions of the powerful."[53] The impact of elite decision-making works within a matrix of sexism, racism, and poverty to limit the choices of ordinary people, and places some at much higher risk for suffering than others. Thus, in the cases of Acéphie and Chouchou, "both were 'at risk' of such a fate long before they met the soldiers who altered their destinies. They were both, from the outset, victims of structural violence."[54]

If extreme poverty is a form of suffering, which Farmer of course believes, then questions of land use, public education, and economic opportunity are fundamental to putting certain populations at risk for suffering. If the families of poor young women lose their land, and these women have no job prospects, they become more vulnerable to sexual exploitation by military men, and thus also to AIDS. Equally, questions of military power, freedom of speech, and the rule of law are central to structuring the

distribution of violence. Farmer reiterates that these structural forces are the result of elite decision-making:

> In Haiti, AIDS and political violence are two leading causes of death among young adults. These afflictions were not the result of accident or of force majeure; they were the consequence, direct or indirect, of human agency. When the Artibonite Valley was flooded, depriving families like [Acéphie's] of their land, a human decision was behind it; when the Haitian army was endowed with money and unfettered power, human decisions were behind that, too. In fact, some of the same decisionmakers may have been involved in both cases.[55]

All humans have the capacity to suffer, but not all suffering is equal, and not all people are at equal risk for various forms of suffering. Structural violence causes "injuries of vastly different severity" to different types of populations. "It *is* possible to speak of extreme human suffering, and an inordinate share of this sort of pain is currently endured by those living in poverty."[56]

This brings us to Farmer's second argument, that anthropologists have a responsibility to emphasize relations of power and structural violence in their analyses of suffering. Farmer criticizes the tendency in anthropology to identify inequality as difference. "Many are the ethnographies in which poverty and inequality, the end results of a long process of impoverishment, are conflated with 'otherness.' "[57] Farmer rejects the idea that the practices of different cultures cannot be compared and evaluated. The notion of incommensurability is an excuse for justifying inequality and violence, and has been embraced enthusiastically by the powerful to legitimate their domination of other people. Farmer argues that cultural relativism is irresponsible, in that it covers over relations of inequality within cultures, and it furthermore fails to acknowledge power differences between anthropologists and the populations they study.

> Concepts of cultural relativism, and even arguments to reinstate the dignity of different cultures and 'races,' have been easily assimilated by some of the very agencies that perpetuate extreme suffering. Abuses of cultural concepts are particularly insidious in discussions of suffering in general and of human rights abuses more specifically: cultural difference is one of several forms of essentialism used to explain away assaults on dignity and suffering in general. Practices, including torture, are said to be 'in their culture' or 'in their nature' -

> 'their' designating either the victims or the perpetrators, or both, as may be expedient.[58]

By asking the question, who has the power to exercise their agency and thereby constrain the life choices of others? it is possible to develop an analysis of power relations and structural suffering, he argues. Anthropologists should not retreat to arguments of cultural difference, but should instead draw attention to the way in which suffering is neither inevitable nor natural, but is structured by decisions made by the powerful. The tendency within anthropology to confuse structural violence with cultural difference must end, he concludes.

Kate Millett concurs with Farmer on the point that individual suffering is often removed from its context of structural violence. In Millett's study of victims of torture, she finds that a medical model has emerged which treats the symptoms of torture after the fact, without acknowledging the political and economic forces that caused torture to be practised in the first place. The medicalization of torture treats the effects of torture as 'trauma' and turns them into a 'disorder.' It thereby erases questions of politics from our understanding of and response to torture. Particularly in cases resulting from U.S.-backed dictatorships in South America, Millett finds that treatment denies the political circumstances behind the torture, and feeds into the imperialism of U.S. foreign policy.

> [T]he victim of government brutality, a physical brutality committed upon political and ideological grounds, becomes the disordered mental condition of another government's begrudging psychiatric charity in a void where politics have ceased to exist. So have ethics. In their place a mysterious disease model has taken over, the victim victimized again, diminished again. Since most of the torture victims of this American center [in Minneapolis] are from South American dictatorships, client states of the American government, there is a poignant irony in this 'diagnosis and treatment' model here, a quality of imperialism in action, an aspect which its practitioners fail to notice.[59]

