

RESPONSES TO TRACK 18

There was much controversy over this essay. But first, the areas of agreement. Many of you echoed my central concerns over peoples' rights.

- the 'self-identifying' nature of a people (Holly Bontoft) – indeed the philosophical quagmire that the idea of a people gets us into (see Paul Bernal's second post)
- the risk that a people will be captured by a false leader. Colin Harvey put a part of what I was getting at starkly but to great effect: 'How many progressives lined up in the 20th century with brutal rights-denying regimes which ruled under a banner of notionally progressive and world-changing practice?'
- I wish that David Cameron after his recent speech on [the dangers of multiculturalism](#) would read Christina's almost poetic plea in her first post to (as I put it, not Christina) celebrate our wondrous complexity, as individuals with a hinterland rather than members of a group.

Essentially, I see acceptance by most of you of the value of human rights as a field focused on the person – more on this in a moment.

But first:

NEO-CON CON?

Thinking about what Favio Farinella has said in his post, I have no apologies for believing in representative government as the only appropriate governmental space in which to argue for the dignity of persons. One of my central concerns with the idea of the right of peoples as a human right – and it is central to what I was saying in this essay – is that it misses this vital precondition for the effective embedding of *human* rights.

I don't think that insisting on this is culturally insensitive of me.

Many places have had representative governments in the past and of course we don't have it here in the Global North in quite the way that many of us allow ourselves to believe. (Colin is absolutely right that 'we need to pay more attention to democratic design.' And Richard Buck is very good on this too, in his second post – certainly the 'group can be a cruel task master' even where it is a democratic one – and working out where human rights fit in this *correct* form of government is a key challenge for sure.)

As I say in the essay, Favio, while it is true that human rights 'have been historically advanced by and through peoples' I think those times are past. Take Egypt as an example – Mubarak feigns reluctance to retire because he says [the Egyptian people need him](#). But if you were to look at the impact of his rule on the rights of Egyptian

individuals, you would quickly come to a different conclusion. The abstract idea of a peoples' rights as some kind of overarching human right leaves too much scope for bandits like Mubarak.

I am resting my case on what Paul says in his first post that peoples' rights are 'qualitatively different from human rights.'

Not that they are wrong necessarily – I do not say that. But that they are different. And treating them as human rights does damage to our project.

REFRAMING THE INDIVIDUAL

None of what I argue for means that you are stuck with some arid individual, an identity-less automaton. The last section of my essay, addressing exactly this, was vital. So Lily Megaw, for example, is not much different from me – I agree that group rights 'can be extremely important because they dig a little deeper, focusing on the experiences of a smaller people in a region, or in a specific domestic/cultural environment.' But as Lily goes on to note, the 'end of this track highlights that group rights work when they grasp the notion of the whole person as a social being who is contextually embedded.' Richard puts it a slightly different way, when he observes that 'the social milieu must provide the person with a minimum level of support—a grounding' but it's the same point and a reading that matches what I was seeking to work through in the essay.

Is there so much of a difference here? Being part of a group is often intrinsic to our identity for sure – I agree with that – but what I am saying is that when we speak of the group as such we should be careful about conflating its identity with what we, individually, are.

A FUNDAMENTAL CRITIQUE?

This last point re-emerges in the strong critical engagement with what I have had to say in this essay from Joe Hoover and Anthony J Langlois in particular but others of you as well.

Let me try and answer the various observations made by Joe and Anthony, referring to others of my respondents as and when required.

(1) My basis for claiming the lack of a human rights engagement on the part of colonial liberation movements rests not only on the absence of legal systems of enforcement (though this was of course the case) but also on the lack of a strong human-rights dimension to these movements' arguments for freedom. There is, I'd say, a contrast here with the universalism of many of the revolutionaries of the late eighteenth century.

(2) Concerning the question of post-independence abuses of rights by the leaders of newly liberated countries, the idea of a right of a people focused on the oppressive

effects of foreign occupation – this was fair enough. But it was not a language well equipped to continue critical engagement with power, post liberation. It did not cause such abuse, of course not, but (especially when separated from any right to representative government) it had far too little to say about subsequent abusive catastrophes.

Okay maybe they were not ‘bad consequences’ (Craig Valters) in the direct sense. But this particular vocabulary of peoples’ rights did not have the depth to challenge the tragic transformation of the tribunes of the people into national brigands. Their having ‘taken over’ human rights may have been put it a bit too strongly, I concede this to Anthony. ‘Unhindered, unembarrassed’ might be better – not least because they could point to the right of a people to self-determination as (after 1966 anyway) the *key* human right, *first* and in *both* documents. Sure, Anthony, the thing is supposed to be holistic, and Lee, yes there are not supposed to be blank cheques – but what is this loud emphasis on peoples’ rights as a human right supposed to be if not a dramatic effort at prioritisation? (This is the same sort of point I have already made, about Egypt, when responding to Favio.)

(3) I agree with Joe that all this grew out of the commitment to state sovereignty that had been re-forged after World War II and the bipolar international system that emerged almost immediately after this. But to point to a bigger problem is not to say that the smaller one (of the negative impact of peoples’ rights as human rights) does not exist.

(4) I agree with Joe’s careful rendering of the distinction between state and peoples’ rights, and also with his observation that this does not remove the problematics that surround peoples’ rights, serving merely (but usefully) more clearly to lay the groundwork for their articulation.

(5) Towards the end of their responses both Joe and Anthony remark with approval on the concluding observations in the Track about the need for the rights of individuals to reflect the whole identity. We are back with where I was when I responded to Lily, a bit earlier.

Perhaps what really matters is where we are all starting from. I begin with the individual and then grow my understanding of his or her life by drawing more and more of his or her experience into my understanding of what it truly is that helps him or her to flourish, to thrive as a person. Anthony is very clear on this – and on ‘the right to exit’ which I also think is fundamental but which starting with the group can sometimes obscure. Everything hinges on how you in a self-aware and reflective way choose to grow – in or outside the group must be up to you, not up to the group.

This does not mean that there are not rights of a people, rights to ‘national’ self-determination or rights of an anti-colonial struggle or of rebellion – just that these are not part of *this* (or perhaps any?) *human rights* story. Forcing them into the

human rights narrative in the way the 1966 covenants did stores up the kinds of problems for the future that my track tried to identify.

I think *contra* Craig that you simply must not lose the individual in all this, much as we might want to for all sorts of sensible philosophical, political and historical reasons.

All ideas are always faulty, it is just a case of what faults you want to be forced to explore, explain away etc.

I'd prefer to be engaging with the weaknesses of the individual model (with the individual enriched by identity) than a peoples' model where the critique revolves around the submerging of the individual.

BROADENING THE RIGHTS DISCOURSE

Joe and Anthony push me to think much harder about where community fits in my scheme of rights. They are exactly right to do this, as is Colin whose post is a fascinating reflection on how human rights language can encompass issues of equality and social justice – as regular readers will know a key goal of this whole project. I am sure from his past contributions that Anthony will echo Colin's point that we 'need a substantive view of what the purpose of a world of human rights is' – without this we will be incapable to providing creative work where it is needed and criticism when it is warranted.

I will return to this vital question of how to construct a politics of human rights in my last essay on this project, due at the start of next week.

AND FINALLY

Trees one week, not even people the next? This was Lily's pithy second post. Paul swooped from the skies to defend me. I would love to branch out into this but wood not want to turn the argument between Paul and Lily into a treesome. We need to truncate this discussion: best to leaf it.

Perhaps some of you have twigged what I am on about?