

## **Towards Richard Rorty’s Critique on Transcendental Grounding of Human Rights by Dr. P.S. Sreevidya**

### **Abstract**

*This article considers how the human rights theory established by US pragmatist Richard Rorty, which denies the transcendental grounding of human rights, gave birth to different interpretations of human rights theory and practice. Anti-foundationalism is one of the main tenets of Rorty’s critique on epistemic and metaphysical foundations of human rights. In the concern for human rights, epistemic foundationalism runs through the conception of truth as representation, and human rights also derives from an unhistorical vision of truth. By the denial of epistemic foundationalism, Rorty asserts that no knowledge is born out of the historical circumstances in which the world occurs, and that in the field of human rights there is no natural law and rights are always historical and cultural. Rorty’s metaphysical anti-foundationalism is a strong critique of the principle of the inherent and unalienable character of human rights. Rorty maintains that it is not possible to speak about a human condition because, as there are no phenomena outside the domain of history, there are only historical and cultural configurations.*

### **Introduction**

Human rights discourse is perhaps one of the most important discourses of our times. The contemporary discourse on human rights is both passionate and puzzling when considered from a philosophical point of view. Richard Rorty’s neo-pragmatism constitutes one of the most powerful reappraisals of metaphysics, the political and philosophical legacy of modernity and the rational understanding of human rights.

Rorty’s notion of human rights is grounded on the notion of sentimentality. He contended that throughout history humans have devised various means of construing certain groups of individuals as inhuman or subhuman. Thinking in rationalist or foundationalist terms will not solve this problem, he claimed. Rorty advocated the creation of a culture of global human rights in order to stop violations from happening through a sentimental education. “Sentimental education works only on people who can relax long enough to listen.” Rorty’s re-contextualization of rights offers a possibility for a radical transformation of the theory and practice of human rights. Rorty defends the epistemological and metaphysical presupposition of the contingency of human rights, understands rights and morality in terms of human suffering, and elaborates the idea of

advancing human sensibility to consolidate the rights culture. Rorty focuses on a specific, cultural fact, the fact of what he calls Human Rights Culture. “The emergence of human rights culture seems to owe nothing to increased moral knowledge, and everything to hearing sad and sentimental stories.” He schematizes the concept of a global moral sentiment and finds in sympathy and solidarity the appropriate feelings and values for a human rights culture. He argued that we should create a sense of empathy or teach empathy to others so as to understand others suffering.

### **Human rights as natural rights**

Human rights are natural in the sense that they exist independently of human agreements, conventions, treaties and the like. Many of those who believe in natural rights would say that natural rights fit into a larger realm, one that includes not only natural rights but also the rights that accrue to the parties to agreement and the like which course do not exist independently of those agreements. It also includes natural duties or obligations as well as those duties or obligations accrued by the parties to agreements and so on. Human rights adhere to the human being by virtue of being human, and for no other reason. This suggests that there is something special about being human. It is more than simply being the member of one species rather than another. Rather, it is being the member of a species that by virtue of its nature has rights, indeed a particular specific set of rights. Rorty thinks that the only way to expand people’s perception of humanity and human rights to include all human beings is to improve the quality of life for everyone in order that they will be a mindset that will permit them to look past superficial differences and see the common bond that all humans share.

### **Rorty’s approach**

Before entering into Rorty’s approach to human rights, it is necessary to look briefly at his intellectual trajectory and background. As an exponent of US pragmatism, Rorty’s thought was developed amidst the reaction to the hegemony of analytical philosophy in the Anglo-North American philosophical debate. In other words, Rorty established a fruitful dialogue between Anglo-American and Continental philosophy and opened the door to a realm where both traditions converge. At the same time, paradoxically Rorty was heir to the political project of modernity. In this regard he made a distinction between the philosophical and the political legacy of the enlightenment and, while dropping the

first, he embraced the second — including human rights. Rorty mainly developed his view on human rights in the essay ‘Human Rights Rationality and Sentimentality’. This text has been a precursor in establishing a link between human rights and sensibility, between the tradition of the ethics of emotions in Western philosophy and the theory of human rights, and between sentimental education and long-term human rights activism.