The irony in this, notes Millett, is that the political prisoners in many of these instances of torture have been active in politics and, indeed, have risked their well-being for their political beliefs. Finding themselves treated as 'patients' rather than the victims of political violence diminishes the political ideals for which they took these risks. In the

medicalization of torture, questions of inequality and injustice are replaced by questions of health and healing. The political context has been replaced by the medical and psychiatric contexts:

> The idea of justice is removed from the discussion, the activities of the interrogators and security forces. Everything that made sense of the prisoner's suffering, his principles, his innocence, the injustice done to him. Instead, the victim approaches now not for vindication but to solicit psychiatric expertise, facing another authority, another judge, another questioner. He faces medicine, not law, an important distinction since law would exonerate him and medicine has yet to decide his case. And so the victim of state brutality in a client state applies not for redress or restitution but for healing in the place from whence his harm emanated. There is an imperial circularity here. Short-circuitry as well: the political has been psychiatrized, privatized, personalized into marginality; the social reality of dictatorship, the politics of cruelty have been banalized into a 'case.' Telescoped, trivialized, shrunken.[60]

Thus Millett's argument supports Farmer's claim that individual suffering, which is often caused by political decisions and actions, must be analyzed within the structures of power that allocate suffering through a matrix of inequality. To focus on individual cases of suffering without reference to social structures is to allow the powerful to maintain the illusion that the distribution of suffering is natural and inevitable.

Suffering and the limits of one's own moral community

> *One may actually know the moment when the sight of some event that filled one with anguish, left one frozen and helpless in place, sick with what one has glimpsed - the moment when that gave way to slow-seething fury. . . . [T]he moment of outrage is what changes that sympathy into refusal to endure psychologically - on the victim's behalf - what the victim endured physically.*[61]

The fifth and final theme I will address is the relationship between suffering and moral inclusion. From various perspectives, Morris, Opotow, and Cohen all emphasize that suffering is only recognized within the boundaries of one's moral community. This would indicate that working to alleviate suffering involves identifying the conditions of possibility for expanding a given society's moral boundaries to include more people.

David Morris argues that the concept of suffering, and the status of a sufferer, are not self-evident. Our understanding of 'suffering' and our recognition of a sufferer depend on the boundaries of our moral community. "Moral communities differ immensely in their beliefs, values, and cohesiveness but they always share a dependence on exclusion."[62] Belonging to a moral community means being able to recognize suffering within the boundaries of this community, and being able to exclude or ignore suffering which takes place beyond.

It may be likely for most people (but certainly not all) to experience a visceral response if they are directly and immediately confronted with a person in pain, but the modern reality is that most of our relations with people who are suffering are mediated through television, or removed entirely from our range of conscious attention. And because of the limits of their moral community, most people tend to exclude the people in those images from their sphere of moral concern. Morris encapsulates the problem of suffering and moral recognition in the following passage:

> Suffering, in short, is not a raw datum, a natural phenomenon we can identify and measure, but a social status that we extend or withhold. We extend or withhold it depending largely on whether the sufferer falls within our moral community. An Iraqi truck driver in the Persian Gulf War can die in a firestorm of laser-guided missiles, and the incident will play on American television as proof of superior United States technology. . . . We do not acknowledge the destruction of beings outside our moral community as suffering; we detach ourselves from their pain as if it were an incomprehensible behavior encountered on some Swiftian island. Within a moral community, we employ names like *martyr* or *hero* and inscribe the suffering of our own people within narratives of hallowed sacrifice and epic achievement.[63]

So the problem of suffering is not likely to be solved through campaigns to draw attention to distant suffering, or enemy suffering, or 'other' suffering. It is not sufficient to provide people with the knowledge that others are suffering. What is required, argues Morris, is a way to expand moral boundaries, so that the suffering of more people can be recognized, acknowledged, and remedied.

But how does Morris propose that we work to expand these moral boundaries? He believes that literature is one powerful source for social change, in that it has the

ability "to challenge and stretch - even to transgress - the boundaries of a moral community."[64] Literature does not simply *describe* suffering, but through its skill in evoking an emotional response and in altering perceptions, it actually helps people to *see* suffering where they did not normally see it.

