

No.47/January 2005

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Universal Human Rights

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IIS Discussion Paper No. 47

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Anti-Foundationalism, Deliberative Democracy, and Universal Human Rights.

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In this paper I argue that an approach to liberalism that combines an anti-foundationalist epistemology and a deliberative democratic stance enables us to alleviate the tensions between the universalistic claims of human rights and the particularistic claims to autonomy coming from different cultural groups, which are exacerbating as a consequence of the processes of global integration and fragmentation.

Before being able to appreciate the force of my argument we need, however, to show the viability of anti-foundationalist liberalism and the virtuous relationship between anti-foundationalism and deliberative democratic liberalism. I will deal first with the viability issue by giving a sketch of what I consider to be the most plausible conception of normativity, and defending it from the criticisms of epistemological and political viability. Turning then to the desirability issues, I will describe the main traits of the political outlook which I favour, deliberative liberal democracy, and highlight its strict relationship with anti-foundationalism. We will thus be able to understand why I maintain that an anti-foundationalist deliberative democratic approach to liberalism can help us accommodating the growing cultural clashes and in particular the tensions between universal human rights and cultural diversity.

Anti-foundationalism

I believe that we can find the most plausible anti-foundationalist epistemology in the conception of normativity and rationality emerging from the works of the neo-pragmatist philosophers who in the last thirty-odd years have best developed the anti-metaphysical and anti-sceptical arguments first elaborated by the founding fathers of American pragmatism, Charles S. Peirce, William James and John Dewey, and by the second Ludwig Wittgenstein, namely Donald Davidson, Richard Rorty, Hilary Putnam and Richard Bernstein.¹

I see this anti-foundationalist conception of normative authority as centred on the distinction between *universal grounds for* and *universal scope of* normativity. It maintains that the universalistic normative force of our norms and practices remains uncompromised by the acknowledgment of the ultimate circularity of our justifications, thus eschewing the pitfalls of both foundationalism and relativism.

The starting point of this position is the claim of the grammatical impossibility of the metaphysical project to reach ‘the point of view from nowhere’². Namely, the impossibility of the foundationalist project of metaphysics is considered to be inherent to the very concept of reality towards which it aims in its search for certainty. The epistemic assurance which metaphysics has always sought would consist in fact in a reality that, by definition, is placed beyond our cognitive reach, for it is supposed to be a reality beyond and independent of our particular beliefs and values. Hence, it is the very foundationalist conception of the justificatory ground for our practices and cognitive faculties the source of the radical scepticism, in its relativist and idealist forms, which corrodes normativity and cuts off its links to the external world.

¹See for instance D. Davidson: *Inquires into Truth and Interpretation* (Oxford: Clarendon, 1984); R. Rorty: *Objectivity, Relativism and Truth* (Cambridge: Cambridge University Press, 1991); H. Putnam: *Realism with a Human Face* (Cambridge, Mass.: Harvard University Press, 1990); R. Bernstein: *Beyond Objectivism and Relativism* (Oxford: Blackwell, 1983).

²T.Nagel: *The View from Nowhere*. (New York ;Oxford :Oxford University Press,1986)

The result of the rejection of the metaphysical epistemological framework is a volitional³ conception of knowledge and rationality that avoids the dangers of radical scepticism by placing the source of normative authority in that same dimension of practice, laden with our values, needs and interests, which foundationalists attempt to transcend. This is a conception of normativity that acknowledges that our principles and practices ultimately rest on some ungrounded set of fundamental – yet not foundational – beliefs and values, without considering this as an impediment to the exercise of our reflective and critical faculties, to the formation of more or less precise ideas of what is right and wrong, better and worse in any circumstance of our lives.

Hence, the fact that we have no universal ground for our particular moral and political views and practices – e.g. no transcendent conception of human nature or moral law to justify universally our conceptions of human rights and justice – does not mean that we cannot hold those views and practices to be universally valid, i.e. that they cannot or should not be held to apply universally. Human rights claims, as any moral claim, are indeed universal, but their universality is culturally grounded, not metaphysical. They are universal in *scope* not in *ground*. This is the truth in universalism.

