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The Implications and Imperfections of Practice

Kirsten Ainley

This special issue on Human Rights as Ideal and Practical Politics brings to the fore the significant ways that our study, practice and understanding of human rights have developed since the Universal Declaration of Human Rights was adopted by the UN General Assembly in December 1948. These articles incite us to look beyond theories of human rights which accept rights as static and activists as unreflective workers towards an uncontested ideal. Instead, they show rights to be a dynamic, political, potentially (still) radical concept that shifts in meaning between historical contexts and in the hands of the various players in the human rights field.

As noted in the Introduction, the idea for this section began with a panel at the 2010 International Studies Association conference, at which we discussed whether and how theorists and activists could be brought closer together. Despite the focus of this section having changed from theorists and activists to ideal and practical politics, some of the same assumptions about the need to probe the relationship between these actors remain. A number of interesting points came out of the ISA discussion, the most important being the question of whether it is a wise idea to bring these two groups into closer proximity in the first place. It is certainly fashionable in these cash-strapped times when academics are being asked to ensure that their work has ‘impact’ in the ‘real world’. So the benefit to theorists of a closer engagement is quite clear – a better understanding of how human rights are actually fought for and achieved (if this is something that interests them), plus the possibility of being looked at more favourably by funding councils. There is also likely to be (and I’ll come to this later) a more general benefit to theorising from engagement in practice. But is there any benefit to the activist? Or does theory tend to threaten more than bolster activism?

I argued then as I do now that the practices of theorising about human rights and ‘doing’ human rights, while they may at times be undertaken by the same agents, have different logics and incommensurable goals. Theory and practice are not dichotomous, but theory and activism are analytically separable (usefully so, as shown by Joe Hoover and Marta Iñiguez de Heredia and by Robin Redhead and Nick Turnbull) and by thinking about them as different practices we can see that the activist is more likely to be threatened by theory than the theorist by activism. Professional theorists are (rightly or wrongly) paid to be uncertain – to probe the boundaries of concepts, to find inconsistencies, to undermine and to expose – as Jenna Reinbold demonstrates in her depiction of the Universal Declaration of Human Rights as foundationless political mythmaking. The conviction of the converted is of interest to theorists, but unlikely in and of itself to affect their own uncertainty. Activists, on the other hand, require a level of certainty in order to act, particularly if they are to justify violent action towards achieving human rights goals, and are therefore susceptible to their activism being suffocated by doubt. Any benefit to the activist of being brought closer to the theorist is to be found in increasing certainty (assuming, as many do, that eventually theorists of human rights will reach agreement about what these universal rights are and how they should be defended). Yet the output of human rights theorising so far seems too tentative, too diverse, too fractious to be of benefit to activism – and the articles in this section give little reason to think that this will change.

The contributors do not see activists and theorists as separate groups, or perhaps even as participating in separate practices. Brooke Ackerly suggests that activists *should* also be theorists (or should at least engage in serious critical reflection on their activism). Redhead and Turnbull argue that many activists *are* also theorists, just as many theorists are also activists, and as such do not seem to experience the contradictions in purpose outlined above (although Redhead and Turnbull's research did not explicitly investigate this). Certainly it is the case that many activists do critically reflect upon their work and are fully cognisant of the latest theoretical statements on human rights. So is the link closer and more beneficial than I have intimated? Actors who see themselves as both theorists and activists may use the uncertainty of theory in order to critique and develop their conception of human rights and how to achieve rights goals, and in their activism they will almost certainly encounter uncertainty. But my sense from reading accounts of Redhead and Turnbull's interviewees is that their reflection does not extend all the way down to first principles about whether the rights they fight for exist – and neither should it if we expect them to continue their fight (though we may, following Hoover and Iñiguez de Heredia, want them to question the power structures that their activism takes place within and contributes to sustaining). These theorist-activists may question whether rights are being achieved in the most effective manner, or whether the correct rights or target populations are being prioritised at any given time, but to question the existence of rights themselves would surely disqualify them from the role of human rights activist. The goal of the activist remains concrete action and attainment borne of conviction – a conviction the theorist must reject as part of the practice of contemporary academia. For human rights organisations, the mark of success in a campaign is often the writing into law of particular rights – precisely to limit the scope of uncertainty around rights claims or permissible challenges to them. Put more strongly still, for many supporters of the idea of human rights, the function of such rights as fixed kernels of moral truth is to limit the power plays and contingencies of politics, and the sprawl of disengaged theorising. Within the practice of human rights activism, to question publically the very existence of these rights is close to sacrilegious, for reasons well-described by Reinbold. Theory, in its guise here of 'ideal politics', may be used to justify a destination point and route/s to get there, but not to put the journey itself in jeopardy.