> Charles Dickens and Harriet Beecher Stowe provide especially clear examples of this power to reinvent suffering. In adapting the earlier sentimental novel, they extend a Romantic concern for outcasts and marginal figures - slaves, chimney sweeps, orphans, and an almost forgotten subculture of the poor - into a focused social protest against the evils of slavery and industrialism.[65]

Morris concludes that writers have a powerful role to play in expanding moral communities, bringing suffering to light, and in mobilizing the "will, passion, and intelligence needed to change the world."[66]

Turning now to the work of social psychologist Susan Opotow, we can get a sense of the psychological processes of creating and sustaining the exclusionary attributes of a moral community. Opotow focuses on how a community excludes certain groups from moral consideration, and thereby fails to acknowledge their suffering. To begin, Opotow provides us with a definition of moral exclusion:

> Moral exclusion occurs when individuals or groups are perceived as *outside the boundary in which moral values, rules, and considerations of fairness apply.* Those who are morally excluded are perceived as nonentities, expendable, or undeserving; consequently, harming them appears acceptable, appropriate, or just.[67]

Opotow's research has pointed to the factors which determine whether people are included or excluded from moral consideration in particular circumstances. She has found that social circumstances and cultural forces 'largely determine' one's 'scope of justice' (or moral boundaries), which accounts for instances of 'pathological' moral exclusion in our history, such as in Nazi Germany:

> The Nazi term, *lebensunwerten Lebens* ('life unworthy of life'), highlighted the fact that their prevailing social order had identified groups they deemed unworthy

> of living. Although this example is extreme and pathological, all societies implicitly or explicitly identify deserving and undeserving groups.[68]

There is, however, a dialectic relationship between the prevailing set of moral boundaries and the attitudes and actions of individuals. While individuals 'internalize' the prevailing set of moral boundaries, they also have the capacity to 'reconfigure' their own boundaries - in either direction - and engage in exclusionary or inclusionary behaviours. Opotow notes that the prevailing moral boundaries arise from the cumulative effect of individual behaviours and attitudes, but that prevailing norms have a powerful influence on individuals' scope of justice. Once exclusionary boundaries are established at the societal level, they become 'institutionalized,' and have the capacity to cause massive harm to those excluded:

> Both covert and overt institutionalization of moral exclusion, such as racism and apartheid, are far more virulent and dangerous than the individual manifestation because institutionalized harm occurs on a much larger scale. Yet moral exclusion can engender widespread harm within a society only when people *individually* engage in moral restructuring. The bidirectional influence between individuals and society in perpetuating moral exclusion suggests possible ways to interrupt the cycle of harm.[69]

Opotow's research points to the possibility of changing social norms through interventions at the level of the individual, but does not go so far as to suggest possible strategies at this level.

One clear strategy at the *political* level emerges, however, from the social psychological research. Opotow notes that moral exclusion rises during times when groups do not enjoy an adequate level of security, peace, and well-being. "Danger, conflict, and stress reinforce group boundaries and change information processing strategies and the choice of justice rules. As conflict escalates, cohesion within groups increases, but concern for fairness between groups shrinks."[70] This would indicate that expanding moral boundaries is most likely when members of a society have their human needs met, including their physical and social well-being and security. Including more

people within the sphere of one's moral concern is thus heavily influenced by the presence or absence of material and social well-being within one's society.

Stanley Cohen takes the next step in relating the concept of suffering to the problem of moral communities. He suggests that the central problem is not simply how to encourage people to expand their sphere of moral concern, but to encourage people to take *action* in response to suffering. Cohen's text, *States of Denial*, is devoted to the political problem of overcoming the tendency people have to ignore, justify, rationalize, or downplay the suffering which takes place beyond the boundaries of their own moral community.

> [W]hat do we do with our knowledge about the suffering of others, and what does this knowledge do to us? It seemed self-evident that a common - perhaps universal or even 'natural' - reaction is to block out, shut off or repress this information. People react as if they do not know what they know. Or else the information is registered - there is no attempt to deny the facts - but its implications are ignored. People seem apathetic, passive, indifferent and unresponsive - and they find convenient rationalizations to explain themselves.[71]

Cohen argues that many people know about suffering and atrocities in distant places, but because they draw on various mechanisms of denial, they do not act on this knowledge. Cohen's argument exposes the deficiency in the claim that education about suffering is sufficient to expand people's moral community. Cohen dissects the ways individuals and communities absorb information about atrocities and suffering, turn a blind eye, and justify their inaction if questioned about it. He calls this tendency to ignore suffering 'the bystander effect.'