The other side of the epistemic coin of normativity is the truth in relativism. The truth in cultural relativism is not the corrosive claim that we cannot criticize another point of view or tradition or regard anything to be true or right any longer, but only the recognition that the chain of our justifications must end somewhere, on some contingent set of values and beliefs that cannot non-vacuously be said to be either true or false, right or wrong, since they are our very criteria of truth and right. Yet, they *are* criteria of truth and right.

Critics of such a cultural universalistic epistemological position at this point usually turn from the charge of relativism to that of ethnocentrism. With this charge they intend to accuse anti-foundationalism of legitimising the imposition of one culture or point of view over another, and of opening the door for any kind of oppressive and imperialistic conducts, and thus of intensifying cultural conflict, as anyone would feel legitimated to impose his or her own view of justice, the good and human rights.

This ethnocentric critique, however, misses the central point made by anti-foundationalism. It is in fact a moral and political criticism, while the ethnocentric dimension

³By calling the anti-foundationalist conception of knowledge *volitional* I mean to call attention to its recognition of the central role played by our values in the process of acquiring knowledge.

pointed out by anti-foundationalism is exclusively epistemological. Again, it amounts to the serene acceptance that the *petitio-principi* is our epistemic condition; to the consideration that, as Richard Rorty puts it, ‘ideals may be local and culture-bound, and nevertheless be the best hope of the species.’⁴ But this epistemological truth in ethnocentrism has no moral and political lesson attached to it, let alone an illiberal one. The distinction that needs to be grasped here is between *epistemic* legitimacy and *moral* legitimacy. The former does not entail the latter.

Of course, to say that anti-foundationalism is morally and politically neutral is also to deny that it entails or coincides with liberal principles and practices of human rights. Yet, the question I want to address in this paper is not ‘why should an anti-foundationalist *care about* human rights or multiculturalism?’, or in fact ‘why should anyone respect human rights and cultural diversity at all?’, but the less demanding one ‘why should anti-foundationalism *matter to* a liberal and multicultural society?’ While there are no conclusive reasons why anti-foundationalists, and indeed anyone, should abide by liberal democratic principles and practices rather than behaving in oppressive ways, I believe that there are good reasons to believe that the fuller realization of the liberal project would be facilitated by the spreading of anti-foundationalist awareness. Before turning to consider the desirability of anti-foundationalism from a liberal point of view it is necessary however to outline briefly my view of a genuine liberalism.

Deliberative Democratic Liberalism

The liberal tradition cannot be considered the expression of a clearly defined project characterized by a precise and unquestioned set of values, beliefs, norms and institutions and their interpretations and applications. There has always been disagreement amongst supporters of liberalism on the defining characteristics of its political and moral project, on

⁴R.Rorty: ‘On Ethnocentrism’, in *Objectivism, Relativism, and Truth*. (Cambridge: Cambridge University Press, 1991), p.208.

the content and relative priority of its central values of freedom and equality as well as on the form of the practices and institutions that should implement them.

My particular reading of liberalism is centred on the appreciation of the equal dignity of all human beings, and on a conception of human dignity centred on people's capability to conduct an autonomous life. I take personal autonomy not in its negative meaning as the absence of external constraints to one's freedom of choice and action, but in the positive sense of being as much as possible in control of the circumstances affecting one's own life. This appreciation of personal autonomy as a fundamental human right leads us directly to the deliberative democratic principle that only those norms and practices can be deemed morally and politically legitimate which are the result of a free and fair process of public decision-making that includes all who will bear the consequences of their implementation.⁵

Of course, the problem faced by any such a procedural conception of democratic decision-making is that in order to start deliberating on issues of common interests people should come first to an agreement on the terms and rules of deliberation, on the criteria of 'free' and 'fair' conditions of public discourse as well as on the boundary of the political *demos*. However, these being issues of public interest, they should be resolved exactly through those very free, fair and inclusive procedures of collective deliberation that guarantee everyone's autonomy and that yet are the very object of dispute.