But what of the practical politics that the contributors to a large extent focus upon? All of the articles here complicate, quite rightly, assumptions made in conventional studies of human rights, and challenge us to understand the rights movement and its principal actors in new ways. I support this endeavour wholeheartedly, particularly the focus on what is actually done in the name of human rights and how this is justified in amongst the cacophony of political demands made in particular times and places. But in mounting their challenge, the articles suggest a number of new questions (and some old ones) that must be asked if we are to engage substantively with the 'practical politics' of human rights.

The first question raised, or perhaps more accurately, not avoided, is an old one: what are rights? The approaches exemplified in the preceding articles use sociology and history more than philosophy to understand rights, and it is perhaps inevitable that these literatures will lead to differing views about what rights are. The authors of the articles in this section seem to disagree both about *what* rights are generally and about what they are at any given point in time, even if they do largely agree about *how* we

can know either of these things. Ackerly argues that reflection alone cannot establish what rights are – only understanding the practices that promote and sustain the enjoyment of rights can lead us to know what rights are, suggesting, alongside Hoover and Iñiguez de Heredia, that rights vary across contexts. Yet Ackerly also sets out some significant and contested features of rights within her article which suggest a much more fixed or universal view of rights. Rights are presented as necessarily commensurate with each other – indivisible and interrelated – but there is no reason to think that they will be if we follow Hoover and Iñiguez de Heredia or Reinbold. Hoover and Iñiguez de Heredia’s account of moralised politics suggests that rights can and almost certainly will clash. Ackerly could respond by arguing that the actors identified by Hoover and Iñiguez de Heredia are not actually promoting rights enjoyment even though they are (at least at times) using the language of rights, but the Hoover and Iñiguez de Heredia position is much more radical. They would, I think, reject the view that there are correct and incorrect ways to promote rights, favouring instead an analysis that sees rights as always and inherently contested, unavoidably ambiguous, necessarily part of politics and bound up with power, and having fundamentally different meanings according to the social conditions within which they are invoked. Reinbold, through her depiction of the UDHR as embedded within the barbarism of Nazi Germany and the Second World War, but malleable enough to stretch across a range of situations which provoke ‘moral outrage’, shows that the supposed self-evidence of rights is something which is and must be constantly remade.

All contributors, therefore, agree that rights become tangible in practice, even if they disagree about the extent to which rights are contextually located and bound. Yet if the way to understand rights is through practice, then what is the practice of human rights and who are the actors within it? At various points in the articles the authors (for ease and succinctness no doubt) treat human rights practice as a coherent whole. Yet, as Ackerly acknowledges, any organisation (and in fact any activist) can describe their work as rights-based. They are incentivised to do so by the positioning of human rights claims in the transcendent centre of international morality, as detailed by Reinbold. The sheer number of actors and actions who claim to work in the field of human rights (and the sheer number who don’t, but who authors such as Redhead and Turnbull and Hoover and Iñiguez de Heredia identify as part of the practice), the different roles taken by these actors, the different types of motivations they have and the different claims that they make add up to a tremendously complicated field. For all that it may be useful to consider the practical politics of human rights, it may be that there is no singular practice of human rights at all.

The appeal of studying this field in terms of practice is clear and well-justified in the articles, and the literature on the ‘practice turn’ in International Relations is burgeoning.¹ But the literature is not yet settled on what practices are, nor how to find

¹ See, for instance, Emanuel Adler (2005) Communitarian International Relations: The epistemic foundation of International Relations, London/New York: Routledge; Mervyn Frost (2009) Global Ethics, Abingdon/ New York: Routledge; Iver Neumann (2002) ‘Returning Practice to the Linguistic Turn: The Case of Diplomacy’, Millennium: Journal of International Studies 31 (3):627-652; Vincent Pouliot (2010) International Security in Practice, Cambridge: Cambridge University Press; and the programmes of just about all major international relations conferences over the last two years. Vincent Pouliot and Emmanuel Adler’s forthcoming edited collection on International Practices (Cambridge, 2011) promises to showcase the state of the art in the practice turn.

their edges. Practices can be seen as spheres of activity or as types of action, and practice theorists approach their studies using Ludwig Wittgenstein, Michael Oakeshott, Alasdair MacIntyre, Pierre Bourdieu and even occasionally Charles Manning and Hedley Bull.² These theorists have highly divergent accounts of practice, and many methods to identify and study it. An explicit engagement with this literature, as started in Redhead and Turnbull's paper, will be necessary as study of the practical politics of human rights progresses. At the same time, some justification must be given for where the boundaries of human rights practice are assumed to lie. Across the articles in the section, philosophers, theorists, activists, radicals, community workers, people in struggle, lawyers, politicians or policy makers and bureaucrats are all seen as possible practitioners of human rights. But to assume all of these actors, with all of the political positions they take, values they stand for and purposes they claim, to be involved in a single sphere of action or to share common-sense or habitual ways of acting would lose much of the depth and richness that an analysis of practice promises.