Cohen begins by identifying the mechanisms people use to avoid acknowledging or responding to suffering. These mechanisms fall into four groups: cognitive denial, or refusing to acknowledge facts; emotional denial, or failing to be disturbed by suffering; moral denial, or refusing to recognize injustice or responsibility; and finally, failure to act in response to knowledge. "In the public arena of knowing about the suffering of others - mass media, politics, charity appeals - action is the issue."[72]

Cohen is preoccupied with the question of how people use these denial mechanisms to resist the translation of concern into action. He emphasizes that many

people "*are* concerned about human suffering; they do not regard it as normal and tolerable. The gap is between concern and action."[73] Cohen suggests that to encourage people to overcome this gap, it would be more productive to try to understand the motivations of those who *do* respond to suffering with empathy and altruism, rather than to focus on why others *do not* respond.

> Denial - in the sense of shutting out awareness of others' suffering - is the normal state of affairs. . . . Instead of agonizing about why denial occurs, we should take this state for granted. The theoretical problem is not 'why do we shut out?' but 'why do we ever not shut out?' The empirical problem is not to uncover yet more evidence of denial, but to discover the conditions under which information is acknowledged and acted upon. The political problem is how to create these conditions.[74]

Cohen suggests that there are cultural factors that differ from society to society, but that certain social conditions are more likely to produce altruism than others. The motivations for people to respond to suffering with action vary even within the same group of actors. This would indicate that personal, and not only cultural, differences come into play in determining which concerned persons translate their concern into action.

Cohen argues we should examine why different people living within the same social conditions have different reactions to knowledge about suffering. What can we say, he asks, about people who respond to suffering, even at considerable personal risk? Cohen note that there are three kinds of motivations for pro-social behaviour: empathy (or identification), a sense of justice (or positive morality), and altruism (helping without expectation of reward). All three motivations involve seeing the sufferer as part of one's sphere of moral concern.

One example he provides is "the very different degrees of collaboration in the occupied countries of Europe."[75] Cohen cites Oliner and Oliner's study of rescuers of Jewish people during the Occupation, and notes that the authors find "little evidence that an 'altruistic personality' exists." The pivotal factor in differentiating those who acted from those who did not was the rescuers' 'extensivity.'

> [Rescuers] were more likely to attach themselves to others, to assume responsibility for them, and to act inclusively towards a wide range of people. . . . The 'constrictedness' of passive bystanders comes from a self that does not see most of the world beyond its own boundaries. Less conscious of others' needs, they distance themselves from the demands of wider relationships. By contrast, the 'extensivity' of rescuers meant caring for others beyond immediate family and community, feeling part of a common humanity, being sensitive to moral violations, even seeking out opportunities to help. 'Already more deeply and widely attached to others, they find it difficult to refrain from action. Already more inclined to include outsiders in their sphere of concern, they find no reason to exclude them in an emergency.' [76]

Thus the concept of one's moral community is central to the problem of suffering, as the theory would indicate and the experience bears out. It is without doubt that people respond to suffering within the bounds of their own moral sphere; the issue is how to foster a wider sense of inclusivity within society.

As Cohen suggests, this 'extensive' sense of morality is not an abstract notion, but is instead rooted in one's identity as part of a moral community. For many in Cohen's example, this community simply extended to include anyone who asked for help:

> Altruism resulted rather from a particular cognitive outlook - a sense of self as part of a common humanity ('inclusivity') rather than tied to specific interests of family, community or country. The recognition of who you are was more important than allegiance to any abstract moral or political agenda: help whomever you can, when you are asked. With this strong sense of identity, the rescuers did not need to make a considered decision by assessing options and choosing the best one. They acted spontaneously, as if no alternative response were possible.[77]

Thus Cohen concludes that a person is more likely to respond to suffering if they have an 'embedded' understanding of morality and justice, one that is bound up with one's conception of oneself. The moral imperative relies not on abstract universalism, but on a sense of individual responsibility toward other members of humanity. The boundaries of moral communities are taught, and for those whose boundaries were taught to be 'extensive,' it is easier to continue to expand these boundaries when faced with the suffering of a stranger.