The solution to this *regressus ad infinitum* of democratic deliberation, just as for the similar epistemic infinite regression of justification, is to start moving in circle, that is to say, to shift from *theoria* to *praxis*, to get down to our everyday practices. If we are lucky these practices will be shared, and we could draw on them to extract a list of uncontested procedural rules. Yet agreement, at least permanent agreement, just like universal truth, is

⁵I hasten to make clear that this principle is not grounded, as for Habermas and Apel, on a transcendental argument from the pragmatic presuppositions of rational argumentation, but rather it rests on the fundamental, ethnocentric, moral conviction that everyone should have the right to contribute on an equal footing to shape those collective decisions that will affect her or his life. Briefly stated, the problem with any transcendental justification such as Habermas's and Apel's is that it is unavoidably circular. It would work only if it could demonstrate that communicative action is the *universal* and *inescapable* presupposition of *any* kind of action we may be involved in; that is, that *whatever* we might do we are *always already* engaged in acts of mutual understanding guided by the deliberative democratic principle (Habermas's rule of discourse U). If we can resort to alternative forms of social behaviour to that of communicative action, then, it does not matter how much the principles of a democratic and pluralist ethics of conversation are ingrained in such communicative practices, no analysis of their structures and pragmatic presuppositions could ever show us that we should recognize the obligation to commit ourselves to the ethics of deliberative democratic liberalism on pain of performative contradiction. According to anti-foundationalist deliberative democrats, non-liberals sin against people's right to autonomy, not against Reason.

not for human beings. The practices by means of which we will try to solve the constitutional impasse of establishing the procedural rules and constitutional limits of collective deliberation, will soon or later exclude someone, if they are not already exclusive, and will be questioned.

This consideration takes us to what I regard as the crucial condition for a genuine deliberative democracy, and thus for a genuine liberal society which respects everyone's autonomy, in a plural world. A society that wants to be faithful to the dictates of freedom, equality and human dignity should not only give equal consideration to the voices of all those affected by public decisions, but should also be ready to open to public discussion and revision its outcomes as well as its most fundamental assumptions, the conditions of political membership, the content of its constitutional rights, its procedural rules and their practical and institutional implementations.⁶

The main idea behind the self-reflexive character of public deliberation that I am endorsing is that, no matter what our particular positions on the moral and political outlook and institutions of a just society are, if we do not want to risk sliding into a more oppressive and unjust society than one we could feasibly live in, if we do not want to risk that legitimate claims to freedom, equality and fundamental rights are left unheard, unacknowledged and unsatisfied, we must keep open the debate over the fundamentals of liberalism itself, over the correct interpretation and application of the values of freedom, equality and human rights. We must avoid conceiving of the particular practices and institutions of our society as just *sub specie aeternitatis*, and thus immune from revision. God himself, or its representatives, so to speak, if they cared about the fundamental human right to live an autonomous life, would sit at the all-inclusive and self-reflexive table of free and fair public conversation and deliberation.

⁶Amy Gutmann and Daniel Thompson have advanced a similar conception of deliberative democracy in *Democracy and Disagreement* (Cambridge, Mass. and London: Harvard University Press, 1996). See also Seyla Benhabib: 'Toward a Deliberative Model of Democratic Legitimacy', in *Democracy and Difference*, S. Benhabib ed. (Princeton: Princeton University Press, 1996); Joshua Cohen: 'Procedure and Substance in Deliberative Democracy', in *Democracy and Difference*, Iris Marion Young: 'Communication and the Other: Beyond Deliberative Democracy', in *Democracy and Difference*. Seyla Benhabib has recently re-stated the importance for democracy of keeping the public debate open with regard to the terms and conditions of democratic membership by elaborating the concept of 'democratic iterations'. See *The Rights of Others* (Cambridge: Cambridge University Press: 2004).

Incidentally, the centrality of self-reflexivity for liberal democracy entails that the debates over the guiding values and institutional assets of a liberal society, as well as those over the very criteria for 'free' and 'equal' terms of collective deliberation and for democratic membership, must be considered as a vital part of the liberal democratic tradition itself.

It is by reflecting on this ‘priority of democracy over philosophy’, to use Rorty’s description of John Rawls’s political conception of justice,⁷ that we can start to unravel the strict connections between anti-foundationalism and deliberative democratic liberalism.