Ackerly notes, in her first footnote, that human rights advocacy might be thought of as a 'global industry'. It may be that this conceptualisation is a more viable way to study the practical politics of human rights, that is, as an industry or field in which there are a range of different practices each performed by a range of different actors. Fundraising practices, for instance, might differ markedly from international- and state level policy making practices (which will also differ across states). Lawyers are likely to advocate for human rights in different ways and with different goals than Zapatista revolutionaries. And if we broaden the field from advocacy to include the entire human rights industry, then the practices of academics who write about rights also come into view. An approach which differentiates between practices within an industry or field of human rights would also allow exploration of whether and how some practices are more sedimented or institutionalised than others – something touched upon by Redhead and Turnbull's analysis, and important if there is thought to be benefit in analysing all practices, large and small, which feed into the grand international- and state institutional structures built around ideas of rights.

Ackerly sets out a way to evaluate existing practices to establish whether or not they do in fact promote human rights enjoyment, with the aim of providing theory that is action-guiding, and concludes that only those actors who promote 'the enjoyment of indivisible rights of inter-related humanity, through ... challenging not only the rights violating behaviour of individual actors but also the social, economic, and political barriers to rights enjoyment' can be said to have a rights-based approach (*INSERT PAGE REF FROM PROOFS*). A benefit of this approach is to exclude a number of actors and organisations who claim to work in the field of human rights from analysis, and therefore make the field more manageable to the researcher. Yet the actors excluded might include those groups who work on small or single issue areas within the field and are not sufficiently inclusive – actors, perhaps, such as those interviewed

² Cornelia Navari's recent work sorts through these influences and considers their implications. Navari (2010) 'The Concept of Practice in the English School', paper presented to International Studies Association conference, New Orleans, March; Navari (2010) 'Getting from Social Practices to Ethical Practices' SGIR 7th Pan-European International Relations Conference, Stockholm, September. The Introduction to Vincent Pouliot and Emmanuel Adler's edited collection on 'International Practices' (Cambridge, 2011) acknowledges that there is no single theory of practice, but rather a variety of theories which focus on practice.

by Redhead and Turnbull and identified (quite justifiably in the piece) as involved in human rights action. The two articles have different objectives – one to understand actors they perceive to be participating in human rights practice, and one to evaluate who may be so identified – but each has a valuable goal. Hoover and Iñiguez de Heredia muddy the waters even further by including within the field of human rights actors who do not acknowledge the moral authority of those rights and who do not use the vocabulary of rights, or do so only strategically. This certainly makes the analysis of human rights practice a formidable task, both conceptually and methodologically. But taking such a broad sweep in defining human rights practice does expose both the ubiquity of ideas of rights and, rather unexpectedly, their counter-hegemonic potential to foster and support radical change.

The final, but perhaps most profound, questions these articles provoke centre around the lack of a call to action from the authors. Doesn't the argument in the articles entail action? Is it not an implication of the arguments presented that as theory and practice, the ideal and the practical, are so intimately connected, then there is little point in us continuing to write scholarly articles about human rights unless we are also engaged in 'doing' human rights (even while recognising the risks to activism posed by a charge of the theory brigade). Of course, writing is doing in itself – theorising already goes some way to constituting the meaning of human rights at any given time. But if we are to view human rights as fundamentally about practice, then what, if anything, can we usefully say unless we are directly involved in that practice? As Alasdair MacIntyre has argued, the way to get out of the theory bunker (and, incidentally, to see the range of ethical possibilities available to us beyond the fragmenting and contradictory morality of advanced capitalist modernity) is not just to engage with the literature of anthropology or sociology or history, but to get involved. He sees '[a] prior and continuing engagement with a variety of practices and a reflective grasp of what's involved in such engagement' as necessary to good moral philosophy and desires to see on the *curriculum vitae* of candidates for academic posts in philosophy evidence of their 'relevant experiences on farms and construction sites, in laboratories and studios, in soccer teams and string quartets, in political struggles and military engagements.'³ The articles collected here accept (to greater and lesser extent) that rights mean what they mean according to the practice or practices they are embedded or pursued within. But shouldn't that acceptance lead us, as readers, to require of the authors a close engagement with at least some aspects of these practices? Shouldn't we require evidence not just of the analytical abilities of the authors, but also their experience on the front line of human rights politics? To do so would require a step change in our approach to judging academic arguments, and an acceptance that theorists and their work exhibit a complex mix of conviction and abstraction – a mix that should be beneficial to the analysis of the political practice of human rights. It is a truth (near) universally acknowledged that 'theory is always for someone and for some purpose', but the recognition of the specific purposes or politics of particular theorists, and assessments of theory in light of the practices engaged in by theorists, are still some way off. The articles in this section demonstrate why it is necessary; all valuable contributions to a vanguard movement seeking innovative ways to explore and understand human rights.

³ Alasdair MacIntyre (2009) "On having survived the academic moral philosophy of the twentieth century". Lecture given during meeting of International Society for MacIntyrean Enquiry at University College of Dublin School of Philosophy, 6-8 March. Available at: http://www.ucd.ie/news/2009/03FEB09/110309_macintyre.html