Conclusion

We have seen, then, that understanding the concept of suffering is not simply a matter of common sense. While the human vulnerability to pain may be universal, there is no limit to the number of ways in which we can be made to suffer, and no final resolution to the question of how suffering may be acknowledged, denied, or redescribed. As Kleinman and Kleinman observe:

> There is no single way to suffer; there is no timeless or spaceless universal shape to suffering. There are communities in which suffering is devalued and others in which it is endowed with the utmost significance. The meanings and modes of the experience of suffering have been shown by historians and anthropologists alike to be greatly diverse. Individuals do not suffer in the same way, any more than they live, talk about what is at stake, or respond to serious problems in the same ways.[78]

At every stage of the 'cycle' of suffering – from inflicting suffering, to experiencing it, to recognizing, legitimizing, and reacting to it – there are social, cultural and political factors which structure our understanding of the concept. The modern state justifies war and torture on the grounds of national security. The filtering of suffering through media of communication reduce the ability to make moral connections across cultures, even while we have increasing access to knowledge about suffering in distant places. The loss of voice, and loss of self, experienced by those who suffer represents the failure of language to convey the most crucial and intense of lived experiences to others so that they might intervene. All these factors call into question the possibility that moral concern can be built for strangers through a process of sentimental education.

It may be the case that certain cultural forms, such as the novel and the ethnography, have the capacity to elicit sentimental responses to accounts of suffering. It may also be true that prevailing moral boundaries can be expanded through changes in individual actions and attitudes. But the question remains as to whether an increase in moral concern can be translated into effective responsive action. The problem of the passive bystander will not be solved until we are able to overcome the denial of

responsibility that tends to be a common reaction when people are faced with the suffering of far-away 'others.'

Turning back to Rorty's proposal for building human rights culture through sentimental education, it seems clear that sympathy cannot be taken for granted as a response to accounts of suffering. Nor can concerted action be taken for granted where that sympathy does exist. The prospect for encouraging greater sensitivity to the suffering of strangers seems diminished after exploring the many ways in which suffering can be denied, re-interpreted, and ignored if the social, cultural and political frameworks are not in place that support the recognition and alleviation of suffering. Having examined the 'cracks' between the disciplines which pay attention to the concept, we can only conclude that suffering is an inherently unstable, contingent, and mutable category. It appears that no more than 'reason,' 'rights,' or 'democracy,' can the alleviation of suffering serve as a foundational concept for a universal theory of moral obligation. It remains to be seen whether the apparently universal human vulnerability to pain and humiliation can form the conceptual grounds for generating a new approach to human rights culture.

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[1] Kleinman et al, xi.
[2] Millett, 308.
[3] Quoted in Asad, 285.
[4] Foucault, 215.
[5] Asad, 292.
[6] Asad, 293-294.
[7] Asad, 303-304.
[8] Asad, 285.
[9] Asad, 295-296.
[10] Asad, 285.
[11] Asad, 299.
[12] Kleinman et al, xxii-xxiii, in their introductory comments on Asad's essay.
[13] Asad, 296.
[14] Millett, 106.
[15] Millett, 77.
[16] Scarry, 33.
[17] Scarry, 4.
[18] Scarry, 9.
[19] Scarry, 9.
[20] Scarry, 5.
[21] Scarry, 5.
[22] Scarry, 13.
[23] Quoted in Scarry, 11.

[24] Quoted in Scarry, 16.
[25] Scarry, 54.
[26] Scarry, 48-49.
[27] Cohen, 14.
[28] Morris, 27.
[29] Morris, 28.
[30] Morris, 29.
[31] Morris, 27.
[32] Kleinman et al, xiii.
[33] Cohen, 187.
[34] Kleinman & Kleinman, 1.
[35] Kleinman et al, Introduction, xviii.
[36] Kleinman & Kleinman, 8.
[37] Kleinman & Kleinman, 11.
[38] Kleinman & Kleinman, 9.
[39] Cohen, 176.
[40] Cohen, 11.
[41] Cohen, 179.
[42] Cohen, 179.
[43] Cohen, 184.
[44] Cohen, 189.
[45] Cohen, 194.
[46] Cohen, 209.
[47] Cohen, 290.
[48] Cohen, 290-291.
[49] Farmer, 261-262.
[50] Farmer, 263-267.
[51] Farmer, 267-270.
[52] Farmer, 263.
[53] Farmer, 274.
[54] Farmer, 272.
[55] Farmer, 271-272.
[56] Farmer, 279.
[57] Farmer, 277.
[58] Farmer, 278.
[59] Millett, 312.
[60] Millett, 312-313.
[61] Millett, 163.
[62] Morris, 39.
[63] Morris, 40.
[64] Morris, 40.
[65] Morris, 41.
[66] Morris, 42.
[67] Opotow, 1.
[68] Opotow, 5-6.
[69] Opotow, 12-13.
[70] Opotow, 6.
[71] Cohen, x.
[72] Cohen, 9.
[73] Cohen, 289.
[74] Cohen, 249.
[75] Cohen, 262.