Anti-foundationalism and Deliberative Democracy

To say that *respect* for human beings’ autonomy should take precedence over *correspondence* to a reality beyond human beings means in fact to say that, even if foundationalism would be a feasible project, even if someone were to discover how things *really* are or should be, a thorough endorsement of liberalism would urge us not to bend to the dictates of the successful foundationalist. In a genuine liberal culture, metaphysics, even if it were a feasible project, would not be the foundation of culture, because in a deliberative democratic culture there would not be any privileged authoritative and unquestionable voice. This means that anti-foundationalism is desirable for liberal democracy as it enables the fuller realization of the ideal of equal respect for the dignity of every human being.

It is not that anti-foundationalism coincides with liberalism. As I have already noted, there is nothing incoherent in being anti-foundationalist and conservative, intolerant and totalitarian. None the less, anti-foundationalism is particularly suited for a liberal democratic culture because by denying that any particular practice has an absolute privileged authority over all the others, and reminding us of the contingency of our convictions and practices and that every consensus reached is only a temporary resting-point prone to turn into oppressive *status-quo*, it exhorts liberals to keep the outcomes and procedures of collective deliberation open to dissent and change; it facilitates the realization of the liberal anti-

⁷R.Rorty: ‘The Priority of Democracy to Philosophy’, in *Objectivism, Relativism, and Truth*. See J. Rawls: *Political Liberalism*, (New York, Columbia University Press, 1993).

authoritarian and egalitarian ideal of removing all the obstacles to the free questioning of received opinions and institutions and to a fair consideration of all points of view.

Foundationalism, instead, with its idea that there is a particular point of view that ought to be given absolute authority because of its correspondence with the metaphysical order of things compromises the realization of free and fair conditions of inquiry and conversation; it closes the conversation, even the conversation within liberalism itself, thus betraying what I have claimed to be the central value of a genuine liberal society, namely the permanent openness of self-reflexive collective deliberation.

Certainly, even the concrete liberal practices and principles that anti-foundationalists may endorse, no matter how close to the deliberative democratic ideal they might be, will always manifest some degree of conservativeness and exclusiveness. But still, anti-foundationalist awareness, as opposed to a foundationalist one, will not be *a priori* against possible reforms of the particular set of liberal principles and practices endorsed, even if it might not be able to ensure them or to make them any easier.

In the idea that no foundational consideration should take precedence over the result of all-inclusive and self-reflexive collective deliberation we find another important point of convergence between deliberative democratic liberalism and an anti-foundationalist conception of normativity. To believe that, as Benjamin Barber has put it, the condition of democratic politics consists in ‘the necessity for public action in the presence of conflict and in the *absence* of private or independent grounds for judgment’,⁸ means, in fact, not only to confirm the anti-foundationalist anti-relativist claim that our practices swing free from metaphysical foundations, that metaphysical issues are irrelevant to the working of our practices, but also, – and most importantly – to endorse the same view of political and moral conflict as that depicted by anti-foundationalism.

An anti-foundationalist conception of normativity enables us to acknowledge how the problems emerging from our encounters with the outside world are of a practical, moral and political nature, and not of an ontological or epistemological order. In particular, it makes us acknowledge that the problems deriving from the plurality and opposition of points of view, traditions, needs and interests do not appeal to our cognitive faculty to break the ‘veil of appearance’ and look at how things *really* are and should be, but to our moral and

⁸B. Barber: *Strong Democracy*. (Berkeley, Los Angeles and London: University of California Press, 1984), p.180: my emphasis.

political sensitivity and commitment. It helps us understand that the problems raising from the diversity and incompatibility of human beings are not problems from which to run away finding repair in the solitude of philosophical reflection orientated to the discovery of *the* right way to live together, but must be taken for what they are: a diversity and an incompatibility of fundamental values, interests and beliefs for which the only solutions are the concrete moral and political concrete proposal that each one of us regards as most appropriate.

We can thus say that anti-foundationalism is beneficial for liberalism, not only because bringing the source of normative authority back to people's individual assent eliminates the epistemological obstacles to the realization of the anti-authoritarian and egalitarian liberal project, but also because bringing to the fore the political and moral nature of the problems that pluralism and multiculturalism poses to us helps us appreciate that a democratic resolution of multicultural conflicts calls for *conversation* with our fellow human beings and not for *confrontation* with a reality beyond humanity.