Human history is full of stories in every civilization in every part of the world; violations of human rights are in every imaginable way. What is it that brings some human beings to violate and justify the violation of the rights of other human beings? What is it that brings some human beings to denounce atrocities and to honor the rights of others who are different? Richard Rorty in his essay, ‘Human Rights, Rationality and Sentimentality’, claims that what makes people respect or deny human rights is their life circumstances. Rorty believes that violators of human rights, specifically those violators who are not sociopaths, are deprived of life’s necessities in both security and sympathy. These, Rorty’s claims are what are needed in order for people to be able to look past the differences that allow one person to dehumanize another or one group to dehumanize another. Through sympathy we achieve awareness of the experience of another as if were happening inside our own realm of existence; it necessarily brings others, who are different from us, into our definition of humanity. Rorty’s reflection begins with the idea that developing theories about the transcendental foundations of rights is outdated. Thus, while there are those who are involved in the exploration of the philosophical grounding of human rights as a way of strengthening them against skeptics and critics, Rorty is their counterpart. He assumes himself to be a participant in the effort to achieving the political project of modernity, including the task of furthering contemporary human rights culture as a way of avoiding or alleviating the suffering of victims of the abuse of power.

Rorty’s distrust of a priori groundings or unhistorical justifications of rights, or what he calls ‘foundationalism’, leads to a different interpretation of human rights theory and practice. Anti-foundationalism is one of the crucial tenets of Rorty’s critique of metaphysics as it encompasses a transformation of the image of philosophy and of the concept of truth. Rorty distinguishes between two different types of foundationalism, which are usually found together in modern theory. In the Platonic tradition, philosophy has configured itself not only as epistemology, as a transcendental theory of knowledge but also as grounding, as a reflection about things in relation to their metaphysical foundations. Thus it is possible to speak about epistemic foundations or foundations of knowledge on the one hand, and of metaphysical foundations on the other. The first pursued in the theory of knowledge, which look for the transcendental conditions of the possibility of truth. The later belongs to the ambit of ontology.

## **Epistemic and metaphysical anti-foundationalism and human rights**

For Rorty the theory of natural law is foundationalist and rights are deduced from a human nature. Such a notion is based on a conception of truth as representation, a metaphor that has dominated western philosophy since the times of Plato. With this theory of knowledge, truth is the result of an effort aimed at obtaining an accurate description of what stands in front of the subject, and consciousness and mind become mirrors of nature. The notion of human rights also derives from a universalistic and unhistorical vision of truth. Rorty asserts the historical, contingent, and perspective character of knowledge. There cannot be knowledge that is not born out of the historical circumstances in which the world occurs. Rorty maintains that he is not elaborating a theory about the nature of truth, but a theory about the culture of truth. In the field of human rights, this point of view translates into the idea according to which there is no natural law and rights are always historical and cultural.

Rorty points out foundationalism as a way of thinking that has been present throughout the history of Western philosophy. In the concern for human rights, metaphysical foundationalism runs through the principle of the inherent and inalienable character of human rights. Rorty's metaphysical anti-foundationalism is the critique of the way of thinking that proceeds by looking for grounds. Rorty thinks that a well functioning human rights culture results from two conditions, *security* and *sympathy*. "By 'security' I mean conditions of life sufficiently risk-free as to make one's difference from others inessential to one's self respect, one's sense of worth... By 'sympathy' I mean the sort of reactions." It is not possible to speak about a human condition because, as there are no phenomena outside the domain of history, there are only historical and cultural configurations. The human condition is cultural because the human is the result of historical dynamics in which human beings and societies act on themselves. To the philosophical grounding of human rights Rorty also opposes the ethics of pragmatism and a particular conception of cultural practice. As a consequence, dealing with human rights cannot be a question of looking for transcendental grounds but of directly engaging with suffering or facing the situation of those in pain.

## **Conclusion**

Human rights are often thought to be natural in the sense that human beings possess them independently of any human agreements or social conventions and humanity itself is supposed to ground such rights. Rorty believes that this assumption cannot be justified. In his view there are no morally relevant trans-cultural facts. Thus the trans-cultural fact of one's humanity cannot ground human rights. Rorty focuses on a specific, cultural fact he

calls human rights culture. Rorty is keen to rescue emotions for the theory of culture, and to take them from the place of the banned troublemaker that disturbs the pursuing of truth and morality to fulfill the role of moral progress. As the ethos and the culture in which human rights can advance as a sphere of sensibility, the moral subject does not need to be a cold and rational individual, but a warm and sympathetic human being. In this scenario sympathy becomes a key moral virtue and a central feature of a culture of rights. Rorty does not oppose human rights, neither their cultural nor historical justification, but only the transcendental grounding of human rights. Through the establishment of anti-foundationalism Rorty labeled foundationalism as outdated and our task should be making our culture — the human rights culture — more self-conscious, more powerful rather than of demonstrating its superiority to other cultures by an appeal to something transcultural.

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