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[76] Cohen, 263, quoting Samuel P. Oliner and Pearl M. Oliner, *The Altruistic Personality: Rescuers of Jews in Nazi Europe* (New York: Free Press, 1988).
[77] Cohen, 265.
[78] Kleinman & Kleinman, 2.

Conclusion

The contemporary relevance of human rights

At this point, it may be necessary to remind ourselves why human rights discourse is still relevant to pursue. Despite the problems associated with this discourse, the centrality of rights talk to philosophical and political debates is undeniable. To use Michael Ignatieff's expression, we have witnessed a 'rights revolution' in the past half century.[1] Furthermore, human rights discourse provides a much-needed response to questions concerning our responsibilities to people in our society and around the world. The urgency of preventing and responding to suffering and atrocities exists whether or not we decide to employ human rights discourse itself, so the problem remains as to how we respond to these situations if not from a human rights perspective.

However, we have now seen that human rights discourse falsely universalizes a peculiarly modern Western understanding of the relationship between the individual and society, and attempts to naturalize rights which can only make sense in the historical context of a citizen-state covenant. Furthermore, attempts to 'export' human rights to non-Western nations can be seen as an extension of centuries of Western imperialism. At the same time, former advocates of human rights have become disillusioned by the extent to which human rights declarations have turned out to be idealistic promises, all but unenforceable in many parts of the world. Recognizing the tenuous foundations of rights talk, many of these advocates have turned away from the narrative of universal human rights in favour of local narratives and local legitimation of concerted action. Meanwhile, human rights language has been embraced by some oppressed populations in non-Western societies as a tool to leverage more power against their governments. Moreover, some nationalist movements have embraced the discourse of human rights (specifically the right to self-determination) in their attempts to fragment multi-national states and form exclusive communities of supposedly homogeneous ethnic groups.

There is clearly a need to develop a new approach to human rights language if it is to remain a useful framework for debating philosophical and political problems. Richard

Rorty's proposal to shift the debate to the realm of 'culture' holds the promise of avoiding the most serious criticisms directed toward human rights defenders on one hand, and those aimed at constructivists on the other. But there remain questions concerning his premise that a human rights culture can be built on the imperative to alleviate suffering. I will now turn to the question of what can be said about human rights in light of what we have learned about the concept of suffering.

Preventing suffering as the first principle for human rights

We have discarded, as Rorty has, the idea that human rights can be grounded in a conception of rationality or human dignity. But can a human rights 'approach' be based on the goal of alleviating suffering? While the prevention of suffering, at first glance, appears to be a simple and obvious basis on which to build a theory of human rights, it turns out that the concept is subject to many of the same criticisms as the notion of reason- or dignity-based human rights.

My investigation into the concept of suffering has shown it to be multi-faceted, contingent and subject to radical redescription; in other words, suffering is a cultural construction 'all the way down.' The concept is inextricably bound up with particular views on the relationship between individuals and the state, questions of moral boundaries, and issues concerning structural causes and individual consequences. The inability to communicate the nature of one's suffering creates a distance between victims and bystanders, allowing suffering to be ignored, misinterpreted through mediation, or subject to redescription. Different kinds of suffering have been given different weight in various social contexts, and some forms of suffering have been denied altogether by perpetrators, bystanders and state parties. Suffering is, therefore, a socially-embedded concept, and not a universally acknowledged truth of human existence.

That being said, there is no denying the vulnerability of the human body to pain, through torture, beatings, rape, starvation, disease, or exposure to the elements. Equally, there is no denying that, as acculturated, language-using creatures, humans are vulnerable to suffering in non-physical ways, whether by watching their family being murdered, or

by repeatedly being humiliated, or by having their sanity threatened through years of solitary confinement. The vulnerability of human beings is universal and unquestionable. While debate may continue on what people need to survive and flourish, the fragility of the human body and mind provides a list of violations against which every person needs to be protected. This list, however, is subject to interpretation through local, historically-contingent understandings of what causes humiliation, and what counts as suffering.