It is this combined recognition of the volitional – as opposed to cognitive – nature of cultural and political conflicts, and of self-reflexive and all-inclusive collective deliberation as the only acceptable means to manage them, that enables anti-foundationalist deliberative democracy to alleviate the tensions between cultural and individual particularism and the universality of human rights. It is now time to turn to the main contention of this paper and illustrate the virtue of anti-foundationalist deliberative democracy.

The Desirability of Anti-foundationalist Deliberative Democratic Liberalism

Let us start by asking ourselves what do the conflicts between universal human rights and cultural and individual diversity amount to?

From an anti-foundationalist perspective we are able to appreciate how any such conflict is not an epistemological conflict between universally and culturally or individually

valid principles and practices, nor is it an ontological opposition between individual and collective rights, but it ultimately turns out to be a clash between different moral outlooks and political projects, different culturally situated universalistic conceptions of human rights, the common good and the requirement of justice. They are conflicts between fundamental values, beliefs and interests for which, as I said, the only solutions are the concrete institutional and policy proposal that each one regards as most appropriate from her or his moral and political perspective. From a deliberative democratic perspective these conflicts, as any social conflict, will have to be solved by means of practices of public confrontation and deliberation that both include every person who has a stake on the issues in question and keep their outcomes and their fundamental assumptions open to questioning and reform.

In particular, such a non-cognitive approach to conflict resolution committed to the equal respect and concern for everyone's autonomy, whether it is applied to conflicts within a multicultural state or in the international arena, enables us to bypass two main obstacles in the way of a peaceful and reasonable resolution of cultural conflicts. These are at the same time the two opposed, yet similar, epistemological positions that keep swinging the pendulum between universalism and cultural relativism. I am referring to the universalists' appeal to foundational authority – be it in the form of the Will of God, the Essential Nature of Human Beings, or the Force of Reason – and the no less essentialist appeal of the relativists to cultural authority – the authority of the *Ethnos*, intended as a homogeneous and static whole, a natural object.

The rhetoric of moral necessity and cultural tradition are two important factors behind the exacerbation of cultural conflicts as well as behind most violations of liberal principles and internationally recognized human rights. The universalist rhetoric is behind most of the imperialist and oppressive practices that human history has witnessed and is continuing to witness. The cultural relativist rhetoric is behind most of the violation of human rights that – alas! – are undertaken under the liberal and multicultural banner of the collective rights to self-determination and cultural diversity.

From a liberal perspective committed to inclusive and self-critical practices of collective deliberation as means of conflict resolution, and opposed to any foundationalist conception of normative authority as well as to any essentialist conception of culture, when faced with the question of which set of conflicting practices and principles should be given

priority, within a state or in the international arena, we will ask which are most representative and respectful of the autonomous will of the people who will bear their consequences, and not which correspond to the noumenal or cultural truth.

The ontological conflict between collective and individual rights will also dissolve as these two kind of right-claims will come to be seen as two different but complementary expressions of the same overarching commitment to people's autonomy. The implementation of deliberative democratic procedures of resolution of normative conflicts will in fact enable us both to avoid what Will Kymlicka calls 'internal restrictions' – i.e. restrictions to the claim of a group against its own members – and to guarantee what he calls 'external protections' – i.e. protections of the claim of a group against the larger society.⁹ Every group and individual will thus be left as free to shape and pursue its cultural and political practices as these are consistent with the equal right to autonomy of other individuals and cultural groups.

This commitment to people's autonomy through the exercise of the civic virtue of deliberative democratic means of conflict-resolution will surely not dissolve or guarantee any easy solution to political and cultural conflicts, especially as these conflicts will reappear around the question of what are the essential conditions for the exercise of an autonomous life, and whose autonomy should be given priority. Yet, it will contribute to alleviating them by avoiding the deaf and oppressive imposition of cultural practices over dissenting groups and individuals. Of course, this would be the case only if *everyone* would commit her/himself to deliberative democratic civic virtue. It is, indeed, liberals' crucial problem how to deal with those who reject deliberative democratic procedures of collective decision-making.

This is Plato's old problem of how to respond to Thrasymachus, how to respond to the moral and political villain. It is the problem of how tolerant liberals should be towards the intolerant and the intolerable, towards non-liberals. This central question of political philosophy has been modulated in contemporary political practice and theory in terms of both the conditions for a just war or a just interference with state sovereignty and the extent to which a liberal multicultural state should be multicultural, i.e. permit and tolerate particular cultural and individual practices.

⁹W.Kymlicka: *Multicultural Citizenship*, (Oxford: Oxford University Press, 1995): see in particular pp.34-48 and 152-172. Antifoundationalist deliberative democracy will indeed subordinate the choice of restrictions policies within a community and within a multicultural state to self-reflexive practices of collective deliberation involving all those who have at stake in the policies in question.

There is no rule of thumb that can provide specific answers to these political and moral dilemmas in every particular circumstance. The concrete policies that liberals should endorse to deal with illiberal states, communities and individuals will have to be hammered out case by case, taking into consideration issues of feasibility and convenience as well as questions of justice. And, of course, the choice of the particular course of action to endorse will have to be submitted to free and open procedures of collective decision-making, involving *as far as possible* everyone who has a stake in the decision, non-liberals included.

It is beyond the reach of this paper to elaborate in detail the deliberative democratic view of just war and of the limits of multicultural tolerance. However, I will sketch some guiding principles for dealing with these hard cases in the context of illustrating my thesis that an anti-foundationalist and deliberative democratic approach to liberal politics enables us to bypass what I said to be two main obstacles in the way of a peaceful and reasonable resolution of cultural conflict by breaking free of the universalism-relativism dualism.

To give strength to my argument, then, let us briefly consider both the case of the cultural relativist's appeal to the right of self-determination to justify departure from internationally recognized human rights standards, and the case of the universalist's appeal to the moral law to justify interference with state sovereignty and the autonomy of individuals and cultural groups, and see how they would be addressed from an anti-foundationalist deliberative democratic approach to liberalism and human rights.

From such a perspective who justifies a set of policies and practices referring to the authority of cultural tradition will be asked to show that these genuinely respect the freedom and equality of every person affected by them. She or he will be asked to show us that the culture of the community, whose right to non-interference is being defended even from the interference of who demands the implementation of liberal rights and principles, is truly representative of all its members. The idea is that a community is autonomous if and only if its members are autonomous. In this way we shall be able to establish the real intentions hiding behind the appeals to cultural relativism as a defence of the principles of state sovereignty and self-determination.

In particular, we shall be able to establish whether what is being defended is really the autonomy of a people or rather a repressive regime whose practices have nothing to do with the would-be indigenous culture which has been appealed to as a justificatory ground. We will be able to establish, for example, whether those practices are only the expression of

the vested interests of a ruling elite who, as Adamantia Pollis puts it, ‘exploits the language of cultural relativism to justify and rationalise its repressive actions’¹⁰ or if, in a similar way, as Karen Miller has illustrated in a study on Iranian women’s rights, ‘in rejecting the aspirational character of universalism, relativism merely perpetuates traditional practice’¹¹, protecting them from possible criticisms and revisions.

If any of these circumstances would turn out to be the case there would be no principled reason preventing liberals from intervening in the internal affairs of a state or a community, even if the standards of moral and political legitimacy to which they would resort to justify their intervention – e.g. the International Bill of Rights – cannot be justified in a non-circular way. As I said, the particular measures of interference will have to be hammered out case by case, by hunch and compromise, without the guidance of absolute criteria but only of our particular and contingent points of view.

The fundamental principle that should guide deliberative democrats in their elaboration of concrete policies of intervention in the internal affairs of oppressive states and communities will, of course, be that of giving priority to inclusive and self-reflexive discursive means of conflict resolution and collective decision-making over violent, exclusivist or dogmatic ones. This will entail as a corollary the commitment to do as much as possible to involve and empower the oppressed and dissident sectors of those states and community, and to use force only as a last resort; and then only on the basis of a thorough and transparent consideration of the gravity of the human rights violations perpetrated, with the utmost concern to protect civil society and punish only the oppressor, and with the exclusive aim of restoring genuine self-determination.