It may be possible, therefore, to construct a 'thin' theory of human rights based on a 'thin' concept of what it is to be human – to be vulnerable to physical pain. But broader notions of suffering are not universalizable, so these 'thin' rights would be only minimally protective (e.g., the right not to be tortured). Such an approach might even include non-human animals on this basis, as they are no less vulnerable to physical pain than we are. This would indicate that Rorty's approach could be said to be viable, but in a very limited way: such a framework would ensure only our physical needs, but not our psychological, moral or spiritual needs as human beings.

Rights-based approaches on a more ambitious scale are simply not possible based on the principle of alleviating suffering. As in the present system of state-based rights regimes, a framework of 'thicker' rights is best identified and entrenched in state constitutions, recognizing that they are contingent – based not on human nature but on the needs and aspirations of human beings as they are socialized within particular cultures. In the absence of universal principles, it falls to the realm of citizenship to define and protect the rights appropriate to particular cultural contexts.

Since suffering is a cultural concept, then, and action to alleviate suffering must be grounded in specific cultural contexts or 'local narratives,' I conclude that it is not an adequate foundation for a universal discourse of human rights. Modern Western interpretations of the concept of suffering are not universally applicable, and cannot therefore act as a moral guide in our attempts to end violence and oppression in other cultural contexts.

How, then, does Rorty come to the conclusion that the alleviation of suffering can serve as a basic principle for guiding human rights action? He is only able to sustain this argument because he suffers from (as Pheng Cheah observes) 'cryptonormativism,'

through which he purports to reject all universals, while at the same time maintaining such fundamental notions as a public/private split and the value of Western cultural norms in general. As a Westerner with a concealed normative agenda, Rorty is unable to acknowledge the implications of his own anti-foundationalism, and is unable to recognize the limitations on building a human rights culture through the principle of alleviating suffering.

The merits of Rorty's approach

Recall that Rorty suggests that we do not build a human rights culture by appealing to people's rationality, but by appealing to their sentiments and increasing their capacity to relate to the suffering of an ever-expanding moral community. We can see now that the alleviation of suffering is not a sufficient principle on which to build a human rights culture, but there are still merits to Rorty's approach which warrant discussion.

Rorty does find a way to use the language of human rights without concerning himself with its foundations. Rorty sees human rights as having become culturally embedded as a language for the oppressed, and so he concludes that they can be of some practical use. Whether human rights can be said to exist in some ontological sense is irrelevant to the idea that *operating as though we have these rights* will result in decreased suffering and increased tolerance. In other words, Rorty recommends the *strategic* use of human rights discourse.

Even if we admit that there are no first principles, and thus no inalienable rights, we can still decide that human rights discourse is the best *strategy* for reducing suffering in the world. We can acknowledge that there is no basis for this discourse in human nature, in religion or in philosophy, but we can *agree* to adopt it as a discursive construction. In this view, there is no need to support the claim that rights exist ontologically.

The main concern with this approach is to ensure consent on the part of disadvantaged populations with whom 'privileged Westerners' may be working in concert

to address 'human rights problems.' Partnerships between organizations in the industrialized world and those in the developing world have a multitude of practical questions to address in attempting to correct power imbalances and ensure consensual cooperation. Clearly the problems inherent in such partnerships are large, but working to address them is preferable to either the unilateral imposition of Western values and processes on one hand or the complete absence of engagement on the other.

Rorty's approach is appealing in another respect, for it reminds us that it can be just – or at least necessary – to take concerted action without certainty about the justification for doing so. In this, Rorty avoids the paralysis associated with the views of other cultural relativists, many of whom suggest that because there is no certainty about moral principles, we have no basis on which to take action in contexts beyond the borders of our particular community. In Rorty's view, we cannot present a universally-acceptable argument in favour of human rights, but we still have a responsibility to respond to situations of violence and oppression, simply because we have been *acculturated* in such a way that we could not live with ourselves if we did *not* act, and of course because we also have the material comfort and security to do so.

Although appealing, this approach also holds the danger of Western arrogance. For who is the 'we' who is making assertions about what constitutes just action in the absence of certainty? And who has the might to impose one version of 'human rights' on a different cultural context? While there is always the danger of Western imperialism, this cannot lead to inaction; the key is to find a balance between the paralysis of constructivism and the arrogance of imperialism.