These, of course, are very general indications, which must be supplemented by pragmatic considerations of convenience and feasibility. Yet they enable us to appreciate how the anti-foundationalist deliberative democratic approach to intra-state and inter-state multicultural conflict is centred on the commitment to empower individuals and communities through the fostering of an autonomous civil society from the local to the global, and, accordingly, to subordinate the implementation of international human rights standards and constitutional fundamentals to the autonomous acceptance and interpretation

¹⁰A.Pollis: ‘Cultural Relativism Revisited: Through a State Prism’, in *Human Rights Quarterly*, 18/2 (1996) p.319.

¹¹K.Miller: ‘Human Rights of Women in Iran: The Universalist Approach and the Relativist Response’, at <http://www.law.emory.edu/EILR/volumes/win96/miller.html>

of the different communities as far as this is consistent with the equal autonomy of other individuals and communities.¹²

I hasten to make clear that I am not affirming that deliberative democrats cannot criticise any particular cultural practice that, no matter how illiberal it might be by our human rights standards, is the expression of the autonomous will of its participants. From their own moral and political perspective they would surely be obliged not to interfere violently with it. Yet nothing prevents them from engaging with the allegedly illiberal culture in rational debate. We must keep *rational criticism* separate from *forceful interference*. Rational confrontation, i.e. exchange of reasons and criticism, is after all one of the fundamental organising principles of a liberal society committed to deliberative means of conflicts resolution. It is indeed regarded by liberals as one of the main engines of social progress and social cohesion.

We must insist again, against foundationalist supporters of liberalism, that to acknowledge the impossibility to establish the universal validity of liberal principles and human rights does not entail depriving them of their universal normativity. We must insist that to acknowledge our ethnocentric epistemic condition does not deprive us of the rational defences, let alone the forceful ones, against what we consider as threats to our most cherished values and practices. Nor does it make our support of these practices and values, using Richard Wilson's critical expression, 'a car without belts that at the first moral obstacle puts the passenger's safety at risk.'¹³ It only makes us realize that, as Rorty has remarked,

there is no way to beat totalitarians in argument by appealing to shared common premises, and no point in pretending that a common human nature makes the totalitarians unconsciously hold such premises.¹⁴

That is, it makes us realize, *pace* Plato, arguing against the tyrant does not require arguing against relativism, that the tyrant is not sinning against Reason but only against our liberal principles, and that, again with Rorty, 'abandoning Western rationalism has no

¹²Karen Miller in the article above quoted puts forth a similar position in developing what she calls 'the grass roots method' of solving the counterproductive tensions between universalism and relativism.

¹³R.Wilson, ed.: *Human Rights, Culture and Context*. (London: Pluto Press, 1997) p.8

¹⁴R.Rorty: 'Science as Solidarity', in *Objectivity, Relativism, and Truth*, p.42.

discouraging political implications. It leaves the Enlightenment political project as good as ever.¹⁵

Indeed, such an ethnocentric awareness, just as it can help us uncover the relativist rhetoric of oppressive regimes and ruling classes, it can also help us divest conservative and imperialist policies of their rhetoric of absolute truth, be it used in good or bad faith. By depriving imperialists and oppressive actors of the possibility to justify in a credible way their policies and practices in the foundational terms of moral obligation, we shall be wary of any attempt at interfering with the autonomy of individuals and communities that is not carried out in respect of the principle of autonomy itself and does not follow the deliberative democratic priorities and recommendations I sketched above.

Furthermore, emptying the epistemological credibility of the fundamentalist and manipulative uses of the discourses of universal human rights and liberal democracy, and bringing back political and moral decisions to the arena of public reasoning where they belong, is vital in order to restore or win people's trust in the liberal project as I have described it. In particular, it enables us to save the valuable principles expressed in the body of international human rights treaties and conventions and in liberal-democratic constitutions from the discredit that has been brought on them by those who appeal to them as a smokescreen for the pursuit of personal interests or justification of expansionist policies, as well as by those who, unwilling to abide by those principles, strategically use in justification of illiberal practices the criticism that can *only* be made of hypocrite liberalism or liberal fundamentalism: namely, the criticism that, as Sami Aldeeb puts it, in reality 'human rights are used as a political instrument and not at all as a guarantee for the respect of human rights.'¹⁶ The point I want to raise has been well made by Bartolomeo Conti when he observes that

it is unlikely that the universality of human rights will be able to show its [moral] power amongst the third world cultures [indeed any culture] as long as they will remain an integral part of a strategy of political, economical and cultural control of the West, used as an excuse to intervene in and interfere with other countries.¹⁷

¹⁵R.Rorty: *Truth, Politics and Post-modernism*. (Amsterdam: Van Gorcum, 1997), p.36

¹⁶A.S.S.A.Aldeeb: 'Dialogue conflictuel sur les droits de l'homme entre Occident et Islam', in *Islamochristiana* n.17, pp.58-59.

¹⁷B.Conti: 'Universality of Rights Tested by Cultures: Islam and Arab Declarations on Human Rights', in

Conclusions

I have argued for the viability and desirability of a political and moral position that combines an anti-foundationalist conception of normativity and a deliberative democratic reading of liberalism centred on the principle of all-inclusive and self-reflexive procedures of collective deliberation. As for the viability issue, I have illustrated how anti-foundationalism does not entail either corrosive relativism or vicious ethnocentrism. The argument for the desirability of anti-foundationalist liberalism has brought us to appreciate how such an approach enables us to accommodate cultural conflicts in accordance with the equal respect and concern for everyone's autonomy.

In particular, anti-foundationalist deliberative democratic liberalism can help us release the tensions between conflicting normative claims by depriving of epistemic and political authority the appeals to moral law and cultural tradition that so often have contributed to exacerbating cultural conflicts. It also offers us guidance in taking a decision on the question of which among conflicting social practices should be dropped and which should be given priority, by placing, as far as it is pragmatically possible, respect for individual and collective autonomy above any other concern, and promoting those practices and institutional settings that foster the exercise of people's right to be master of their own life. It can help us, that is, to achieve, in the words of Susan Moller Okin, 'a form of multiculturalism that gives the issue of intra-group [and inter-group] inequalities their due –

Mediterranean Journal of Human Rights, Vol.6 p.182. See also, David E. Zammit: 'Human Rights Versus Social Practice in the Mediterranean', in *Mediterranean Journal of Human Rights*, Vol.1, no.2, (in particular p.91) and Milena Modica: 'The Universal Character of Human Rights and the Mediterranean Regionalization' in *Mediterranean Journal of Human Rights*, Vol.3, no.2 (in particular p.557).

that is to say, a multiculturalism that effectively treats all persons as each other's moral equals'.¹⁸

Furthermore, anti-foundationalist liberalism can play a crucial role in restoring people's trust in, and strengthening people's commitment to, the ethics and politics of human rights and multiculturalism by saving them from the discredit into which they have been thrown by the often manipulative use of the rhetoric of moral necessity and cultural tradition to justify imperialist policies and oppressive regimes. It can accomplish this by bringing the crucial questions affecting people's lives, included the interpretation and application of human rights, back into the arena of free and open public confrontation and deliberation. Indeed, as Anne Phillips has correctly observed,

we always need the maximum possible dialogue to counter the false universalisms that have so dogged previous practice, as well as the 'substitutionism' that has allowed certain groups to present themselves as spokespersons for the rest.¹⁹

Anti-foundationalist deliberative democracy thus empowers people by placing the interpretation and implementation of universal human rights into the hands of all human beings, rather than the disenfranchising hands of God, Nature, Reason, Culture or, in fact, the ruling class of the day which hides behind them. Anti-foundationalist deliberative democracy will surely not extinguish cultural and political conflicts, yet it represents our best hope for civilising them, for replacing violent and deaf confrontation with peaceful and fruitful conversation across differences.

¹⁸S.M.Okin: *Is Multiculturalism Bad for Women?* (Princeton: Princeton University Press, 1999), p.131.

¹⁹A.Phillips: 'Multiculturalism, Universalism and the Claims of Democracy'. Democracy, Governance and Human Rights Programme Paper number 7. (United Nations Research Institute for Social Development, 2001), at <http://www.unrisd.org/unrisd/website/document.nsf/0/62A0530438570AB3C1256BF30051CC19?OpenDocument>



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