Fostering cross-cultural understanding and concerted action through sentimental education

Despite the fact that we cannot construct a theory of human rights based on the principle of alleviating suffering, we can make human rights interventions more culturally appropriate by learning more about the culturally embedded ways of viewing suffering in a particular context. Rorty is not alone in suggesting that we can turn to ethnographies

and other local texts to foster cross-cultural understanding, empathy, and appropriate action. For instance, Talal Asad writes that:

> We need ethnographies of pain and cruelty that can provide a better understanding of how relevant practices are actually conducted in different traditions. Such ethnographies will certainly show us that cruelty can be experienced and addressed in ways other than as a violation of rights – for example, as a failure of specific virtues or as an expression of particular vices.[2]

Recall also David Morris' argument that writers have a role to play in expanding our moral boundaries. He writes: "by their special skill in moving emotions and altering perceptions, writers can help create – as well as uncreate – suffering. That is, they can expand the borders of the moral community and force us to acknowledge suffering where we normally do not see it."[3] It is by turning to detailed accounts of the particular, and not by calling on the universal, that more appropriate responses to suffering can be developed; in this, Rorty is correct.

Ethnographies, of course, bring us back to the field of anthropology. It is anthropologists who insist that we focus on the local and the specific in order to develop cross-cultural understanding. Belinda S. Preis offers a prescription for human rights action based on knowledge of 'everyday life situations':

> In order for the current impasse of the universality-relativity debate to become 'a passage,' the introduction of a more open-ended (ethnographic) approach is therefore needed: one that attempts to unravel the complexities of meaning and social action through the development of a conceptual framework that accords priority to the understanding of human rights in everyday life situations. This is not, I wish to emphasize, an argument against international human rights conventions and formulae; these are important as a general goal, but at the same time, they are only intelligible in situated contexts. That is, they are grounded in the meanings accorded them through the ongoing life experiences and dilemmas of men and women, and therefore do not – and cannot – in any straightforward, linear, or mechanical manner, form the basis of human rights action.[4]

Rorty would undoubtedly agree that we must support the development of ethnographic studies in order to better understand *culturally embedded views* of suffering, rights, the relationship between individuals and society, and other relevant concepts. It is only

through a thorough understanding of local narratives that we can develop a legitimate response to suffering and cruelty in specific cultural contexts.

Stanley Cohen offers a word of caution about this approach, however, by observing that there will always be choices to make about which situations we should address, and which should be left alone. If all we have to go on is the concept of 'local narratives,' we may end up making decisions based on doubtful motives. Recalling the role of the media in drawing our attention to situations of conflict and oppression, Cohen reminds us that we must be conscious of the reasons for choosing to act on one atrocity and not another:

> We hardly need social psychologists to tell us that the people or causes for which we feel special emotional concern are often not those in greatest need. But we do need reminding about the myopia of empathy-induced altruism, the random compassion resulting from one country being more photogenic than another.[5]

It will be a question of ongoing vigilance and dialogue to minimize the effect of questionable motives in determining where 'human rights' interventions are appropriate.

Future directions for further inquiry

There is some promise in the approach suggested above, i.e. that human rights can be used as a strategic discourse, informed by complete ethnographic information and legitimated only by local narratives. There is also merit in an approach which recognizes the severe limitations of 'human rights' and attempts to ground all but the most basic rights in local contexts and membership in particular groups (e.g. citizens, refugees, workers). This sort of approach might foster more modest human rights actions than many international organizations would like to see, but it may also make these interventions more legitimate in the eyes of the local populations concerned. As this approach has been sketched out in very broad strokes here, there is further work to be done on defining its parameters.

There is also considerable work to be done on identifying the ways in which the dominant Western perspective on rights has permeated rights talk in cultures around the

world. Questions remain as to whether Western individualism has had a positive or negative effect on societies which traditionally placed higher value on the collective than on the individual. Recognizing also that 'culture' is not a static entity, but a permeable, shifting set of practices and values, we must also devote attention to the ways Western imperialism has become entrenched in international approaches to human rights actions.

We in the West cannot deny the privilege of our position or the Western individualist framework in which our perspectives have developed, so we must learn, through sentimental education, to listen to others speak within their frameworks, and to acknowledge our fundamental differences, without attempting to impose our institutions, practices, or values upon them.

To sum up, there is considerable work to be done to inquire as to how the discourse of human rights, which has gained cultural currency in the world, can be used in non-foundationalist ways, recognizing their *contingency* and their basis in *agreement*.

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[1] Ignatieff, *Rights*, 1.
[2] Asad, 304-305.
[3] Morris, 41.
[4] Preis, 311.
[5] Cohen, 218.

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